

# OUR PRACTICE

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## Aviation

**Lawyers in Baker Donelson's Aviation Team bring deep experience in this industry to the legal and business advice they provide to clients.**

We counsel individuals and companies throughout the global aviation industry, including aircraft owners and operators, airlines, charter operators, and aircraft management companies, as well as airframe and component manufacturers and suppliers. In addition to our business aviation and general aviation knowledge, we have specific and extensive experience representing helicopter owners, operators, repair stations, parts manufacturers, and suppliers with the unique legal and business issues impacting rotor wing operations.

Our team advises on a full range of legal and business issues affecting aviation clients, including:

**Purchases, sales, leases.** We advise on the purchase, sale, and leasing of aircraft in all aspects of these transactions from the initial letter of intent through to delivery. We address pre-purchase considerations, aircraft purchase agreements, trust agreements, aircraft operating agreements, lease agreements, and management services agreements. We provide counsel regarding transaction structuring and tax considerations, pre-buy inspections, due diligence, letters of intent, and aircraft and component purchase agreements.

**Financing.** Baker Donelson represents major national banks, leasing companies, and other providers of financing to the business jet, commercial aircraft, and helicopter finance market in all aspects of aircraft financing, including aircraft leases of all kinds (leveraged, synthetic, operating, sale-leaseback, and leases for security), progress payment and other interim financings, spare parts and fleet financings, syndications, portfolio acquisitions, securitization of aircraft lease receivables, and fractional share programs, time-sharing, interchange, and management and chartering involving aircraft. We regularly advise our clients with respect to foreign-registered and operated aircraft, complex cross-border transactions, and the legal and business issues that arise. We assist in all phases of aircraft financing transactions, from proposal to closing and, if necessary, enforcement of rights and bankruptcy. Aircraft finance clients benefit from the rich resources available at Baker Donelson, and we regularly involve attorneys from our tax practice to ensure that all transactions are structured to realize maximum tax benefits.

**Operations and compliance.** Lawyers on our team counsel clients regarding the legal and regulatory obligations they have in owning and operating aircraft. We handle registrations, special registrations, and requests for new or updated airworthiness certificates. We help clients establish compliance programs – assuring proper documentation is created and maintained in support of operations, safety, and maintenance – and we advise regarding maintenance contracts, maintenance service agreements, and work orders. We represent clients in their dealings with the Federal Aviation Administration and other regulatory authorities, and we advise trust and non-trust clients regarding legal issues bearing on domestic and international operations, certifications (for Part 91, 121, 129, and 135 operators), and maintenance of the aircraft.

**Administrative Enforcement Actions.** We represent and counsel passenger and cargo air carrier (Part 121, 129, and 135 operators) clients through administrative enforcement actions initiated by the Department of Transportation (DOT), Federal Aviation Administration (FAA), Transportation Security Administration (TSA), and Customs and Border Protection (CBP). Such representation ranges from responding to formal Information

Requests to defending Notices of Proposed Civil Penalty, as well as negotiating settlement agreements with the agencies to resolve any alleged wrongdoing.

**Mergers and acquisitions.** We counsel organizations seeking to acquire or sell aviation industry companies and have been involved in numerous transactions of varying sizes and structures both in a lead role and in a supporting role for other law firms that don't have specific aviation expertise.

**Export/import regulations.** When a transaction involves aircraft not registered in the United States, we handle the import or export of the aircraft as part of the transaction, as well as related compliance matters. When necessary, we lobby appropriate agencies regarding import and export transactions. Perhaps most importantly, we assist clients with the USA PATRIOT Act, International Traffic in Arms Regulations (ITAR), and Bureau of Industry and Security (BIS) compliance issues, as well as know-your-customer (KYC) matters and Office of Foreign Assets Control (OFAC) sanctions issues. Similarly, we assist clients that import and export aircraft parts and components with CBP, ITAR, BIS, OFAC, and KYC issues.

**U.S. citizenship requirements.** When non-U.S. citizens are involved in an aviation transaction, whether it be the purchase of an aircraft or obtaining an FAA certificate, we help clients structure the ownership and prepare appropriate and accurate documentation to ensure the FAA and DOT's complex U.S. citizenship requirements are satisfied.

**Corporate representation.** Our attorneys represent companies in the aviation industries with regard to general corporate counseling, corporate governance, corporate finance, and securities matters. We also support a number of companies that don't have an internal legal department as outside general counsel, giving clients access to the broad range of practice areas where Baker Donelson has experience and capability.

**Air Carrier Development.** Our attorneys work with foreign and domestic air carriers to develop their operations within the U.S., as well as propose creative solutions to business issues created by regulatory regimes and/or international agreements. We counsel foreign air carriers throughout the process of starting service to the U.S., which includes obtaining the necessary regulatory authorities from both state and federal agencies including the DOT, FAA, Department of Homeland Security (DHS), CBP, TSA, U.S. Department of Agriculture Animal and Plant Health Inspection Service (USDA APHIS), the Port Authority of New York and New Jersey (PANYNJ), and other large and small airports throughout the country. We navigate the frequently opaque process of obtaining FAA slots at Level 2 and Level 3 airports in the U.S. for our foreign air carrier clients and have negotiated the maintenance of slots with the FAA when our client's usage dropped below the regulatory thresholds. We work with our air carrier clients to expand their route authorities by obtaining Statements of Authorization, code-sharing, and interlining authorities from DOT, and work with U.S. airports and DHS to fulfill all regulatory requirements to service new locations.

We also counsel leisure travel companies (air carriers and cruise lines) during the start-up of their charter services by obtaining Part 380 authorities and exemptions, reviewing service and charter agreements, and providing employee training on regulatory compliance.

## Representative Matters

- Spearheaded international aircraft and equipment leases and purchase and sale agreements, and coordinated with local counsel regarding aviation, secured asset and tax issues in more than 40 countries, including India, China, Taiwan, Australia, New Zealand, Indonesia, Tanzania, South Africa, Brazil, Peru, and Chile, as well as most countries in Western Europe.
- Currently outside general counsel to several FAA Part 135 on-demand aircraft charter operators and in that role is responsible for all customer service agreements and other contractual and regulatory issues.

- Partnered with publicly traded and private companies, family offices, and high-net-worth individuals to understand their unique goals and challenges, help them navigate the complex landscape of FAA, Department of Transportation, Internal Revenue Service, Securities and Exchange Commission, Transportation Safety Administration, and international regulations that apply to business aviation, and analyze and implement a variety of client-specific structures for owning, leasing, and chartering business aircraft.
- Drafted a complex master lease agreement and subordinate lease schedules to facilitate the leasing of several aircraft worth \$28 million to an operator in Asia.
- Represented over a dozen foreign and domestic air carriers through administrative enforcement actions by the FAA, DOT, TSA, and CBP resulting in the successful resolution of each by obtaining a warning letter or a greatly reduced civil penalty. Such agency enforcement actions have ranged from minor customs violations against cargo carriers to a multimillion-dollar settlement with the DOT to resolve claims that a major international passenger carrier improperly withheld refunds from its passengers.
- Represents a large air cargo transportation company in all aspects of their global operation, including agreements for ground and cargo services, maintenance, repair, and overhaul, blocked space cargo, and full aircraft charter.