

A Holistic Aircraft Purchase Approach



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As I, along with all of my colleagues in the aviation industry, worked through the huge volume of transactions in what I heard referred to as the “December to Remember” it occurred to me once again how important it is to have a complete aircraft purchase plan and team. When purchasing an aircraft the team associated with the purchase can become large: the aircraft broker, lender, insurance provider, accountant, tax advisor, technical representative, escrow agent, management company, crew, and aviation counsel. Each person on the team plays an important role in the aircraft purchase. However, it is imperative that there be a continuous open dialog between the team members so that everyone on the team understands all aspects of the purchase. There are numerous pitfalls that can result when the team is not in constant contact or where one member of the team has knowledge of a particular component of the purchase plan that others on the team are not aware of.

For example, if the management company and purchaser, during the negotiations of the management agreement, determine that the aircraft will be used for charter when the purchaser is not using the aircraft, this may have an impact on other aspects of

the transaction. The lender may limit or prohibit charter use in the loan documents. The charter use may change the tax plan that the tax advisor and accountant are working on. The increase in expected use because of the charter activity may change the inspections that the technical representative would like to have done during the pre-buy inspection to avoid downtime on the aircraft in the near future.

Another example would be if the crew or management company decides to obtain hangar space in a specific state or states for



use by the purchaser once the transaction is closed. By obtaining hangar space for the aircraft in a specific state for the aircraft, the tax advisor and accountant need to look at the state tax implications that result from the decision to base the aircraft in a particular state or states. Furthermore, often times in the hangar space agreement there are very specific insurance requirements. The insurance provider will need to see the hangar agreement prior to execution and make sure the insurance being procured covers or can cover all of the insurance requirements included in the hangar space agreement.

A final example is if the purchaser determines that a management company is not needed when purchasing a replacement aircraft. In such a case, all functions normally provided by a management company will need to be assigned to a responsible party. The purchaser will need to source the

insurance, which can be quite expensive and time consuming during this tight insurance period that we are currently experiencing. The management of all third-party maintenance provider programs will need to be assigned to a crew member or accountant for processing on a monthly basis. The crew will need to become employees of an entity which could have impact on the aircraft ownership and/or operating structure plan. A decision not to use a management company can significantly alter the plan and instead of being a simple repeatable process, for an existing aircraft owner each item needs to be reviewed to ensure compliance with regulations, insurance and employment laws.

The above are only a few of the many examples of the interconnection of each item in the purchase of the aircraft, which cannot be over emphasized. If each person performs his or her own tasks

in a vacuum, without coordinating with the team and the sharing of information, then there can be serious consequences, including significant federal or state tax consequences, loan covenant breaches, lack of required insurance or unexpected downtime on the aircraft. Finally, since the individual team members may not understand how their tasks and information impact the other team members role, a holistic aircraft purchase approach and good coordination and information sharing among all team members will be far more successful and without pitfalls. ■

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