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Ready to Buy and Fly?

Teaming Strategies for a Successful Aircraft Acquisition

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Are you considering purchasing an aircraft? Perhaps you outgrew using charter or your fractional hours. Or you have health and security concerns and want the certainty of flying on board your own aircraft. Whatever your reason, you'll first want to consider several key factors as you make your decision (See "Six Essential Questions for Aircraft Acquisition Success," BAA July, 2014).

Begin the acquisition process by retaining two key industry professionals to assist you. Assembling the best team, or failing to do so, can make or break a deal.

A business aircraft acquisition expert will work with you to clearly define your mission profile and the best aircraft makes and models to meet your needs. He or she also will identify and source available aircraft, and perform an initial evaluation of the aircraft's pedigree, including a visual inspection and preliminary review of documents, to determine which of the available aircraft merit your further consideration.

A business aviation attorney will enable you to move quickly once you've identified an aircraft to purchase. He or she will work closely with you and your aircraft acquisition expert to draft and negotiate purchase documents, such as a letter of intent and/or aircraft purchase agreement, that clearly describe the purchase terms and conditions. These terms include:

- purchase price
- deposit amount and refundability
- rights to oversee a new aircraft completion or conduct a used aircraft prepurchase inspection
- aircraft delivery condition requirements
- the scope of the seller's obligation to repair any discrepancies from the required aircraft delivery condition, and
- the purchaser's right to terminate the purchase agreement if the aircraft cannot meet the delivery condition requirements or if the seller defaults on its obligations.

A business aviation attorney with tax expertise will fill a dual role on the aircraft acquisition team by advising you on the optimal aircraft ownership and operating structure to minimize liability for sales or use tax and personal property tax, maximize income tax deductions originating from ownership and operation of the aircraft (for example, an engine overhaul which can be expensed 100% in the year in which it is performed, rather than depreciated over time), and ensure that the aircraft ownership and operating structure also complies with FAA and other regulatory requirements applicable to business aircraft ownership and operations.



Once the purchase contract is signed, the acquisition expert will work closely with you to oversee the acquisition process. He or she will provide hands-on oversight of the aircraft assembly or prepurchase inspection process (employing a knowledgeable and qualified technician, if necessary) to be certain that they are completed in accordance with the requirements of the purchase contract, prepurchase inspection work scope, FAA regulations, and industry best practices.

In addition, your team should provide guidance regarding whether you will be setting up your own flight department, or hiring an aircraft management company. If you choose to use a management company (particularly if the manager also will operate the aircraft in charter), it is very helpful to have the manager and/or the assigned maintenance technician involved during the aircraft completion/inspection process. This will help ensure that anything the manager requires for operation of the aircraft can be addressed prior to purchase, if possible.

Your acquisition team also will include a banker, if you plan to finance the aircraft, lease the aircraft from a commercial lessor, or borrow against the aircraft's value at or after closing. If the aircraft will be imported from another country's registry, you also will need to retain a customs broker and Designated Airworthiness Representative.

Ensuring a positive aircraft acquisition is a multi-faceted process. Hiring a team of experienced and well qualified aviation professionals will lay the surest foundation for success. **BAA**



CHRIS YOUNGER, GKG Law Principal, assists clients with all aspects of business aircraft ownership and operations, including issues related to federal and state taxation and regulation. He holds both a JD and LLM in Taxation.

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