Planes, Yachts and Automobiles:

A Tax Practitioners Guide to IRC § 280F Depreciation Rules

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- Mrs. Nickle is a California licensed CPA with a forensic accounting and tax practice in Rancho Cucamonga, California.
- Leighanne has over 20 years working in both public accounting and private industry. Mrs. Nickle owns and operates a California CPA firm, where the focus of her practice is representing taxpayers before the Internal Revenue Service, California Franchise Tax Board, the California Department of Tax and Fee (CDTFA), the California Employment Development Department (EDD), and California Child Support offices in Orange County, CA.
- In addition, she has served as an expert witness for civil and criminal court proceedings regarding forensic accounting, tax, payroll issues, and child support payments.
- Leighanne currently serves as the Vice-President for the Inland Empire Chapter of the California Society of Tax Consultants, where she oversees continuing education and work as the liaison between the chapter and the IRS Stakeholders Liaison.
- Mrs. Nickle also serves on the Committee on Tax (COT) with CalCPA (California CPA). As a member of the COT, she works directly with the California Franchise Tax Board (FTB) on tax matters and acts as a liaison between the local and state chapter and the California Franchise Tax Board.

About the Author: Victoria Boon

- Victoria Boon is a seasoned tax consultant and nationally recognized expert in federal taxation, with more than 20 years of experience in audit strategy, IRS compliance, and professional education. A former IRS Senior Revenue Agent and Subject Matter Expert with the Internal Revenue Service, Victoria brings deep technical knowledge and real-world insight to her consulting and training work in the private sector.
- Throughout her career, Victoria has specialized in complex areas of the tax code, including IRC §§ 1031, 162, 274, and conservation easements. She has led large corporate audits, developed continuing education programs for IRS staff and tax professionals, and contributed to key IRS publications such as Publications 544, 551, and 946. Victoria also served as a campaign expert on aircraft taxation and conservation easements, shaping national audit priorities and training curricula.
- Now in private practice, Victoria offers consulting services, CE instruction, and expert guidance on audit defense, tax law interpretation, and IRS procedure for practitioners, firms, and financial advisors across the country.
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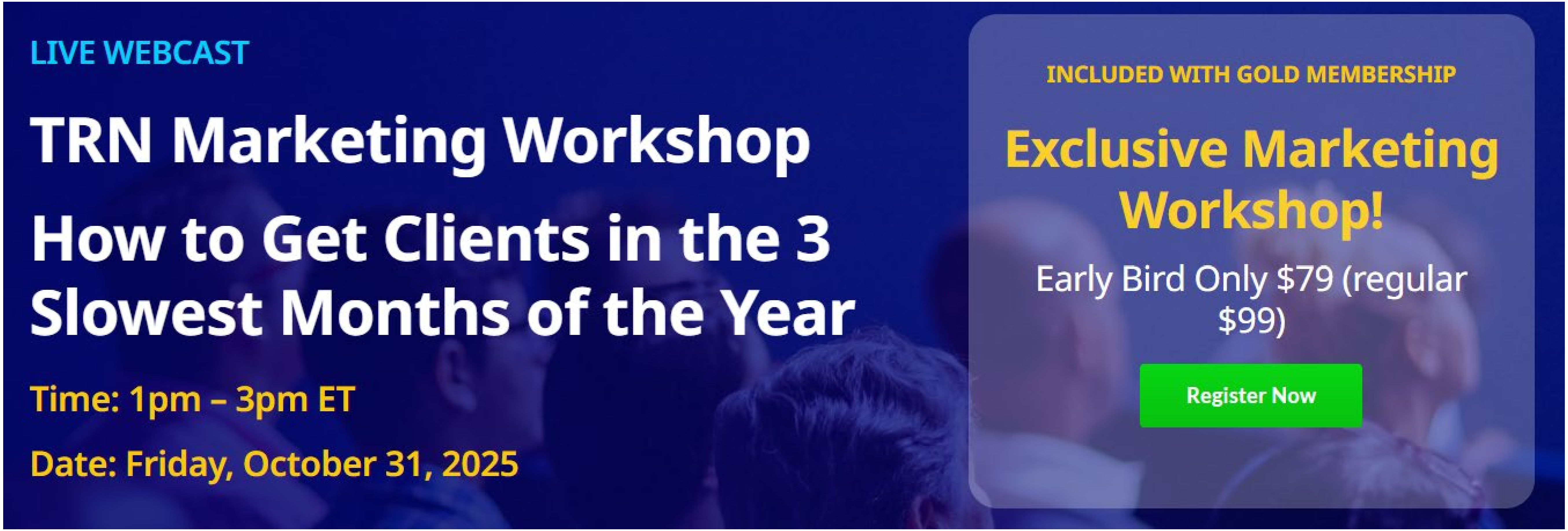

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Course Objectives

At the end of this presentation you will be able to:

- Define Qualified Business Use (QBU)
- Identify when Depreciation Recapture applies
- Describe the heightened substantiation rules under IRC § 274(d) related to listed property
- Explain and apply the Aircraft specific rules
- Explain and apply the Automobile specific rules
- Identify additional areas related to IRC § 280F rules

How to Write off Cool Stuff

IRC § 280F Overview

IRC § 280F is a depreciation limiting provision

- IRC § 280F(a) limits the amount of depreciation for luxury vehicles (Dollar limitation)
- IRC § 280F(b) limits the amount of depreciation for listed property when Qualified Business Use (QBU) is less than 50% (QBU Limitation)

Listed Property Definition

IRC § 280F(d)(4)(A) defines listed property as:

- Any passenger automobile
- Any other property used as a means of transportation
- Any property of a type generally used for entertainment, recreation or amusement, and
- Any other property of a type specified by the Secretary by regulations

IRC § 280F(d)(4)(B) provides an exception for property for which is substantially all of the use is in the business of transporting unrelated persons of property for compensation or hire

Qualified Business Use

IRC § 280F(b)(1) states:

- If any listed property is not predominately used in a qualified business use for any taxable year, the deduction allowed under IRC § 168 with respect to such property for such taxable year and any subsequent taxable year shall be determined under IRC § 168(g) (They must use Alternative Depreciation System or ADS to calculate depreciation.)

IRC § 280F(b)(3) states:

- For purposes of this section, property shall be treated as predominately used in a qualified business use for any taxable year if the business use percentage for such taxable year exceeds 50%

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Qualified Business Use (Cont.)

- IRC § 280F(d)(6)(A) defines "business use percentage" as the percentage of the use of any listed property during any taxable year which is qualified business use.
- IRC § 280F(d)(6)(B) defines "qualified business use" as any use in a trade or business of the taxpayer
- There are exceptions to qualified business use for related persons under IRC § 280F(d)(6)(C)

Qualified Business Use Exceptions

IRC § 280F(d)(6)(C) provides exceptions to the term "qualified business use" for certain use by 5% owners and related persons including:

- Leasing property to a 5% owner of the taxpayer or to any related person of the taxpayer
- Providing the property for personal use by a 5% owner or related person even if that personal use is treated as "compensation" to the individual
- Providing the property as compensation for services performed by any person other than a 5% owner or related person if the compensation is not timely reported as gross income to such person.

Qualified Business Use Exceptions (Cont.)

IRC § 280F(d)(6)(D) defines "5% owner" and "Related Person" as:

- If the taxpayer is a corporation, a "5% owner" is any person who owns (or is considered as owning under constructive ownership rules under IRC § 318) more than 5% of either the outstanding stock of the corporation or voting power of the corporation's stock. If the taxpayer is not a corporation, a "5% owner" is any person who owns more than 5% of the capital or profits interest.
- "Related person" means any person related to the taxpayer within the meaning of IRC § 267(b)

Use that is NOT Qualified Business Use

- Qualified Business Use does NOT include the use of listed property merely for investment or income-producing purposes. Thus, a use for which a deduction is allowed under IRC § 212 but not IRC § 162 does not constitute qualified business use (See Treas. Reg. § 1.280F-6(d)(2)(i)).
- The determination of whether a particular income-producing activity constitutes a trade or business must be made with reference to IRC § 162 or IRC § 212 (See Treas. Reg. § 1.280F-6(d)(3)(i)).
- Use of listed property for commuting is NOT a business use even when business is conducted or work performed during the commute post TCJA (See IRC § 274(l)

Use that is NOT Qualified Business Use (Cont.)

Treas. Reg. § 1.280F-6(d)(3)(ii) states:

- The use of listed property for entertainment, recreation or amusement purposes shall be treated as business use to the extent that expenses (other than interest and property taxes) attributable to that use are deductible after the application of IRC § 274.
- This means that Business Entertainment is not included as QBU

Commuting rules

Treas. Reg. § 1.274-14 discusses the disallowance of deductions for certain transportation and commuting benefit expenditures.

- No deduction is allowed for any expense incurred for providing any transportation, or any payment or reimbursement, to any employee in connection with travel between the employee's residence and place of employment (commuting).
- The disallowance applies regardless of whether the travel between the employee's residence and place of employment includes more than one mode of transportation, and regardless of whether the taxpayer provides, or pays or reimburses the employee for all modes of transportation used during the trip.
- For Example, the disallowance applies if an employee drives a personal vehicle to a location where a different mode of transportation is used to complete the trip, even though the taxpayer may not incur any expenses for the portion of travel in the employee's personal vehicle.

Commuting Definitions and Exception

- The term employee is defined in IRC § 3121(d)(1) and (2) which is: officers of a corporate taxpayer and employees of the taxpayer under the common law rules.
- The term residence means a residence as defined in Treas. Reg. § 1.121-1(b)(1) and is not limited to the employee's principal residence. (includes secondary residence as well)
- The term place of employment means the employee's regular or principal place of business and does not include temporary or occasional places of employment.
- Disallowance under Treas. Reg. § 1.274-14(a) does not apply if the transportation or commuting expense is necessary for ensuring the safety of the employee as described in Treas. Reg. § 1.61-21(k)(5).

Qualified Business Use Test

- All Listed Property must pass the 50% QBU Test. (Aircraft must first pass a 25% QBU test which will be discussed more later)
- If the 50% test is met (and the 25% QBU test for aircraft), then the taxpayer is allowed to use MACRS, Bonus and IRC § 179 depreciation.
- If the 50% test is not met (and/or the 25% QBU test for aircraft), the taxpayer must depreciate the business use portion of the listed property using ADS straight-line method, half-year convention (in general)

Depreciation Recapture

- When listed property fails the Qualified Business Use (QBU) rule, it must be placed on the applicable alternative depreciation system (ADS), i.e. straight-line for its remaining depreciable life and excess depreciation deducted in prior years must be recaptured into income. See IRC § 280F(b)(2).
- Recapture can occur in any year of the asset's class life and the amount of the recapture is income in the year of change. See IRC § 280F(b)(2)(A).

Excess Depreciation

Excess Depreciation is defined in IRC § 280F(b)(2)(B) as the excess (if any) of:

- The amount of the depreciation deductions allowable with respect to the property for taxable years before the 1st taxable year in which the property was not predominately used in a qualified business use, over
- The amount which would have been so allowed if the property had not been predominantly used in a qualified business use for the taxable year in which it was placed in service

Depreciation Recapture Example

Example: Taxpayer purchases a truck (not subject to the IRC § 280F(a) depreciation limits) in 2020 for $50,000 and claims a deduction for 100% bonus depreciation of $50,000 on the 2020 tax return. In 2021 the taxpayer fails QBU.

- In 2021, the taxpayer must place the truck on the applicable ADS Straight-line with a 5-year recovery period and recapture the excess depreciation into income.

Bonus Depreciation taken: $50,000

ADS Straight-line (5-year) for 2020: $ 5,000

Excess Depreciation (Recaptured into income): $45,000

- The $45,000 remaining basis will be depreciated using the straight-line method over the truck's remaining depreciable life.

Substantiation under IRC § 274 for Listed Property

IRC § 274(d)(3) states that for all listed property defined in IRC § 280F no deduction is allowed unless the taxpayer substantiates by adequate records or by sufficient evidence corroborating the taxpayer's own statement all of the following:

1. The amount of such expenses or other item,
2. The time and place of the travel,
3. The business purpose of the expense or other item, and
4. The business relationship to the taxpayer of the person receiving the benefit

How to recreate logs and meet substantiation

Must be based on contemporaneous documents such as:

- Calendar
- Maintenance Logs and / or receipts
- Car Fax Reports
- Meeting Agendas
- Signed Contracts
- Emails
- FAA flight logs
- Automated Logging such as milage tracking apps

Aircraft Specific Rules

- Aircraft are listed property and must meet two qualified business use tests under IRC § 280F rather than just the 50% test that other listed property must meet
- The 50% test is also different than other listed property because of the exceptions listed previously.
- If the taxpayer fails either the 25% or 50% test they must use ADS depreciation.

IRC § 280F – 25% Test

There must be 25% QBU of the aircraft that does not include the following use by related parties:

- Leasing aircraft to 5% owner or related person;
- Use of aircraft as compensation for services of 5% owner or related person;
- Use of aircraft as compensation for services to an individual who is not a 5% owner or related person if the flight value is not reported as income to the individual.

- If the 25% test is passed, then go to the modified 50% test which we will discuss next. If it is not met, then the aircraft cannot use bonus depreciation

IRC § 280F – 50% Test

If the taxpayer passes the 25% test, then the following flights get added back in to meet the 50% test:

- Leasing to a 5% OR related;
- Compensation to 5% OR related; and
- Compensation to non-5% or related but not reported as income

If the 50% QBU test is met, then the taxpayer is allowed to use MACRS, Bonus and IRC § 179 depreciation

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Deadhead Flights

- Deadhead flights have no passengers and are considered an “empty leg”
- They generally, take on the character and number of passengers on the associated occupied leg
- Example: Dallas to Chicago with 6 business and 4 personal entertainment passengers and then returns to Dallas Empty
  - Empty leg with be deemed to have 10 passengers, 4 of which are personal entertainment and 6 business

Maintenance Flights

- Maintenance flights should be allocated over all flights.
- Per TAM 200945037- Maintenance flights for an aircraft used both for qualified business use and for other use pertain to all uses, not simply to qualified business use. Therefore, taxpayers must ratably allocated maintenance flights between flight hours or miles that are not for qualified business use, taking into account the exclusions under IRC § 280F(d)(6)(C)(i).
- For example, if 40% of the flight hours (or miles) of an aircraft excluding maintenance flights are qualified business use, then only 40% of the maintenance flight hours (or miles) may be taken into account as qualified business use

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Yachts and RV's

- Yachts and RV's are considered a means of transportation under IRC § 280F(d)(4)(A)(ii) and therefore are listed property.
- Yachts and RV's unlike aircraft, only have to pass the 50% QBU test in order to claim bonus, MACRS, and IRC § 179 depreciation.

Qualified Business Use of a Vessel or Yacht

- Vessels are listed property under IRC § 280F(d)(4)(A)(ii) which states:
  - (“Listed Property” means) any property used as a means of transportation
- IRC § 280F(b)(1) & (3) if listed property is not predominately used in a QBU (Greater than 50%) than the taxpayer can not claim MACRS, bonus and IRC § 179 depreciation
- IRC § 280F(b)(2) states that if the vessel fails QBU then it is depreciated on a straight-line ADS and a depreciation recapture adjustment is made putting the excess depreciation over straight-line back into income

Qualified Business Use of a Vessel or Yacht (Cont.)

- Treas. Reg. § 1.280F(d)(3)(ii) states:
  - The use of listed property for entertainment, recreation or amusement purposes shall be treated as business use to the extent that expenses (other than interest and property tax expenses) attributable to that use are deductible after the application of IRC § 274.
- Treas. Reg. § 1.274-2(e)(2)(i) states that an entertainment "facility" is defined as any property used in conjunction with business entertainment (such as a hunting lodge or yacht).
- When a yacht is used for business entertainment, those trips will not count in the 50% QBU calculation

Yachts – Predominate Use Outside the US

- Generally if an asset is used predominately outside the United States it is required to be on Alternative Depreciation System (ADS)
- If they are required to be on ADS they are not eligible for bonus depreciation
- Some vessels may fall into the exception from the ADS requirement if they are documented under US laws and the income from the use of the vessel is reported in the US (See IRC § 168(g)(4)(c))

Luxury Automobiles

Topics Covered:

- IRC § 280F(a) Limitation and Examples
- Definitions of Passenger Car and Gross Vehicle weight (GVWR)
- What is a Truck, or Van for IRC § 280F purposes
- Treatment of Leased vehicles under IRC § 280F(c)

Annual Deduction Limitation under IRC § 280F(a)

- IRC § 280F(a) limits the total depreciation deduction allowed for passenger vehicles.
- Passenger vehicle is defined in IRC § 280F(d)(5)(A) as:
  - Any 4 wheeled vehicle which is manufactured primarily for the use on public streets, roads and highways, and is rated at 6,000 pounds unloaded gross vehicle weight or less.
  - In the case of a truck or van, the gross vehicle weight is used instead of the unloaded gross vehicle weight

Vehicle Type- The American Automobile Labeling Act (AALA)

Manufacturers	Makes	Carlines	Vehicle Type on Part 567 Certification Label
Audi	Audi	A3 Sedan 40	PC
Audi	Audi	A4 allroad 45	MPV
Audi	Audi	A4 Sedan 40	PC
Audi	Audi	A4 Sedan S line 45	PC
Audi	Audi	A5 Sedan	PC
Audi	Audi	A5 Sportback 40	PC
Audi	Audi	A5 Sportback S line 45	PC

https://www.nhtsa.gov/part-583-american-automobile-labeling-act-reports

Curb Weight Definition

- For passenger vehicles, the unloaded gross vehicle weight is the vehicles curb weight
- Curb Weight is the weight of the vehicle including a full take of fuel and all standard equipment. It does not include the weight of any passengers, cargo, or optional equipment. Curb weight is considered the closes weight to the actual weight of the vehicle
- Curb weight = Gross Vehicle Weight (GVWR) – Vehicle Payload (or passenger/cargo capacity)

GVWR Definition

- GVWR is the maximum loaded weight of the vehicle as determined by the manufacturer. GVWR is the heaviest the vehicle can weigh while remaining safe to drive. The vehicle or trailer and all the things inside it all count toward the GVWR including it's passengers, cargo and even gasoline.
- National Highway Traffic Safety Administration (NHTSA) regulations requires that all vehicles rated less than 10,000 pounds must have a vehicle certification label. As discussed earlier the GWR is usually printed on the vehicles certification label
- The vehicle certification label will also state what type of vehicle it is certified as. (ie, truck, van, or multi passenger vehicle)

Gross Vehicle Weight Rating (GVWR)- Application of IRC § 280F

Is the gross vehicle weight rating (GVWR) 6,000 pounds or less?

Yes: Stop

The vehicle is a passenger automobile for purposes of IRC § 280F(a) and (d)(5)(A) unless it meets one of the exceptions in IRC § 280F(d)(5)(B)

No:

Does the certification label characterize the vehicle as a “truck” or “van”?

Next slide

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Gross Vehicle Weight Rating (GVWR)- Application of IRC § 280F (Cont.)

Does the certification label characterize the vehicle as a “truck” or “van”?

Truck or Van classification

The vehicle is not a passenger automobile for purposes of IRC § 280F(a) and (d)(5)(A)

Classification other than truck or van:

- Look at the loading and tire pressure placard to get the maximum weight of occupants and cargo.
- Subtract this from the GVWR shown on the certification label to get the unloaded gross vehicle weight.

Next slide

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Gross Vehicle Weight Rating (GVWR)- Application of IRC § 280F (Cont.)

Is the unloaded gross vehicle weight great than 6,000 pounds?

Yes:

The vehicle is not a passenger automobile for purposes of IRC § 280F(a) and (d)(5)(A)

No:

The vehicle is a passenger automobile for purposes of IRC § 280F(a) and (d)(5)(A) unless it meets one of the exceptions in IRC § 280F(d)(5)(B)

Passenger Automobile Exceptions

IRC § 280F(d)(5)(B) states that the term passenger automobile shall not include:

I. Any ambulance, hearse, or combination ambulance-hearse used by the taxpayer directly in a trade or business,

II. Any vehicle used by the taxpayer directly in the trade or business of transporting persons or property for compensation or hire, and

III. Under regulations, any truck or van

2024 Passenger Car Depreciation Limit

- Rev. Proc 2024-13 contains the 2024 Passenger Car Depreciation & Income Inclusion by Lessees which is adjusted annually per IRC § 280F(d)(7)
- The Depreciation Limitation for Passenger Cars Placed in Service in 2024 is as follows:

Tax Year	With Bonus Depreciation	Without Bonus Depreciation
1st	$20,400	$12,400
2nd	$19,800	$19,800
3rd	$11,900	$11,900
Each succeeding year	$7,160	$7,160

2025 Passenger Car Depreciation Limit

- Rev. Proc 2025-16 contains the 2022 Passenger Car Depreciation & Income Inclusion by Lessees which is adjusted annually per IRC § 280F(d)(7)
- The Depreciation Limitation for Passenger Cars Placed in Service in 2025 is as follows:

Tax Year	With Bonus Depreciation	Without Bonus Depreciation
1st	$20,200	$12,200
2nd	$19,600	$19,600
3rd	$11,800	$11,800
Each succeeding year	$7,060	$7,060

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Other Related Issues

Expense disallowance:

- Personal Use Disallowance (IRC § 262, IRC § 274)
- IRC § 274(d) Lack of substantiation
- Dwelling Unit Used as a Residence (IRC § 280A)
- Activity Not for Profit (IRC § 183)
- Passive Activity Losses (IRC § 469)

Income Inclusion:

- Fringe benefit income inclusion (IRC § 61)

Summary

You are now able to:

- Define Qualified Business Use (QBU)
- Identify when Depreciation Recapture applies
- Describe the heightened substantiation rules under IRC § 274(d) related to listed property
- Explain and apply the Aircraft specific rules
- Explain and apply the Automobile specific rules
- Identify additional areas related to IRC § 280F rules

Questions?