Use of Private Aircraft: Has the IRS Become Your Copilot

June 18, 2025

By: Joseph Dolan, Crystal Edwards, John Elias, Charles Falk, I. Richard Ploss, Philip Siana, Deirdre Wheatley-Liss

In 2024, the IRS announced that it was intensifying its audit of the deductibility and use of private aircraft. Previously, the use and ownership of such aircraft was not a high-priority item. The IRS named this new audit priority the "Business Aircraft Campaign." Such private use for business can take several forms, including outright ownership, partial ownership, and leasing. Each form has its own demands, but the overriding requirement is *documentation*. If you use non-commercial aircraft for business, it is essential that you document such use completely.

At the heart of all IRS audits of aircraft is whether the use of the aircraft is *primarily* for business. Where use is divided between business and non-business use, the particulars of such use should be clearly documented. The general rule for deductibility is whether the trip is "ordinary, necessary, and reasonable." Where a trip has both a business and a non-business component, it may be necessary to bifurcate the two. However, it is important that the business component comprise more than one-half of the total purpose. Ultimately, whether a trip is business or personal is a question of fact.

The assassination of United Healthcare CEO Brian Thompson has added a new twist to the justification for using private aircraft. Prior to Thompson's murder, justifying the cost of short flights instead of driving or using a train could simply be an audit issue. Now, however, using private aircraft can be viewed as reducing an executive's vulnerability to harm.

As noted above, aircraft may be owned, partially owned, or leased. Each option has its own unique documentation requirements. One item that the IRS is auditing is whether the purchase of a plane allows the taxpayer to use "Additional First-Year Depreciation." For aircraft placed in service after September 27, 2017, and before January 1, 2023, the entire aircraft could be written off in the year acquired. Currently, the allowance is 40%, but is likely to be restored to 100% if the tax bill supported by President Trump passes. However, the Additional First Year Depreciation deduction is only available if the plane is used primarily for business (more than 50%). If not, the taxpayer must claim the alternative depreciation method.

Often, a member of the taxpayer's family will accompany the taxpayer on a business trip. The taxpayer's family will travel for personal purposes such as visiting family, sightseeing, or traveling to a college. While the primary purpose of the taxpayer's trip is for business, the taxpayer's family's travel is not. For federal income tax purposes, the family's travel is considered a "Taxable Fringe Benefit," the cost of which is included in the taxpayer's gross income.

In its 2024 announcement, the IRS identified who it is aiming at in its new aircraft audit program:

"Using Inflation Reduction Act funding and as part of ongoing efforts to improve tax compliance in high-income categories, the Internal Revenue Service announced today plans to begin dozens of audits on business aircraft involving personal use. The audits will be focused on aircraft usage by large corporations, large partnerships, and high-income taxpayers and whether for tax purposes the use of jets is being properly allocated between business and personal reasons. The IRS will be using advanced analytics and resources from the Inflation Reduction Act to more closely examine this area, which has not been closely scrutinized during the past decade as agency resources fell sharply. The number of audits related to aircraft usage could increase in the future following initial results and as the IRS continues hiring additional examiners…IRS Commissioner Danny Werfel (said), 'Personal use of corporate jets and other aircraft by executives and others have tax implications, and it's a complex area…'"

Depending on the ownership of the plane, payments made for a plane's upkeep and maintenance may be deductible by whomever owns the plane, subject to the primary purpose test. However, the line between repairs (which are deductible in computing a taxpayer's taxable income) and capital expenditures (which must be added to the taxpayer's income tax basis) is often blurred. In a 1996 Technical Advice Memo, the Chief Counsel of the IRS stated that deductions that a taxpayer took for major inspections of its aircraft engines were not deductible but had to be capitalized. The IRS stated:

"We believe, however, that under the facts presented, Taxpayer's expenditures for major inspections of its aircraft engines are not *incidental repair costs*. Rather, these costs are more in the nature of capital expenditures under section 263 of the Code. Specifically, *these expenditures result in substantial improvements to the overall condition of the engine* that are not merely incidental and which have the effect of adding materially to the then value of the engine while at the same time prolonging the engine's useful life. Furthermore, these expenditures generate significant future benefits to Taxpayer, not the least of which is the fact that without them, the FAA would not permit Taxpayer to continue to operate its aircraft. Finally, in the case of engines owned by Taxpayer, the major inspection costs restore exhaustion for which an allowance has been made." (Italics Added)

Taxpayers who use private aircraft are urged to consult with their tax advisors to prepare the necessary documentation that the IRS will request in an audit.