

Have You Considered Joint Ownership?

September, 2008

If your company has a corporate jet and is exploring ways to keep the jet but cover some of the costs, one option to consider is joint ownership of the aircraft.

Under FAR 91.501(c)(3) “A *joint ownership agreement* means an arrangement whereby one of the registered joint owners of an airplane employs and furnishes the flight crew for that airplane and each of the registered joint owners pays a share of the charge specified in the agreement.” Remember that FAR 91.501 applies to U.S. registered large (more than 12,500 pounds, maximum certificated takeoff weight) airplanes, turbojet-powered multiengine civil airplanes in operations not involving common carriage.

Joint ownership requires that each party own an interest in the aircraft. You are not a “joint owner” in the eyes of the FAA if you own an interest in the limited liability company (LLC) that owns the aircraft.

There are several questions you should ask yourself before you purchase an expensive asset as a joint owner:

- Who will be the registered owners? Remember that the FAA prohibits a sole purpose entity from operating the aircraft. If one of your joint owners is solely set up to own the aircraft, you likely have other issues to address.
- What percentage ownership will be owned by each registered owner? Remember that a 7% owner should not fly 90% of the flight hours.
- Who will manage the aircraft, employ the crew, obtain the insurance, schedule maintenance, schedule the aircraft and handle other administrative matters?
- How will the fixed and variable costs be divided among the owners – based upon percentage of ownership, number of flight hours flown, or another method?
- What rules apply to scheduling the aircraft – majority owner has priority, rotating priority on a quarterly basis, first-come, first served? There are a lot of options.
- Will you limit the number of hours each owner can fly? If not, how will you handle an owner flying substantially more hours to the point of excluding the other owners from their fair share of the usage?
- How will the cost of repositioning flights be handled? If an owner flies to a vacation home and stays for a week, and another owner wants to use the aircraft that same week, who will pay for flights from the vacation home to home base and back?
- What if an owner wants to sell or must sell? Will the other owners have a right of first refusal? Can the other owners be required to purchase the aircraft interest?
- What if an owner defaults? You cannot operate the aircraft if only 2/3 of the maintenance is completed because a 1/3 owner did not pay for their share. Will the defaulting owner be forced to sell its aircraft interest? Will the other owners be forced to purchase the aircraft interest?
- If any owner finances its purchase, will the lender accept a lien on only a portion of the aircraft?

- What tax consequences might apply - e.g. state sales/use tax, federal excise tax, state property tax? If the joint owners are located in different states, each state's tax regulations need to be considered.

It is helpful to have an understanding of these and other issues which can arise with joint ownership. Consider involving an attorney with aviation expertise when addressing joint ownership and other issues involved with structuring ownership and operation of a corporate aircraft.

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