

IRS Record Keeping Requirements



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If and when the IRS demands an audit, strict adherence to record keeping will be worth its weight in gold, notes attorney Chris Younger.

As is the case with governance of any operating business, owners of business aircraft must maintain adequate records to support the tax treatment of their income and loss with respect to their involvement with Business Aviation. Those records must be retained for an adequate amount of time in the event they are needed in connection with an income tax audit.

Additionally, Directors should be aware of unique record keeping requirements pertaining to use of business aircraft.

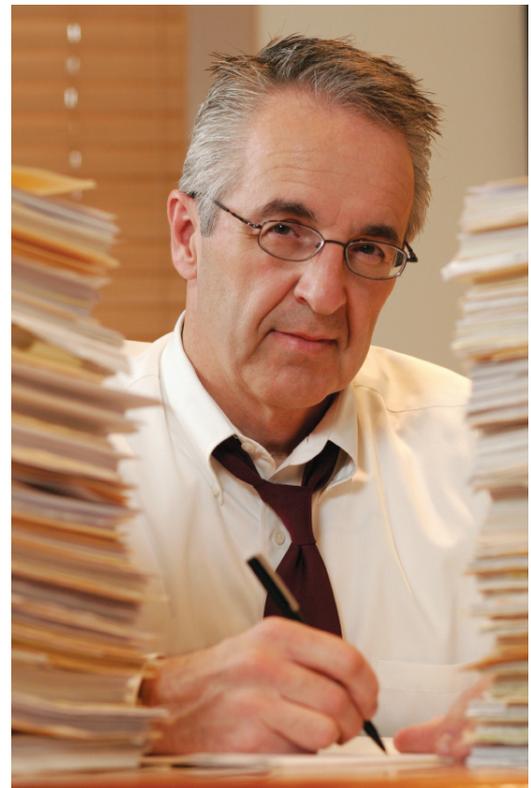
As a general rule, business aircraft owners should retain tax records for a minimum of six years following the date that the owner files the income tax return to which those records relate.

The typical limitations period prohibits the IRS from challenging the contents of a tax return more than three years after it is filed. In certain instances, such as where income is understated by a substantial amount, this time period can be expanded to six years. Of course, there are exceptions to this rule, such as where a taxpayer engages in fraud or fails to file a tax return. In those situations, there is no applicable statute of limitations.

However, assuming that those exceptions do not apply, following the general six year rule should be adequate.

ADDITIONAL RULES OF THUMB

In addition to these "rule of thumb" recommendations, business aircraft owners should always keep all records relating to an aircraft, including those pertaining to the purchase and sale of the aircraft, until six years after the owner sells or otherwise disposes of the property. The purpose for such retention is to ensure that the owner can support



the amount of any gain or loss reported as a result of the sale of its aircraft and any concomitant tax basis adjustments to the aircraft that affect the amount of such gain or loss.

Business aircraft owners also face certain unique tax record keeping requirements. For example, they must create and retain records relating to SIFL (Standard Industry Fare Level) income inclusion >

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amounts and personal loss deduction limitations. (SIFL is an amount specified by the federal government to determine the value of personal travel on the company aircraft.)

These records include items that must be created contemporaneously with the flights to which they relate. If a business aircraft owner fails to create such records contemporaneously with the relevant flight, the IRS may have a basis to question or challenge the veracity of the information contained in those records during an audit by, for example, arguing that a business aircraft owner created records merely to support its tax position in an audit.

AIRCRAFT MANAGEMENT COMPANIES

A business aircraft owner should be able to access flight, financial and tax records relating to ownership and operation of its aircraft. If a business aircraft owner hires a management company to maintain certain records (e.g., flight logs, passenger manifests, flight related activity and maintenance costs), the owner should ensure that its agreement with the management company gives it the right to access these records as necessary even after the termination of the agreement between the owner and

management company. Among the recommended provisions to guarantee access to such records would be a covenant by the management company that it will retain those records for an adequate period of time after their creation.

A business aircraft owner should also ensure that certain records are created in a manner that will enable the owner to effectively utilize them in the event of a tax audit. This is especially true for records that are used as back-up to support SIFL income inclusion amounts and deduction limitations resulting from use of the aircraft for personal entertainment.

Since the process can be complex, a business aircraft owner should consider retaining a qualified aviation tax consultant who has expertise in collecting and organizing the information needed to correctly calculate these items. Seeking legal counsel regarding record keeping will ensure that owners of business aircraft are prepared in the event of an IRS audit.

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