

New Tax Laws as they Pertain to Auto Dealerships February 2018

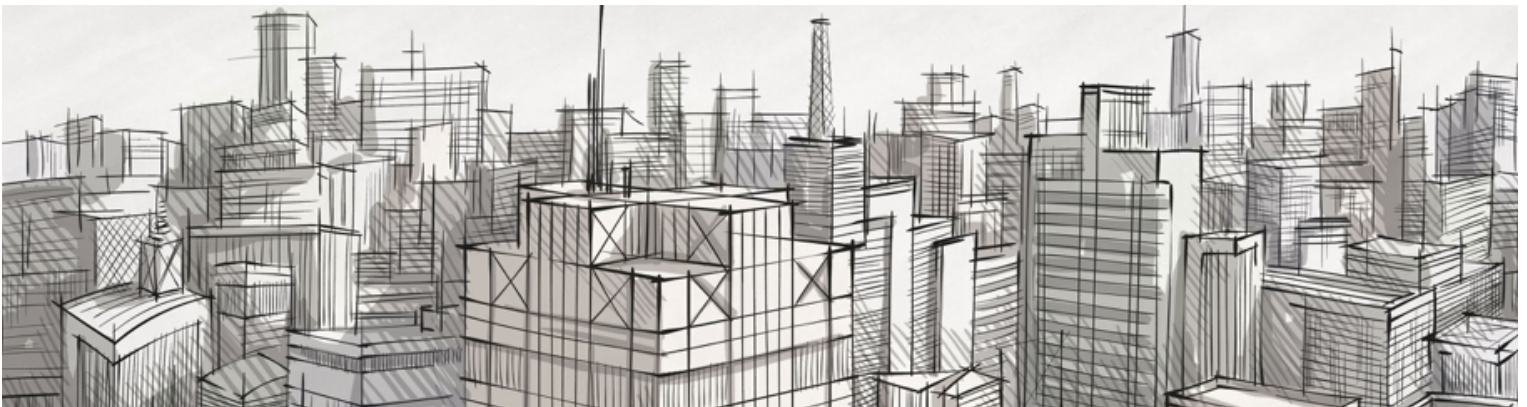
The new tax laws impact everyone, however some areas have unique applications that may need further clarification. Here is our understanding how new regulations effect auto dealerships.

If you have additional questions
related to the new tax laws and
a cost segregation study,
please contact us:
877.410.5040

OVERVIEW

Many dealership clients will no longer be eligible for bonus depreciation due to a provision involving floor plan financing. This will apply to dealers of vehicles designed to transport persons or property on a public street, boats, and farm machinery or equipment.

And importantly, an automobile dealership is **not** a trade or business that is excluded, or that could elect to be excluded, from the provisions of Sec. 163(j).



ALLOWABLE DEDUCTION AMOUNTS

Under Sec. 163(j)(1), the amount allowed as a deduction for any taxable year for business interest is subject to limitations, but under subparagraph (C), the amount allowed will not be less than the floor plan financing interest of such taxpayer for such taxable year.

The amendments to Sec. 163(j) shall apply to taxable years beginning after 12/31/17. See Sec. 13301(c) of the Tax Cuts and Jobs Act of 2017.

BUSINESS INTEREST DEDUCTIONS

Under 163(j)(3), a taxpayer that meets the gross receipts test of Sec. 448(c) for any taxable year will not be subject to the business interest deduction limitation under 163(j)(1).

448(c) - A corporation or partnership meets the gross receipts test of this subsection for any taxable year if the average annual gross receipts of such entity for the 3-taxable-year period ending with the taxable year which precedes such taxable year does not exceed \$25,000,000.

FLOOR PLAN FINANCING INTEREST

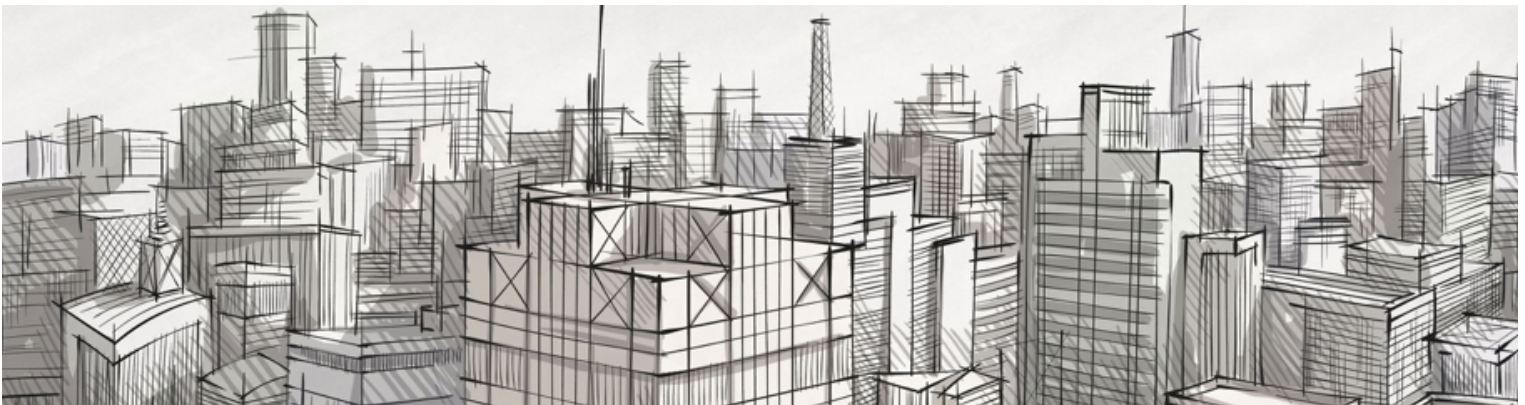
Sec. 163(j)(9) – “Floor plan financing interest” means interest paid or accrued on floor plan financing indebtedness. “Floor plan financing indebtedness” means indebtedness used to finance the acquisition of motor vehicles held for sale or lease, and secured by the inventory so acquired. The term “motor vehicle” means a motor vehicle that is any of the following:

- a. Any self-propelled vehicle designed for transporting persons or property on a public street, highway, or road.
- b. A boat.
- c. Farm machinery or equipment.

QUALIFIED PROPERTY

Under Sec. 168(k)(9)(B), for bonus depreciation purposes, the term “qualified property” shall not include any property used in a trade or business that has had floor plan financing indebtedness, if the floor plan financing interest related to such indebtedness was taken into account under 163(j)(1)(C).

So, if the taxpayer is exempt from the provisions of 163(j) under 163(j)(3) b/c of the gross receipts test, then they are still eligible for bonus depreciation under 168(k).



What is not clear is the meaning of the phrase “taken into account under 163(j)(1)(C).” Under 163(j)(1), the amount allowed as a deduction for any taxable year for business interest shall not exceed the sum of –

- i. (A) The business interest income of such taxpayer for such taxable year,
- ii. (B) 30% of the adjusted taxable income of such taxpayer for such taxable year, plus
- iii. (C) The floor plan financing interest of such taxpayer for such taxable year.

For purposes of the 30% adjusted taxable income inclusion, “adjusted taxable income” means the taxable income of the taxpayer computed without regard to –

- Any item of income, gain, deduction, or loss which is not properly allocable to a trade or businesses,
- Any business interest or business interest income,
- The amount of any NOL deduction under Sec. 172,
- The amount of any deduction allowed under Sec. 199A
- In the case of taxable years beginning before 1/1/2022, and any deduction allowable for depreciation, amortization, or depletion, and
- Any other adjustments as provided by the Secretary.

Without an implementing regulation, the final meaning of the phrase “Qualified Property” taken into account under 163(j)(1)(C) cannot be known. However, we believe it is likely that should the amount of floor plan financing interest, along with all other business interest potentially deductible under Sec. 163(j), not exceed the sum of the business interest income of the taxpayer and 30% of the adjusted taxable income of such taxpayer, then the floor plan financing interest would not have been taken into account (i.e., determined to be deductible) under 163(j)(1)(C), and therefore, the prohibition on taking bonus depreciation under 168(k)(9)(B) would not apply.

Start your cost segregation study today

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