

VAT Treatment of Aircraft Leasing.

The Maltese VAT department has issued a new set of guidelines with regards to VAT structures for aircraft leasing and thus further increasing Malta's relevance as a jurisdiction for the registration of aircrafts. The guidelines provide for a lower and more effective rate of VAT when flying an aircraft within E.U. airspace.

As stipulated by the guidelines 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 (a price)"*.

For VAT purposes in Malta the lease by a person established in Malta of an aircraft which is not used by airline operators in international traffic (thus a leasing agreement for private use) is a supply of services which is subject to VAT in Malta. The guidelines go on to say that this agreement for VAT purposes is subject to the right of deduction of input VAT by the lessor. In accordance with the guidelines issued by the VAT department, the VAT taxable depends on the amount of time the aircraft has been used within E.U. airspace.

The estimated percentage of the time that the aircraft is used within the E.U. is calculated on the bases of an expert study which helps to simplify this complex prediction. The website of the VAT department provides for this computation which may be accessed through the following link <http://vat.gov.mt/AircraftLeasing.aspx> , this formula is based on:

- Aircraft type
- Maximum take off mass in kilograms
- Maximum fuel capacity in kilograms
- Fuel burn
- Optimum altitude in feet and
- Optimum cruising speed in knots

Vat at the standard rate of 18% is then charged on the percentage of the lease which will be considered as the use of the aircraft within E.U. airspace. A minimum percentage of the time that an aircraft has spent in E.U. airspace is assumed at 30%.



In order to apply the abovementioned procedure the following conditions need to be met:

- There has to be a leasing agreement between a lessor and a lessee who are both established in Malta and who would not be eligible to claim input tax in respect to the lease.
- The lease agreement shall not exceed a period of 60 months (or 5 years).
- The lease installments shall be payable every month.
- The VAT Director General 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.

In addition to these requirements the director general may impose other conditions which he may deem appropriate.

At the end of the lease period the lessee may opt to purchase the aircraft at a percentage of the original cost. When the lessee opts to exercise this option a VAT paid certificate is issued provided that all the VAT due has been fully paid, this will allow the aircraft to move freely within the E.U.

For further information on aircraft leasing structures in Malta log on to our website www.aegis-malta.com and/or contact us on info@aegis-malta.com.