

Private Aviation as a Business Asset: What Owners Need to Know About Tax, Risk, and Ownership Structure

By: HB Wealth, featuring insights from Amanda Applegate, Partner at SOAR Aviation Law, and Bryan Apgar, VP of Sales at Flex Jet

For business owners exploring private aviation for the first time, the conversation often starts with a simple question: should I buy a plane? But as many quickly discover, the decision involves far more than selecting an aircraft. [Tax planning](#), regulatory compliance, [risk management](#), and privacy all intersect in ways that can either help create meaningful financial differences or introduce costly mistakes.

The reality is that private aviation is a highly regulated, tax-driven acquisition. Approaching it without the right structure and team can entirely undermine the financial rationale for ownership. This article breaks down the key considerations [business owners](#) should evaluate, drawing on insights from Amanda Applegate, Partner at SOAR Aviation Law, and Bryan Apgar, VP of Sales at Flex Jet.

The Four Pillars That Drive Every Ownership Decision

According to Amanda Applegate, who has practiced aviation law for 30 years, every aircraft ownership structure needs to balance four pillars: tax, privacy, regulatory compliance, and risk management. "If we plan the entire ownership structure around risk mitigation, then we're probably going to lose out on the tax advantages," Applegate explained. "It's important that when we're thinking about aircraft ownership structure, we think about all four of these and keep it balanced."

Tax is often the most prominent driver. For an aircraft to qualify as a depreciable business asset, it must be owned within the business or an entity wholly owned by the business, and usually at least 50% (sometimes 25% depending on the entity types involved) of its use in the year of acquisition must be for business flights. That threshold is evaluated on a passenger-by-passenger, trip-by-trip basis. "Every flight can only have one purpose," Applegate noted. "It's either a business flight or a personal flight, and you have to look at what happened when they got to the destination, how long they stayed, and what the purpose of each passenger on the flight was." Business owners who want to keep the aircraft outside the company for liability reasons face a difficult tradeoff, because related-party leasing rules can disqualify the depreciation benefit.

Privacy is a growing concern for business owners, particularly those whose personal security or public profile makes commercial travel impractical. Ownership structures can be designed to shield the identity of the beneficial owner partially through LLCs, or, if more protection is desired, a double-blind trust arrangement. Bryan Apgar of Flex Jet noted that fractional ownership offers an additional layer of privacy, since "you're not flying on your specific tail," making it harder for outside parties to track an individual's travel patterns through publicly available flight data.

Regulatory compliance governs how the aircraft can be used and by whom. Most business owners operate under Part 91 of the Federal Aviation Regulations, which covers private, non-commercial use. Under Part 91, there is no compensation for hire allowed, unless under one of the very limited exceptions. If an owner wants to offset costs by chartering the aircraft to third parties, the aircraft must be placed on a Part 135 certificate, which introduces stricter crew training, maintenance, and record-keeping requirements. Applegate was direct about the consequences of noncompliance: "If a flight is deemed to be an illegal charter flight where compensation was paid under a Part 91 flight that is not permitted, a civil penalty up to \$25,000 per flight can result, and enforcement judgments have reached into the millions."

Risk management addresses the liability exposure that comes with aircraft ownership. Applegate explained that if risk mitigation were the sole priority, an advisor would likely recommend keeping the aircraft entirely outside the business. But doing so would eliminate its ability to be treated as a business asset for tax purposes. The goal is to structure ownership to provide appropriate liability protection through insurance, entity design, and operational protocols, without sacrificing the tax and operational benefits that make ownership worthwhile. Many families have excess liability coverage (often called umbrella coverage) in place, but the coverage level may be very low relative to their net worth or the size of a potential claim, and often excludes aircraft, especially if the owner is also the pilot. For aircraft owners, we believe ensuring adequate hull insurance and liability coverage is imperative. Going from \$100M to \$200M liability does not double the cost of the coverage, and owners should look at the amount of coverage available and consider taking the full amount of coverage available if risk mitigation is important.

Understanding the Five Private Aviation Products

The level of ownership planning required depends on which product a business owner selects. The five primary options are whole aircraft ownership, fractional ownership, jet cards, charter, and membership programs.

Whole ownership and fractional ownership require the most planning because they involve actual asset ownership and eligibility for depreciation. Jet cards, charter, and membership programs involve no ownership interest and therefore carry less structural complexity.

Apgar offered practical guidance on matching the right product to usage: "If it's only once or twice a year, then that's where we would have the conversation around looking at a charter option. Getting more than that and wanting consistent pricing and access, a jet card could make sense. If it gets closer to the 50-hour mark annually, we can start the conversation about the fractional model. And then if someone's going to go up more than that, around 150, 200, 300 hours, that's where it can start to make sense to look at whole aircraft ownership." But depending on specific missions/needs, the flexibility of Fractional with access to multiple aircraft types can still be beneficial.

However, Applegate cautioned that financial analysis alone does not tell the full story. "While we can crunch the numbers and tell you when it makes sense to be in the respective products, there's a huge emotional component that goes along with it." Some owners value knowing their pilots personally, while others prioritize guaranteed fleet access over cost efficiency.

State Tax Considerations That Often Get Overlooked

Federal depreciation is only one part of the tax picture. State sales and tax obligations vary widely and are a frequent source of unexpected costs. "A lot of people skip that step," Applegate warned.

Some states require payment of the use tax on the full purchase price if the Aircraft is based in that state, but also offer a sale for resale option. Ohio, Pennsylvania, Tennessee, and Florida offer a sale-for-resale structure in which owners pay use tax only on hours flown. Florida goes a step further and only requires payment for hours flown in Florida airspace. California has both an interstate commerce exemption and common carriage exemptions for qualifying business aircraft. Colorado currently offers limited relief, and owners based there should expect to remit use tax on the full purchase price of the aircraft. States are increasingly tracking aircraft landings through tools like FlightAware.

Building the Right Team and Avoiding Common Mistakes

Acquiring an aircraft requires a coordinated team: an aviation attorney, tax advisor, or aviation CPA, aircraft broker, lender, management company, insurance broker, and escrow agent. Applegate emphasized that "there are

no qualifications needed to say you're an aircraft broker," unlike real estate, where licensing is required. She recommended verifying whether a broker is certified through the International Aircraft Dealers Association (IADA) before engaging.

Business owners should also understand the difference between charter operators and charter brokers. A charter broker sources flights from operators and adds a margin, while a direct relationship with a charter operator removes that intermediary cost. In either case, Applegate recommended verifying the safety record using an independent third-party company like ARGUS or WYVERN to do this.

Why the Trend Is Moving Toward Fractional and Co-Ownership

Both Applegate and Apgar noted a clear trend away from sole whole-aircraft ownership, driven by rising crew costs, generational preferences, anonymity, parts-supply chain challenges, and the variability of maintenance expenses. Apgar highlighted the operational advantages of fractional programs: "If one plane breaks, it doesn't matter. You own a percentage of one plane, but you theoretically have access to our entire fleet."

Co-ownership, where multiple individuals purchase an aircraft together, is also growing. Co-ownership allows two parties to share the fixed costs associated with owning an aircraft. Applegate strongly recommended a co-owner's agreement covering scheduling priority, cost-sharing for upgrades, and procedures if one party stops paying. "We have a questionnaire with 14 questions," she said, "so that when four friends decide to purchase an aircraft together, they stay friends at the end of the day."

Integrating the Aircraft Decision Into Your Wealth Plan

From managing concentrated risk to executing tax-efficient exits and designing charitable and legacy plans, business owners face numerous critical decisions throughout their careers. An aircraft purchase intersects with entity structuring, cash-flow planning, [insurance](#), and long-term [wealth forecasting](#). Preparing for a major liquidity event, we can develop cash-flow projections aligned with your new level of wealth to guide your investment and spending strategies, so you can confidently navigate life after the sale. Understanding how an aircraft fits into both pre-sale and post-sale planning ensures the asset supports broader financial goals rather than creating unintended complications.

Considering Private Aviation? Start With Your Wealth Plan

If you are a business owner evaluating private aviation, the decision may benefit from coordination among tax, legal, insurance, and wealth-planning professionals. An experienced wealth advisor can help ensure your aviation decision aligns with your broader financial strategy.

If you have any questions or would like to discuss private aviation, [contact one of our wealth advisors who specializes in working with business owners.](#)

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