Pearl Meyer

ADVISOR BLOG | MAR 2024

IRS to Ramp Up Private Jet Usage Audits



Deb Lifshey

MANAGING DIRECTOR



Margaret H. Black

MANAGING DIRECTOR

On February 21, 2024 the Internal Revenue Service (IRS) announced that it will be ramping up audits of corporate jet use as part of its push to increase enforcement on large corporations and wealthier taxpayers. With the Inflation Reduction Act spending now available to fund advanced analytics and compliance, the IRS will target private aircraft usage at large corporations and partnerships, and among high-income individuals.

The IRS believes that identifying corporate jet non-compliance in these audits could be “low hanging fruit” given the complexity required to properly track business deductions and personal-use income inclusion of aircraft usage. If noncompliance is found, based on results from this initial campaign, the number of these private jet audits is likely to increase in the future.

By way of background, issues surrounding aircraft use by executives and directors for business and personal reasons is not new and involves complex tax, disclosure, and governance implications. In the tax code, a business deduction is allowed on assets (e.g., aircraft and related costs) when used for business purposes. However, if the asset is used for both business and personal reasons, as is typical, the deduction must be allocated accordingly. Recordkeeping required to document business versus personal use is complex and particularly challenging when, in many cases, the aircraft is not owned by the

company.

The tax collection agency has announced it will conduct between 36 and 48 audits of companies and wealthy individuals who may be flying in corporate jets for leisure but deducting the trips as business expenses, or not reporting associated personal income. We have been advising clients for years on the appropriate use of corporate aircraft for business travel and prevailing governance practices. In certain scenarios, limited mixed use is not uncommon and is not prohibited. However, disciplined tracking of the bifurcation of business and personal travel is a must.

Arguably, the reputational and financial risk is much higher when it comes to SEC enforcement than an IRS audit. Companies should maintain the same stringent process for tax purposes in parallel to records maintained for reporting/disclosure purposes. While the IRS will certainly uncover some bad actors, those companies that attempt to follow the rules in good faith are not likely at risk.

Nonetheless, given the complexity of the rules and risk for non-compliance, companies may want to take a closer look at their private jet imputed income and deduction procedures and administration, along with any prior tax-filing positions.

Important Notice: Pearl Meyer has provided this analysis based solely on its knowledge and experience as compensation consultants. In providing this guidance, Pearl Meyer is not acting as your lawyer and makes no representations or warranties respecting the legal, tax, or accounting implications or effectiveness of this advice. You should consult with your legal counsel and tax advisor to determine the effectiveness and/or potential legal impact of this advice. In addition, this Client Alert is not intended or written to be used, and cannot be used by you or any other person, for the purpose of (1) avoiding any penalties that may be imposed by the Internal Revenue Code, or (2) promoting, marketing, or recommending to another party any transaction or other matter addressed herein, and the taxpayer should seek advice based on the taxpayer's particular circumstances from an independent tax advisor.

About the Authors

Deb advises on executive compensation from a legal and regulatory perspective, including securities disclosure, tax and governance matters, contract negotiation, and reasonableness opinion letters.

Margaret has 30+ years experience advising on tax, compensation, and benefits matters, with a focus on corporate transactions, change-in-control provisions, and IRC compliance.

About Pearl Meyer

Pearl Meyer is the leading advisor to boards and senior management helping organizations build, develop, and reward great leadership teams that drive long-term success. Our strategy-driven compensation and leadership consulting services act as powerful catalysts for value creation and competitive advantage by addressing the critical links between people and outcomes. Our clients stand at the forefront of their industries and range from emerging high-growth, not-for-profit, and private organizations to the Fortune 500.