U.S. Department
of Transportation
**Federal Aviation
Administration**

MAR 9 2007

James W. Dymond, Esq.
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P.O. Box 13706
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RE: Request for Guidance and Interpretation Regarding "Flight Department Companies" and Part 91 Operations

Dear Mr. Dymond:

This responds to your letter dated December 28, 2006 that presents a scenario in which certain U.S. citizens desire to form a limited liability company ("Company") for the purpose of owning and operating a civil aircraft ("Aircraft'). The owner of the Company ("Client') will make contributions to the Company in the amounts needed to pay the costs of owning and operating the aircraft that will be used solely for the transportation of the Client, the Client's family members and guests for personal purposes. You request a legal interpretation to several questions:

(1) Would the Company be considered a "flight department company" by the FAA [Federal Aviation Administration]?

Yes, as that phrase has been used in FAA interpretations. A company whose sole purpose is transportation by air and receives compensation (amounts paid by the Client needed to pay the costs of owning and operating the aircraft) must obtain certification under Part 119 unless the aircraft has a maximum allowable payload of 6000 pounds or more than 20 seats, when it could operate under part 125. Section 91.501(b)(4) is drafted to permit an individual owner, not a company, to operate an airplane for his own personal transportation and guests without charge. Thus section 91.501(b)(4) cannot be used by a flight department company.

(2) If the FAA would consider the Company to be a flight department company, then would the FAA consider the contributions made by the Client to the Company in order to fund the operating expenses of the Aircraft to be "compensation" for the Client's personal transportation on the Aircraft?

Yes.

(3) If the answers to Question 1 and Question 2 above are both "yes," then could the Company's flight operations (based on the assumptions) properly be conducted under Part 91 pursuant to the "personal transportation" exemption described in 14 C.F.R. § 91.501(b)(4)?

No.

(4) If the answer to Question 1 and/or Question 2, above is "no," then would the Company's flight operations (based on the assumptions) properly be conducted under Part 91?

No. Depending upon the number of different kinds of passengers this might constitute common carriage, in which case the FAA would require the company to obtain a Part 119 certificate and operate within the requirements of Part 121 or Part 135.

This response was prepared by Bruce Glendening, Attorney in the Regulations Division of the Office of the Chief Counsel and has been coordinated with the Air Transportation Division of Flight Standards Service. If you have additional questions regarding this matter, please contact us at your convenience at (202) 267-3073.

Sincerely,

Rebecca B. MacPherson
Assistant. Chief Counsel,
Regulations Division (AGC-200)