Fractional & Charter MARKET

PART TWO SPECIAL REPORT

what's inside . . .

Despite regulatory challenges, operators look to build business

There is no question that charter and fractional providers remain a key part of the world's general aviation infrastructure, accounting for a significant amount of flying activity. Charter operators worldwide, especially in the U.S., are enabling owners to earn some revenue to offset costs, thus extending the useful life of older aircraft. And fractional operators continue to refresh their fleets.

While charter and fractional flying remains fairly flat there is no shortage of efforts by service providers to build their businesses. And many of those efforts are reflected in **AIN**'s two-part Fractional and Charter Special Report.

Part 1 of the Special Report examined the current state of both industry segments, in the U.S. markets and in other countries. Part 2 focuses on issues affecting the companies that transport passengers. These include the efforts by the Internal Revenue Service to extract commercial airline excise taxes from charter/management firms; the presence of Web-based empty-leg and empty-seat brokerage services; how more charter providers are adding in-flight Internet capability to attract passengers; useful tools for operators and customers; the current year's safety record; and more. *–M.T.*

IRS to management companies: taxes apply to Part 91 flights

by Matt Thurber

A U.S. Internal Revenue Service memo issued on March 9 signaling the agency's intention to collect the federal excise tax (FET) for non-revenue flying sent a chill through the entire charter/management industry. Rare is the charter operator that owns its aircraft–XOJet is a notable exception–and most charter operations provide both air-taxi and aircraft management services. No one disputes the requirement to pay the normal 7.5-percent FET per charter flight segment. But the IRS memo signaled that the U.S. government is looking for new ways to extract money from general aviation operators, and in this particular case it wants to apply the FET to fees charged by charter/management companies to aircraft owners for Part 91 (non-revenue) flights in their own aircraft. The FET would apply, the IRS is suggesting, to flights at an hourly rate comparable to charter rates, and to the amounts that aircraft owners pay to management companies for services such as the cost of fuel, insurance, hangar, flight crew salaries, maintenance and so on.

The IRS memo, issued in the form of a Chief Counsel Advice (CCA) document, will likely be used to audit some charter/management companies, and aircraft owners could be assessed three or more years in back taxes. This is a serious concern for the charter/management industry, which operates on slim margins and cannot afford to pay these taxes but would have to pass them on to owners, many of whom can already barely afford to keep their aircraft.

AIN has queried the IRS repeatedly about its FET plans for non-revenue, noncommercial Part 91 operations, but the agency refuses to answer any questions. The key question: how can the IRS apply the FET, also known as the ticket tax, to a noncommercial operation, when the tax was originally designed by legislators to tax passengers flying on airliners and charter aircraft?

NBAA Takes Issues with Guidance

NBAA is also concerned about the FET issue and submitted a response to the CCA, then met with the IRS excise tax branch chief on June 19. According to attorney John Hoover–a principal drafter of the NBAA response who met with the IRS on June 19 and earlier on April 16–three requests were made to the agency: that it grant relief from the retroactive imposition of transportation excise tax on aircraft management companies; that it change its position from the apparent view expressed in the CCA that aircraft management companies are generally subject to excise tax;

Continues on page 26 ▶

The tangled web of online charter

by James Wynbrandt

The number of hours flown by the charter fleet might be stagnating, but there's no shortage of air charter traffic on the web or in social media. We're awash in sites hawking empty legs, tweets for special deals and Facebook pages where you can "like" a jet. It's enough to confuse even a seasoned charter professional. Here's what's driving these trends.

Empty Legs: Recycling Industrial Waste

Forget carbon emissions. Empty legs are the real waste product created by air charter, and today's evolving empty-leg market is the industry's effort to recycle its own waste. Empty legs are, of course, the deadhead or repositioning flights that move aircraft from the point where they dropped off their last passengers to the airport where they are scheduled to pick up the next fares. The market for these empty legs has grown quickly as air charter shifted from round-trip to point-to-point pricing (wrought by operators such as Segrave Aviation and XOJet) and technology advances enabled a real-time web-based charter marketplace (developed by technology providers such as Avinode and Airplanemanager.com).

"A number of [charter operators] have been chasing this holy grail of driving up efficiency and [getting] the money theoretically left on the table," said Oliver King, managing director of Avinode. "In the U.S., about 30 percent [of charter flights] are empty legs. In the commercial aviation world, that would be an enormous and unsustainable hit. In business aviation we manage to get by, but everyone has struggled in this area."

In an ideal world, charter aircraft would never fly empty, as passengers drawn to charter by lower costs associated with better fleet utilization would always be waiting to board a deplaning one-way charter flight.

Avinode of Goteborg, Sweden, is the dominant provider of empty legs. Founded 10 years ago, Avinode created a web-based technology platform for the charter market linked to operators' scheduling software, automatically posting available empty legs accessible to other Avinode subscribers, who in turn market them to the world at large. Avinode supplies the majority of empty legs found on operators' and brokers' websites, and the search engines on their sites that enable potential customers to view and pursue empty legs. Avinode currently serves some 180 charter brokers and 310 charter operators acting as brokers in the U.S. (In Europe some 1,200 operators and brokers subscribe to its services.) Brokers pay about $500 per month and operators pay per airplane by size, with monthly rates ranging from about $200 to nearly $1,000 per aircraft.

Numerous portals exist to try to pair customers with empty legs and walk them through the process of selecting the appropriate aircraft for the mission.

"We see ourselves developing into the reservation system for the business aviation world; that's our long-term strategic goal," said King.

Some who've developed alternative platforms underpinning today's online charter marketplace see Avinode's pricey subscription model as keeping charter operators' holy grail of efficiency out of reach, because it excludes the empty legs of any operator unwilling to pay high subscription fees. U.S.-based platform providers such as Avianis and airplanemanager.com envision a virtual charter bazaar open to all that would track the movement of the entire world's charter fleet, provide automated guaranteed price quoting and facilitate the transparent buying and selling of air charter. This brave new world of charter "will flourish only in an open, collaborative atmosphere" with "a free marketplace to exchange services," said Matt Slosky of Avianis.

Certainly there's no shortage of would-be market participants. "It's starting to get a lot more crowded. A lot more people are trying to play in the empty-leg field," said Elliott Schwartz, founder of emptylegmarket.com, among the first online empty-leg listing sites.

Reflecting and fueling interest in this market, over the past year the mainstream press–including *The New York Times* and *Forbes*–has featured articles about flying charter at first-class airline fare prices, elevating "empty leg" to buzz-phrase status among sophisticated travelers while providing unrealistic expectations about the availability of such deals.

Empty-leg Information Proves Disjointed

For now, empty legs find their way to market through several channels, leading to a choppy market, as anyone searching for an empty leg online quickly finds. Since Avinode provides most of the empty-leg inventory, most of the empty-leg listings on operator and broker sites are identical.

The low-fee platforms that Airplanemanager.com of Huntington, Calif., and Seattle-based Avianis provide operators and FBOs manage empty legs via scheduling software integration, as well as all flight and crew scheduling, and thus provide empty-leg inventory from their combined 600 subscribers to the market. "We just make things simple; that's the goal of the whole platform," said Terry Cooper, manager of airplanemanager.com.

Emptylegmarket.com represents the empty-leg consolidator, or aggregator type of site; it does not act as a broker, but simply refers site visitors interested in a particular flight directly to the operator, which pays emptylegmarket.com a subscription fee to have its empty legs listed. In addition to its unique subscribers, emptylegmarket.com lists empty legs supplied by airplanemanager.com.

Meanwhile, Avinode, which provides its platform only to operators and brokers, will not provide empty-leg listings to consolidators, so listings on consolidator sites are typically sparse. Moreover, listings on any retail site are not guaranteed to be up to date or even legitimate. A recent effort to find an empty leg from West Palm Beach to Teterboro through emptylegmarket.com with no time period specified (recommended to maximize listings) found only three flights, one scheduled for two months hence. Of the other two, one had already been sold, and one was a Part 91 operation erroneously listed as a Part 135 flight. However, one of the operators contacted had empty legs to and from Cancun scheduled for the site. A quote was requested but a promised price for those flights was never provided.

"There was never an empty leg," said Joe Moeggenberg, president and CEO of charter data service Argus International in Cincinnati, when told of the Cancun listings. "Many of the empty legs posted on these sites are not real empty legs," but simply ways to lure customers, for whom the broker or operator will then try to put a trip together.

Schwartz acknowledged kinks exist in the system, and views the site and the marketplace itself as an evolving and ever-improving platform.

Whatever the experience for the retail user, there's no doubt that trafficking of empty legs is important to operators and brokers. Many charter professionals regularly consult NBAA's Air Mail listing of empty legs, not only for the available empty legs but also for the flights other operators and brokers are trying to put together. "We have people who literally spend most of the day browsing NBAA Air Mail; people are constantly posting haves and needs," said Bob Seidel, CEO of charter-management company JetFlite International in New York City.

A major bottleneck in the sale of empty legs through retail sites is the lack of automated quoting. "We know, based on

Article continues on page 26 ▶
Report continues on next page ▶

CHARTER PROVIDERS MOBILIZE SOCIAL NETWORKS

Social media can do more than potentially arrange group flights, and charter providers are seeking to exploit the presumed benefits of Facebook followers and Twitter feeds. "It's difficult to track its success, but you can't afford to pass up social media," said Don Haliburdo, general manager for aircraft charter and management at Jet Aviation in Teterboro, N.J., which has its charter fleet on Facebook and tweets its empty legs. "If you're not there, people notice."

Phenom 100 operator JetSuite of Irvine, Calif., posts $499 SuiteDeals (essentially empty legs) on its site daily. "We've got more than 30,000 fans," said JetSuite CEO Alex Wilcox. "Those fans are worth three, four bucks each per year." He credits the SuiteDeals with prompting at least five conversions to regular customers. In response to the first SuiteDeal, "a guy bought a $100,000 card" afterward, Wilcox said.

Some operators feel their clientele base obviates the need to harness social media. "Is the consumer we're seeking looking at social media and Facebook?" asked Cyril Turner, president of Delta Private Jets in Cincinnati. "A lot of them are busy. The efficacy [of reaching them via social media] is questionable."

But at mega charter broker Sentient in Braintree, Mass., Andrew Collins, president of Sentient Jet Cards, carefully cultivates and tracks social media utilization, using analytical tools to parse its Twitter, Facebook and LinkedIn traffic "to see if it can translate from social media to our website." Sentient also tracks its credibility as measured by Klout, which monitors influence within the social media space. "We've had great success in raising" the score, Collins said. The bottom line for most providers: "We've found those types of platforms are effective for introducing people to our service," said Bob Marinace, president and CEO of charter management company Key Air in Oxford, Conn. "But little business gets executed through those platforms. People still want the connection with a live person." *–J.W.*

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Clarified training rules vex pilots, operators

by Matt Thurber

Recent FAA guidance on new-hire pilot training for Part 135 charter pilots is generating confusion and should be reviewed carefully, according to NATA. The FAA has also issued new guidance regarding training for Part 135 pilot instructors and check airmen who work for Part 142-approved flight training organizations, and NBAA is working with the FAA and operators to fix problems associated with this new guidance.

In the case of new-hire pilot training, the FAA issued guidance in Notice 8900.197, which eliminates the allowance of credit for prior training that some FAA FSDOs had previously allowed. This allowance was useful for contract pilots who fly for different operators, allowing them to avoid undergoing initial training separately for each operator. If, for example, a pilot flew for three Part 135 operators that all operate King Air 200s, the pilot would have to complete full initial training on the King Air 200 only once. "For nearly two years," NATA noted, "the requirements for training newly hired pilots who have prior experience have been unclear as some FAA inspectors were requiring a full [initial new-hire] program even for those pilots that are current and qualified on the aircraft and that have current Part 135 experience. In contrast, many operators were previously permitted to provide some sort of 'credit' to experienced pilots."

Training Program Review

According to the notice, "The objective of this review is to identify and correct Part 135 certificate holders' training programs that provide credit for previous training and/or qualification received from a different certificate holder. In addition, this notice provides guidance for [principal operations inspector] approval of reduced training hour curricula for initial, transition or upgrade training."

According to NATA, the guidance states, "Inspectors are required to conduct a review of training programs under their supervision within 90 days and notify operators of any changes that must be made to conform to the guidance. Operators will then have to submit training program revisions to their inspector for approval within 12 calendar months."

However, there appears to be some relief for pilots and operators, because, according to NATA, "the final guidance does allow for operators to craft multiple curricula for training that take into consideration the pilot's prior experience and provides for a reduced number of training hours." Reduced training hour programs could recognize:

- Pilots who have previous experience in Part 135 operations in the same aircraft and flight crewmember duty position;
- Pilots who have previous experience in Part 135 operations in the same aircraft, but in a different flight crewmember duty position;
- Pilots who have previous experience in Part 135 operations in a different aircraft; or
- Pilots who have previous experience in Part 91K (fractional) operations.

NATA encourages Part 135 operators and pilots to review the FAA guidance "as soon as possible."

In the case of the Part 142 training situation, NBAA's Domestic Operations Committee is concerned about language in Notice 8900.1, which points out

Article continues on page 24 ▶

Europe's brokers bemoan charter options

Charter brokers attending the recent Business Aviation Europe conference at London's Biggin Hill Airport expressed frustration about the quality and reliability of some aircraft operators. Some also complained about new brokers looking to break into a crowded market with insufficient experience.

Alex Berry, group executive sales and marketing director for UK-based Chapman Freeborn, suggests that many operators are simply too small to make money and are lacking in quality management. "We don't see it getting much easier, and we would like to see more consolidation across Europe. There are approximately 1,000 AOCs [air operator certificates] and 2,500 aircraft, so most AOCs carry only two or three aircraft, which is a completely unworkable model."

Berry argues that the European Business Aviation Association should be pressing for a separate business aviation AOC so that the standards achieved by operators would be clearer. "It's up to us to know who is good or bad, even if they have the right approvals," he said. In his view, industry audits from companies such as Wyvern and Argus are approvals "you can buy…so [they don't] make you a better operator." He asserts that some operators not audited by these services are of a higher standard than some companies that are.

Reports of Subpar Service

Sandy Boyer, executive aviation sales manager with Hunt & Palmer, another UK-based group, believes that inexperienced new-entrant brokers are letting down charter clients and operators alike. "We're invariably left to pick up the pieces by operators," he said. "In the last three years there have been a huge number of [broker] startups, and margins have been squeezed greatly, but [customers] still need full-service brokers. More and more people are asking us to source aircraft with minimum criteria, but the pool in Europe for quality is quite limited."

Mark Green, CEO and joint founder of Oxygen Aviation, agrees that "poor quality from operators is a challenge" and that the same applies to brokers, who could set up shop in a spare bedroom at home with a computer and access to [online charter portal] Avinode. "Consolidation is needed [among operators] to get higher quality service," he said.

Oxygen does 80 percent of its business in Russia, according to Green, and Russians "are demanding and specific… If it's a ten-minute delay it's a disaster." He urges operators to be exceptionally careful in meeting the exact requirements of new Russian clients. "Russians are an absolute menace if everything is not right, with every 'i' dotted and 't' crossed," he said. Mess up with one and you mess up with his friends and two or three of his business partners, cautions Green. *–I.S.*

Charter clients demand the same level of connectivity in the air that they are accustomed to on the ground, and operators are equipping to meet that requirement.

Cabin technology tops users' charter wish list

by Kirby J. Harrison

Of all the factors considered in chartering an aircraft or buying into a fractional program, cabin technology is often a deal-breaker by itself.

It's a fact of life that in terms of cabin electronics, customers want what they want in the business and private jet cabin, and they're willing to pay for it. The technology they want and value above all else, according to fractional and charter operators, is in-flight Internet connectivity.

"A few years ago the deal-breaker in larger business jets was satellite-direct television," said Mark Lefever, president of Burbank, Calif.-based charter firm Avjet. "Today it's WiFi Internet connectivity that will permit multiple users on the system wirelessly."

WiFi In Demand

Lefever estimates that six of every ten clients are now demanding an aircraft with cabin WiFi Internet connectivity, and Avjet has already equipped 18 of its 20 Gulfstreams to meet that demand, as it has most of the rest of the fleet, including a BBJ and a Global XRS.

A source in the industry told **AIN** that one operator told him that his company had lost a $350,000 charter contract when it was unable to meet the demand for an airplane with WiFi Internet connectivity.

A number of operators are outfitting aircraft with equipment from suppliers such as Aircell and ViaSat for near-global coverage. ViaSat claims peak data transfer rates of 2 mbps and anticipates complete global coverage by year-end. Aircell's Gogo Biz is a ground-based system, offering 3.1 mbps data transfer at altitudes above 10,000 feet, but only over the continental U.S. and most of southeastern Alaska. The company expects to add Canada by the end of next year. A few operators are equipping larger airplanes with both a global connectivity package and Gogo Biz for the U.S.

According to charter operators, WiFi Internet connectivity is in such demand that many will pay more for a trip if the airplane is well equipped; some are changing providers to get it; a few are even accepting a midsize cabin over a large cabin if the midsize airplane has it; and brokers are using "we can get it for you" as marketing leverage.

"People today wouldn't think of booking a hotel that doesn't have Internet connectivity," said Aircell's Tom Myers. "Why should it be any different when booking a charter or buying a fractional share?" ❑

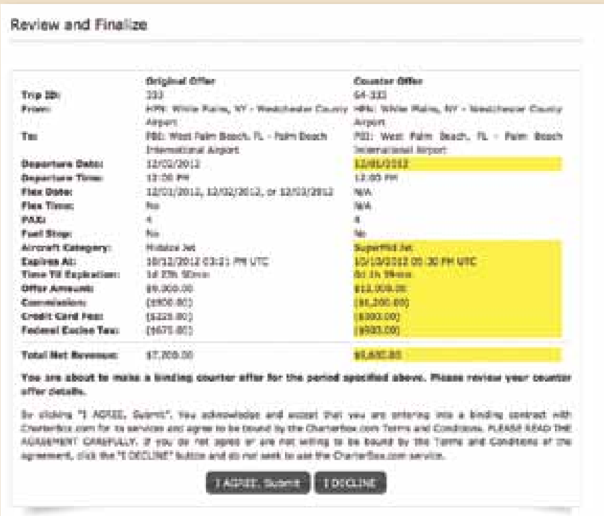
'Name your price' charter available from CharterBox

New web portal CharterBox.com has introduced an online "name your price" charter marketplace where operators can accept or counter offers for flights proposed by would-be charter customers. CharterBox founder Rick Lashbrook, a film producer, entrepreneur and private jet user in Beverly Hills, Calif., created the site to address "incredible inefficiencies in the marketplace" exemplified by the plethora of empty-leg listings.

"All these operators are just sending out these daily email blasts hoping to find a near-perfect match for an empty leg," Lashbrook said. "The problem is [the listing] is limited to the site visitors. My idea is to reverse engineer. People who don't have time to review the operators' sites come to my site."

Immediate Revenue for Operators

CharterBox account holders can post a route, time window, passenger load, aircraft size, price and other details for a proposed flight on the site's Trip Board. An operator can accept or post one counter-offer, based on price or other trip variable(s). If either the initial offer or counter-offer is accepted, the charter customer's credit card is immediately billed, and operators pay CharterBox 10 percent of the charter price.


Review and Finalize

	Original Offer	Counter Offer
Trip ID:	333	64-333
From:	HPN: White Plains, NY - Westchester County Airport	HPN: White Plains, NY - Westchester County Airport
To:	PBI: West Palm Beach, FL - Palm Beach International Airport	PBI: West Palm Beach, FL - Palm Beach International Airport
Departure Date:	12/02/2012	12/01/2012
Departure Time:	12:00 PM	12:00 PM
Flex Date:	12/01/2012, 12/02/2012, or 12/03/2012	N/A
Flex Time:	No	N/A
PAX:	4	4
Fuel Stop:	No	No
Aircraft Category:	Midsize Jet	Supermid Jet
Expires At:	10/12/2012 03:21 PM UTC	10/13/2012 05:30 PM UTC
Time Til Expiration:	1d 23h 50min	[illegible]
Offer Amount:	$9,000.00	$12,000.00
Commission:	($900.00)	($1,200.00)
Credit Card Fee:	($225.00)	($300.00)
Federal Excise Tax:	($675.00)	($900.00)
Total Net Revenue:	$7,200.00	$9,600.00

You are about to make a binding counter offer for the period specified above. Please review your counter offer details.

By clicking "I AGREE, Submit", You acknowledge and accept that you are entering into a binding contract with CharterBox.com for its services and agree to be bound by the CharterBox.com Terms and Conditions. PLEASE READ THE AGREEMENT CAREFULLY. If you do not agree or are not willing to be bound by the Terms and Conditions of the agreement, click the "I DECLINE" button and do not seek to use the CharterBox.com service.

I AGREE, Submit | I DECLINE

Under the CharterBox structure, potential customers post a proposed flight and await offers from operators.

Lashbrook is currently focused on signing a "critical mass" of operators who use only Argus Gold or Platinum rated and/or Wyvern Wingman compliant aircraft, but he recognizes that some operators are reluctant to be associated with an auction-type site.

"No one's going to want to cheapen their brand, so I'm telling these companies, 'I'm not going to be using your name,'" Lashbrook said. The operator will be identified to the client only after a deal has been accepted. As to complaints that all this online discount marketing reduces charter to a commodity, Lashbrook said, "It is a commodity.… When you want something for a discount you say, 'Gosh, I didn't get that XOJet with WiFi, but I'm getting a great plane at a great price.'"

Charterauction.com, in its original configuration, and Virgin Charter failed in efforts to launch successful online bidding sites, but Lashbrook believes times have changed, and that CharterBox's immediate-billing model will give it a boost among charter providers. "The credit-card component is what sets it apart," Lashbrook said. "Operators are going to get excited and say, 'I can grab this [charter]; I don't have to worry about the quote being shopped, I'm going to get this revenue.'" *–J. W.*

Pilot Programs

Charter operators have long touted the quality of their customer service, and today more operators are providing focused customer service training for their flight crews. "The competition among big operators is pretty high," said Mark McQueary, director of training for TMC in Elkhart, Ind., one such operator. "We're competing for NetJets customers, Flexjet customers, and we have to have our game on."

Scottsdale, Ariz.-based ServiceElements International (SEI) provides third-party customer service training aimed at the cockpit crews. "The good news is we're starting to see a lot of people pay attention to this," said SEI president and CEO Bob Hobbi. "The bad news is the industry is still trying to discover what it needs to be doing." SEI uses a "discovery assessment process" to identify the service culture of the aircraft operator and simulates challenging situations with difficult passengers to prepare crews to deal with unexpected customer service issues. Training costs vary from about $500 to $2,000 per trainee.

Executive Jet Management in Cincinnati, Ohio, and Clay Lacy Aviation in Van Nuys, Calif., are among operators in discussions with SEI, according to Hobbi. "We're always looking to improve and make our standards higher," said Brian Kirkdorfer, president of Clay Lacy Aviation. *–J.W.*

Accident picture improving for air-taxi and fractional ops

by Gordon Gilbert

The number of accidents in the first nine months of this year involving U.S.-registered turbine airplanes operating under Part 135 air-taxi rules and Part 91K fractional regulations decreased compared with the same period last year. Both jets and turboprops operating under Part 135 experienced no fatalities in the first nine months of this year. According to **AIN** research, Part 91K operations also continued their long trend of no fatal mishaps, although fractional jets were involved in one nonfatal accident in each of the two comparable periods. Part 91 operations, however, suffered four fatal accidents in which 17 were killed in the first three quarters of this year compared with no fatal accidents in the same period last year (if omitting the four crewmembers killed in the 2011 crash of a Gulfstream G650 on a flight test by the manufacturer).

Part 135 turboprop operations experienced four mishaps (none of them fatal) in the first nine months of this year compared with eight accidents in the same period last year, two of which resulted in fatalities to the pilot in each aircraft. However, accidents involving Part 91K turboprops in the comparable three quarters remained the same at one for each period.

Five of the seven accidents involving Part 135 turbine airplanes in the first three quarters of this year occurred in the landing phase. One mishap took place during taxi and the final incident happened during a takeoff climb. The NTSB has reached a probable cause on some of these. For example, the investigation of a Learjet 31 that slid off a wet and icy runway on February 11 led the Safety Board to conclude that the flight crew "lost directional control during landing on an ice- and water-contaminated runway," but the agency didn't say why the crew may have lost control. There were no injuries.

Still under investigation is another runway excursion during rollout, this one by an air-taxi Learjet 35A that went off a runway in Alaska on March 5. The pilots reported that the jet's windshield "abruptly iced over," suddenly eliminating "forward visibility" as the main landing gear wheels touched down. There were no injuries, but substantial damage.

The final air-taxi jet accident in the first nine months of this year happened to a Citation 560 during a night landing. As the airplane decelerated through 80 knots, its nosewheel struck a deer running across the runway. Again, there were no injuries to people but substantial damage to the wheel-well pressure vessel. The NTSB determined the collision to be unavoidable.

Both of the two fatal crashes involving air-taxi turboprops last year occurred in September by Alaskan air-taxi operators and remain under investigation by the NTSB. One of the two fatal crashes last year resulted from a midair between a Cessna 207 and a Cessna 208. The pilot of the Caravan died when his airplane crashed. In the other accident the pilot was killed when his float-equipped de Havilland Canada DHC-3T Otter hit a tree during an aborted landing on a lake.

If the accident figures in the remaining quarter of this year repeat those in the fourth quarter of last year, there will be no additional Part 135 accidents and just one additional nonfatal mishap involving a Part 91K turboprop in the remainder of this year. ❑

Training rules

▶Continued from page 22

that contract instructors or check airmen nominated by an air carrier must "have completed at least one air carrier's initial training and qualification curriculum as a flight crewmember for an operator certified under the same CFR part."

This interpretation of the FAA guidelines has, according to NBAA, "forced at least one operator to ground both crews and aircraft because of training and certification issues, and has led some Part 142 training centers to pull the qualifications of instructors and check airmen."

NBAA Domestic Operations Committee Part 135 lead Allan Mann, also director of operations for Reynolds Jet Management, Cincinnati, Ohio, doesn't argue with the basic requirement. "The FAA guidance is that, in order for the [principal operations inspector] to approve those instructors and check airmen to work with my flight crews," he explained, "they must first have an idea of how my people work in the real world. The thinking behind that is laudable." But the problem is that proof of having received such training must be acceptable to FAA principal operations inspectors. "There's no guidance from the FAA on acceptable documentation," he added.

This problem is also forcing operators to train in their airplanes instead of in simulators because the FAA has removed the qualifications of some instructors and check airman at training centers. "That particularly concerns us," Mann noted, "because simulators are ideal platforms for training on challenging maneuvers like engine failures on takeoff…things we can't as safely replicate in the airplane as we can in the sim."

The committee is first going to offer a draft proposed interim solution to the FAA, but is hoping that the agency will add a note in its guidance as to what constitutes acceptable courses of indoctrination documentation. This could include, according to Mann, training records, logs of Part 135 flights as pilot-in-command, company statements or personnel records. ❑

Report continues on page 26 ▶

IRS targets Part 91

▶Continued from page 20

and that it defer its audits of these companies while the chief counsel's office considers the matter.

Following below are key points that Hoover and NBAA presented to the IRS. The results of the meetings are still to be determined as the IRS has not communicated its response, although management companies are complaining about being audited by the IRS. Industry experts believe that this situation will not be resolved until a management company decides to fight the IRS in court and sets a precedent that will apply to similar companies.

▶ **FET should not be imposed retroactively because management companies' obligation to collect and remit on owner flights was vague and speculative.**

According to the NBAA document, "Only commercial air transportation is taxable." A key difference between owner-operators and commercial passengers is that the owner owns and flies in his or her airplane, while the commercial passenger doesn't own the airplane and thus pays the FET. "Conversely, the IRS has ruled that FET does not generally apply to air travel by an aircraft owner, even when that owner contracts certain aircraft-management responsibilities to another party to act as that owner's agent." Case law has already shown that the IRS can't collect retroactive FET where it provides no clear guidance that management companies were supposed to collect FET from aircraft owners. And in any case, the document points out, the IRS has a long history of "excluding management fees from the tax base."

▶ **The CCA incorrectly interprets existing IRS revenue rulings.**

"For over 50 years, the IRS has relied on Rev. Rul. 58-215 as a basis for concluding that a management company is not providing taxable transportation to the owner." A Committee Report to the Airport and Airway Revenue Act of 1970 clarifies that there are two ways to tax use of aircraft–either with a tax on transport of people or freight or fuel taxes–but not to apply the FET and fuel taxes at the same time.

FOTOLIA/LICHTMEISTER

▶ **The CCA is fundamentally flawed by ignoring three critical facts.**

Oddly, according to the IRS, it doesn't matter that the owner of the aircraft decides where the aircraft goes (when flying in it), actually owns the aircraft and that the flight is being conducted under Part 91 regulations, when it comes to deciding who has possession, command and control of the aircraft.

"By stating that these three items are irrelevant, the CCA is stating that it failed to consider three very important facts," the document notes. The document further explains:

1. "Control over the movement of the aircraft, including on the owner's flights, must be a relevant factor in determining who controls the aircraft."

2. "Before entering into a management arrangement, an aircraft owner clearly has possession, command and control of the aircraft. The critical issue is whether the management company attains sufficient rights to control the aircraft to effect a transfer of possession, command and control from the owner. Accordingly, it seems impossible for ownership of the aircraft to be irrelevant in the determination of which party has possession, command and control."

3. "Citing Rev. Rul. 78-75, 1978-1 C.B. 340, the CCA asserts that it is irrelevant whether the aircraft is operated under FAR Part 91 or 135. In fact, Rev. Rul. 78-75 states only that the Part of the FARs under which the aircraft is operated is not 'determinative.' The assertion that the FAR Part is not 'determinative' is sensible, because tax laws differ from aviation laws and are applied for different purposes (collection of revenue versus air travel safety).

"However, the assertion that the governing FAA regulations are 'irrelevant' is entirely insupportable and inconsistent with the revenue ruling. The FAR Part under which the aircraft is operated determines which party has 'operational control' of the aircraft, which is defined as the exercise of authority over the initiation, conduct or termination of the flight." ❑

TECH TOOLS FOR AIR CHARTER

The proliferation of apps and technology providers is making life simpler (and more efficient and profitable) for charter providers. A sampling:

Trip-Speed The time needed to get an aircraft owner's approval for a charter flight has killed many a deal. Aviation attorney Stewart Lapayowker of Fort Lauderdale, Fla., created Trip-Speed to solve the problem. The 99-cent mobile application links operator and owner, and provides instant messaging capability to speed the owner's approval for charter flights. "A couple of management companies are doing their own in-house testing now," said Lapayowker, and the app is already downloadable and usable.

Optimization Engine The DayJet air-taxi service may have foundered, but Dayjet Technologies (DT) in Seattle, which designed its scheduling software, is providing technology solutions that, for example, power JetSuite's online guaranteed charter quoting capability. DT's products include an optimization engine that "eliminates or minimizes the number of external charters [that operators need to broker] and deadhead flights," said DT president and COO Roei Ganzarski. For its fee, DT takes a portion of the savings realized.

Strat Fuel Stratosphere Fuel Consortium (SFC) of Chandler, Ariz., is a collective bargaining group for small fleet operators. "It's tough to get really good fuel rates because you don't have a lot of clout," said Jon Anne Doty, vice president of operations at SFC. A $100 monthly membership per aircraft provides a Strat Fuel card that allows operators to purchase fuel at the group rates arranged by Strat Fuel. Doty estimates the savings amount to 60 to 70 cents per gallon.

Ascend/FOS Rockwell Collins's Ascend/FOS (Flight Operations System) has been the scheduling and operation platform of choice for major operators for years. Now the Cedar Rapids, Iowa company's software has been linked to a web-based platform, permitting global access. In addition the fee structure has been changed to a subscription model, and new capabilities have been designed into the software. "Our fuel stop analyzer lets the charter salesperson pick the right aircraft for the mission," said John Legh-Page, solutions architect for Rockwell Collins's Flight Services Group.

–*J.W.*

Charter trends

▶Continued from page 21

studies, that if you aren't able to provide a quote within the first 30 minutes of the request, your chances of booking the charter get reduced by 85 percent," said Slosky of Avianis. But it can take more than a day to get an actual price quote for an empty leg. Anecdotal evidence indicates operators are reluctant to cede pricing authority to a computer. Avinode, for one, has looked into providing guaranteed price-quoting capability on its platform. "We had the discussion at Avinode Academy in 2011 [to see] if there's a way to help standardize pricing," said King. "We had 60 operators, and the resounding answer was, 'No!'"

Harvesting Empty Seats

Harvesting unused capacity aboard occupied business jets is another holy grail for some providers, and the per-seat charter model has survived the flameout of would-be air taxi powerhouse DayJet. Per-seat charter broker Greenjets of West Palm Beach succeeds in part by limiting its service network to a few major cities, including Los Angeles, Las Vegas, New York, Chicago, Boston and some cities in Florida. Ad hoc prices run from about $4,700 for one seat between New York and Florida and $9,600 per seat for transcontinental flights, and membership programs provide substantially lower rates.

"There's a latent market of about 25 million trips [annually] that are perfectly qualified to do this [per-seat charter] as opposed to the airlines or the private [jet] solutions at five times the price," said Greenjets CEO Dean Rotchin. Yet in a market that seems to be pinning its future on technology solutions, Rotchin said "high touch" is what makes Greenjets work. "There's always human interaction and real people working here," he said. "Try to do it in an automated fashion and it's not really going to work."

Several efforts to harness social media to create per-seat charter opportunities have faltered (for example, CoGoJets and Jet-It-Together) but nonetheless Socialflights in Smyrna, Tenn., launched this year, plans to create what founder and CEO Jay Deragon calls "the 21st-century model for business aviation" using social media *(see box on page 21)*. Anyone can register on the no-fee site and join "Travel Circles" with others sharing similar travel needs, and initiate or join a proposed flight. Socialflights offers a scheduling platform for operators to encourage them to register their aircraft inventory with the site. Deragon said Socialflights has more than 14,000 registered users, and 99 charter operators with 600 aircraft on the supply side. He estimates market adoption could take from one to five years.

John Ackerman, a Jet-it-Together principal, said his partners determined a successful venture would require a critical mass of 250,000 members in a given region of the country, which would have taken years to reach. Jamie Walker, founder and CEO of CoGoJets, said he hopes to take another run at the marketplace when economic conditions improve. Both Ackerman and Walker said they found customers willing to share jets, and viewed creating awareness of the sharing opportunity as the concept's greatest challenge. ❑