Using the Standard Industry Fare Level (SIFL) Rules To Value Non-Business Use of the Company Aircraft
Presenters

Alan Burnett
CenterPoint Aviation Law
Seattle, WA

Scott O’Brien
NBAA
Washington, DC

Robin Reynolds
Owens Corning
Swanton, OH
What is SIFL?

<table>
<thead>
<tr>
<th>MILEAGE RANGE</th>
<th>AMOUNT PER MILE</th>
</tr>
</thead>
<tbody>
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</tr>
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<td>$ 0.1959</td>
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<td>$ 0.1884</td>
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<td>$ 46.97</td>
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</tbody>
</table>
The unreimbursed cost of an employee’s non-business use of the company aircraft must be included as income for federal income tax purposes.

SIFL (Standard Industry Fare Level) is a formula accepted by the IRS as a method of valuing the flight(s).

The IRS disallows certain deductions based on the unreimbursed cost of an employee’s non-business use of the company aircraft.

There is often a significant amount of money at stake for the company and for the employee.

Many of the variables used in the formula are often collected by schedulers and dispatchers.
FAA v. IRS: Caught in the Middle

- Part 91 of the Federal Aviation Regulations limits employee reimbursement for personal use of the company aircraft.
- The IRS limits the Part 91 operator’s deductions for the unreimbursed cost of personal flights.
- The IRS limits the owner’s deductions (depreciation) for the aggregate unreimbursed cost of personal flights.
- The value of unreimbursed personal flights must be included as taxable income to the employee as a fringe benefit.
- 7.5% Federal Excise Tax is due on reimbursement for flights.
FAA Considerations
No Reimbursement for Non-Business Flights

• The value of the flight is included in employee’s gross income as a fringe benefit for income tax purposes

• Valuation options
  – SIFL
  – Fair Market Value (Charter)

• SEC disclosure

• Shareholder optics
Limited Reimbursement for Non-Business Flights

- **Time Sharing Agreements**
  - Limited costs \( \rightarrow \) twice the cost of fuel plus incidentals as permitted by Part 91.501(d)
  - 7.5% Federal Excise Tax

- **Dry Leases**
  - Personal traveler is “operator of aircraft” creating potential civil liability
  - Potential sales tax

- **Nichols Interpretation**
  - Full cost reimbursement as permitted by 91.501(b)(5) may be allowed for flights by certain approved executives for “routine personal travel”
  - 7.5% Federal Excise Tax
IRS Considerations for the Employee
What Is Personal Use?

• **Personal use**
  - Flight is not for the business of the company
  - Can include flights that are business for the pax (i.e. charitable board meeting), but not for the company’s business
  - Vacation, Entertainment, Recreation

• **On any aircraft the employer provides**
  - Chartered aircraft, fractional aircraft share, wholly-owned aircraft

• **Employee includes:**
  - Employees, partners, directors, independent contractors, certain former employees
  - Guest of employee (even if employee is not on board/recipient of flight)
Personal Flights as a Fringe Benefit

• Since the IRS views personal flights on the company aircraft as a taxable fringe benefit, employee pays payroll tax and income tax on the value of the flight
  – W-2
  – 1099

• One of two methods may be used to determine the value:
  – Fair Market Value (the charter rate)
  – Standard Industry Fare Level (SIFL)
Valuation - SIFL

• SIFL:
  – Designed to equate first class airfare
  – Calculated per person
  – Based on statute miles flown
    • 1 nautical mile = 1.15 statute miles
  – Employee status is a factor
    • Control employee vs. non-control employee
  – Aircraft weight is a factor
• SIFL amount is *imputed* to employee, NOT amount paid to company by traveler
Valuation - Fair Market Valuation

• Fair Market Value:
  – Charter rate used for the flight – one rate no matter how many people are on board the aircraft
  – Don’t fudge the numbers
  – Keep a record of the charter quote
  – Obtain a charter quote from a 3rd party charter operator local to where the flight originates
  – Usually (not always) more expensive for the employee
IRS Considerations for the Company
Personal Entertainment Use Deductions Disallowed

**General Rule:** The costs of operating personal entertainment flights on behalf of “specified individuals” are not deductible.

- “Specified Individual” is defined by SEC regs
  - Officer
  - Director, or
  - 10% or more owner
  - See NBAA Personal Use Handbook, page 21
- Different than Control Employee
  - Control Employee – 5% ownership
Personal Entertainment Use Disallowance

• Definition of entertainment
  – Activity generally considered to constitute entertainment, amusement or recreation

• Examples of entertainment activities
  – Country clubs, golf and athletic clubs, sporting events, hunting, fishing, vacation, sailing, sightseeing, parties

• Examples of non-entertainment activities
  – Commuting to/from work or between homes, attend director meetings (unrelated company), medical doctor visit, funeral
Documentation

• Initial collection of relevant data
  – What information is needed?
  – How collects it?
  – In what format is the information documented and stored?

• Classification (business, personal business or entertainment) PER PASSENGER
  – Who makes classification decision?
  – Leg by leg

• Consistency
Classification of Flights

Three Primary Buckets for Flights

• Business
  – Includes “Business Entertainment”
  – No SIFL income; fully deductible
• Personal Non-entertainment
  – Report SIFL income; fully deductible
• Personal Entertainment
  – Report SIFL income
  – NOT deductible (except for SIFL amount)

What about reimbursement?
Calculating SIFL
Non-Business Use of Employer-Provided Aircraft

Member Resource

NBAE Releases New Resource on Reimbursements for Certain Personal Flights

August 29, 2011

Last year, NBAE asked the Federal Aviation Administration (FAA) to reconsider a long-standing legal interpretation, known as the “Schwab Interpretation,” regarding reimbursement for certain personal flights, and in December 2010, the FAA issued a modified interpretation that has the effect of allowing some companies to full reimbursement for such trips. NBAE’s Tax Committee has created a new resource explaining the requirements and issues considered before reimbursement can be made, and providing frequently asked questions.

- Download NBAE Member Resource: “FAA Legal Interpretation: Certain Reimbursements for Certain Personal Flights” (PDF, 940 KB)
- View NBAE’s Request for FAA Interpretation (copy of original letter dated March 2010)
- View FAA Interpretation (copy of original letter dated December 2010)

Other Resources

Occasionally a company airplane might be made available to employees for reasons not directly related to the business of the company. Businesses must be familiar with applicable rules, such as FAA, IRS and SEC regulations, when conducting these flights.

Related Links

- NBAE Personal Use of Business Aircraft Handbook
- American Jobs Creation Act of 2004
- NBAE Personal Use (SIFL) Calculator
- NBAE On-Demand Education
  - View video of presentations on IRS, SEC, and FAA perspectives on personal use from the NBAE Tax, Regulatory, and Risk Management Conference
This Personal Use Calculator only applies to flights completed during the relevant time period noted below Report of Personal Travel on Company Aircraft form to fill out this Web page. For information on how to see the NBAA Personal Use of Employer Provided Aircraft Handbook.

Rates Apply Only to the Time Period: July 1 – December 31, 2012

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<td><strong>Destination:</strong></td>
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<td><strong># Passengers:</strong></td>
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<td><strong>Total:</strong></td>
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http://www.nbaa.org/admin/taxes/personal-use/calculator/
Standard Industry Fare Level (SIFL)

- SIFL Formula

\[
SIFL = \left[ (\text{Mile } \$) \times (\text{Aircraft Multiplier}) + \text{Terminal Charge} \right] \times \# \text{ Pax}
\]

[For multi-leg trips]

\( (\text{mileage 1 } \times \$) + (\text{mileage 2 } \times \$) + (\text{mileage 3 } \times \$) \)
Calculating SIFL

Current SIFL Rates

- SIFL rates for the six-month period from July 1, 2012, to December 31, 2012, are:

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## Calculating SIFL

### Aircraft Multiples Chart

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<tr>
<th>MCTOW</th>
<th>Ctrl Employee</th>
<th>Non-Ctrl Employee</th>
</tr>
</thead>
<tbody>
<tr>
<td>6,000 lbs or less</td>
<td>62.5</td>
<td>15.6</td>
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<tr>
<td>6,001 – 10,000 lbs</td>
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<td>10,001 – 25,000 lbs</td>
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</tr>
<tr>
<td>25,001 lbs or more</td>
<td>400</td>
<td>31.3</td>
</tr>
</tbody>
</table>
Calculating SIFL

• “Flight” means each time the employee boards and deplanes
  – A round trip includes at least two flights.
  – If no employee is on board, no benefit received. (No charge for repositioning flights)

• Landings for fuel, weather, or emergencies are “intermediate stops”
  – “Ignore” these intermediate stops when calculating the employee’s flight distances
Calculating SIFL

*Control vs. Non-control Employee*

- Control employee – see NBAA PUHB, page 11
  - Most officers
  - Paid in the top 1% of the company
  - Owns 5% or more of company
  - Directors
  - Retired former control employees (see IRS regulations)

- Non-control employee
  - Everyone else

- Flights for control employees are valued at a higher valuation multiple than non-control employees
Other SIFL Considerations

• Mixing business with pleasure
  – One destination; two purposes for the employee

• What was the primary purpose of the passenger?
  – How much time was spent on business? On personal?
  – Who was on the trip (employee alone or with spouse, kids)?
  – Not up to S&D to decide purpose of the trip
    • Can help inform employees how these flights could be viewed
    • Provide trip form where employee characterizes purpose of the trip and is on the hook via their signature
Other SIFL Considerations

• Mixed use flights – primarily business
  – Multiple destinations; some for business, some for pleasure
  – If trip primarily for employer’s business – include in income value of total trip less business flights

• Mixed use flights – primarily personal
  – Multiple destinations; some for business, some for pleasure
  – If trip primarily personal – include in income value of personal flights that would have been taken if no business
Mixed Use - Primarily Business

- TEB→JAX→FXE→TEB
- Primary purpose is business meeting in JAX
  - TEB-JAX: 832
  - JAX-FXE: 311
  - FXE-TEB: 1070
  - Total: 2213 statute miles
- TEB→JAX→TEB
  - 1665 statute miles
- Detour Miles for FXE Stop
  - 2213-1665 = 548 statute miles
- Only SIFL Non-Business Pax for the 548 miles
Mixed Use- Primarily Personal

- TEB→ORL→JAX→TEB
- Primary purpose is personal stop in ORL
- TEB→JAX→TEB
  - 1887 statute miles
- SIFL Non-Business pax for the 1887 miles
- Ignore the business stop in JAX
SIFL: Special Rules & Exceptions

Spousal Travel

• General rule: In most cases, spousal travel is personal

• Requirements for spouse to be treated as a business flight:
  – Must be an employee of the employer
  – Must travel on bona fide business purpose
  – The travel expense must be otherwise deductible

• The mere expectation of the employer company that a spouse will attend a function requiring travel does not constitute employment
SIFL: Special Rules & Exceptions

• Age – it helps to be young!
  – Children under 2 years of age are not included in valuation
  – Be certain to document the age of the child in your paperwork
SIFL: Special Rules & Exceptions

• 50% Seating Capacity Rule:
  – If 50% of the seating capacity is filled with employees traveling on business when the employee or family member boards and deplanes, then no fringe benefit is imputed.
  – Seating capacity: Max number of seats installed on the aircraft at any time on or prior to the date of the flight within 24 months.
  – Seats not legal & not used for takeoff not counted.
SIFL: Special Rules & Exceptions

• “Bona Fide Business-Oriented Security Concerns:”
  – Must have a study done
  – Must be part of a *complete* program
    • But may be limited to certain areas
  – Specific study for family members if they travel without employee
  – Use a 200% multiplier regardless of aircraft weight and control status of employee
  – For control employees in aircraft over 10,000 pounds, this is a significant savings
SIFL: Special Rules & Exceptions

Foreign travel

• Disallowance rule applies only to individuals – see NBAA PUHB, page 12, 13.
• Does not apply to employer company
• SIFL calc for business trip > 7 days uses this methodology
• Conventions & seminars
Learn More about Entertainment Use

• *Beyond SIFL: Advanced Personal Use Considerations*
  – Today from 1:00-2:30 pm
For More Information

• NBAA’s aviation taxes website:
  – http://www.NBAA.org/taxes
    • NBAA Personal Use Handbook
    • Current and historical SIFL Rates
    • Personal Use Calculator

• NBAA’s Ops Service Group
  – info@nbaa.org or 202.783.9250

• NBAA Tax Forums / Tax Conference
  – http://www.NBAA.org/seminars
Personal Use Scenarios

Definitions

• CHQ = Company Headquarters, Aircraft Home Base
• CSL = Company Secondary Location
• EPR = Executive Primary Residence
• ESR = Executive Secondary Residence
• CUS = Customer Business Location
Scenario 1

Executive travels from EPR to CHQ each Monday morning and returns from CHQ to EPR each Friday evening. The return leg of each trip is empty.

Answer:
• SIFL: Live legs only
• Pax Classification: Personal Non-entertainment

On occasion the executive’s spouse accompanies the executive on the Monday morning flight to CHQ so she can go shopping. She returns home by commercial flight.

Answer:
• SIFL: Live legs only x 2
• Pax Classification: Executive - Personal Non-entertainment
• Pax Classification: Spouse – Personal Entertainment
Scenario 2

A non-owner executive and control employee, his spouse and three children ages 9, 5, and 14 months had scheduled a family vacation and planned on flying commercial. Due to conflicting business priorities, employer requested that he change his vacation schedule and provided the company aircraft for transportation. Who should be SIFL’d?

Answer:

- SIFL: Live legs x 4 (infant flies for free)
- Pax Classification: All - Personal Entertainment

Question: Is the infant treated as “occupied seat” for entertainment disallowance purposes?
Scenario 3

Company dispatches its aircraft to bring outside directors to CHQ for a company board meeting. That evening a dinner is scheduled in a nearby restaurant and directors spouses, while not invited to the board meeting, are expected to attend the dinner. What is the SIFL treatment? What is the pax classification for entertainment disallowance?

Answer:

• SIFL: Outside Director, No – clearly business travel
• SIFL: Spouse Yes, clearly personal travel
• Pax Classification:
  – Director: Business
  – Spouse: Depends on facts & circumstances
Scenario 4

The owner of Company A (the employer) and a senior executive of Company B via their long standing working relationship have become personal friends. Company A dispatches its aircraft on Friday afternoon to fetch the senior executive of B and his spouse to CHQ for dinner that evening and a round of golf on Saturday morning.
Scenario 5

The senior executive is a legal resident of a state other than CHQ where he votes and maintains his primary residence. The executive also maintains a ESR near CHQ. The Company’s largest customer location is very near the ESR such that the aircraft lands at the same airport for both destinations. The executive (and sometimes his spouse) frequently travels to this airport on Fridays where he conducts customer business and then decides to spend the weekend at his EPR returning to CHQ on Monday morning.
Scenario 6

Company B (a customer of Company A, the Employer) conducts an annual golf outing as a vendor appreciation event. Other competing vendors to Company A will also be invited. The entire senior management team (5 individuals) of Company A and two individuals from the sales department (middle management) are invited and decide to go. All seats on the aircraft will be filled.

Question: Are the employees of Company A on a business or personal trip? If personal, is it also entertainment?
DEDICATED TO HELPING BUSINESS ACHIEVE ITS HIGHEST GOALS.