

Leasing Agreement of an Aircraft

What is a leasing agreement of an aircraft?

A leasing agreement of an aircraft is an agreement whereby the lessor (the owner of the aircraft) contracts the use of the aircraft to a lessee (the person who leases the aircraft) for a consideration. In addition, after the end of the lease period, the lessee may opt to purchase the aircraft at a percentage of the original cost. The final purchase is strictly an option which may be exercised by the lessee for a separate consideration.

How is the leasing agreement treated for VAT purposes?

For VAT purposes, other than aircraft used by airline operators in international traffic, the lease of an aircraft is a supply of a service which is subject to VAT with the right of deduction of input VAT by the lessor (where such right applies). This service is taxable according to the use of the aircraft attributed within the airspace of the European Union.

How is the use of the aircraft within EU airspace calculated?

It is very difficult to identify beforehand the movement of an aircraft in order to determine the period that the aircraft is used within the airspace of the EU and the time that it is used outside the EU.

In this regard, the estimated percentage portion of the lease based on the time that the aircraft is used in the airspace of the EU is calculated on the basis of an expert technical study.

VAT at the standard rate of 18% is applied on the established percentage of the lease which deemed to be related to the use of the aircraft in EU airspace.

In order to apply this treatment the following conditions shall apply:

The leasing agreement shall be between a lessor who is established in Malta and a lessee who is also established in Malta and who would not be eligible to claim input tax in respect of the lease;

The lease agreement shall not exceed a period of 60 months and the lease installments shall be payable every month;

The Director General (VAT) may require the lessor to submit details regarding the use of the aircraft;

Prior approval must be sought in writing from the VAT Department and each application will be considered on its own merits. Furthermore, the Director General (VAT) may impose other conditions which he may deem appropriate.

Where after the end of the lease the lessee exercises the option to purchase the aircraft, a VAT paid certificate will be issued provided that all the VAT due has been fully paid.