

PUBLICATION

100 Percent Bonus Depreciation Phase-Out for Certain Corporate Aircraft Begins January 1, 2023

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The Tax Cuts and Jobs Act (TCJA), enacted in 2018, extended bonus depreciation through 2026 and increased first-year bonus depreciation to 100 percent for assets placed in service after September 27, 2017. While the buyers of new and used corporate aircraft have enjoyed the benefits of 100 percent bonus depreciation since then, the phase-out of bonus depreciation will begin on January 1, 2023 if there is not any further action by the government.

After January 1, 2023, first-year bonus depreciation decreases as follows:

- 2023: 80 percent
- 2024: 60 percent
- 2025: 40 percent
- 2026: 20 percent
- After 2026: 0 percent

The most important factor in determining which rate applies is when the aircraft is "placed in service." A purchase alone is not enough for an aircraft to be placed in service; instead, the aircraft must be ready and available for use. As a practical matter, this test should be met if one or more flights are conducted for a business purpose before the end of the applicable year.

There is also a one-year extension of the applied rate for certain aircraft where, among other things, the agreement requires a non-refundable deposit of the lesser of 10 percent of the purchase price upon signing or \$100,000 and a purchase price that exceeds \$200,000. If an aircraft meets the requirements and is purchased in 2023, it will still qualify for 100 percent bonus depreciation.

Several other factors beyond the scope of this alert go into determining whether an aircraft purchase qualifies for bonus depreciation, and even if a purchase qualifies initially, the use of the aircraft after its purchase could disqualify it if not properly monitored.

Any potential purchaser looking to take advantage of bonus depreciation should seek legal advice from experienced aviation counsel before purchasing the aircraft. Please feel free to contact [James Janaitis](#), [Trey Range](#), or one of Baker Donelson's [aviation attorneys](#).