

This is in reference to your application for registration.

An aircraft owned by a partnership, any member of which is a corporation, is not eligible for registration. This is based on the fact that such a partnership does not come within the definition of a "citizen of the United States" as that definition appears in the Federal Aviation Act of 1958, as amended.

Section 101(16) of the Federal Aviation Act of 1958, as amended [49USC 1301(16)], provides:

"'Citizen of the United States' means (a) an individual who is a citizen of the United States or one of its possessions, or (b) a partnership of which each member is such an individual (added emphasis), or (c) a corporation or association created or organized under the laws of the United States or of any state, territory, or possession of the United States, of which the president and two-thirds or more of the board of directors or other managing officers thereof are such individuals and in which at least 75 per centum of the voting interest is owned or controlled by persons who are citizens of the United States or one of its possessions."

In (b), a partnership is considered a citizen if each member is an individual who is a citizen of the United States or one of its possessions. Therefore, only partnerships are citizens whose members are individuals, as opposed to a situation where one or more of its members are corporations notwithstanding that each (including corporations) is a citizen of the United States under the above definition.

A partnership in which all members are citizens of the United States (a, b or c above) may establish a trust and transfer legal title of the aircraft to the respective trustee(s). The partnership, whose members could include a corporation, may be the beneficiary under the trust.

The applicant trustee(s) must be either a United States citizen, including corporations, or resident alien and must certify such on the Application for Registration. In addition, the trustee(s) must submit an affidavit that each beneficiary, including each person whose security interest in the aircraft is incorporated in the trust, is either a United States citizen or a resident alien [(Section 47.7 (c)(2)(ii)], as opposed to being a foreign citizen. However, if any beneficiary under the trust is not a United States citizen or resident alien, each trustee must submit an affidavit that the trustee is not aware of any reason, situation or relationship (involving beneficiaries or other persons not citizens or resident aliens) as a result of which those persons together would have more than 25 per cent of the aggregate power to influence or limit the exercise of the trustees' authority [FAR 47.7 (c)(2)(iii)]. The original or a certified copy of the complete trust agreement and each additional document legally affecting a relationship, including a security interest, under the trust is required.

Alternatively, if the subject aircraft is not owned as a partnership asset, but is co-owned, and all the co-owners are individually eligible to register aircraft, the aircraft may be registered in the names of the co-owners. In any case where one or more of the co-owners is a corporation that is not a United States citizen, the requirements of Section 47.9 of the Federal Aviation Regulations must be complied with fully.

For further information, please contact the Aeronautical Center Counsel, telephone 405-686-2296.

NOV 19 1979

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Dear Mr. Boston:

This is in reply to your request of November 6, 1979. At that time you asked whether an aircraft owned by a partnership, whose partners included several individuals and a corporation, all of whom were citizens of the United States under the definition in Section 101(16) of the Federal Aviation Act of 1958, as amended, would be eligible for registration in the name of the partnership. It is our opinion that the aircraft would not be eligible.

In defining a "citizen of the United States" Section 101(16) provides as follows:

"'Citizen of the United States' means (a) an individual who is a citizen of the United States or one of its possessions, or (b) a partnership of which each member is such an individual, or (c) a corporation or association created or organized under the laws of the United States or of any State, Territory, or possession of the United States, of which the president and two-thirds or more of the board of directors and other managing officers thereof are such individuals and in which at least 75 per centum of the voting interest is owned or controlled by persons who are citizens of the United States or of one of its possessions."

In (b) a partnership is considered a citizen if each member is an individual who is a citizen of the United States or one of its possessions. We believe it is clear that the intention was to include only partnerships whose members were individuals as opposed to a situation where one or more of the members are corporations notwithstanding that each is a citizen of the United States under the above definition.

Amendment 47-20, effective January 1, 1980, in Section 47.2 utilizes the same definition. Section 47.7(d), relating to partnerships, while not specifically stating that each member must be an individual who is a citizen of the United States, must be read in light of the definitions set forth in the Federal Aviation Act of 1958 and Section 47.2 of the Federal Aviation Regulations.

On the basis of the above opinion, you made reference to a possible problem insofar as the affidavit to be provided by the trustee under Section 47.7(c)(2)(ii) of the Federal Aviation Regulations, effective January 1, 1980, if the beneficiary under the trust were a partnership whose members include a corporation. It is our opinion that, if each member of the partnership were a United States citizen or resident alien, as opposed to being a foreign citizen, the trustee could provide the required affidavit and the representation therein would be accurate and meet the requirements of the regulations. Our opinion is based on the intent of Section 47.7(c)(2) which is to ensure that the aggregate power of foreign interests to influence or limit the exercise of the trustee's authority does not exceed 25 percent.

If anything further is required, please advise us.

Sincerely,

Original signed by:
Joseph T. Brennan

JOSEPH T. BRENNAN
Aeronautical Center Counsel

bcc:
AAC-200 (AAC-250)
AGC-7