PacificCPE

COURSE
34603A

Listed Property Rules and Compliance

Listed property comes with its own set of restrictions, recordkeeping demands, and potential pitfalls—and getting it wrong can be costly. This course focuses on the additional rules that apply to listed property, including vehicles, computers, and other assets subject to heightened scrutiny. Tax professionals will learn how to navigate the limitations on deductions, understand what happens when business use drops, and ensure clients stay compliant with the requirements that apply to these commonly encountered assets.

CREDIT HOURS 2 | FIELD OF STUDY TAXES | EXAM QUESTIONS 10

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Assignment

- Study the full course materials included here.
- Complete the review questions after each chapter.
- Answer 10 final exam questions.
- Final exam is scored immediately, 70% or better passes.
- Certificate of completion is available in your account.
- Failed exams can be retaken free of charge.

Course Objectives

- Identify the deduction limits and special rules that apply to certain listed property.

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Chapter 1: ADDITIONAL RULES FOR LISTED PROPERTY

Chapter Objective

After completing this chapter, you should be able to:

- Identify the deduction limits and special rules that apply to certain listed property.

Introduction

This chapter discusses the deduction limits and other special rules that apply to certain listed property. Listed property includes cars and other property used for transportation, property used for entertainment, and certain computers.

Deductions for listed property (other than certain leased property) are subject to the following special rules and limits.

Deduction for employees. If your use of the property is not for your employer's convenience or is not required as a condition of your employment, you cannot deduct depreciation or rent expenses for your use of the property as an employee.

Business-use requirement. If the property is not used predominantly (more than 50%) for qualified business use, you cannot claim the section 179 deduction or a special depreciation allowance. For business aircraft, there is also a 25% test that must be met. In addition, you must figure any depreciation deduction under the Modified Accelerated Cost Recovery System (MACRS) using the straight line method over the ADS recovery period. You may also have to recapture (include in income) any excess depreciation claimed in previous years. A similar inclusion amount applies to certain leased property.

Passenger automobile limits and rules. Annual limits apply to depreciation deductions (including section 179 deductions and any special depreciation allowance) for certain passenger automobiles. You can continue to deduct depreciation for the unrecovered basis resulting from these limits after the end of the recovery period.

This chapter defines listed property and explains the special rules and depreciation deduction limits that apply, including the special inclusion amount rule for leased property. It also discusses the recordkeeping rules for listed property and explains how to report information about the property on your tax return.

WHAT IS LISTED PROPERTY?

Listed property is any of the following.

- Passenger automobiles (as defined later).
- Business aircraft (discussed later).
- Any other property used for transportation, unless it is an excepted vehicle.
- Property generally used for entertainment, recreation, or amusement (including photographic, phonographic, communication, and video recording equipment).

Improvements to listed property. An improvement made to listed property that must be capitalized is treated as a new item of depreciable property. The recovery period and method of depreciation that apply to the listed property as a whole also apply to the improvement. For example, if you must depreciate the listed property using the straight line method, you also must depreciate the improvement using the straight line method.

Passenger Automobiles

A passenger automobile is any four-wheeled vehicle made primarily for use on public streets, roads, and highways and rated at 6,000 pounds or less of unloaded gross vehicle weight (6,000 pounds or less of gross vehicle weight for trucks and vans). It includes any part, component, or other item physically attached to the automobile at the time of purchase or usually included in the purchase price of an automobile.

The following vehicles are not considered passenger automobiles for these purposes.

- An ambulance, hearse, or combination ambulance-hearse used directly in a trade or business.
- A vehicle used directly in the trade or business of transporting persons or property for pay or hire.
- A truck or van that is a qualified nonpersonal use vehicle.

Qualified nonpersonal use vehicles. Qualified nonpersonal use vehicles are vehicles that by their nature are not likely to be used more than a minimal amount for personal purposes. They include the trucks and vans listed as excepted vehicles under *Other Property Used for Transportation*, next. They also include trucks and vans that have been specially modified so that they are not likely to be used more than a minimal amount for personal purposes, such as by installation of permanent shelving and painting the vehicle to display advertising or the company's name.

Business Aircraft

A business aircraft may be depreciated using straight line depreciation over its useful life. Business aircraft may also be eligible for accelerated depreciation including the section 179 election deduction, the special depreciation allowance, and MACRS which allows the aircraft owner to immediately expense a portion of the aircraft if certain tests are met. These tests are based on the qualified business use of the aircraft.

Qualified business-use tests. Qualified business use is defined as any use in a trade or business. To claim accelerated depreciation on business aircraft, you must meet the 50% test under section 280F(b) of the Internal Revenue Code and the 25% test under section 280F(d)(6)(C)(ii) of the Internal Revenue Code. Failure to meet either of these tests disqualifies the aircraft from claiming accelerated depreciation, including the special depreciation allowance. Qualified business use is determined on a flight-by-flight basis, and each passenger on every flight leg must be classified as qualified business or non-qualified business use. You must also maintain contemporaneous records to substantiate the following.

- The amount of the aircraft expense.
- Time and place of travel.
- Business purpose of the travel.
- Business relationship of each individual using the aircraft.

See sections 280F(b) and 280F(d)(6)(C)(ii) of the Internal Revenue Code.

Note

If you claimed accelerated depreciation on a business aircraft and fail to meet either the 25% or 50% qualified business-use tests at any time during the class life for the aircraft, then the aircraft is placed on straight line depreciation. You must also recapture, as ordinary income, the excess depreciation claimed using accelerated depreciation in prior years over the amount which would have been allowable for the aircraft using the straight line method of depreciation under ADS.

Other Property Used for Transportation

Caution!

Although vehicles used to transport persons or property for pay or hire and vehicles rated at more than the 6,000-pound threshold are not passenger automobiles, they are still "other property used for transportation" and are subject to the special rules for listed property.

Other property used for transportation includes trucks, buses, boats, airplanes, motorcycles, and any other vehicles used to transport persons or goods.

Excepted vehicles. Other property used for transportation does not include the following qualified nonpersonal use vehicles (defined earlier under *Passenger Automobiles*).

- Clearly marked police and fire vehicles.
- Unmarked vehicles used by law enforcement officers if the use is officially authorized.

- Ambulances used as such and hearses used as such.
- Any vehicle with a loaded gross vehicle weight of over 14,000 pounds that is designed to carry cargo.
- Bucket trucks (cherry pickers), cement mixers, dump trucks (including garbage trucks), flatbed trucks, and refrigerated trucks.
- Combines, cranes and derricks, and forklifts.
- Delivery trucks with seating only for the driver, or only for the driver plus a folding jump seat.
- Qualified moving vans.
- Qualified specialized utility repair trucks.
- School buses used in transporting students and employees of schools.
- Other buses with a capacity of at least 20 passengers that are used as passenger buses.
- Tractors and other special purpose farm vehicles.

Clearly marked police and fire vehicle. A clearly marked police or fire vehicle is a vehicle that meets all the following requirements.

- It is owned or leased by a governmental unit or an agency or instrumentality of a governmental unit.
- It is required to be used for commuting by a police officer or fire fighter who, when not on a regular shift, is on call at all times.
- It is prohibited from being used for personal use (other than commuting) outside the limit of the police officer's arrest powers or the fire fighter's obligation to respond to an emergency.
- It is clearly marked with painted insignia or words that make it readily apparent that it is a police or fire vehicle. A marking on a license plate is not a clear marking for these purposes.

Qualified moving van. A qualified moving van is any truck or van used by a professional moving company for moving household or business goods if the following requirements are met.

- No personal use of the van is allowed other than for travel to and from a move site or for minor personal use, such as a stop for lunch on the way from one move site to another.
- Personal use for travel to and from a move site happens no more than five times a month on average.
- Personal use is limited to situations in which it is more convenient to the employer, because of the location of the employee's residence in relation to the location of the move site, for the van not to be returned to the employer's business location.

Qualified specialized utility repair truck. A truck is a qualified specialized utility repair truck if it is not a van or pickup truck and all the following apply.

- The truck was specifically designed for and is used to carry heavy tools, testing equipment, or parts.
- Shelves, racks, or other permanent interior construction has been installed to carry and store the tools, equipment, or parts and would make it unlikely that the truck would be used, other than minimally, for personal purposes.
- The employer requires the employee to drive the truck home in order to be able to respond in emergency situations for purposes of restoring or maintaining electricity, gas, telephone, water, sewer, or steam utility services.

CAN EMPLOYEES CLAIM A DEDUCTION?

If you are an employee, you can claim a depreciation deduction for the use of your listed property (whether owned or rented) in performing services as an employee only if your use is a business use. The use of your property in performing services as an employee is a business use only if both the following requirements are met.

- The use is for your employer's convenience.
- The use is required as a condition of your employment.

If these requirements are not met, you cannot deduct depreciation (including the section 179 deduction) or rent expenses for your use of the property as an employee.

Note

Employee expenses for transportation and for the depreciation of certain listed property (such as computers placed in service before 2018) paid or incurred in a tax year beginning after December 31, 2017, and before January 1, 2026, may not be claimed as a miscellaneous itemized deduction subject to the two-percent floor. If you are not entitled to claim these expenses as an above-the-line deduction, you may not claim a deduction for the expense on your 2025 return.

Employer's convenience. Whether the use of listed property is for your employer's convenience must be determined from all the facts. The use is for your employer's convenience if it is for a substantial business reason of the employer. The use of listed property during your regular working hours to carry on your employer's business generally is for the employer's convenience.

Condition of employment. Whether the use of listed property is a condition of your employment depends on all the facts and circumstances. The use of property must be required for you to perform your duties properly. Your employer does not have to require explicitly that you use the

property. However, a mere statement by the employer that the use of the property is a condition of your employment is not sufficient.

Example 1

Virginia is employed as a courier with We Deliver, which provides local courier services. She owns and uses a motorcycle to deliver packages to downtown offices. We Deliver explicitly requires all delivery persons to own a car or motorcycle for use in their employment. Virginia's use of the motorcycle is for the convenience of We Deliver and is required as a condition of employment.

Example 2

Bill is an inspector for Uplift, a construction company with many sites in the local area. He must travel to these sites on a regular basis. Uplift does not furnish an automobile or explicitly require him to use his own automobile. However, it pays him for any costs he incurs in traveling to the various sites. The use of his own automobile or a rental automobile is for the convenience of Uplift and is required as a condition of employment.

Example 3

Assume the same facts as in *Example 2*, except that Uplift furnishes a car to Bill, who chooses to use his own car and receive payment for using it. The use of his own car is neither for the convenience of Uplift nor required as a condition of employment.

Example 4

Marilyn is a pilot for Y Company, a small charter airline. Y requires pilots to obtain 80 hours of flight time annually in addition to flight time spent with the airline. Pilots usually can obtain these hours by flying with the Air Force Reserve or by flying part-time with another airline. Marilyn owns her own airplane. The use of her airplane to obtain the required flight hours is neither for the convenience of the employer nor required as a condition of employment.

Example 5

David is employed as an engineer with Zip, an engineering contracting firm. He occasionally takes work home at night rather than work late in the office. He owns and uses a home computer which is virtually identical to the office model. His use of the computer is neither for the convenience of his employer nor required as a condition of employment.

WHAT IS THE BUSINESS-USE REQUIREMENT?

You can claim the section 179 deduction and a special depreciation allowance for listed property and depreciate listed property using GDS and a declining balance method if the property meets the business-use requirement. To meet this requirement, listed property must be used predominantly (more than 50% of its total use) for qualified business use. There is also a 25% test for business aircraft (discussed earlier). If this requirement is not met, the following rules apply.

- Property not used predominantly for qualified business use during the year it is placed in service does not qualify for the section 179 deduction.
- Property not used predominantly for qualified business use during the year it is placed in service does not qualify for a special depreciation allowance.
- Any depreciation deduction under MACRS for property not used predominantly for qualified business use during any year must be figured using the straight line method over the ADS recovery period. This rule applies each year of the recovery period.
- Excess depreciation on property previously used predominantly for qualified business use must be recaptured (included in income) in the first year in which it is no longer used predominantly for qualified business use.
- A lessee must add an inclusion amount to income in the first year in which the leased property is not used predominantly for qualified business use.

Caution!

Being required to use the straight line method for an item of listed property not used predominantly for qualified business use is not the same as electing the straight line method. It does not mean that you have to use the straight line method for other property in the same class as the item of listed property.

Exception for leased property. The business-use requirement generally does not apply to any listed property leased or held for leasing by anyone regularly engaged in the business of leasing listed property. You are considered regularly engaged in the business of leasing listed property only if you