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Personal Use of Corporate-Owned Aircraft

As we move into the tax filings for 2005, you should be aware of the American Jobs Creation Act of 2004 and the impact it will have on the income tax liability of the corporate aviation community.

The tax professional team at Rachlin can assist your clients in the proper business practices and help maximize the deduction.

In May 2005, the Internal Revenue Service issued guidance on the limitation for employer-provided aircrafts. It specifically addressed the issues relating to the deductibility for personal entertainment use of corporate-owned aircraft.

Under prior law, the personal use of corporate-owned aircraft required the corporation to impute income to the beneficiary employee using either the Standard Industry Fair Level (SIFL) rules or the fair value charter method. The amount included in the employee's income was considerably smaller than the actual deductible costs the corporation would be allowed to expense. This created a so-called loophole which the new laws now attempt to close.

Effective for expenses incurred after October 22, 2004, in the case of specified individuals, those costs for entertainment use of an aircraft are disallowed except to the extent of the amount treated as compensation. Specified individuals include every person who:

- Is a direct or indirect beneficial owner of more than 10 percent of any class of any registered equity security.
- Is a director or officer of the issuer of the security.
- Would be the direct or indirect beneficial owner of more than 10 percent of any class of a registered equity security if the taxpayer were an issuer of equity securities, or
- Is comparable to an officer or director of an issuer of equity securities.

In addition, please note that for partnership purposes, a specified individual includes any partner which holds a more than 10 percent equity interest in the partnership, general partner, officer, or managing member of a partnership. Finally, a specified individual is the recipient of entertainment provided to a spouse or family member of the specified individual or to another person because of the person's relationship to the specified individual.

As with many of the perceived loopholes in the tax law, the IRS is now aggressively pursuing and attempting to close them, including the personal use of corporate aircraft. As there are additional rules for calculating and determining this non-deductible cost, let the Rachlin team help those taxpayers for whom these rules apply.