



**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)?
- Commuting? (special rules)
- Core Business?
- Business Entertainment? (special rules)
- Business Lobbying? (special rules)
- Business Charitable? (special rules)

**If Personal (PE or PNE or Commuting):**

**1. FAA Issues**

- Is reimbursement allowed?
  - FAR Part 91
    - o Time sharing?
    - o Nichols arrangement?
  - 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](http://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. IRS Business Entertainment and Commuting**
- General Rule: not deductible
    - See limited exceptions
- d. Federal Excise Tax**
- Applies if there is taxable transportation and reimbursement:
    - 7.5% of amount paid, plus segment fee

**e. 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?
    - o Aggregate incremental cost of flights to the extent not reimbursed
    - o 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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