

Tax and Other Planning Issues When Hiring or Switching Charter Management Companies

Part IV of a 5 part series

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Discussion

- Federal Income Tax implications of chartering your aircraft to the public
- State Sales / Use Tax implications of chartering your aircraft to the public
- Documenting the Management / Charter deal
 - Including Federal Excise implications of ceding control of your aircraft to the charter company



Federal Income Tax Issues

Deducting Aircraft Operating Expenses

- Trade or Business Expenses (IRC 162)
 - Ordinary, Necessary and Reasonable
 - Charter-For-Profit Activity
- Activities not Engaged in for Profit (a.k.a. Hobby Loss Rules) (IRC 183)
 - Does not meet requirements of IRC 162
 - Deductions May Not Exceed Charter Income



Federal Income Tax Issues

Depreciating the Basis in your Aircraft

- Limitation Where Certain Property is Used for Personal Purposes (IRC 280F)
 - Limitation Where Qualified Business Use Not Greater than 50% (IRC 280F(b); (d)(6)(B))

- MACRS Recovery Period: 5-Year v. 7- Year (IRC 168(c))
 - Recapture Event if Recovery Period Changes



Federal Income Tax Issues

Passive Losses (IRC 469)

→ Why it's Important

→ Applicability to Charter (e.g., Leasing, No Material Participation)

→ Exceptions (e.g., Rentals Incidental to Use in a Trade or Business)



State Sales/Use Tax Issues

Laws and Exemption Vary from State to State

- Sale for Resale Exemption
- Common Carrier Exemption
 - NY & CA: Exempt if 50% Threshold is Met
 - IL: Exempt without 50% Threshold
 - FL: Not Exempt, but Apportioned
- Interstate Commerce
 - CA: Exempt if 50% Threshold is Met
 - MD: Part 91 & 135



Documenting the Management/Charter Deal

One Document or Two?

→ Flight Department Company Prohibition (Federal Aviation Regulations)

→ Liability Protection Planning



Documenting the Management/Charter Deal

One Document or Two?

- Federal Excise Taxes (IRC 4261)
 - Flight Department Company
 - Transfer of Possession, Command and Control to Charter Company

- Fuel Tax Credits (IRC 6427)



Documenting the Management/Charter Deal

One Document or Two?

- Segregation of Cash Flow and Invoices
- Netting (Federal Income Tax Planning)



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