

# JAFFA & CO

Aviation &  
Superyacht Lawyers



Briefing Note  
Bonus Depreciation  
July 2025





# BONUS DEPRECIATION

President Trump's "Big Beautiful Bill" ("BBB") reinstates 100% first-year depreciation for qualified vessels and business aircraft that are placed into service between January 20, 2025 and December 31, 2029. The vessel or business aircraft may be new or pre-owned; however, they must be new to the taxpayer.

## Superyachts & Bonus Depreciation

### *a. Who can claim?*

To qualify for bonus depreciation there must be a *U.S. taxpayer* claiming the deduction. In most cases, this will be a US entity such as a Florida or Delaware limited liability company or corporation.

Many yacht owners prefer to structure ownership through foreign entities for various legal and operational reasons. While using a single-member foreign entity that is disregarded for US tax purposes is technically permissible, best practices favor using a US entity to limit IRS scrutiny.

### *b. The Yacht must be used in a legitimate trade or business*

The yacht must be predominantly used in a legitimate trade or business, meaning that 51% of its use must be for qualified business purposes in

order to qualify for bonus depreciation.

Significantly, in the yachting industry a qualified business purpose effectively means placing the vessel in a bona fide charter program that is operated with the intent to generate income. The BBB did not reinstate entertainment expense deductions nor did it expand or reverse the current limitations. Importantly, under current IRS guidance, entertaining business guests does not qualify as deductible business.

The IRS closely examines whether an activity is a true business or a hobby. To avoid the "hobby loss" rules, owners must demonstrate a genuine profit motive. This includes:

- Actively and regularly offering the vessel for charter
- Advertising the charter business
- Keeping detailed financial and operational records



To support the deduction, the owner must maintain proper, contemporaneous documentation, including:

- Charter agreements
- Business correspondence (e.g., emails with clients or brokers)
- Passenger manifests
- Advertising and marketing materials
- Revenue and expense records

If the vessel is used 100% for business, then 100% of the purchase price could be eligible for bonus depreciation in the first year. Otherwise, the deduction is proportional to the percentage of business use. For example, if the yacht is used 80% for business and 20% for personal use, only 80% of the purchase price would be eligible for the bonus depreciation deduction.

#### *c. Flag State and Area of Use*

The vessel may be foreign-flagged or U.S.-documented and still qualify for bonus depreciation, provided it is used more than 50% of the time in U.S. waters.

Bareboat charters, as well as time and voyage charters, can qualify as legitimate trade or business activity for purposes of bonus depreciation.

However, these operations must be run properly and professionally, as they may be subject to scrutiny not only by the United States Coast Guard, but also by the Internal Revenue Service (IRS).

Importantly, time or voyage charters conducted between U.S. ports require a coastwise endorsement, which means the vessel must be U.S.-built and U.S.-flagged in order to comply with the Jones Act and related U.S. maritime laws.

#### *d. The Business Use Must Continue*

If the business use of the vessel or area of use falls below 50% after the first year, the taxpayer may be subject to tax recapture. This means the taxpayer would have to pay the deduction back as income and switch to straight line depreciation going forward.



## Business Jets & Bonus Depreciation

### *a. Who can claim?*

Bonus depreciation is available to *US taxpayers* claiming the deduction. Often, aircraft are owned by and registered to a special purpose entity (SPE) that is a limited liability company or corporation formed pursuant to the laws of a state or US territory (such as USVI), since US citizenship requirements are mandated for FAA registered aircraft.

Many prefer to use a disregarded (for tax purposes) single member limited liability company so the depreciation flows directly to the member's tax return. However, there is tension between the desire to mitigate liability associated with aircraft ownership and operation, versus the desire to maximize the federal tax depreciation benefit. Also, state sales and use tax is a consideration especially because Florida does not cap sales and use tax levied on aircraft.

### *b. The Business Aircraft must be used in a legitimate trade or business*

Generally, bonus depreciation is available during the year that the aircraft is delivered and placed into service (after January 20, 2025). The aircraft must be predominantly used in a legitimate trade or business, meaning that 51% of its use must be for qualified business purposes in order to qualify for pro-rated bonus depreciation. This business purpose may be "private" or "charter."

Private business use is incidental to, and within the scope of, the primary business purpose of the operator. Since a SPE cannot operate a "private" aircraft under the applicable Federal Aviation Regulations (FAR), the aircraft must either be owned by the business operating the aircraft or leased by the SPE to the business operating the aircraft. In this second instance, the SPE and the primary business may be "grouped" for tax purposes if the appropriate election is timely made to avoid passive loss limitations resulting from the "hobby loss" rules.

If the aircraft is used 100% for business, then 100% of the purchase price and operating costs may be eligible for bonus depreciation in the first year. Otherwise, the deduction is proportional to the percentage of business use. For example, if the aircraft is used 80% for business and 20% for entertainment use, only 80% of the purchase price and operating costs would be eligible for the bonus depreciation deduction.

Detailed records concerning the flights taken, the business purpose of the flights, and passenger manifests are necessary. If non-business passengers are aboard (e.g., a business person's spouse or children) during a business flight, the business person will likely need to claim taxable compensation at the Standard Industry Fair Level (SIFL) as a prerequisite to avoid classification of the flight as being operated for entertainment purposes.





Personal use of a business aircraft may be classified as “business use” if the company’s security protocol mandates that an executive travel aboard its aircraft (due to the threat of death, kidnapping, or serious bodily harm) or if the company’s business operations require that the executive be available for recall to the company’s headquarters on short notice.

Charter use of an aircraft requires an Air Carrier Certificate issued by the FAA. Since it is difficult to procure an Air Carrier Certificate, this is most often achieved using a lease or a charter management agreement. Be wary, however, because this arrangement will result in “hobby loss” limitations and may not mitigate sales and use tax if the compensation is deemed a “joint venture.”

#### *c. Flag State and Area of Use*

A “private” aircraft not predominantly based and used within the USA may not qualify for bonus depreciation; instead, 12-year straight line depreciation is applicable. However, the aircraft need not be FAA-registered if owned by a US taxpayer. An aircraft operated for charter by a FAA Air Carrier Certificate holder is almost always FAA-registered, since a foreign registered aircraft

would require FAA approval and approval of the foreign registry.

#### *d. The Business Use Must Continue*

If the business use of the aircraft falls below 50% or the aircraft is moved offshore after the first year, the taxpayer may be subject to tax recapture, meaning the taxpayer would have to pay the pro-rated deduction back as income and switch to a Modified Accelerated Recovery Schedule (MACRS) of depreciation – 5 years for private aircraft, 7 years for charter aircraft, and 12 years for aircraft based and predominantly used outside of the United States.

#### *e. Accelerated depreciation of capital improvement costs*

When bonus depreciation is not available or desirable, as much as US\$2,500,000 spent on capital improvements to a business aircraft may be deducted during the year it is placed into service.



# JAFFA & CO

Superyacht & Aviation Lawyers

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Jaffa & Co is an award-winning law firm with offices in the US, the UK and Monaco, and a truly global client base. We advise on the construction, acquisition, financing, and dispute resolution of yachts and aircraft with an aggregate value of several billion dollars each year.

We value every one of our client relationships, and we genuinely pride ourselves on providing a bespoke, personal service of the very highest quality. Building enduring client relationships, which are founded on trust, exceptional response times, and concise legal advice, is at the heart of our business.

Our team has unrivalled expertise.

We advise the most discerning clients from all corners of the globe, working closely with an international network of trusted professionals in every major superyacht and aviation jurisdiction.

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# OUR PEOPLE

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An avid boater with extensive cruising experience, Scott joins Jaffa & Co to participate in superyacht transactional work and dispute resolution in compliment to his aviation practice through his own firm in Fort Lauderdale. A multi-engine pilot, Scott is recognized internationally as being exceptionally adept in complex cross-border and US-domestic business jet and rotorcraft purchase, sale, lease and finance transactions.

Scott is a Florida Supreme Court Certified Mediator since 2007, and a member of: the Florida Bar and United States District Court, Southern District of Florida since 1991; the United States Court of Appeals for the Eleventh Circuit since 1995; the United States District Court, Middle District of Florida since 1997; the United States District Court, Middle District of Florida since 2009; the Washington, D.C. Bar since 2006; the National Transportation Safety Board Bar Association since 1997; and the Lawyer-Pilots Bar Association since 2002.

Scott also serves on the Board of Governors of the Lauderdale Yacht Club and currently cruises Florida's East coast, the Florida Keys, and the Bahamas.

## Madison Bode

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Madison brings a wealth of experience to the Jaffa & Co Fort Lauderdale office, and specialises in the sale, purchase, construction and financing of superyachts, as well as dispute resolution.

Madison was an Honors student and graduated *summa cum laude* from the University of Florida, before receiving her Juris Doctor from The George Washington University Law School. She has since become a well respected member of the US superyacht community.

Her broad expertise covers yachts ranging from 24 to 100+ metres in length and she is recognised as a safe pair of hands and a highly strategic transactional advisor, which is why clients return to her time and again.

Madison has advised on vessel acquisitions across the globe, including European construction projects. She is an expert in charter related matters (both contentious and non-contentious) as well as tax and duty issues. She participates in all aspects of maritime litigation, including vessel arrests and judicial auctions, warranty claims and construction defects and personal injury cases. Additionally, Madison represents marinas and yacht owners with regard to slip agreements, live-aboard vessels, boat club contracts and ADA issues. Clients praise her attention to detail, fast response times and clear vision.

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# Matthew Potts

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Matt is a highly experienced attorney who has been able to turn his passion into a successful legal career. For 15 years he worked in house with some of the world's largest aviation operators and most prestigious brokerage houses, before joining Jaffa & Co to advise on superyacht and aviation transactions. Matt has an enviable track record and clients benefit from his wealth of contacts across the US, Europe and beyond.

Matt has handled hundreds of transactions covering cross-border purchases and sales, commercial agreements, management, charter, and leasing.

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# James Jaffa

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James founded the firm and is recognised internationally for his knowledge and expertise. He has been shortlisted for the 'Citywealth Lawyer of the Year' award and is recognised as a leading advisor within the London market for ultra-high-net-worth sector.

Clients praise James' fast response times and ability to simplify complex matters. One leading, international brokerage describes James as: *"without doubt, one of the finest specialists in the industry and a pleasure to deal with."* In his personal capacity, James is an avid sailor and competes nationally and internationally. He enjoys spending time in the South of France with his family, onboard their own boat.

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