

LEGAL UPDATES

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## Reimbursement of Costs for Personal Use Flight Operations - FAA Reverses Schwab Interpretation (Partly)

On July 8, 2010, the Federal Aviation Administration issued a notice of Proposed Legal Interpretation indicating that the FAA has reconsidered its long-held position that personal flights by a company's employee are not within the scope of the company's business. That prior interpretation (commonly referred to as the Schwab Interpretation) prohibited employees from reimbursing the company for the costs of such flights.

While not sanctioning employee reimbursement for all personal travel, the FAA's proposed interpretation allows a company to accept reimbursement for the pro rata cost of owning, operating and maintaining an aircraft when it is used for personal travel by an employee whose position with the company necessitates the company's ability to alter that individual's travel plans because of a compelling business concern. The FAA cautioned that travel associated with significant events such as weddings, funerals and medical treatment would not qualify for reimbursement.

Even though the proposed interpretation remains open for comment through August 9, 2010, an organization wanting to take advantage of this interpretation when it becomes effective, should carefully evaluate its current personal use policies applicable to the company's aircraft. Under the proposal, a company's board, or governing body, will be required to identify the individuals within the company who are eligible for the exception, and adopt a procedure to maintain records of the determinations made concerning the nature of routine personal flights by the covered employees consistent with the interpretation. Additionally, a company's new reimbursement plan will need to comply with appropriate tax and reporting obligations.

### Contact Info

If you have any questions about this or other investment management matters, please contact your Husch Blackwell Sanders attorney or David Agee at 417.268.4066 or Mike Cosby at 417.268.4110.

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