

Trusts, Fiduciary Obligations and the Family Jet **By Michelle M. Wade and Dillon L. Strohmⁱ**

In the United States, aircraft may be registered in the name of the trustee of a trust provided they both satisfy the FAA requirements. With the July 20, 2010 publication of new regulations, Trustees became subject to new obligations to re-register aircraft every three years. Risks of failing to properly re-register an aircraft could include cancellation of the aircraft's registration, temporary grounding of the aircraft, loss of insurance coverage, breach of loan covenants and cancellation of a coveted N#.

Effective October 1, 2010, the FAA began to limit the duration of an aircraft's Certificate of Registration ("Certificate") to three years at which time the Certificate may be renewed for a successive three-year term upon completion and submission of a renewal request form and payment of the applicable fee. Previously, a Certificate did not expire. The stated goal of this massive undertaking by the FAA is to improve the accuracy of the Civil Aviation Registry database.

When required, a Trustee should promptly file re-registration and renewal applications. Owners must renew the registration and receive the renewed Certificate before expiration. If an owner renews after the registration expires, the aircraft will no longer be properly registered with the FAA and will not be operable. If the aircraft is on a Part 135 certificate, loss of charter revenue may also occur.

Approximately six months before an aircraft's Certificate expires, the FAA Registry is to mail a notice with instructions to the registered owner using the mailing address of record. The notice will identify the expiration date, and the three month window during which application must be made to ensure receipt of the new Certificate before the old Certificate expires.

The 3-month filing window occurs in the fifth, fourth and third months before expiration of the Certificate. A code is to be provided in the notice from the FAA Registry to allow on-line re-registration and payment of the fee when there are no changes in ownership, address, or citizenship. If there are any changes, the form must be printed, signed, and mailed with the fee.

At the end of the 3-month filing window, the opportunity for on-line re-registration closes. Remaining applications and fees must be mailed to the FAA Registry.

Two months before expiration, a second notice is to be sent to registered owners for which the Registry has not yet received an application for re-registration. Applications for registration may be submitted, but due to processing and mailing times, the aircraft may be grounded until re-registration is completed. Upon

expiration of registration the owner is to be sent notice of the scheduled cancellation of the N-number and their option to reserve the N-number. Once cancelled, the N-number will not be available for assignment or reservation for five years.

Steps that a Trustee should take now include:

1. Contact your flight department to make sure they are aware of the new requirements and to ask them to look at the current Certificate to determine the month in which it was issued. This will allow both the Trustee and the flight department to calendar the anticipated re-registration filing window.
2. Either the Trustee or the flight department should look up each aircraft on the FAA's website and verify that the mailing address and the names of owner(s) shown are correct.
3. If any information is incorrect, the Trustee should consult with the user of the aircraft and work together to update the information.

Aircraft with a Certificate issued in March of any year are the first to face the re-registration process. Based on the above schedule, these owners should have received the first notice in October, 2010, with the following three months constituting the filing window. If no application is received the registration will be cancelled on March 31, 2011. Aircraft with a Certificate issued in April of any year should receive their first notice in January 2011 and will have a filing window from February 1 to April 30, 2011.

Addressing aviation issues can quickly become complex. Deciding how to best handle each issue varies from person to person. An attorney experienced in corporate jet registration and operations can assist by providing guidance on how to ensure FAA compliance while satisfying other goals.

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