

# IRS Issues Final Tax Regulations on Deduction Disallowances for Business Aircraft Entertainment Use

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August 2, 2012

Newly issued Internal Revenue Service (IRS) regulations clarify, but are also likely to reduce, a business aircraft owner's ability to claim tax deductions to the extent that the aircraft is used for director/officer entertainment purposes. The final regulations are similar to proposed regulations that were issued in 2007, with some changes and added examples.

Generally, the final regulations explain how a company's deductions are disallowed when a company-provided aircraft is used for entertainment by "specified individuals" (e.g., officers, directors), except to the extent that (a) the cost of providing the aircraft is treated as compensation to that individual, or (b) the individual reimburses the company for entertainment use of the aircraft.

Under the final regulations, the company must allocate its aircraft expenses on either a person-by-person or flight-by-flight basis between the business use and entertainment use of its aircraft under an "occupied-seat-hours" or "occupied-seat-miles" method.

In determining the amount of aircraft expenses subject to disallowance, a company must include all of the expenses of operating the aircraft, including all fixed and variable expenses, such as pilot salaries, maintenance costs, management fees, fuel, insurance and depreciation (although the company may elect to use the straight-line method of depreciation, even if the company uses a different methodology to calculate aircraft depreciation under other sections of the Internal Revenue Code). The final regulations also provide that interest on debt secured by or properly allocated to an aircraft is also included as an aircraft expense subject to disallowance under the business aircraft entertainment use rules.

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