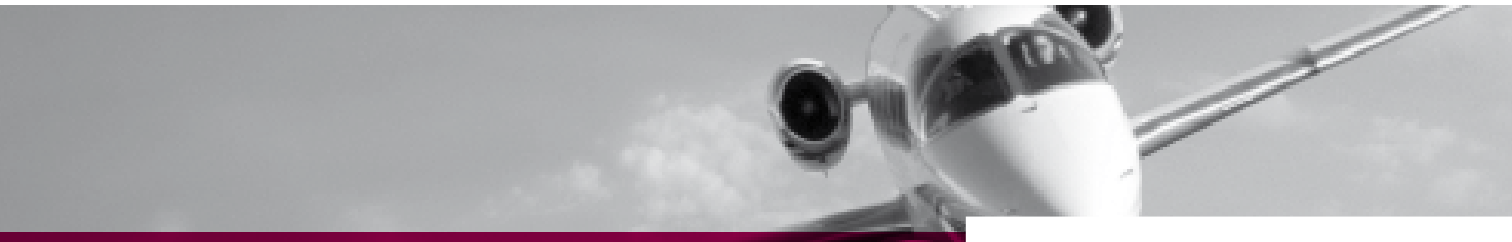


AIRCRAFT FINANCE

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OOSTVOGELS PFISTER FEYTEN
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LUXEMBOURG – LONDON

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CHOOSING THE RIGHT JURISDICTION IS AN ESSENTIAL ELEMENT OF AIRCRAFT REGISTRATION.

INTRODUCTION

Choosing the right jurisdiction is an essential element of aircraft registration and it is important to bear in mind a number of key factors when making your decision. The jurisdiction's underlying business environment should be stable and as a whole, should have a recognised worldwide status for activities of this type. In this respect, items to consider are the availability of cost-effective operations and professional services, ease of administration, geographical convenience, the ability to register an aircraft mortgage, and in a wider sense, a suitable security package offered to the relevant financing bank.

Newcomers to personal or corporate aircraft ownership also need to be aware of the potential consequences of the jurisdiction chosen to register their aircraft. Despite growing harmonisation within the industry, each Civil Aviation Authority has its own specific requirements in terms of items such as the pilot's required qualifications or the aircraft's specifications. Therefore, choosing the most appropriate jurisdiction should always take into account short, medium and long-term considerations.

02 LUXEMBOURG - A PRIME LOCATION FOR CORPORATE AIRCRAFT REGISTRATION

Luxembourg offers many practical, technical and financial benefits for aircraft registration. Geographically located in the heart of Europe, it is not only a top-tier financial centre with a stable political regime, but it is also one of the key European centres for corporate aircraft registrations.

With a business minded on-shore tax regime, it is regulated in such a way to avoid qualification as a 'registration of convenience'. Luxembourg offers competent service providers in a number of areas including aircraft maintenance, solid ground support, aircraft owners' chartering, and other dedicated providers.

Oostvogels Pfister Feyten is one of the very few law firms in Luxembourg with a proven expertise in the area. We assist banks, lenders and owners of jets with various registration projects and have established strong networks and relationships with key industry players across Luxembourg. As well as assisting clients with various legal and tax aspects, our mission is to ensure the best experts in the field are called upon to ensure the successful completion of each and every aircraft registration.



03 A SECURE LEGAL FRAMEWORK FOR LENDERS

On 28 May 2008, Luxembourg approved the Cape Convention, thereby recognising the regime and the effects of international aircraft mortgages and other secured interests in aircrafts.

Thanks to the recent amendment of legislation for the recognition of rights *in rem* over aircrafts, the legal framework for aircraft mortgages has been improved and now offers the lowest transaction costs whilst also enabling:

- The structuration of lending through a security trustee, thereby avoiding parallel debt issues with loan syndication.
- The exemption of deeds of transfer or declaration of rights *in rem* over aircrafts of *ad valorem* registration and transcription taxes.

- The exemption of mortgage loans from *ad valorem* registration taxes.
- The possibility to avoid translation fees, as the administration now accepts recording deeds enacted in French, German or English.

Luxembourg also provides attractive regulation for financial collateral arrangements thus enabling lenders to have a fully mastered security package over the acquisition corporate structure, together with efficient and quick enforcement proceedings.

ON 28 MAY 2008, LUXEMBOURG APPROVED THE CAPE CONVENTION.

04 TAXATION

4.1 TAX RESIDENCE

In general, a company is considered as a Luxembourg tax resident if it has its registered address (or statutory seat) in Luxembourg, or if its place of effective management (central administration) is located in Luxembourg.

Based on the OECD Model Tax Convention, the Contracting State in which the place of effective management is located will be entitled to tax the profits of a company. The latter criterion coincides with the place of central administration, i.e. the place where the shareholders and directors, amongst others meet. According to Article 8 of the OECD Model Tax Convention, profits from the operation of ships or aircraft in international traffic shall be taxed only in the Contracting State in which the place of effective management of the enterprise is located.

Today, Luxembourg has concluded a substantial number of double tax treaties. Generally, all of these contain a similar provision to Article 8 of the OECD Model Tax Convention.

4.2 DIRECT TAXES

Luxembourg resident aircraft companies are subject to the ordinary Luxembourg tax regime. However, by taking advantage of both general and specific tax provisions as laid down in Luxembourg's tax legislation, the tax burden of an aircraft company may be heavily reduced.

4.2.1 STRUCTURE

The tax burden of an aircraft company may be reduced through the deduction of depreciation expenses as well as the accrual for provisions for risks and charges.

Aircraft held by Luxembourg companies will be depreciated over their useful life using the linear method. Luxembourg companies are also allowed to depreciate on a declining basis (accelerated depreciation), by applying 3 times the linear depreciation rate, without exceeding a rate of 30% per annum.

In addition, Luxembourg companies are allowed to account for precisely determined provisions based on specific and probable charges in relation to the business.

04 TAXATION

4.2.2 NET WEALTH TAX REDUCTION

Luxembourg companies are subject to annual net wealth tax, levied on the net asset value (assets minus liabilities) of the company at the rate of 0.5%. By allocating part of the profits realised during a given year to a special reserve which should be kept during 5 years, a net wealth tax reduction equal to $\frac{1}{5}$ of the reserve will be granted. To the extent that the allocation to the reserve does not exceed the corporate income tax charge for the same year, the net wealth tax liability may be reduced to zero.

4.2.3 INVESTMENT TAX CREDITS

Companies residing in Luxembourg can benefit from a tax credit against corporate income tax for acquired or leased qualifying assets and investments, such as aircraft which are located and physically used in Luxembourg. Luxembourg tax law provides for two types of investment tax credits, which are to be accumulated: the global investment tax credit and the complementary investment tax credit.

1. The global tax investment credit is applicable to qualifying assets acquired during the accounting year. The company may benefit from a tax credit at the rate of 6% on the first part not exceeding €150,000 of the global amount of acquired qualifying assets, and 2% on the exceeding part.

2. The complementary investment tax credit is applicable to all qualifying assets held by the company (regardless of the date of acquisition: prior years or current year), provided such assets are not fully depreciated. The complementary investment tax credit, granted at the rate of 12%, aims to encourage additional investments.

The total investment tax credit may be carried forward and used within the next 10 years.

4.2.4 TAX-EFFICIENT REPATRIATION OF PROFITS

Profits may be repatriated free from withholding tax by taking advantage of the Luxembourg legal provisions transposing the EU Parent-Subsidiary Directive or through investment by (hybrid) debt. Liquidation proceeds are not subject to withholding tax.

05 VAT

5.1 TAX RESIDENCE

The supply, modification, repair, maintenance, chartering and hiring of the aircraft used by airlines operating for reward mainly on international routes and the supply, hiring, repair and maintenance of equipment incorporated or used therein are exempt from VAT, as well as any other services conducted for the direct needs of the aircraft or of their cargoes.

Deliveries of goods related to the fuelling and provisioning of such aircraft are also exempt from VAT.



06 CUSTOM DUTIES

Under regulations as laid out by the European Commission, importation of civil aircrafts and civil aircraft parts from outside of the EU is relieved of customs duties (by reason of their end-use). Prior authorisation is, however, required and should be requested in writing (attaching the required documents) to the director of customs administration in Luxembourg.



07 WORKING WITH YOU

OUR TEAMS CAN ASSIST IN A NUMBER OF WAYS, PARTICULARLY WITH REGARDS TO CORPORATE STRUCTURING FOR TAX EFFICIENCY AS WELL AS AIRCRAFT FINANCING.

At Oostvogels Pfister Feyten, we assist banks, lenders and owners of jets with various registration projects. As operating an aircraft can often be more expensive and can bring more constraints than the actual acquisition costs, our mission is always to take the lead in optimising budgets such as by way of tax structuring for an aircraft's acquisition and potential sale. We do this through interaction with our network of partners specialised in aeronautic services.

Our teams can assist in a number of ways, particularly with regards to corporate structuring for tax efficiency as well as aircraft financing.

CORPORATE STRUCTURING & TAX EFFICIENCY

Depending on your jurisdiction of origin and/or current corporate structuring, our tax team can help you to optimise your exposure to VAT, corporate income tax and/or net wealth tax.

AIRCRAFT FINANCING

We advise aircrafts' owners and banks in the setting up and/or negotiating legal aspects of aircraft mortgage loans or other secured financing, financial or operational leasing, and refinancing, notably through sale and lease-back structures.

08 OUR LAW FIRM

Oostvogels Pfister Feyten is one of Luxembourg's largest independent business law firms.

Established in 1999, we encompass a team of around 100 professionals of whom around 50 are dedicated lawyers. Our finance practice is complimented by specialists from our other departments including, Corporate, Private Equity, Tax, Investment Funds, Real Estate, Restructuring & Insolvency and litigation.

Where necessary, our team calls upon experts in these other departments to offer a comprehensive service to our clients' projects.

Today, we advise an international client base of multinational corporate groups, leading banking and finance institutions, private equity houses and investment funds as well as high net worth individuals.



09 KEY CONTACTS

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