

Insights

Cyprus as a Jurisdiction for Registration of Private Aircraft

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Introduction

The purpose of this memo is to set out the legal requirements for and the benefits to be obtained from, registering a private aircraft in Cyprus. The Department of Civil Aviation (**DCA**) is the relevant regulatory body and it maintains in accordance with the provisions of the Civil Aviation Law, Law 213(I)/2002 (as amended) (the **Civil Aviation Law**) the Cyprus aircraft registry.

Requirement for Registration of Private Jet Aircraft

The registration of all types of aircraft including private jet aircraft, is governed by the provisions of the Civil Aviation Law which in section 11 details the requirements to be satisfied in order for an aircraft to be entered on the Cyprus aircraft register. Section 11 sets the following conditions:

- a) aircraft is not registered on any foreign registry;
 - b) the airworthiness is attested by a Certificate of Airworthiness as prescribed by the Civil Aviation Law or the renewal of that certificate;
 - c) the aircraft has a validly issued noise certificate;
 - d) the owner or lessee (of at least 6 months) of the aircraft has an interest of greater than 50% and is a qualifying person being:
 - i. a natural person being of EU or EEA or European Common Aviation Area (ECAA) nationality, even if not residing or staying in the Republic; or
 - ii. a company which:
 - has been incorporated under the laws of the EU or EEA or ECAA;
 - has its registered office and main place of business in EU or EEA or ECAA member state;
- and
- more than 50% of the issued capital is held by EU or EEA or ECAA nationals;
 - the majority of those with a power of attorney or personally liable are EU or EEA or ECAA.

Where the aircraft is positioned or has its operations outside of Cyprus and the owner or lessee thereof has neither residence nor office of operations in Cyprus, the Minister, if he deems that under the circumstances, the aircraft should be registered on the registry of another country, is entitled to reject the application to register the aircraft on the Cyprus aircraft registry, or, depending on the case, to order the deletion of the aircraft from the Cyprus aircraft registry. However the Minister has a discretion that even if the aircraft or the applicant does not satisfy all of the requirements of section 11 to permit the entry of an aircraft on the Cyprus registry.

The owner and operator (lessee) of the aircraft shall inform the DCA immediately of any and all changes with regard to the registration conditions.

Cyprus VAT Leasing Scheme for Private Jet Aircraft

In March, 2014 the Cyprus Tax Authorities issued guidelines clarifying the VAT treatment which provides that the effective VAT rate can be reduced to as low as 5% (instead of the normal rate of 19%) through the use of the Private Aircraft Leasing Scheme.

The Scheme involves the leasing of an aircraft with an option to purchase at a pre-determined fixed price which will be set out in the lease agreement and will be calculated as a percentage of the value of the aircraft.

The VAT treatment of the leasing arrangement for the aircraft is that the leasing is considered as a supply of services with the right of deduction of input VAT by the lessor. This supply of services by the lessor, is taxable at the basic VAT rate of 19% but only to the extent that the leased aircraft is used within the air space of the European Union. A specific condition which applies is that the lessor must be a company registered in Cyprus. The lessee may be an individual or legal person whose primary place of residence/establishment is Cyprus. The scheme for the purpose of calculating the VAT applicable to the lease consideration is premised on 2 factors, viz. type of aircraft and maximum take-off weight – there is thus no need to maintain detailed log books as to the movement of the aircraft

The tables below indicates the effective VAT rate for the various type of aircraft.

Jet Aircraft

Maximum Take Off Weight	Presumed Percentage Use Within EU	Effective VAT rate
Light: 1 kg - 3.000 kg	50%	10.84%
Small: 3.001 Kg – 5.700 kg	40%	8.89%
Medium: 5.701 kg – 15.000 kg	30%	6.94%
Large: over 15.001 kg	20%	5%

Turboprop Aircraft

Maximum Take Off Weight	Presumed Percentage Use Within EU	Effective VAT rate
Light: 1 kg - 3.000 kg	55%	11.81%

Small: 3.001 Kg – 5.700 kg	40%	9.86%
Medium: 5.701 kg – 15.000 kg	30%	7.92%
Large: over 15.001 kg	20%	5.97%

Piston Engine Aircraft

Maximum Take Off Weight	Presumed Percentage Use Within EU	Effective VAT rate
Light: 1 kg - 3.000 kg	50%	20.58%
Small: 3.001 Kg – 5.700 kg	40%	16.68% %
Medium: 5.701 kg – 15.000 kg	30%	12.79%
Large: over 15.001 kg	20%	8.89%

Criteria to Benefit from the Scheme

Obtaining the benefits of the VAT treatment prescribed in the Private Aircraft Leasing Scheme is dependent on satisfying a number of criteria:

1. the prior approval of the VAT Commissioner must be obtained. On making the relevant application the applicant needs to provide in addition to the prescribed form, a copy of the lease agreement, documents proving the purchase price or value of the aircraft, noise certificate, manufacturer's type certificate, airworthiness certificate and (if applicable) airworthiness review certificate.
2. the lease agreement must be concluded between a Cyprus VAT registered company and any physical or legal person established or permanently resident or ordinarily resident within the Republic of Cyprus which is not engaged in any business activity.
3. The aircraft must fly to Cyprus within 2 months from the date of inception of the lease agreement. Any extension of the above-mentioned time limit may only be given by the VAT Commissioner. Such extension shall not exceed under any circumstances the time at which the option to purchase the aircraft is exercised.
4. An initial payment amounting to at least 40% of the value of the aircraft must be paid by the lessee to the lessor at the inception of the lease agreement.
5. The lease payments are payable on a monthly basis, and the lease period must under no circumstances be less than 3 months or exceed the period of 60 months.
6. The lessor is expected to make a total profit at the end of the lease period of a minimum 5% of the value of the aircraft. At the start of the agreement, the total lease payments

(from which the VAT is calculated) are increased by half of the anticipated profit; for example, 2.5% if the anticipated profit is 5%.

7. The final payment at the end of the lease agreement, when the ownership of the aircraft is transferred to the lessee, cannot be less than 2.5% of the value of the aircraft and represents part of the total profit relating to the agreement. This final payment is subject to the full Cypriot VAT rate applicable on the date of payment. This rate is currently 19%.
8. The prior approval of the VAT Commissioner needs to be obtained for the application of the Aircraft Leasing Guidelines in each case. Such approval will cover the acceptability of the initial value of the jet and the applicable percentage of use within EU air space on the basis of which VAT will be applied. The application to the VAT Commissioner must be accompanied by documentation supporting the purchase price/value of the jet and a copy of the lease agreement concluded between the two parties.

It should be noted that irrespective of the above usage table, if an aircraft is used solely and exclusively within the air space of the Republic of Cyprus, then its leasing is considered to be a taxable transaction and is taxable at the standard rate applicable in Cyprus and is calculated on the total value of the lease.

Additional Features and Benefits

- A private jet aircraft can be registered to any Aircraft Register in the world, not necessarily the Cyprus Aircraft Register.
- The total profit from the lease of a private jet aircraft (minimum 5%) is subject to income tax at a rate of 12.5%.
- Once the owner of a private jet aircraft has paid the VAT relating to the initial payment (40% of the value of the aircraft) he can import the aircraft into Cyprus and the Cyprus Customs Office will issue a T2L certificate.
- If at the end of the lease period, the lessee decides to acquire a private jet aircraft, the VAT Authorities will issue a certificate confirming the total VAT liability payment.

This Memo serves as a guide only and should not be read as legal opinion or tax advice.

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