

Internal Revenue Code Section 280F(d)(5)

Limitation on depreciation for luxury automobiles; limitation where certain property used for personal purposes

(d) Definitions and special rules. For purposes of this section—

(1) Coordination with section 179. Any deduction allowable under section 179 with respect to any listed property shall be subject to the limitations of subsections (a) and (b), and the limitation of paragraph (3) of this subsection, in the same manner as if it were a depreciation deduction allowable under section 168.

(2) Subsequent depreciation deductions reduced for deductions allocable to personal use. Solely for purposes of determining the amount of the depreciation deduction for subsequent taxable years, if less than 100 percent of the use of any listed property during any taxable year is use in a trade or business (including the holding for the production of income), all of the use of such property during such taxable year shall be treated as use so described.

(3) Deductions of employee.

(A) In general. Any employee use of listed property shall not be treated as use in a trade or business for purposes of determining the amount of any depreciation deduction allowable to the employee (or the amount of any deduction allowable to the employee for rentals or other payments under a lease of listed property) unless such use is for the convenience of the employer and required as a condition of employment.

(B) Employee use. For purposes of subparagraph (A), the term "employee use" means any use in connection with the performance of services as an employee.

(4) Listed property.

(A) In general. Except as provided in subparagraph (B), the term "listed property" means—

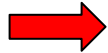
(i) any passenger automobile,

(ii) any other property used as a means of transportation,

(iii) any property of a type generally used for purposes of entertainment, recreation, or amusement,

- (iv) any computer or peripheral equipment (as defined in section 168(i)(2)(B)),
- (v) any cellular telephone (or other similar telecommunications equipment), and
- (vi) any other property of a type specified by the Secretary by regulations.

- (B) Exception for certain computers. The term "listed property" shall not include any computer or peripheral equipment (as so defined) used exclusively at a regular business establishment and owned or leased by the person operating such establishment. For purposes of the preceding sentence, any portion of a dwelling unit shall be treated as a regular business establishment if (and only if) the requirements of section 280A(c)(1) are met with respect to such portion.
- (C) Exception for property used in business of transporting persons or property. Except to the extent provided in regulations, clause (ii) of subparagraph (A) shall not apply to any property substantially all of the use of which is in a trade or business of providing to unrelated persons services consisting of the transportation of persons or property for compensation or hire.



(5) Passenger automobile.

- (A) In general. Except as provided in subparagraph (B), the term "passenger automobile" means any 4-wheeled vehicle—
 - (i) which is manufactured primarily for use on public streets, roads, and highways, and
 - (ii) which is rated at 6,000 pounds unloaded gross vehicle weight or less. In the case of a truck or van, clause (ii) shall be applied by substituting "gross vehicle weight" for "unloaded gross vehicle weight".
- (B) Exception for certain vehicles. The term "passenger automobile" shall not include—
 - (i) any ambulance, hearse, or combination ambulance-hearse used by the taxpayer directly in a trade or business,
 - (ii) any vehicle used by the taxpayer directly in the trade or business of transporting persons or property for compensation or hire, and
 - (iii) under regulations, any truck or van.