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FROM: David Schneweis SF04
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SUBJECT: Company Aircraft
CC:



In reviewing the use of Western Resources aircraft by employees and their spouses I have attempted to summarize the key provisions applicable to situations where income will be imputed to the employee for use of company aircraft.

Expenditures involving company owned aircraft are deductible if they are primarily business related. The business related test is strictly facts and circumstances based. For examples, if an employees travel to a destination and while there engages in both business and personal activities, traveling expenses to and from such destination are deductible if the trip is primarily business related, i.e. time spent on business activities verses personal activities. In addition, if a taxpayers wife accompanies him on a business trip, expenses attributable to her travel are not deductible unless it can be adequately shown that the wife's presence on the trip has a bona fide business purpose.

If the trip lacks business purpose the value of the flight must be included in the employee's gross income. The value of the flight is equal to the amount that an individual would have to pay in an arm's-length transaction to charter the same comparable piloted aircraft for that period for the same or a comparable flight. A flight taken under these circumstances may not be valued by reference to the cost of commercial airfare for the same comparable flight.

If more than one employee is on board the cost to charter the aircraft must be allocated among all employees on board based on all the facts and circumstances unless one or more of the employees controlled the use of the aircraft. Where one or more employees controlled the use of the aircraft, the value of the flight shall be allocated solely among the controlling employees. A "control" employee is one having the ability to control the route, departure time and destination of the flight.

There is a Special Valuation Rule which may be used if one of the following conditions is satisfied:

- (A) The employer treats the value of the benefit in income within the time for filing the returns for the taxable year in which the benefit is provided;
- (B) The employee includes the value of the benefit in income within the time for filing the returns for the taxable year in which the benefit is provided;

(C) The employee is not a control employee as defined above;

(D) The employee demonstrates a good faith effort to treat the benefit correctly for reporting purposes.

Because of Item (C) the Special Valuation Rule cannot be used by Western Resources to value non-business related flights since the aircraft is used by control employee's. That leaves two alternatives:

1) We can impute income for the value of non-business related flights.

2) We can refer to Special Valuation Rule (D) and maintain that Western Resources is making a good faith effort by excluding the value of non-business flights on it's tax return.