



Agricultural Law Press

Publisher/Editor

Robert P. Achenbach, Jr.

Contributing Editor

Dr. Neil E. Harl, Esq.

* * * *

Issue Contents

Bankruptcy

General

Exemptions

Farm program payments **162**

Federal tax

Administrative costs **163**

Refund **163**

Federal Agricultural Programs

Conservation Reserve Program **163**

Pork check off **163**

Wetlands Reserve Program **163**

Federal Estate and Gift Taxation

Charitable deduction **164**

Returns **164**

Trusts **164**

Federal Income Taxation

Corporations

Distribution of stock **165**

Disaster losses **165**

Employee expenses **165**

Income **165**

Mileage deduction **165**

Offers in compromise **165**

Partnerships

Accounting method **166**

Penalties **166**

Pension plans **166**

Returns **166**

Safe harbor interest rates

November 2003 **166**

Self-employment income **167**

Social security tax **167**

Travel expense **167**

Partnerships

Definition **167**

Secured Transactions

Farm products **167**

Agricultural Law Digest

Volume 14, No. 21

October 31, 2003

ISSN 1051-2780

Depreciation on Listed Property Vehicles

— by Neil E. Harl*

The enactment of depreciation rules for “listed property” in 1984 marked a new era in recovering investment in business assets.¹ For property with both business and personal use, the income tax basis for depreciation purposes is determined, as always, by applying the fraction of business use to total use.² But listed property assets are further limited in terms of the amount of depreciation claimable.

The enactment of bonus depreciation rules³ has focused additional attention on passenger automobiles, one of the important components of listed property.⁴

Passenger automobiles

While all vehicles used for transportation purposes are considered “listed property,” automobiles and pickups of 6,000 pounds unloaded gross vehicle weight or less (GVW for trucks and vans) are subjected to dollar limits on depreciation claimable.⁵ Property must be used “predominantly” in a qualified business use in order to be eligible for the regular amount of depreciation deduction.⁶ Predominantly means more than 50 percent in a qualified business use.⁷ The proportion of a vehicle’s basis that can be depreciated depends upon substantiation of business use.⁸ If the qualified business use is 50 percent or less, expense method depreciation⁹ may not be claimed,¹⁰ the 30 percent and 50 percent bonus depreciation allowances¹¹ cannot be claimed, and depreciation deductions must be calculated using the alternative depreciation method.¹²

In 2002, Congress passed legislation providing for a 30 percent bonus depreciation allowance¹³ on new vehicles which provided specifically for an increase of \$4,600 in the first year depreciation allowance for passenger automobiles.¹⁴ In 2003, the Congress boosted the bonus depreciation allowance to 50 percent for property acquired after May 5, 2003, and placed in service before January 1, 2005, if there was no binding contract in effect before May 6, 2003.¹⁵ The 2003 legislation increased the first year depreciation allowance for new passenger automobiles by \$7650 to \$10,710.¹⁶

The 2003 limits for passenger automobiles are as follows:

	Zero Bonus	30% Bonus (new)	50% Bonus (new)
First year	3,060	7,660	10,710
Second year	4,900	4,900	4,900
Third year	2,950	2,950	2,950
Each succeeding year	1,775	1,775	1,775

* Charles F. Curtiss Distinguished Professor in Agriculture and Professor of Economics, Iowa State University; member of the Iowa Bar.

Trucks and vans as non-personal use vehicles

Temporary regulations effective July 3, 2003, exclude from the definition of passenger automobiles any truck or van that is a “qualified nonpersonal use vehicle” as defined under I.R.C. § 274¹⁷ which applies to vehicles not likely to be used more than a de minimis amount for personal purposes.¹⁸ These vehicles are subject to the limits for listed property but not the dollar limits for passenger automobiles.¹⁹

Other trucks and vans

For other trucks and vans, placed in service in 2003, a higher inflation adjustment factor has been approved.²⁰ The maximum allowable depreciation for 2003 is²¹—

	Zero Bonus	30% Bonus (new)	50% Bonus (new)
First year	3,360	7,960	11,010
Second year	5,400	5,400	5,400
Third year	3,250	3,250	3,250
Each succeeding year	1,975	1,975	1,975

Electric automobiles

A 1998 amendment specifies that the maximum depreciation amounts that may be claimed for electric vehicles are tripled through 2004.²² The maximum allowable depreciation amounts for 2003²³ are—

	Zero Bonus	30% Bonus (new)	50% Bonus (new)
First year	9,080	22,880	32,030
Second year	14,600	14,600	14,600
Third year	8,750	8,750	8,750
Each succeeding year	5,225	5,225	5,225

A deduction of \$2,000 is available for electric vehicles certified under the clean fuel provision of federal law.²⁴

FOOTNOTES

- ¹ Pub. L. No. 98-369, Sec. 179 (1984). See generally 4 Harl, *Agricultural Law* § 29.03[10][g][iii] (2003); Harl, *Agricultural Law Manual* § 4.03[4] (2003).
- ² Prop. Treas. Reg. § 1.168-(i)(6).
- ³ Job Creation and Worker Assistance Act of 2002, Pub. L. No. 106-147, Sec. 101, 116 Stat. 2199 (2002).
- ⁴ See Rev. Proc. 2003-75, I.R.B. 2003-43.
- ⁵ I.R.C. §§ 280F(a)(1), 280F(d)(5).
- ⁶ I.R.C. § 280F(b)(3).
- ⁷ *Id.* McFadden v. Comm’r, T.C. Memo. 1989-174 (automobile used only 22 percent of time for business use).
- ⁸ See I.R.C. § 274(d).
- ⁹ I.R.C. § 179.
- ¹⁰ I.R.C. § 280F(d)(1).
- ¹¹ I.R.C. § 168(k)(2)(C)(i)(II).
- ¹² I.R.C. § 280F(b)(1).
- ¹³ Job Creation and Worker Assistance Act of 2002, Pub. L. 107-147, Sec. 101, 116 Stat. 21 (2002).
- ¹⁴ *Id.*
- ¹⁵ I.R.C. § 168(k)(4).
- ¹⁶ *Id.*
- ¹⁷ Temp. Treas. Reg. § 1.274-5T(k).
- ¹⁸ Temp. Treas. Reg. § 1.280F-6T(c)(3)(iii).
- ¹⁹ *Id.*
- ²⁰ T.D. 9069, July 9, 2003. See Rev. Proc. 2003-75, I.R.B. 2003-43.
- ²¹ *Id.*
- ²² H.R. 2676, Sec. 6024, 105th Cong., 2d Sess. (1998).
- ²³ *Id.*
- ²⁴ See IR 2002-93 (first certification of hybrid vehicle for clean fuel deduction); IR 2002-97 (deduction applies to Honda Insight for 2000, 2001 and 2002 model years; to Honda Civic Hybrid for 2003); IR 2003-114 (\$2,000 deduction (if placed in service on or before December 31, 2003, reduced for later years) for Toyota Prius (2004 Model)).

CASES, REGULATIONS AND STATUTES

by Robert P. Achenbach, Jr

BANKRUPTCY

GENERAL

EXEMPTIONS.

FARM PROGRAM PAYMENTS. The debtors filed for Chapter 7 in January 2003. Although the debtors had ceased

farming in December 2002, the debtors were owed direct federal farm program payments based on their 2002 crops. The debtors sought to exempt the payments under Iowa Code § 627.6(8) which provides an exemption for “any public assistance benefit.” The debtors argued that the payments were public assistance because the payments were not made in exchange for goods or services. The court noted that the federal farm program payments were not determined by the need of the debtors but was paid regardless of the financial condition of the debtors. The court held that the farm program payments were not public assistance payments entitled