

Bonus and Floor Plan Regulatory Guidance Issued

The interplay of bonus depreciation and the ability for dealers to deduct floor plan interest without regard to the business interest expense limitation has resulted in significant uncertainty. Previously, dealers have been attempting to rely on the Blue Book related to tax reform which provides favorable examples of the floor plan interest exclusion and bonus limitation. The Blue Book is published by the Joint Committee on Taxation and is a General Explanation of the Tax Cuts and Jobs Act (TCJA) in consultation with the House and Senate Committees. While the explanations are assumed to express the intent of Congress, they do not have the same level of authority as regulatory guidance. Fortunately, Treasury has now released final regulations on bonus depreciation along with a lengthy set of additional proposed regulations that include guidance specific to the issues facing dealers. While more detailed analysis may be required for specific facts and circumstances, the final and proposed regulations are largely favorable for dealers.

The proposed regulations provide that a lessor leasing property to a trade or business with floor plan financing is not prohibited from utilizing bonus depreciation. This is consistent with the NADA request that related real property rental entities leasing the dealership facilities be allowed to use bonus depreciation.

The proposed regulations clarify that floor plan interest is not taken into account thus permitting bonus depreciation if all business interest expense, including floor plan financing interest, does not exceed the general 30% limitation. Therefore, when the general limitation on interest is sufficient to allow a deduction for all business interest, including floor plan financing interest, the taxpayer is also allowed to claim bonus depreciation. This allows dealers to be similarly situated to other taxpayers who do not have floor plan interest. Furthermore, the proposed regulations provide that the determination of eligibility for bonus relative to floor plan financing is determined annually, thus a dealer who exceeds the general 30% limitation and deducts 100% of floor plan interest is only prohibited from utilizing bonus depreciation for that one year. Each year stands on its own with regard to the determination. This is again consistent with the requests made by NADA.

These new rules are fantastic news for dealers and a significant victory for the industry resulting from the tremendous efforts of NADA.

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