

FAQ on Registering an Aircraft in the United States

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1. Can a company organized outside the U.S. register a corporate jet in the U.S. in its name?

Generally, a corporate jet may be registered in the U.S. only when the corporate jet is owned by a U.S. citizen. Per United States Federal Aviation Regulation (FAR) 47.2, with respect to an entity, U.S. citizen is defined as a corporation or association created or organized under the laws of the United States or of any State, Territory, or possession of the United States, of which the president and two-thirds or more of the board of directors and other managing officers thereof are such individuals and in which at least 75 percent of the voting interest is owned or controlled by persons who are citizens of the United States or of one of its possessions. See #6, the Owner Trust FAQ, for an alternative if the entity does not meet this definition.

2. Can a corporation organized in Delaware, but which is entirely owned by a non-U.S. citizen register a corporate jet in the U.S. in its name?

No. Per FAR 47.2, at least 75 percent of the voting interest must be owned or controlled by persons who are citizens of the United States or of one of its possessions. See #6, the Owner Trust FAQ, for an alternative.

3. Can a corporation organized in Delaware, and which is owned by a U.S. citizen, but has a non-U.S. citizen as its President register a corporate jet in the U.S.?

No. Per FAR 47.2, the President must be a U.S. citizen. See #6, the Owner Trust FAQ, for an alternative.

4. Can a limited partnership with a corporate general partner register a corporate jet in its name in the U.S.?

No. Per FAR 47.2, U.S. citizen means a partnership of which each member is such an individual. Each partner, whether a general or limited partner, must be an individual who is a U.S. citizen. See #6, the Owner Trust FAQ, for an alternative.

5. What happens to the aircraft's registration if a limited liability company (which met the FAA's definition of U.S. citizen) which owns the aircraft is converted to a limited partnership with a corporate partner?

The conversion inadvertently invalidates the aircraft registration and an invalid registration may void the insurance coverage.

6. Is there a way to register a corporate jet in the U.S. if the company does not meet the FAA's definition of U.S. citizen, such as utilizing an Owner Trust?

If an entity does not fit the FAA's definition of U.S. citizen eligible to register a corporate jet in the U.S., the owner may place the corporate jet in a trust (commonly known as an "owner trust") and have the corporate jet registered with the FAA in the name of the trustee (commonly called the owner-trustee). The owner trustee holds legal title to the corporate jet. There are several entities which routinely act as owner trustee for aircraft in the U.S.

The owner enters into a Trust Agreement with the owner trustee and the Trust Agreement is recorded (becomes public record) with the FAA. Each trustee must be either a U.S. citizen or a resident alien and they must submit to the FAA a copy of each document affecting a relationship under the trust. There are additional requirements for an affidavit from each trustee. Persons who are neither U.S. citizens nor resident aliens may not have more than 25 percent of the aggregate power to direct or remove a trustee, either directly or indirectly. Those persons may have more than 25 percent of the beneficial interest in the trust.

7. The corporate jet will be sold under a lease with an option to purchase. Should the aircraft be registered in the name of the lessor or the lessee?

See what is commonly referred to as the Leiter Letter in the Federal Register, Volume 55, No. 192, Wednesday, October 3, 1990 regarding Treatment of Leases with an Option to Purchase. Generally, the lessee should be recognized by the FAA for registration purposes when (i) the purchase option is ten percent or less of the value of the aircraft; or (ii) the purchase option price is above ten percent, but if the option is not exercised, the lessee must pay a residual value or termination sum equal to or exceeding the purchase option price; or (iii) the purchase option price is above ten percent, and there is no mandatory full payout if the option is not exercised, but the option price is less than the lessee's reasonably predictable cost of performing under the lease if the option is not exercised.

8. Do the same registration requirements exist for corporate jets operated in a fractional program?

Yes, registration requirements for corporate jets are the same, whether they are operated under Part 91, Subpart K of Part 91 (fractional rules) or Part 135. There are operational differences that may affect the way ownership is structured.

It is helpful to have an understanding of these and other issues which can arise with the registration of aircraft in the U.S. Consider involving an attorney with aviation expertise when addressing aircraft registration and other issues involved with structuring ownership and operation of a corporate aircraft.

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