



U.S. Department
of Transportation

**Federal Aviation
Administration**

Mike Monroney
Aeronautical Center

P.O. Box 25082
Oklahoma City, Oklahoma 73125

April 9, 1999

Preston G. Gaddis II, Esq.
Crowe & Dunlevy
1800 Mid-America Tower
20 North Broadway
Oklahoma City, OK 73102

Dear Mr. Gaddis:

Partnership Citizenship Issues

Thank you for your letter of April 6, 1999, in which you request our opinion concerning eligibility for United States registration of aircraft owned by an owner trustee, by a corporation, and by a limited liability company (LLC). Each of your registration scenarios involves a partnership which is not a "citizen of the United States" under 49 U.S.C. 40102(a)(15)(B) because one of the partners is not an individual.

First, let me again say that I share the commercial world's view that the statutory prohibition against partnerships having corporate partners is anachronistic and confounding. Nevertheless, FAA's longstanding interpretation of the plain language of 49 U.S.C. 40102(a)(15)(B) (Mr. Brennan's 1979 letter) has never been seriously challenged.

Secondly, as you know, for registration purposes there are no degrees of citizenship. A partnership comprised of an individual U.S. citizen and a corporation meeting the definition of 49 U.S.C. 40102(a)(15)(C) is not a "citizen of the United States" just as a partnership comprised of two individual French citizens is not.

Your Examples are stated in their entirety followed by our Responses.

EXAMPLE I: The Partnership is the beneficiary under a grantor trust with a United States citizen as Owner Trustee and title to the aircraft is vested in the Owner Trustee. This is the solution offered by the FAA as an alternative to the ownership of an aircraft directly by the Partnership. In prior

Aeronautical Center Counsel opinions Trust Agreements in the customary United States citizenship form (referred to as Section 47.7(c)(2)(ii) trusts) have been approved based upon Affidavits of Citizenship by the Owner Trustee that all of the partners of the Partnership are United States citizens. In recent discussions you have indicated these Trust Agreements should contain control limitation provisions and the prohibition against removal of the Owner Trustee (referred to as Section 47.7(c)(2)(iii) trusts) and the Affidavits of Citizenship of the Owner Trustees should state that the Owner Trustee is not aware of any reason, situation or relationship as a result of which the Partnership will have the power to influence or limit the exercise of the Owner Trustees' authority. If this is your position, please confirm it in the opinion requested above.

FAA RESPONSE: Since it is stipulated that the Partnership beneficiary is not a U.S. citizen, 14 C.F.R. 47.7(c)(2)(iii) and (3) pertain. To the extent that my office may have created some confusion in the past, I apologize.

EXAMPLE II: The Partnership is the owner of all of the issued and outstanding stock of a corporation (the "Corporation") organized under the laws of one of the States of the United States and all of the Corporation's officers, including its President, and directors are United States citizens. In this situation, is the Corporation a United States citizen for purposes of United States registration of aircraft owned by the Corporation?

FAA RESPONSE: The Corporation is not a citizen of the United States under 49 U.S.C. 40102(a)(15)(C) because all of its voting interest is owned and controlled by the Partnership which is not a citizen of the United States. Therefore, the Corporation is not eligible to register an aircraft.

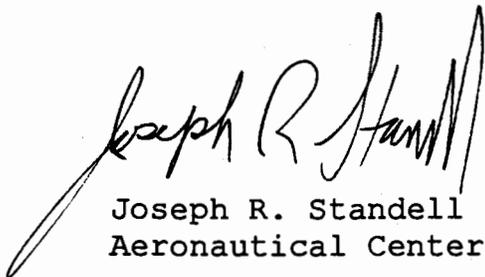
EXAMPLE III: A limited liability company (the "Company") is organized under the laws of one of the States of the United States and is managed by a United States citizen. The Partnership is the sole Member of the Company. Does the Company qualify as a United States citizen for purposes of United States registration of aircraft owned by the Company?

FAA RESPONSE: For much the same reasoning as in our response to Example II above, the Company would not be eligible to register aircraft. As you know, for registration eligibility purposes, we consider an LLC to be an association as defined in 49 U.S.C. 40102(a)(15)(C). Incident to our analysis, we would consider

voting interest of the association as owned and controlled by the Partnership member, a non-U.S. citizen. That would make the association (LLC) ineligible to register.

In your letter you suggest public dissemination of this response (e.g. Federal Register). I could go either way. Let's discuss the need for it.

Sincerely,

A handwritten signature in cursive script, appearing to read "Joseph R. Standell". The signature is written in dark ink and is positioned above the typed name and title.

Joseph R. Standell
Aeronautical Center Counsel

cc:
AFS-750