Personal use of the corporate jet

EXECUTIVE SUMMARY

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Up, Up, and Away—Personal use of the corporate jet

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The SEC's new disclosure regulations have shone a searchlight on the incidence of perquisites among U.S. executives, including the costs associated with the personal use of corporate aircraft by CEOs, other executives, their spouses, other family members and friends. In a study of 215 CEOs, The Corporate Library found that more than half (53.95 percent) had access to corporate aircraft for "non-business" use. The study identified the 215 CEOs by searching for perquisite levels—recorded in the All Other Compensation column of the Summary Compensation Table—that were in excess of $500,000 in proxy statements filed between March and July 2007. These amounts reflect perquisite provision in fiscal 2006. For the purposes of the study, it was assumed that a considerable proportion of these CEOs would have received this level of perquisites due, in part at least, to personal use of the corporate jet.

***Table 1*: Aggregate Incremental Cost and Associated Tax Reimbursement—Personal Use of Corporate Jets (*Source: The Corporate Library*)**

	Minimum	Median	Maximum
	$	$	$
Personal aircraft use	649	182,929	1,004,900
Associated tax reimbursement	665	37,933	230,992

As seen in *Table 1*, the costs associated with personal aircraft usage vary widely, with a median of just over $180,000. The maximum amount was received by David Hanna, CEO of CompuCredit Corporation, which recognized costs of more than $1,000,000 for personal air travel. The 2007 proxy statement comments:

> In light of Mr. Hanna's nominal annual salary, in 2005 the Compensation Committee authorized the use by Mr. Hanna and his family of charter jet service aircraft, for personal purposes and at the Company's expense, up to an amount equal in value to $200,000 per year for income tax purposes (which is different from the value shown in the Summary Compensation Table that reflects the incremental cost to the Company).

Mr. Hanna's salary is set at $50,000 and he receives no other regular compensation from the company.

While there were the 117 CEOs with access to corporate aircraft for personal use, for only 98 of them were costs disclosed. A further 19 CEOs had access to a corporate jet for personal use, but had no costs associated with such use during 2006. In some cases this was due to non-use of the benefit, but in others the benefit was used—tax was reimbursed on imputed income—but no incremental cost was disclosed, probably because it fell below the $10,000 threshold for disclosure.

How were costs calculated?

In fiscal 2006, 82 of the 88 companies (93.18 percent) that disclosed how the aircraft usage was calculated indicated that they used the incremental cost approach. At most companies, of course, the SIFL rate continues to be used to impute income to executives for the purposes of calculating income tax, but it is not used to calculate costs. Only two companies in the study would appear to still be using IRS rates, at least for some purpose—American Electric Power and The St. Joe Company.

Four companies in the study record costs based on leasing arrangements—Charming Shoppes, IAC/InterActive, Men's Wearhouse and Abbott Laboratories. Some of these leasing arrangements are extremely complex and involve companies owned by the executives themselves—as at IAC/InterActive and Men's Wearhouse. Back in 2004, for example, Men's Wearhouse purchased a Gulfstream jet from a company owned by the CEO and then entered into a leasing arrangement under which the CEO's company—the one he owns rather than the one he works for—operated the aircraft.

It should go without saying that—approved by the audit committee or not, third party confirmation of going market rates or not—it is simply better governance to avoid such related party transactions.

Gross-up benefits

Of those CEOs with aircraft usage, 21 also received income tax reimbursement on the benefit, with the highest amount going to Margaret Whitman, CEO of eBay who used eBay chairman Pierre Omidyar's plane during the year, generating $773,467 of costs, with income tax reimbursement of $230,992. At one company, American Electric Power, the CEO's use

Table 2: **Top 12 Costs for Personal Use of the Corporate Jet (*Source: The Corporate Library*)**

Company name	CEO	Cost of aircraft usage	Associated tax reimbursement
CompuCredit Corporation	David G. Hanna	$1,004,900	
i2 Technologies, Inc.	Michael E. McGrath	$942,565	$69,234
EchoStar Communications Corporation	Charles W. Ergen	$821,771	
Abercrombie & Fitch Co.	Michael S. Jeffries	$776,723	$184,790
eBay Inc.	Margaret C. Whitman	$773,467	$230,992
RenaissanceRe Holdings Ltd.	Neill A. Currie	$636,710	
United Technologies Corporation	George A. L. David	$612,303	
Plains Exploration & Production Company	James C. Flores	$610,374	$181,531
Southern Union Company	George L. Lindemann	$609,862	$44,393
Chesapeake Energy Corporation	Aubrey K. McClendon	$567,574	
J.C. Penney Company, Inc.	Myron E. Ullman III	$567,067	$77,548
Wm. Wrigley Jr. Company	William Wrigley, Jr.	$540,210	

of the personal jet was not grossed-up for income tax though imputed income for spousal travel to company events was grossed up for tax. There are no circumstances under which a company should involve itself in the payment of income tax for some of the most highly paid executives in the world.

Family and friends

The new disclosure regulations have also forced some companies to disclose details of personal use by relations and friends of the CEO. It was disclosed that the spouses of 28 CEOs were also eligible to use the corporate jet for personal reasons. In six cases family members and/or personal guests were also eligible to travel. In one instance, Triarc Companies, members of the family were “encouraged” to use corporate aircraft for personal reasons. While at AIG, family members are not just encouraged to use corporate aircraft but are required to do so.

While it would seem ridiculous to require a CEO to use corporate aircraft for personal reasons and then disallow family members from traveling with them, it would also seem to be common sense to require these executives to pay for such travel.

Details of personal jet travel—commuting, work-life balance and trips to Bermuda

Increased disclosure levels have also led to other, hitherto unknown, details being made available by companies. For example:

- Michael McGrath, CEO of i2 Technologies, travels on commercial aircraft for business, but uses a private jet to commute from his residence in Maine to the company’s offices in Dallas.
- Chesapeake Energy offers an explanation of its “personal use” policy: “Feedback from our executive officers indicates that access to fractionally-owned company aircraft for personal use greatly enhances productivity and work-life balance which we believe may impact their willingness to work to or beyond normal retirement age.”
- Dominic Silvester, CEO of Enstar Group, receives: “reimbursement under Mr. Silvester’s employment agreement for one trip for his family to/from Bermuda each calendar year ($50,809)”.

Some companies do not even limit personal use of company aircraft in retirement. At ChoicePoint: “If Mr. Smith’s employment is terminated after his employment agreement with ChoicePoint expires in 2010, we would still be obligated to provide Mr. Smith with the use of the our aircraft for ten years. The estimated present value of this post-employment benefit is $3.3 million dollars.” Good governance would cause us to ask: what possible benefit to shareholders could such a perquisite represent?

Should this be a benefit?

Many of the companies in question—National City, for example—view personal use of the corporate aircraft by executives as a business expense because it is required for security reasons. Whether this is the opinion of the company or not, whether it is an alleged security requirement or not, use of the corporate aircraft, indeed any corporate transportation, for personal and leisure uses is, of necessity, a benefit to the executive. This is the case whether the executive is expected to work while taking personal trips or not. After all, many U.S. employees work while they are on vacation, but few would expect their employers to pay for the cost of the holiday in consequence.

While a few companies require some level of reimbursement from executives for this benefit, most do not. However, that such travel is mandated by a security policy is not a sufficient reason for companies to provide the benefit for free, and certainly no reason to gross up the benefit for income tax. In conclusion, if executives were not required or allowed to use the corporate jet for personal reasons, they would have to purchase tickets on commercial aircraft. At the very least, the equivalent cost of such tickets should be reimbursed by the executive—as at McGraw-Hill. At best the executive should reimburse the company for the whole of the incremental costs. As a further recommendation for adopting this policy, such an arrangement would not trigger any imputed income, and no income tax would need to be grossed up.

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