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Limit on Automobile Deductions

1.1 Welcome. Hi, and welcome. This video is one in a series discussing various topics my clients ask me to address. The memorandum addresses how Automobile Deductions are severely limited because the IRS assumes everyone is overstating their auto expense and Congress passed laws requiring more evidence than on other deductions. This is a “30,000-foot” look at this subject.

1.2 No Legal Advice. I cannot and do not provide any advice; only a licensed professional in your jurisdiction can do that. You should assume I am not licensed in any jurisdiction and am not addressing any of your specific concerns. You must consult a licensed professional in your jurisdiction.

ARTICLE 1 Automobile as a “Luxury Item”

2.1 Autos, Trucks, etc. Congress and the IRS just assumes everyone is overstating these expenses so they require substantially more evidence before these deductions are allowed. But actual deductions for automobile expenses used in a trade or business is allowed. From Form 1040, Schedule C Instructions page C-7. Publication 463 page 14.

If you deduct actual expenses:

- Include on line 9 the business portion of expenses for gasoline, oil, repairs, insurance, license plates, etc.; and
- Show depreciation on line 13 and rent or lease payments on line 20a.

For details, see chapter 4 of Pub. 463.

Car Expenses

If you use your car for business purposes, you may be able to deduct car expenses. You can generally use one of the two following methods to figure your deductible expenses.

- Standard mileage rate.
- Actual car expenses.

As a matter of practice, you will likely have to compute the expenses both ways to decide which is better, but in both cases, you can only use that method in the future and you are still subject to the substantiation/evidence requirement discussed below. Publication 463 page 15



If you qualify to use both methods, you may want to figure your deduction both ways to see which gives you a larger deduction.

Actual car expenses include:

Depreciation	Lease	Registration
Licenses	payments	fees
Gas	Insurance	Repairs
Oil	Garage rent	Tires
Tolls	Parking fees	

Business and personal use. If you use your car for both business and personal purposes, you must divide your expenses between business and personal use. You can divide your expense based on the miles driven for each purpose.

2.2 Depreciation is Limited to \$18,200. It does not matter if you use §179, bonus depreciation or the regular MACRS, the total deduction is still limited to \$18,200. Publication 463 Page 20. However, §179 is limited to net business income and cannot create a net operating loss, whereas Bonus depreciation and MACRS is not so limited and can generate a net operation loss.

Section 179 deduction. The section 179 deduction is treated as a depreciation deduction. If you acquired a passenger automobile (including trucks and vans) after September 27, 2017, and placed it in service in 2021, use it only for business, and choose the section 179 deduction, the special depreciation allowance, and depreciation deduction for that vehicle for 2021 is limited to \$18,200.

Note that the limit is \$18,200 for the total sum of §179, special depreciation (ie Bonus Depreciation) and the depreciation deduction (MACRS). Rev Proc 2021-31 Table 1, CCH, Master Tax Guide 105th Edition, 2022 ¶1214, Page 403.

**Maximum
Depreciation Deduction
for Passenger Automobiles
(Including Trucks and
Vans) acquired after September
27, 2017, and
placed in service during 2018 or
later**

Date Placed in Service	1st Year	2nd Year	3rd Year	4th & Later Years
2021	\$18,200 ¹	\$16,400	\$9,800	\$5,860
2019-2020	18,100 ²	16,100	9,700	5,760
2018	18,000 ³	16,000	9,600	5,760

¹ \$10,200 if the passenger automobile isn't qualified property or if you elect not to claim the special depreciation allowance.

² \$10,100 if the passenger automobile isn't qualified property or if you elect not to claim the special depreciation allowance.

³ \$10,000 if the passenger automobile isn't qualified property or if you elect not to claim the special depreciation allowance.

Tables. The maximum depreciation deductions under the Modified Accelerated Cost Recovery System (MACRS) (including the Section 179 expensing deduction (§ 1208) and bonus depreciation deduction (§ 1237) that may be claimed for a passenger automobile, including vans, trucks, and SUVs, placed in service in calendar years 2018 through 2021 are shown in the first table below.

It does not matter whether you use §179, MACRS and/or Bonus Depreciation, or any combination thereof, you cannot deduct more than \$18,200 for depreciation expense.

2.4 2022 Rates: TheTaxBook, *What's New 2022 Early Edition*, www.thetaxbook.com, Page 3.5

Vehicle Depreciation Limitations (Section 280F)				
Tax year first placed in service:	2022	2021	2020	2019
<i>Vehicle depreciation limitations based on 100% business or investment use:</i>				
1st year if special depreciation is claimed	\$19,200	\$18,200	\$18,100	\$18,100
1st year depreciation	\$11,200	\$10,200	\$10,100	\$10,100
2nd year depreciation	\$18,000	\$16,400	\$16,100	\$16,100
3rd year depreciation	\$10,800	\$9,800	\$9,700	\$9,700
Each succeeding year	\$6,460	\$5,860	\$5,760	\$5,760

**Substantiation: What Evidence
and When**

3.1 Business Use. In most cases, the IRS will *not challenge* that the taxpayer is using a vehicle in the business. *That is not enough!!* and you will lose the deductions.

3.2 §274 The Statute Requires. New cases require “contemporaneous” records meaning immediate recording, day by day:

Peoples Tax Court Summary Decision 5-19-2022, TheTaxBook, What’s New 2022 Early Edition, www.thetaxbook.com, pages 3-2, 3.3

A recent court case illustrates the necessity of always maintaining a contemporaneous written log book to claim a deduction for business miles.

The taxpayer was a heavy equipment operator working as part of an earth stripping crew for a company that produced and distributed construction materials. As part of his job, the taxpayer traveled to multiple out-of-town work sites. The taxpayer claimed 32,640 business miles on his 2014 tax return as unreimbursed employee business expenses. The taxpayer did not keep a log, calendar, or any records of the various work locations.

Author’s Comment: A key issue to consider is that records must be contemporaneous and specific. Reconstructing written records years later during an IRS audit is not contemporaneous, and estimating various locations, dates, and the time worked at each site is not specific. And as this case illustrates, oral testimony will not work unless the taxpayer has a perfect memory that can recall specific dates, locations, and times worked each day.

Struble TC Summary 2022-1, *Ibid* page 3-3

This case illustrates that a mileage log book with dates, locations, and miles driven is not enough to meet the strict substantiation requirements for claiming a business mileage deduction.

The taxpayer was employed by the U.S. Air Force. She was a trained medic, and her primary duty was to act as a medical facilitator, coordinating across the Department of Defense among the Air Force, Army, and Navy to ensure each branch was in compliance with applicable standards and regulations for medical training.

To substantiate her business miles driven in connection with her ADFS travel, the taxpayer kept a self-prepared ledger documenting business miles driven. The ledger was not a contemporaneous record. The taxpayer updated it quarterly using a calendar that purportedly recorded contemporaneously all of her business mileage. The taxpayer did not produce the calendar into evidence.

Author’s Comment: While this case involved unreimbursed employee business expenses, the substantiation requirements also apply to self-employed individuals claiming mileage deductions. Contemporaneous records such as a log book must establish the date for each trip, the location for each trip, the miles driven for each trip, and a description of the business purpose for each trip.

Conclusion: All that is asked for is for odometer readings and business purpose be recorded, probably best written down when you get in your vehicle and the deduction can be worth thousands of dollars in taxes. I speculate that many employers require this of their employees so it should not be that much of a problem

Here is what the IRS suggests. Publication 463, page 26. It is not required and you can use your own form:

Table 5-1. How To Prove Certain Business Expenses

IF you have expenses for . . .	THEN you must keep records that show details of the following elements . . .			
	Amount	Time	Place or Description	Business Purpose Business Relationship
Travel	Cost of each separate expense for travel, lodging, and meals. Incidental expenses may be totaled in reasonable categories such as taxis, fees and tips, etc.	Dates you left and returned for each trip and number of days spent on business.	Destination or area of your travel (name of city, town, or other designation).	<u>Purpose:</u> Business purpose for the expense or the business benefit gained or expected to be gained. <u>Relationship:</u> N/A
Gifts	Cost of the gift.	Date of the gift.	Description of the gift.	
Transportation	Cost of each separate expense. For car expenses, the cost of the car and any improvements, the date you started using it for business, the mileage for each business use, and the total miles for the year.	Date of the expense. For car expenses, the date of the use of the car.	Your business destination.	<u>Purpose:</u> Business purpose for the expense. <u>Relationship:</u> N/A

Table 5-2. Daily Business Mileage and Expense Log **Name:**

Date	Destination (City, Town, or Area)	Business Purpose	Odometer Readings			Expenses	
			Start	Stop	Miles this trip	Type (Gas, oil, tolls, etc.)	Amount
Weekly Total							
Total Year-to-Date							