U.S. Department
of Transportation
Federal Aviation
Administration

Office of the Chief Counsel

Office of the Chief Counsel
800 Independence Ave., SW.
Washington, DC 20591

JUL 16 2014

Gregory J. Reigel
[redacted]

Dear Mr. Reigel:

This is in response to your letter of March 7, 2013, requesting a legal interpretation of two situations involving the use of barter: (1) to pay a pilot's pro-rata share of expenses on a common-purpose recreational flight; and (2) to pay for the rental of an aircraft. We have formatted this response consistent with your described scenarios and questions.

In your letter you present two scenarios. In the first scenario, a private pilot (Pilot A), who is in the business of aircraft detailing, proposes to barter aircraft detailing services in exchange for Pilot A's pro-rata share of expenses on common-purpose recreational flights in an aircraft owned by Pilot B, also a private pilot. Pilot A would perform the aircraft detailing services, Pilots A and B would agree on the fair market value of those services, and that amount would be applied towards Pilot A's pro-rata share of expenses on the flights shared by Pilots A and B. You pose four questions about this arrangement.

1. Does this arrangement of bartering services in exchange for a pilot's pro-rata share of expenses on a common-purpose flight comply with 14 C.F.R. § 61.113(c)?[1]

Yes, this arrangement could comply with § 61.113(c) as long as the amount of the bartered services did not exceed Pilot A's pro-rata share of the expenses, otherwise Pilot B would be in violation of § 61.113(c).

2. May Pilots A and B agree upon the fair market value of the services bartered?

As the two parties to the transaction, they would have to reach a mutual agreement with respect to the fair market value. The parties may make a written record of this agreement, although FAA regulations do not require documentation.

3. May the fair market value of the aircraft detailing services be applied prospectively to Pilot A's pro-rata share of operating expenses for future/successive common-purpose flights with Pilot B?

Yes.

[1] Title 14 of the Code of Federal Regulations, section 61.113, paragraph (c) provides 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."

4. What documentation, if any, would Pilots A and B need to evidence their compliance with 14 CFR § 61.113(c)?

The FAA does not require any documentation of such an agreement.

Under your second scenario, Pilot A barters his airplane detailing services in exchange for rental of an aircraft owned by Pilot B, in which Pilot A would be the sole occupant of the aircraft. You pose four questions regarding this arrangement.

5. Does Pilot A's bartering of services in exchange for rental of Pilot B's aircraft violate any regulations administered by the Federal Aviation Administration?

It does not violate any FAA regulations.

6. May Pilot A and B agree upon the fair market value of the aircraft detailing services to be bartered against Pilot A's rental of Pilot B's aircraft?

Yes, as long as the flight is not for compensation or hire.

7. May the fair market value of the bartered aircraft detailing services be applied prospectively to Pilot A's future/successive rental of Pilot B's aircraft?

Yes, as long as the flight is not for compensation or hire.

8. What documentation, if any, would Pilots A and B need to evidence the barter arrangement under this scenario in order to comply with any applicable regulations?

FAA regulations do not require documentation.

We hope this response is helpful to you. If you have any additional questions, or need further information, please contact my staff at (202) 267-3073. This response was prepared by Neal O'Hara, and attorney in the International Law, Legislation and Regulations Division of the Office of the Chief Counsel, and was coordinated with the General Aviation and Commercial Division of the Flight Standards Service.

Sincerely,

Mark W. Bury
Assistant Chief Counsel for International Law,
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