

## Leaving on a Jet Plane: Increased IRS Scrutiny on Use of Corporate Aircraft

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On February 21, 2024, the **IRS announced plans** to increase funding under the Inflation Reduction Act to audit the use of corporate aircraft by large corporations, partnerships, and high-income individuals.

The National Business Aviation Association has questioned the logic of the proposed IRS audits, stating immediately following the announcement that: "Today's announcement by the IRS amounts to nothing more than an audit in search of a problem, and an attempt to broadly paint with a negative brush the thousands of U.S. companies of all sizes that rely on business aircraft to effectively compete in a global marketplace."

Following the IRS audit announcement, the Biden administration proposed its new Fiscal Year 2025 budget which provided for a significant fuel tax increase. This proposal, in the eyes of the NBAA and the aviation community amounts to an excessive penalty on the aviation sector. According to the NBAA data, business aviation supports 1.2 million jobs and contributes \$250 billion to GDP in the United States.

The IRS audits will focus on whether companies have properly accounted for business and personal use of the corporate aircraft for tax purposes. Generally, a company is allowed to deduct expenses for the use and maintenance of a corporate aircraft, so long as the aircraft is used for businesses purposes. If the corporate aircraft is used for personal use, however, the company's ability to deduct costs associated with the aircraft may be impacted. Additionally, any individuals who use the company aircraft for personal use must include in income the value of the flight in question.

The IRS will ask audited businesses to provide documentation to justify the deductions taken with respect to corporate aircraft. If a company fails to properly apportion between business use and personal, the IRS could assess increased tax liabilities and penalties for both the company and individuals who used the corporate aircraft.

Given the complexity of the rules related to apportioning costs for company aircraft, businesses must keep proper records and take other precautions with respect to their aircraft accounting. By doing so, companies can limit not only their potential tax exposure, but also the exposure of any individuals who have used the company aircraft. While aircraft industry experts argue that owners of corporate aircraft are generally compliant and the IRS scrutiny is excessive, this is an issue that will be under the microscope going forward.

Please contact your Miller Canfield attorney or the authors of this alert if you wish to discuss the matter further.