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Managing IRS Audit Risk

One of the most common issues I discuss with prospects, clients and aircraft sales professionals: “Will I be audited by the IRS because I write off an aircraft?” Contrary to popular belief, or hangar talk with fellow aviators, statistically, it is extremely rare to be picked for an income tax audit by the Internal Revenue Service. The truth is that certain fact situations and reporting scenarios are indeed “higher” risk. The objective is to avoid these aircraft ownership structures that are more likely to draw IRS attention.

In our experience in working with aircraft owners across the country in the last decade, the percentage of ATC’s clients audited by the IRS is extremely low, far less than 5%.

Even though it is a rare occurrence, we strongly recommend that our clients keep extremely detailed records to support the business use of their aircraft. If you are audited, the key to success is to be able to establish that the aircraft is ordinary and necessary to support your business activities, and be able to support this claim with contemporaneous documentation.

Managing state sales tax audit risk

Unlike IRS income tax audits, state sales and use tax audits occur on a regular basis. In some states, it is a certainty that an aircraft owner will receive a sales/use tax inquiry from the State Department of Revenue after the purchase of an aircraft. Therefore, if you are claiming a sales tax exemption on the purchase of an aircraft, you should be prepared to present documentation and flight logs to support the exemption claimed.

With the advancement of flight tracking websites, and the common requirement of state aircraft registration, it is highly unlikely that you can avoid scrutiny of your aircraft from state taxing authorities by utilizing a Delaware or Montana LLC. I refer to this state tax avoidance strategy as playing a game of “hide and seek”. If caught, you will owe the sales/use tax on the purchase plus penalty and interest.

State sales and use tax planning varies greatly from state to state. Some of the more common exemptions that may be available are:

- interstate commerce exemption
- occasional or private party purchase exemption
- rental and leasing exemption
- commercial business use exemption



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Due to the mobile nature of an aircraft, it is important to determine if your aircraft may be subject to the jurisdiction of multiple states, such as the state of a second home or office locations.

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Member

Aviation Tax Consultants, LLC (www.aviationtaxconsultants.com) assists aircraft purchasers in acquiring aircraft in a tax efficient manner. Our consulting services include the elimination or reduction of sales and use tax at the time of purchase, maximizing income tax savings, controlling the cost of personal use of the aircraft, complying with passive activity loss and related party leasing rules and Federal Aviation Regulations. Cooperation with client's current tax and legal advisors is welcome and encouraged.

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