What is an aircraft trust?

An aircraft trust is basically a relationship where a trustee owns an aircraft on behalf of an entity or individual. The trust is established as an extension of the true owner, also called the trustor or trust beneficiary. The trustee acts for the beneficiary and the aircraft is titled and registered in the name of the trustee. This relationship is often called an owner trust because the benefit of the trust and all assets go to the true owner of the trust. It is important to note that this structure has been approved by the FAA and, because of the documents which are filed, the FAA is well aware of the identity of the beneficiary.

Why might I want to put my aircraft in a trust?

Owner trusts may be established for a variety of purposes, including FAA registration, structural purposes, simplification purposes or convenience. One of the main reasons for establishing a trust is that a foreign citizen, limited partnership or other party which does not qualify for FAA registration on its own can use a trust to get a valid registration for its aircraft. The FAA is a desirable registry, is widely accepted and generally assures a higher resale value for aircraft which remain US registered. Many foreign parties operate aircraft within the US, and many foreign investors own aircraft being leased to or otherwise operated by US carriers. These situations will necessitate some sort of accommodation for registration purposes, and a trust is the simplest and probably the least expensive way to accomplish this. FAA records reflect the trustee as the titled and registered owner, rather than the true owner or beneficiary, which makes it more challenging for a third party to determine who really owns the aircraft.

A trust can be used to maintain FAA registry for a short, long or indefinite period of time. It is commonly used to export an aircraft or to have refitting done before export. It can be used by a party not qualified for FAA registration to maintain a registration for as long as they like.

Are there any downsides to a trust?

The trust will place a step between the true owner of the aircraft and the asset itself and the aircraft will not be registered to the true owner, if you consider those to be negatives. All correspondence from the FAA, including airworthiness directives, will be sent to the trustee, which will then forward the information to the beneficiary. A qualified trustee should be very responsive to the needs of the trust beneficiary and the relationship should have little downside.

How does this affect taxation?

This type of trust is a tax--neutral entity, and should have neither a positive nor a negative impact on your tax situation. It is not a way to avoid taxes which would otherwise have to be paid. Any income of the trust will flow directly to the beneficiary, as though the trust were not there.
Do I still own the aircraft?

The beneficiary owns the beneficial interest in the trust and the trustee owns the aircraft on behalf of the beneficiary. The trustee is the titled and registered owner of the aircraft, but the beneficiary has the right to dissolve the trust at any time for any reason. Title to the aircraft can be transferred at any time from the trustee to any party designated by the beneficiary, including itself, via an FAA form bill of sale. Pursuant to the terms of the trust agreement, the trustee cannot sell the aircraft without the beneficiary’s direction.

Can I still use the aircraft as I please?

There will always be a lease or some kind of operating agreement, signed by the trustee, which will return control (quiet use and enjoyment) of the aircraft back to the beneficiary or on to any operator designated by the beneficiary. The operator, whether the beneficiary or a third party, will be obligated to insure the aircraft and to operate and maintain the aircraft in accordance with FAA requirements. Trustees do not want to operate aircraft.

Can I still borrow against the aircraft?

Absolutely; a trust will not negatively affect, and in some cases may actually enhance, your ability to get financing for an aircraft.

Why not just use an LLC, maybe DE?

A trust may not be for everyone; it is just one way to obtain FAA registration. It is a very flexible and readily accepted vehicle and literally thousands of aircraft are FAA registered through trusts. A trust is easy to establish and can be completed in two or three days; it can be undone just as easily. It is a vehicle designed to simplify certain aspects of aircraft ownership, and for many people, it is by far the easiest and cheapest way to obtain FAA registration.