

## Are Your LOAs in the Name of the Correct Entity?

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### Uncoordinated Structures and Operations

In anticipation of the acquisition of an aircraft, a great deal of time is spent on establishing a tax efficient and FAA-compliant operating structure. After all of the tax, accounting, aviation and other professionals have weighed in on and agreed upon an appropriate aircraft operating structure, the documents are prepared, the acquisition is closed and the structure implemented.

It is not unusual to find that the FAA letters of authorization (LOAs) for the aircraft (including RVSM) are applied for and issued in the wrong name, that is, in the name of the registered owner of the aircraft instead of in the name of the operator. A very common structure is to have the aircraft owned by one entity and then dry leased to an affiliated or different entity which will operate the aircraft under Part 91 incidental to its primary business. As you may know, a single purpose entity (which typically is the registered owner of the aircraft) is not eligible to operate the aircraft under Part 91 because, by definition, it has no primary business and, therefore, it is not (absent very unique circumstances) the appropriate holder of the LOAs.

We have found that sometimes this error is not discovered until many years after the acquisition when the aircraft has been replaced and application is being made for LOAs for the replacement aircraft.

### The morals of the story?

- Be sure that the flight department is included in the structure discussion.
- Provide a schematic of the operating structure that clearly identifies the operator of the aircraft.
- The flight department should not hesitate to confirm with aviation counsel from time to time (at least annually) coordination of the structure with operations.
- The business folks should always alert the flight department to contemplated structure changes.
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