

LEGAL UPDATES

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Is Your Aircraft Lease Agreement Ready for a Review by the FAA?

With the recently updated inspection guidance published by the Federal Aviation Administration (FAA) and “informal” letters being sent to many pilots, the FAA is signaling an effort of increased scrutiny of aircraft lease agreements.

Following the 2016 updates to Advisory Circular 91-37, the FAA in April 2020 released inspection guidance in the Flight Standards Information Management System to assist safety inspectors in the process of evaluating compliance with FAR Part 91 (specifically Part 91.23) requirements for leases and conditional sales agreements. Specifically, the FAA is focused on determining, under the terms of a “lease”, that the lessor/owner is not in effect offering air transportation for hire (without certification or compliance with the operating requirements of FAR Parts 119, 121, 125 or 135) and the lessee actually has operational control of the aircraft.

With the FAA’s continued and increasing focus on ferreting out illegal or unsafe operations caused by attempts to evade regulatory compliance, aircraft owners and their lessees (including time-share participants) should expect increased scrutiny for adherence to the requirements of Part 91.23; including the required notifications to the FAA’s Aircraft Registration Branch and the responsible Flight Standards Office. Additionally, the FAA specifically noted that the number/volume of leases that an aircraft is subject to is considered a key factor in evaluating and determining the party with operational control of the aircraft under the lease.

If it has been a few years since your dry lease (time-share or interchange) agreements have been reviewed, now is a good time to complete that review and confirm that the documents comply with the requirements of FAR Part 91. To schedule a review or discuss this topic further, contact the

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