



ASSISTANT SECRETARY

DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220

MAY 01 1985

Dear Mr. Leader:

This letter is to confirm our discussions regarding the establishment, by Treasury regulation, of a revised safe harbor method of valuing personal flights by employees, their families, and their guests on company aircraft.

The safe harbor values would be as follows:

<u>Maximum Certified Takeoff Weight of the Aircraft</u>	<u>Includible Value for a Control Employee</u>	<u>Includible Value for a Non-Control Employee</u>
25,000 lbs. or more	200% of first class	Safe harbor value for airline parents
10,001 - 25,000 lbs.	150% of first class	Safe harbor value for airline parents
6,001 - 10,000 lbs.	Coach	75% of safe harbor value for airline parents
6,000 lbs. or less	50% of coach	50% of safe harbor value for airline parents

In approximating first class fare or coach fare, we would use the Standard Industry Fare Level (SIFL) rates or another appropriate method.

The term "control employee" in the context of private employment shall be defined to mean the following:

1. Board-elected or shareholder-elected officers. However, the number of employees who are control employees under this test shall be limited to the lesser of (a) 1 percent of all employees or (b) 10 employees.

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2. The top 1% in terms of compensation, based on the prior year. The number of employees who are control employees under this test shall not exceed 25 employees. In addition, no employee earning under \$50,000 shall be a control employee under this test.
3. All employees owning an equity interest of 10% or more of the employer, with appropriate attribution rules.
4. Guests and family members of the employees listed above.

In addition, we will, by regulation, create a special rule which applies where 50% or more of the regular passenger seating capacity of that plane as used by the company is occupied by individuals whose flights are primarily for the employer's business and whose flights are thus excludable from income. In such circumstances, a personal flight by an employee, his spouse, or dependent children (generally, as such terms are defined under section 132 of the Code) in any of the remaining seats is deemed to have no value. This special rule is not based on general valuation principles but rather on legislative intent. Thus, if other guests of an employee (such as an employee's parent) fly in the remaining seats for personal purposes, the employee would have income. In these situations, if the safe harbor is used, the employee would be taxed at the non-control employee rate. For purposes of determining passenger seating capacity, any seat occupied by the flight crew shall not be counted except when an employee is flying the plane in which case his seat shall be deemed a passenger seat.

We believe this fairly represents our discussions and provides a workable regulatory framework for taxing personal use of company planes.

Sincerely,



Ronald A. Pearlman
Assistant Secretary
(Tax Policy)

The Honorable
Robert Dole
Senate Majority Leader
United State Senate
Washington, D.C. 20510