

AIRCRAFT REGISTRATION IN MALTA

BDO Malta



The Group

BDO Malta, a Maltese civil partnership, is a Member Firm of BDO International Limited, a UK company limited by guarantee and one of the world's largest professional services firms. BDO provides accounting and auditing, tax and consultancy services on a globally integrated basis with over 1,300 offices in more than 150 countries. Combining our international capabilities and local market knowledge with an extensive range of skills and industry expertise, we are able to provide a one-stop shop for all accounting, audit, legal, management consulting and corporate finance needs. BDO Consult Limited and BDO Services Limited are companies registered in Malta and form part of the BDO Malta group. BDO is the brand name for the BDO network and for each of the BDO Member Firms.

Moreover, BDO Consult Limited (<http://www.bdo.com.mt/>), a fully-fledged corporate services company, has been active in servicing the international business sector since the 1980's and accordingly its team of experienced professionals are able to provide a wide range of services to its international corporate and private clients. It offers special expertise in most aspects of company management, corporate services, taxation, accounting, auditing and administration. The company and client is serviced by a multi-disciplinary team, organised into six support units: Audit, Corporate Services, Legal & Compliance, Account, Tax and Business Development. Licensed by the Malta Financial Services Authority to act as Company Service Provider, trustee and fiduciary, BDO Malta also has a team of well-trained individuals with integrity and commitment to providing an excellent service tailored to meet all of a company's requirements.

Servicing clients requiring legal advice in a wide range of areas of practice, including tax planning and corporate law, financial and gaming services (including obtaining remote gaming licenses from the Malta Gaming Authority), trusts and foundations, maritime and VAT on the leasing of yachts amongst others. In this respect, please find listed hereunder the numerous services we offer:

1. Tax and VAT Consultancy
2. Tax and VAT Compliance
3. Incorporation / Formation of Companies
4. Banking Services (Maintenance and Opening of Bank Accounts)
5. Legal and Consultancy Services
6. Correspondence and Administrative Services
7. Company Secretarial Services
8. Accountancy
9. Full outsourcing of bookkeeping and accountancy services
10. Directorship
11. Audit & Assurance
12. Yachting and Marine Services
13. Licensed agents for Individual Investor Programme (IIP)
14. Acting as Key officials for Gaming Companies
15. Formation of Trusts and Foundations

The main purpose of the Aircraft Registration Act, 2010 is the consolidation of existing laws relating to aircraft registration. It is also aimed at encouraging further growth in the local aviation sector.

Main legislative provisions

The key features of the new legislation are as follows:

- The merging of laws relating to the registration of aircraft and mortgages into one single Act;
- The establishment of a new regulatory body (the Authority for Transport in Malta) in accordance with the Authority for Transport in Malta Act, 2009. This body currently performs functions which were previously exercised by various independent authorities;
- The implementation of both the Cape Town Convention on International Interests in Mobile Equipment and the Aircraft Protocol. These ancillary rules seek to safeguard creditors' interests by allowing them a set of readily enforceable rights, which in turn should enable them to lower any interest rates charged to customers;
- The widening of the eligibility rules for aircraft registration, making it possible for aircrafts under construction and aircrafts under lease to be registered as such (among others); and
- The creation of a more comprehensive national aircraft register.

Tax incentives

A number of tax incentives were also designed to complement the Act and at the same time increase the competitiveness of the Maltese aviation industry. As a result, a number of amendments to the Income Tax Act were enacted with these twin objectives in mind.

Income from ownership, leasing or operation of aircraft or aircraft engines

One of the most important amendments to the Income Tax Act covers any income derived from the ownership, leasing or operation of aircraft or aircraft engines used or employed in the international transport of passengers and goods. This income shall be deemed to arise outside Malta for taxation purposes irrespective of both the aircraft's country of registration and whether it calls at or operates from Malta.

This provision is of particular interest to companies which are deemed to be resident but not domiciled in Malta for tax purposes. In the case of such entities, any income derived from the ownership, leasing or operation of aircraft or engines used internationally will be taxable in Malta only to the extent that it is remitted to Malta. Moreover, the majority of Malta's double tax treaty agreements include rules regarding the operation of aircraft in international traffic. These create attractive opportunities for tax planning within the aviation industry.

Finance leases

The income tax treatment of finance leases was clarified with the introduction of the Finance Leasing Rules in 2005. These rules are to apply in such cases where the lessee in the leasing agreement substantially assumes all risks and rewards associated with the ownership of the asset, other than the legal title. In addition, the period of the lease must cover four years or more.

The following arrangements shall apply in the case of a qualifying finance lease for income tax purposes:

- a) the lessor is chargeable to tax on the annual lease payments;
- b) the burden of wear and tear is assumed to be borne by the lessor, meaning that the lessor is entitled to claim capital allowances on the leased asset; and
- c) the lessee is entitled to deduct the full amount of the lease payments from chargeable income, as well as other relevant deductions under Article 14(1) of the Income Tax Act.

If the ownership of the asset is subsequently transferred from the lessor to the lessee with the latter making a payment exceeding the total annual lease payments, this payment shall be chargeable to tax in the hands of the lessor.

The Inland Revenue Department has also issued guidelines in respect of aircraft leasing arrangements which do not fall under the Finance Leasing Rules. In such cases, the following tax treatment is to be adopted:

- a) the lessor is charged to tax only on the annual finance charge, which represents the difference between the total lease payments less the capital element, divided by the number of years;
- b) the lessee is allowed deductions in respect of the following expenses:
 - i. the finance charge;
 - ii. any maintenance costs;
 - iii. any repair costs; and
 - iv. any insurance expenses;
- c) the lessee is the party entitled to deduct capital allowances in respect of the aircraft; and
- d) where the lessee exercises an option to purchase the aircraft on the termination of the lease, the consideration received by the lessor is considered to be a capital payment and no tax thereon is charged by the lessor.

Capital Allowances

The minimum periods for tax depreciation of aircraft have been reduced via the Deduction for Wear and Tear of Plant and Machinery (Amendment) Rules, 2010. Prior to the introduction of these rules, the minimum period for aircraft wear and tear was 12 years. With the enforcement of the rules, aircraft depreciation for tax purposes will be deducted using the following timeframes:

- | | | |
|--|---|---------|
| • Aircraft airframe | - | 6 years |
| • Aircraft engines | - | 6 years |
| • Aircraft engine or airframe overhaul | - | 6 years |
| • Aircraft interiors and other parts | - | 4 years |

Fringe Benefits Exemption

The Fringe Benefits (Amendment) Rules, 2010 also introduce an outright exemption from the taxation of fringe benefits. This exemption applies to the private use of an aircraft by non-resident employees or officers, companies or partnerships whose business activities include the ownership, leasing or operation of aircraft or aircraft engine used in the international transport of passengers or goods.

Beneficial 15% flat tax rate on employment income derived by CEOs

Employment income, derived by an individual employed as a Chief Executive Office by an undertaking holding an air operators' certificate issued in terms of article 4 of the Civil Aviation (Air Operators' Certificates) Act or an aerodrome licence issued in terms of article 71 of the Air Navigation Order 2010, as licensed by Transport Malta, benefits from a special tax rate of 15%, subject to a minimum cash salary of €75,000.

The special tax rate of 15% can be utilised for a maximum of ten years in the case of EU, EEA and Swiss nationals, and four years in the case on other nationals. Other conditions are imposed to safeguard the interest of the scheme as per our guidelines in the separate brochure [Highly Qualified Persons Rules](#).



CONTACT

BDO Malta

Tower Gate Place
Tal-Qroqq Street
Msida
MSD 1703
Malta

Tel no: (+356) 2131 3060

Fax no: (+356) 2131 3064

www.bdo.com.mt

info@bdo.com.mt

This publication has been carefully prepared, but it has been written in general terms and should be seen as broad guidance only. The publication cannot be relied upon to cover specific situations and you should not act, or refrain from acting, upon the information contained therein without obtaining specific professional advice. Please contact BDO Malta to discuss these matters in the context of your particular circumstances. BDO Malta, its partners, employees and agents do not accept or assume any liability or duty of care for any loss arising from any action taken or not taken by anyone in reliance on the information in this publication or for any decision based on it

BDO Malta, a Maltese civil partnership, is a member of BDO International Limited, a UK company limited by guarantee, and forms part of the international BDO network of independent member firms.

BDO Consult Limited and BDO Services Limited are companies registered in Malta and form part of the BDO Malta group.

BDO is the brand name for the BDO network and for each of the BDO member firms.

© BDO Malta, 2015

