



# Aviation Group Client Update

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## IRS ISSUES FINAL RULES FOR ENTERTAINMENT USE OF BUSINESS AIRCRAFT

IRS [today](#) published its final rules relating to the use of business aircraft for entertainment. The proposed regulations were previously issued on [June 15, 2007](#) and a public hearing was held on Oct. 25, 2007. The regulations reflect provisions from the American Jobs creation Act of 2004 and the Gulf Opportunity Zone Act of 2005 which disallowed certain deductions for entertainment use of business aircraft. Key provisions explain permissible and non-permissible deductions:

1. **Determination of Costs.** Fixed and variable costs not directly related to an individual flight are subject to disallowance. Although not included in today's regulations, comparison charter rates or other safe harbors may be issued by IRS in the future. Straight-line depreciation is permitted, even if another method is used to compute depreciation for other purposes. The rules provide for a transition method for straight-line election if the aircraft was placed in service prior to the election.
2. **Allocation of Costs to Flights.** Two alternative methods for allocating the costs associated with a particular flight are allowed: (1) occupied seat hours or miles allocation method; and (2) flight-by-flight method.
3. **Allocation of Disallowance to Expenses.** Disallowance will be applied on a pro rata basis to all disallowed expenses.
4. **Bona Fide Security Concerns.** Expenses for entertainment travel where there is a business need to use the aircraft for security concerns is not exempted from disallowance.
5. **Deadhead Flights.** Deadhead legs for the purpose of picking up or after dropping off passengers are generally treated as having the same number and character of passengers on board during the occupied legs.
6. **Leases to Third Parties.** A bona fide lease or charter of an aircraft to an unrelated third party is not subject to expense disallowance.

The rules take effect on **August 1, 2012**, although the date of effectiveness of certain sections is dependent upon individual taxpayer election. If you have any questions, please contact our office.

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McBreen & Kopko's Aviation Group represents air carriers, fixed base operators (FBOs), airport managers, aviation service providers, and business aircraft owners and operators on a wide range of aviation issues including regulatory matters, commercial transactions, aircraft finance matters, and bankruptcy and creditors' rights.

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