



ENTERING PRIVATE AIRSPACE: OPTIONS FOR TAKING FLIGHT

AUGUST 2020

For a high-net-worth individual or a closely-held business owner or entrepreneur, the desire to fly privately rather than via commercial airline has its advantages. The ability to travel on short notice and to remote destinations that are not serviced by major airports, while at the same time mitigating security concerns and experiencing unparalleled privacy, are some of the most common reasons. Add to this the increased focus on hygiene due to COVID-19 and the need to work uninterrupted during the flight time, and you can see why the thought of abandoning commercial flight is enticing.

Before purchasing or leasing an aircraft, it is best to understand what options are available and how these options can be tailored to fit specific needs. Aircraft ownership comes with enormous cost and responsibility that may not support the investment, and more cost-effective alternatives could accomplish the same goals with fewer headaches. There are several short- and long-term options available. Understanding how often, how far, how many passengers, and the purpose of the flight are all important considerations when looking at private aircrafts.

ACCESSING PRIVATE FLIGHT - UNDERSTANDING YOUR OPTIONS

Charter Service

Chartering a plane is often the most cost-effective way to fly privately and is often recommended as a gateway to discovering flight preferences for those wishing to pursue private aviation. It provides flexibility, requires no up-front commitment of capital, and is ideal for sporadic or unpredictable usage. Chartering flights can be handled directly or through a broker and carries less liability than ownership. Chartered flights eliminate ongoing monetary obligations making it an ideal short-term option.



A charter service does have its disadvantages. More advance notice may be needed to schedule flights in order to ensure availability of the aircraft at the time and place you desire. In addition, you are at the mercy of the charter company or broker with respect to the fleet of aircraft that is available. When the pool that your chartered aircraft is drawn from is smaller, or the aircraft in that pool is older or in less-than-perfect condition, this can lead to inconsistent service over the long term and impact the overall experience. There are also additional costs including fuel surcharges and deadhead flight hours that may not have been anticipated upon booking.

Flight Cards

Private flight cards, similar to prepaid debit cards, are purchased as a block of flight hours or held as a monetary balance to be used for private charter flights. Flight cards provide flexibility in the size and type of aircraft used, competitive pricing, and no upfront or ongoing capital obligations. Since flight cards are simply a block of charters measured in dollars or hours, users do not receive the benefit of depreciation that comes with ownership of an aircraft.



Charter brokers, charter operators, and fractional operators (discussed below) all offer flight cards and will often include value-add services, such as car service, inflight catering, and last-minute reservation options, to entice customers to purchase higher level cards. It is advised that these offers be reviewed thoroughly to ensure the cost and benefits best meet your needs.

Fractional Ownership

Fractional ownership is best suited for those who prefer a particular aircraft with a known number of flights required annually. Fractional ownership allows the purchaser to own a slice of a specific aircraft (typically between one sixteenth and one half) through a fractional share provider who will guarantee supply of an aircraft as needed, either your plane or a comparable one. Similar to charters or flight cards, fractional ownership provides flexibility in terms of the size of aircraft needed for each trip. Generally, there are no incurred costs for logistical problems such as deadheading or repositioning, and all aspects of management and maintenance are taken care of by the fractional provider, resulting in less time and stress for the flyer. Unlike chartering and flight cards, there is an upfront outlay of capital, but this comes with the benefit of depreciation that can offset trade or business income.



There are several disadvantages to fractional ownership arrangements. These include limitations on flexibility and on flight times during holiday and peak time periods. Typically, fractional ownership results in a reduced aircraft buyback value at the end of the term due to more flight hours logged on the shared aircraft in a fractional program and the inherent disadvantages of not individually owning the aircraft. Fractional ownership may be more expensive per flight hour than charter service or flight cards. Liability, including sales tax, can also vary based on the particular arrangement.

Joint Ownership Arrangements

A potential buyer with a reliable partner(s) may arrange a Federal Aviation Administration (FAA) sanctioned joint ownership aircraft purchase. It is an agreement between two or more purchasers responsible for everything required to legally and safely operate an aircraft. This differs from fractional ownership in that there is no outside vendor to assist with maintenance or management of the aircraft. Owners divide all costs, resulting in a lower cost per flight compared to fractional ownership.



Because this ownership option allows access only to the purchased aircraft, there is no flexibility for the size and type of aircraft. However, the aircraft itself will generally log fewer hours and, because of this, the resale value is generally higher than comparable aircraft used in a fractional agreement. The owners, through the use of a management company, have full control of maintenance and management of the aircraft. This grants owners the transparency and assurance that all aspects of the plane's operation are conducted with the highest level of oversight, giving owners peace of mind that the aircraft is in peak operating condition and in compliance with flight regulations. To this point, liability also falls to the owners.

Full Ownership

For the maximum benefits of privacy, flexibility, personal aircraft specifications, and strategic tax savings, full aircraft ownership is the right option. Full ownership typically requires a management company to handle all regulatory compliance and general flight operations. As with joint ownership, legal liability falls on the owner of the aircraft.



It is often advised that third-party chartering is utilized in a full ownership arrangement. Third-party charter lends support for the use of the aircraft for business purposes, which is critical in utilizing tax deductions. Revenue generated can be used to defray costs associated with ownership.

PLANNING WITH PURPOSE - PURCHASING AN AIRCRAFT

If the decision to purchase an aircraft is made, the first step is to have the right team of advisors to guide you through the process. A competent tax advisor understands the related tax costs associated with purchase and ongoing use of the aircraft for business and personal purposes. An attorney specializing in aviation law is critical, as the rules related to FAA compliance are complex and nuanced. This team of advisors helps identify tax-friendly jurisdictions from which to take title of the aircraft and provides guidance with respect to avoiding or minimizing sales and use tax on the purchase. They also provide options for structuring the ownership of the aircraft in order to take advantage of tax deductions associated with business use and under compliance with Federal Aviation Regulation Parts 91 and 135, which govern the use of private aircraft and charter operations. These advisors draft the appropriate management and lease agreements needed to document the business purpose of the aircraft.

TAX IMPACTS OF PRIVATE AIRCRAFT OWNERSHIP

Tax deductions are a driving force behind the decision and desire to own an aircraft. Deductions include up to 100 percent of the cost under the bonus depreciation rules provided under federal tax reform or the offset of business income with large tax deductions associated with maintaining an aircraft.

Federal tax regulations require that careful analysis be done to distinguish between business use and entertainment use of the aircraft. Because an aircraft is considered "listed property," defined by the Internal Revenue Code as property that is typically used for both business and personal purposes, the depreciation available to take as an expense is measured by business use in comparison to personal use.

In order to utilize the accelerated depreciation deductions, the business use of an aircraft must remain at 50 percent or above for each year of use. Failing to maintain the 50 percent threshold results in the mandatory use of a straight-line method. This forces a ratable cost recovery of the aircraft over a prescribed life, thereby extending the timeframe of the tax deductions with respect to depreciation.

The ability to offset business income is limited to those costs associated with business travel, while personal use of an aircraft requires income to be imputed to the owner or specified user of an aircraft. The determination of these costs and imputed income amounts requires that the business maintains complete records of each flight, which detail the flight hours logged, the distance between destinations and the number and intent of the passengers for each flight. This data is then used to calculate the business use percentage of each flight in order to take the proper deduction. In addition, the data related to personal use is combined with statutory metrics to determine how much income should be imputed to those passengers flying for personal purposes.

TO SUM IT UP

Understanding the options for private air travel are critical to making an informed decision that will provide short-and long-term benefits to you, your business colleagues, your clients, and your family and friends. Private aircraft ownership comes with the benefit of flexibility, but the regulatory, legal, and tax considerations can prove burdensome. Informed decisions made with knowledgeable and experienced advisors can assist in optimizing the private aircraft experience.

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