



## Is your Estate Plan Airworthy?

### Essentials of an Estate Plan

Your Estate Plan should have several goals in mind. First, it should name the person in charge of you and your assets in the event of your death or disability. Next, it should instruct that person what to do. For instance, it can provide for gifts, use of an asset or liquidation. Two basic elements of an Estate Plan is a Will and a Trust. The drawback of a Will is that it requires probate. On the other hand, a Trust is the preferred way to plan for assets like real estate or an aircraft.

### What is Probate?



Probate is a public court case overseen by a judge. It involves court costs, attorney's fees and publication requirements. Until a personal representative is appointed, there may be nobody with authority to operate, insure or update N-Number registration of the aircraft.

## Your Plan Can:

- **Create a Special Legacy:** For example, require a beneficiary to obtain a pilot's license in order to receive their share of the aircraft. Until then the Trustee directs the aircraft's operation and usage.
- **Create a Gift:** Transfer the aircraft to the people or organizations you choose.
- **Continue Operations:** The trustee manages the aircraft for your beneficiaries use.
- **Liquidate the Aircraft:** Sell the aircraft distribute the proceeds.

*"While you're alive and well you are in charge. When you're not, your hand selected successor takes over."*

## How does a Trust Work?

**Trust Agreement:** A Trust document provides the rules for the management and distribution of Trust Assets. It names initial Trustee and his or her successors. It names beneficiaries and describes their rights and distributions.

**Trustees:** While you're alive and well you are in charge. When you're not, your hand selected successor takes over. No court permission needed.

**Revocable:** Most Trusts are revocable which means that it can be modified to change beneficiaries, distributions, successor Trustees, etc. Assets can be added to or removed from the Trust. It can also be dissolved.

**Title to Property:** In a Trust, title to property is transferred to a Trustee. For example, real estate is deeded to the Trustee. In the case of an aircraft, the title must be re-registered with the FAA, otherwise it is not a Trust asset.



**No Separate Tax Return:** A carefully drafted trust does not require a separate tax return or tax identification number.

**Beneficiaries & Asset Protection:** Just like a Will, you can name your own beneficiaries to the trust. However, a properly drafted Trust allows you to protect the beneficiaries in a variety of ways. You can postpone distributions or control until they reach a certain age. Perhaps the Trust assets should be withheld if the beneficiary is vulnerable to creditors, or a divorcing spouse. It can also protect the assets if the person is disabled or has a substance abuse problem.

## Should My Aircraft Be In A Trust?

The answer is probably yes, but for more reasons than you probably think.

**Continuity of Ownership:** One of the biggest benefits of an Aircraft Trust is that it provides a smooth plan of transition control of the assets. This can occur when the owners dies. This can also occur in the event of a disability. The Trust directs who shall serve as the successor Trustee. This person has the authority to make decisions about the aircraft. This person can also comply with the FAA's Aircraft Registration Renewal required every three years. The successor Trustee simply sends in an affidavit showing that he or she is currently acting as Trustee.



Continuity of ownership & control

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## Estate Plan Walk-Around

A walk-around is an essential part of a pre-flight checklist. It is a good idea to give a current Estate Plan a walk-around. Here are some issues you may find.

**Unregistered Aircraft:** If you have a trust, double-check the registration. Check with the FAA by entering the N-Number here: [http://registry.faa.gov/aircraftinquiry/NNum\\_Inquiry.aspx](http://registry.faa.gov/aircraftinquiry/NNum_Inquiry.aspx) If you do not see the name "Trustee" after your name, then the aircraft is not properly registered.

**"In Charge" Changes:** Often the Trustees, Power of Attorney Agents, Guardians or Executors named in your current Estate Plan are no longer appropriate. This may be due family changes or children reaching mature ages.

**Beneficiaries & Their Needs:** Often beneficiaries' situations change and a plan that was perfect a few years ago no longer meets their needs.



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## Can I put my Aircraft in my Existing Trust?

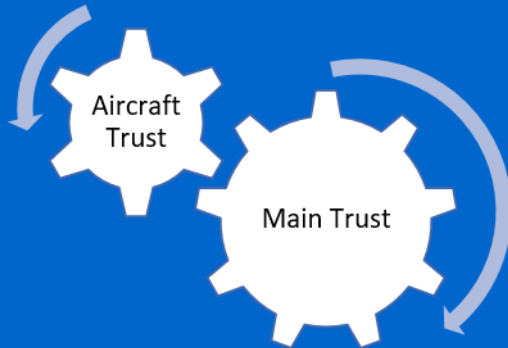
The FAA has strict citizenship rules for the registration of an aircraft. FAA attorneys examine the Trust and other documents to determine whether the Trustees, Beneficiaries and others named in the Trust satisfy those requirements. Therefore, there are generally two options.

**Amend the Trust to be FAA Compliant:** Your current Trust would need to be examined to determine whether it complies with the FAA. However, most Trusts do not contain citizenship language. This can be amended by amending or restating the Trust.

**Create a single purpose Trust:** This is a relatively short and simple Trust that works with your current plan. It can be designed to accomplish one or a combination of these goals:

- **Asset protection:** The aircraft may be used by the beneficiaries after your death or disability. This protects it from their creditors or predators.
- **Specific Gift:** The aircraft, or its proceeds if sold, can be given to one or more Beneficiaries.
- **Liquidation and pour-over:** After the aircraft is sold the proceeds can be placed (poured over) into current trust. Therefore, the money will be managed according to your current trust document.

Generally, the single purpose Trust is preferred because it is less expensive to create a complaint trust than it is to retool an existing one.



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## Tax Free Registration

Once a compliant trust is ready, the required documents must be submitted for FAA legal department review. The FAA charges \$5 to change registration. Oklahoma *does not charge* an Excise Tax for transfer to a revocable trust. 68 O.S. § 6003(17).

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## What about registering as a LLC?

If the aircraft is used in a business this may be worthy of discussion. LLCs are business entities. Insurance policies may be voided if the aircraft is seen as operating under FAR Part 135 which regulates air transportation of persons or property for compensation or hire which requires a commercial operating certificate. An LLC also has citizenship requirements.



## Aircraft Trust Quick Start:

Give us a few days and we'll provide a price estimate.

1. You Name: \_\_\_\_\_

Email: \_\_\_\_\_ Telephone: \_\_\_\_\_

If married spouse's name: \_\_\_\_\_

2. N-Number(s): \_\_\_\_\_

3. Basic Plan after death: (Check all that are of interest to you.)

Special Legacy: For Example: Require a beneficiary to obtain a pilot's license in order to receive their share of the aircraft. Until then the Trustee directs operation and usage of the aircraft.

Gift: The trustee's job is to transfer the aircraft to the people or organizations you choose.

Operation: The trustee manages the aircraft for your beneficiaries use.

Liquidation: The aircraft is sold and funds distributed.

Unsure       Other: \_\_\_\_\_

4. Who should be the beneficiaries?

Name	DOB	Relation to you

5. Who should be in charge if something happens to you?

Order	Name	Relation to you (my son, my CPA, my friend, etc)
1		
2		
3		

Other Questions or Comments:

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