

2 February 1971

Mr. A. Clare Evans  
11694 Eldorado Drive  
Sterling Heights, Michigan 48077

Dear Mr. Evans:

Please excuse my delay in answering your letter of 4 January 1971. As I advised you in our telephone conversation of several weeks ago, we have been carefully reviewing the area of registration of aircraft to which your letter refers.

As you are aware, Section 501(b)(1) of the Federal Aviation Act of 1958, as amended, provides as follows: "An aircraft shall be eligible for registration if, but only if--(1) it is owned by a citizen of the United States and it is not registered under the laws of any foreign country." In addition to this, we have Section 47.43(a)(4) of the Federal Aviation Regulations which reads as follows: "(a) The registration of an aircraft is invalid if, at the time it made--(4) The applicant is a citizen of the United States but his interest in the aircraft was created by a transaction that was not entered into in good faith and was made to avoid (with or without the owner's knowledge) compliance with Section 501 of the Federal Aviation Act of 1958 (49 USC 1401) that prevents registration of an aircraft owned by a person who is not a citizen of the United States."

In your letter, you propose to register an aircraft in your minor son's name. He is three years old. In order to register the aircraft in an individual's name, there must be submitted evidence of his ownership. In the case of a minor, especially one of three years of age, we do not feel that a mere bill of sale to him would be sufficient. If the transaction is one whereby the title actually passes to the minor, we believe that it would be necessary to have a guardian of the estate appointed by the court. Such guardian would then be responsible to the court to account for the care and use of the minor's property. We feel this is only logical since if it is a legitimate transfer of title, the minor being unable to protect his own interests, the court must assume this responsibility through the appointment of a guardian.

Other than meeting the citizenship requirements, you raise as reasons for the transfer of title to your son the tax advantage you would gain plus financial advantage of having an aircraft available without having to pay rental.

The tax advantage you mentioned was the deduction you could claim for all fuel and registration taxes since they would be incurred by your dependent. Insofar as your use of the aircraft owned by your son without having to make rental payments, there might be a problem in this area. Whether the court would allow use of the minor's aircraft without compensation being paid is an important question. It might well be held that he, as owner, would be entitled to the same return from the use of his property as any owner would receive.

Notwithstanding the above-mentioned reasons for transfer of title, it is our opinion that even if the transfer of title was effected in compliance with all legal requirements, the predominate purpose for the transfer would be to avoid compliance with Section 501 of the Federal Aviation Act of 1958, as amended. Accordingly, it is our opinion that the aircraft cannot be registered in your minor son's name.

If there are any questions, please advise us.

Sincerely,

ORIGINAL SIGNED BY  
JOSEPH T. BRENNAN  
JOSEPH T. BRENNAN  
Aeronautical Center Counsel, AC-7

cc:  
AC-250 ✓