



## 2017 TCJA PROVISION and BUSINESS INTEREST EXPENSE FOR MOTOR VEHICLE DEALERS

The 2017 Tax Cuts and Jobs Act (TCJA) amended §163(j) to limit the deductibility of business interest. The general limitation is essentially 30% of the adjusted taxable income (ATI) of the taxpayer. However, taxpayers are also allowed to fully deduct any floor plan financing interest. See §163(j)(1)(c).

### A FEW DEFINITIONS

Floor plan financing interest is interest paid or accrued on floor plan financing indebtedness.

Floor plan financing indebtedness is indebtedness used to finance the acquisition of motor vehicles held for sale or lease and secured by the inventory so acquired.

A motor vehicle is any self-propelled vehicle designed for transporting persons or property on a public road, a boat, or farm machinery or equipment. See §163(j)(9).

Unfortunately, there is a trade-off to deducting floor plan financing interest in excess of the general limitation. Under §168(k)(9)(B), qualified property for bonus depreciation 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). Therefore, once a taxpayer deducts business interest as floor plan financing interest under §163(j)(1)(c), any property placed in service during the same and all subsequent taxable years is not eligible for bonus depreciation.

Some commentators have stated that the deduction for floor plan financing interest is mandatory, and that the deduction of floor plan financing interest is always taken into account under §163(j)(1)(c). This interpretation leads to the conclusion that any motor vehicle dealer with any floor plan financing interest is barred from claiming bonus depreciation.

Scarpello Consulting believes that position is unsupported by the law and available official guidance. First, to conclude that floor plan financing interest is always taken into account under §163(j)(1)(c), whether or not total business interest expense exceeds the general limitation, would render the phrase “if the floor plan financing interest related to such indebtedness was taken into account under paragraph (1)(C) of such section” in §168(k)(9)(B) superfluous because §168(k)(9)(B) would have the same meaning with or without the phrase. Under canons of judicial interpretation/statutory construction, courts will typically avoid interpreting a provision in a way that would render other parts of the provision, or other provisions of the same law, superfluous or unnecessary.

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*Continued*

Second, in the Joint Committee on Taxation's General Explanation of Public Law 115-97 (the TCJA), examples are provided that indicate the JCT believes that the prohibition on claiming bonus depreciation applies only to motor vehicle dealers that incur business interest expense in excess of the general limitation and that choose to deduct floor plan financing interest under §163(j)(1)(c). See JCS-1-18; pg. 141 of the pdf file or pg. 127 of the document as labeled.

While the JCT's general explanations do not carry the weight of law or properly enacted administrative regulations or policy, they are a better summary of the intent of the law than outside commentary. Regardless, practitioners should still ensure to disclose the "open" nature of the effect of the law when advising clients.

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