



PERSONAL USE OF BUSINESS AIRCRAFT CHECKLIST

by Joanne Barbera

Documentation

- Keep contemporaneous, detailed and consistent records

Characterization of Flights - For each passenger on each flight

- Personal Entertainment (PE)?
- Personal Non-Entertainment (PNE)?
- Core Business?
- Business Lobbying? (special rules)
- Business Charitable? (special rules)

If Personal (PE or PNE):

1. FAA Issues

- Is reimbursement allowed?
 - FAR Part 91
 - Time sharing?
 - Nichols opinion?
 - FAR Part 135

2. Tax Issues

a. IRS Fringe Benefit (Employee Income)

- Applies, except for sole proprietors
- Determine employees and allocate guests
- Does general valuation or SIFL apply?
- If SIFL:
 - Determine mileage (ignore deadheads)
 - Determine applicable rate
 - Determine aircraft multiple
 - Control or non-control employee?
 - Bona fide security plan?
 - Do business pax fill 50% seating capacity?
 - Calculate:
www.nbaa.org/admin/taxes/personal-use/calculator

- Include amount in employee income to the extent not reimbursed

b. IRS Entertainment (Company Disallowance)

- Applies if company takes deductions

- Applies to specified individuals' PE
- Determine total aircraft expenses
- Determine aggregation of aircraft and applicable depreciation method
- Determine total, per flight, and per passenger per flight hours and miles (include deadheads)
- Calculate using one of 4 methods:
 - Occupied seat hours
 - Occupied seat miles
 - Flight by flight (hours)
 - Flight by flight (miles)
- Subtract applicable fringe benefit or reimbursement for net disallowance

c. Federal Excise Tax

- Applies if there is taxable transportation and reimbursement:
 - 7.5% of amount paid, plus segment fee

d. Other Tax Issues

- IRC Section 280F implications?
- State tax implications?

3. Insurance Policy Issue

- Does policy allow reimbursement?

4. SEC Reporting Issues

- Generally applies to public companies
- Potential disclosures:
 - "Other compensation" on Executive or Director compensation tables?
 - Aggregate incremental cost of flights to the extent not reimbursed
 - Footnote, if applicable
 - Material Definitive Agreement?
 - Related Party Transaction?
- Sarbanes-Oxley, NYSE or NASD issues?

5. Company Policy Issues

- Does policy allow use?
- Is reimbursement required?

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