



BARBERA & WATKINS, LLC
www.bwaerolaw.com

The Tax Cuts and Jobs Act (Act) was signed into law by President Trump on December 22, 2017, *with several provisions directly affecting business aviation.

- Federal Income Tax

- 100% Expensing: The Act implements 100% expensing by expanding bonus depreciation to apply to the purchase of new and used aircraft and increasing the available bonus depreciation to 100% for eligible property placed into service after September 27, 2017 and before January 1, 2023 (January 1, 2024 for certain aircraft and longer production period property, including transportation property), with a 20% phase down until January 1, 2027 (January 1, 2028 for certain aircraft and longer production period property, including transportation property).
- Eliminates Like Kind Exchanges (IRC § 1031) of Aircraft: Like kind exchanges are no longer applicable to personal property, including aircraft, but are still applicable to real property. There is a transition rule for exchanges that have started (i.e. the relinquished property has been sold or the replacement property has been acquired) before December 31, 2017. The expansion of 100% bonus depreciation to new and used property should alleviate much of the impact of the elimination of like kind exchanges when the old aircraft is sold and the new aircraft is purchased in the same year, but this may create issues after 100% bonus depreciation expires or is reduced.
- Commuting Treatment: Expenses for travel between an employee's residence and place of employment (i.e. commuting) are no longer deductible, except as necessary for ensuring the safety of the employee. This applies to any expense incurred or payment or reimbursement for commuting.
- Directly Related Entertainment Expenses: Previously, entertainment expenses were not deductible unless such entertainment was directly related to the active conduct of the taxpayer's trade or business or directly preceding or following a substantial bona fide business discussion associated with the active conduct of the taxpayer's trade or business. The Act removed the exceptions. This is a change to the language of the entertainment use deduction statute and will impact the deductibility of certain uses of business aircraft.
- Miscellaneous Itemized Deductions: Miscellaneous itemized deductions, including deductions for unreimbursed employee expenses (including for transportation) and certain hobby expenses, are eliminated beginning after December 31, 2017 and ending January 1, 2026.

- Federal Excise Tax

- Management Company. The Act exempts from Federal Excise Tax on passenger air transportation aircraft management services paid for by an aircraft owner (or lessee) for the maintenance and support of the aircraft owner's (or lessee's) aircraft or flights on the aircraft owner's (or lessee's) aircraft. Aircraft management services includes administrative and support services, insurance, maintenance, storage, pilots and crew, and other services necessary to support flights operated by an aircraft owner (or lessee). Leases from a person providing aircraft management services with a term of 31 days or less are taxable.

*with certain technical corrections enacted March 23, 2018.

4/5/18