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

Office of the Chief Counsel

800 Independence Ave., S.W.
Washington, D.C. 20591

JUL 19 2010

Ronald R. Lamb
Wilke, Fleury, Hoffelt, Gould & Birney, LLP
Twenty-Second Floor
400 Capitol Mall
Sacramento, CA 95814

Dear Mr. Lamb:

This responds to your request for legal interpretation dated March 25, 2010, requesting clarification concerning the application of 14 C.F.R. §§ 61.113(c). Your letter presents four expense-sharing scenarios (each assuming the flight has a bona fide common purpose) including: (1) the pilot and passengers each pay a pro rata share; (2) the passengers each pay a pro rata share, and the pilot's employer pays the pilot's pro rata share; (3) the passengers each pay a pro rata share, and the company owned by the pilot pays the pilot's pro rata share; and (4) the passengers each pay a pro rata share, and the company in which the pilot is a partner pays the pilot's pro rata share. Your letter asks which of these scenarios are permissible under § 61.113(c).

Section 61.113(c) states, in relevant part, that a private pilot may not pay less than the pro rata share of the operating expenses of a flight with passengers, provided the expenses involve only fuel, oil, airport expenditures, or rental fees.

As stated in the March 1, 2010 interpretation to you, the FAA consistently has interpreted § 61.113(c) to permit a private pilot to seek reimbursement only from fellow passengers and not from a third party such as an employer. Legal Interpretation to Ronald R. Lamb (Mar. 1, 2010); *see also* Legal Interpretation to Guy Mangiamele (Mar. 4, 2009) ("As noted in the preamble of the final rule, the FAA determined that a private pilot may not pay less than the pro rata share of operating expenses for the flight because 'if pilots pay less, they would not just be sharing expenses but would actually be flying for compensation or hire.'"). Accordingly, only the expense sharing in your first scenario of the pilot and passengers each paying a pro rata share of expenses for a flight with a bona fide common purpose is permissible under § 61.113(c). The expense sharing in your other three scenarios involve the pilot receiving reimbursement from passengers and from a third-party employer (or company in which the pilot has an ownership interest), and that third-party reimbursement is impermissible because the pilot actually is paying less than a pro rata share of expenses.

This response was prepared by Robert Hawks, an Attorney in the Regulations Division of the Office of Chief Counsel and coordinated with the General Aviation and Commercial Division of Flight Standards Service. We hope this response has been helpful to you. 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 for Regulations, AGC-200