

Disclosing Personal Aircraft Use

With this Thoughtful Disclosure Alert, we are launching a new series of articles discussing the more common disclosure questions facing technology and life sciences companies when preparing the executive compensation information to be included in their definitive proxy statements. Look for additional Thoughtful Disclosure Alerts in the weeks ahead.

While the receipt of perquisites and other personal benefits by corporate executives has declined dramatically over the past decade, certain items continue to be provided – and disclosed in proxy statements. One such item is the personal use of corporate aircraft. Frequently, this use is ancillary to a company’s decision to require its senior executives to use corporate aircraft for all travel, thereby providing them with a secure and private environment in which to work while they travel and to promote the efficient and effective use of their time.

Although the costs of providing perquisites and other personal benefits to a company’s executives is relatively small when compared to the value of their overall compensation packages, investors continue to be highly interested in a company’s “perk” practices; typically closely scrutinizing its disclosure of this subject. Given this interest and the likelihood that personal aircraft use, if provided, will be one of the most costly perquisites for the company, companies should draft the required disclosure carefully.

Disclosure Requirements

Under the rules of the Securities and Exchange Commission, a company must disclose in the “All Other Compensation” column of its Summary Compensation Table, among other things, any perquisites or other personal benefits received by its named executive officers for the covered fiscal year (unless the aggregate amount of such compensation is less than \$10,000). In the case of personal aircraft use, if the total value of all perquisites and other personal benefits is \$10,000 or more, this disclosure will consist of (i) the identity of any named executive officer who used

the company’s aircraft for personal travel, (ii) the nature of such use, (iii) the aggregate incremental cost to the company of such use (if the value exceeds the greater of \$25,000 or 10% of the total amount of perquisites and other personal benefits for that executive), and (iv) a description of the methodology used to compute the company’s aggregate incremental cost.

Model Disclosure

While any disclosure of personal aircraft use by one or more named executive officers needs to be tailored to the specific facts and circumstances, the disclosure on the following page should serve as an effective starting point for disclosing the personal use of corporate aircraft by a named executive officer.

Personal Aircraft Use by Technology and Life Sciences Companies

Whether a result of the egalitarian culture in which many of these companies were founded, or simply a by-product of the current environment which frowns on excessive personal benefits provided at shareholders’ expense, perquisites and other personal benefits tend to represent a nominal portion of the pay packages of most technology and life sciences company executives.

Compensia monitors the compensation practices of the most prominent technology companies headquartered in the San Francisco Bay Area (primarily in Silicon Valley). We call this group, which consists of the largest companies in the computer/hardware, internet/software, and semiconductor sectors (but excluding companies that conducted their initial public offering in last completed fiscal year), the Bay Area Tech 120. In addition, we monitor the compensation practices of the most prominent companies in the life sciences sector (many of which are also headquartered in the San Francisco Bay Area). We call this group the Life Sciences 80.

For 2014 (the most recent year for which data is available):

- Eight of the companies in the Bay Area Tech 120 (6.7%) disclosed personal aircraft use by one or more

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of their named executive officers during the year. The aggregate incremental cost to the company of such use ranged from approximately \$16,000 to approximately \$675,000, with a median cost of \$65,000. Four additional companies indicated that they permit personal use of corporate aircraft, but did not disclose any incremental cost associated with such use in 2014.

- Only three of the companies in the Life Sciences 80 (3.8%) disclosed personal aircraft use by one or more of their named executive officers during the year. The aggregate incremental cost to the company of such use ranged from approximately \$2,000 to approximately \$96,000.

Need Assistance?

Compensia has extensive experience in helping companies prepare the executive compensation disclosure in the proxy materials for their Annual Meeting of Shareholders, as well as analyze the potential impact on the various SEC disclosure requirements on their executive compensation programs. If you would like assistance in preparing your executive compensation disclosure, or if you have any questions on the subjects addressed in this Thoughtful Disclosure Alert, please contact Mark A. Borges. ■

Model Disclosure

We maintain a corporate aircraft that is used primarily for business travel by our executive officers. We have a written policy that sets forth guidelines and procedures regarding personal use of this aircraft [(which for this purpose includes travel to attend a board of directors' or shareholders' meeting of an outside company or entity for which the executive officer serves as a director)].

Under the terms of this policy, our executive officers and their guests may use our corporate aircraft for non-business purposes subject to the following limitations. [Our CEO may use our corporate aircraft for [____] hours per calendar year of personal flight time./Our executive security policy, as approved by our Board of Directors, requires our CEO to use our corporate aircraft for all travel, including personal travel. Accordingly, we reimburse our CEO for taxes relating to any imputed income for his personal travel and the personal travel of his family members and guests when they are accompanying him.] Our other executive officers may use our corporate aircraft for [____] hours per calendar year of personal flight time. Flights where there are no passengers on our corporate aircraft (so-called "deadhead" flights) are [not] charged against the allotted hours of personal flight time per year.

For the last completed fiscal year, the aggregate incremental cost of our CEO's personal use of our corporate aircraft was [\$_____]. In addition, the aggregate incremental cost for our other named executive officers was [\$_____].

We determine the incremental cost of the personal use of our corporate aircraft based on the variable operating costs to us, which includes (i) landing, ramp, and parking fees and expenses; (ii) crew travel expenses; (iii) supplies and catering; (iv) aircraft fuel and oil expenses per hour of flight; (v) any customs, foreign permit, and similar fees; (vi) crew travel; and (vii) passenger ground transportation. Because our aircraft is used primarily for business travel, this methodology excludes fixed costs that do not change based on usage, such as the salaries of pilots and crew, purchase or lease costs of aircraft, and costs of maintenance and upkeep.

On occasion, and with the approval of our CEO, our executive officers may have family members and other guests accompany them on our corporate aircraft when traveling on business. The executive officer is [not] required to pay us for any such travel. The executive officer is required to pay us, however, for any personal travel by his or her family members or guests when they accompany him or her and he or she is on personal travel or when they are traveling without him or her.

[Possible additional paragraph Our named executive officers incur taxable income, calculated in accordance with the Standard Industry Fare Level ("SIFL") rates, for all personal use of our corporate aircraft. We [do not] grant bonuses to cover, reimburse, or otherwise "gross-up" any income tax owed for personal travel on our corporate aircraft.]

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