

An aerial photograph of numerous business professionals in suits and dresses, each holding and reading a book. They are standing on a light blue surface with scattered white clouds. The scene is captured from a high angle, looking down at the individuals.

THE MARTYN FIDDLER ANNUAL

Your top picks of 2024

Martyn Fiddler Annual

As 2024 draws to a close, Martyn Fiddler took a moment to reflect on what has been another successful year of client and colleague engagement. We really care about what we publish, so we love it when we receive positive feedback on our newsletters, posts and articles.

This year we wanted to analyse which of our articles attracted not only the most reader views, but those that received the most engagement, reactions and discussion. In our experience this analysis can provide an indication to the current mindset of the industry and help predict what issues and themes will be arriving in the next 12 to 18 months.

Drumroll please!

The winners are:

1. Structuring for the Future: Does Ownership Matter?
2. The Human Toll of Money Laundering – Are we Living in a False Sense of Security?
3. A Glossary of Customs & VAT Terminology

A big thank you not just to the authors of these articles who took the time to write them, but to those of you that have taken the time to read them and engage in discussion with us about them. We are extremely grateful to you and will endeavour to maintain the same level of originality, education and positivity going into 2025.

Happy reading!

The team at Martyn Fiddler



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#1. Structuring for the Future

By Heather Gordon

Does ownership matter? Do we need to own something to get its full potential or realise its full value? Is ownership the key to success just because it has always been that way?

Being successful historically meant: get educated, get a job, buy a house. It was drilled into us because that is what our parents aspired to and every generation before – a desire to accumulate assets was thought to be the way to accumulate wealth.

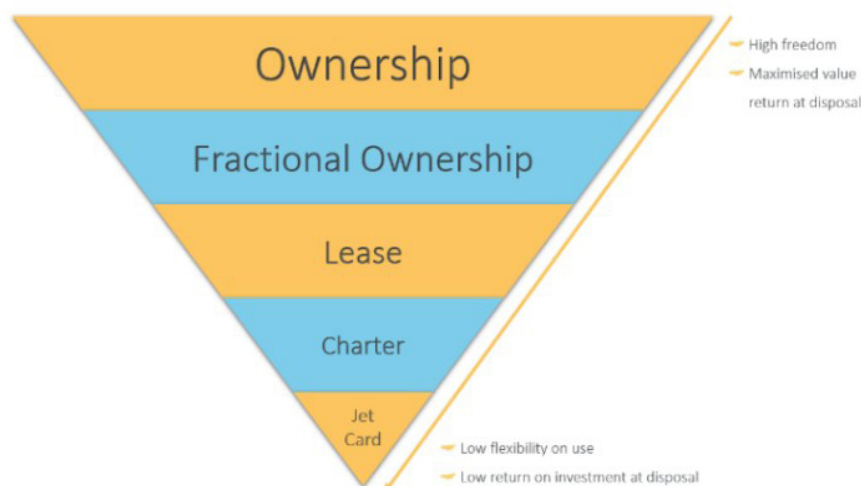
Huge interest and asset price inflation can only mean one thing: ownership is becoming a difficult dream. In the current climate, even renting is a struggle for many across most developed economies. Yet we all still hanker to own something.

From a legal perspective, owning something is about establishing a person's right to possess and control that thing (such as an idea, property or aircraft). John Locke's theory of "homesteading" brought about the contemporary notion of private property in the 17th century; Locke's ideas gave rise to our collective understanding that acquisition of assets, like property, takes place through voluntary trade, inheritance, gifts or collateral.

But does this matter in 2024? Or are we (in the words of Elvis) 'caught in a trap' – a trap that exists in our mind, but not in reality?

There is a perceived notion that freedom goes hand in hand with ownership. Once you own something, other than restrictions that local, national or international regulations may impose, you are free to do with your property as you wish.

While there are other ways of gaining access to an asset without owning it (a lease for example), each step back from ownership increases the restrictions on control, access and



use of property. The further away you step from ownership, the less freedom you have and there is a reduction on return on the original investment made at the point of disposal of the property.

In the complex world of business aviation, there has been an 'evolution' in terms of ownership.

The starting notion was that of “ownership” of the aircraft asset. The second was to give us access to this asset through fractional ownership.





Leasing and charter followed. Now we have jet cards and flight sharing too.

Each step further from ownership has increased accessibility to business aviation by reducing cost and barriers to entry. The change of approach to both access AND usage has democratised business aviation.

However, the diluting of ownership has moved the purchaser further away from realising the value which attracts people to the industry in the first place – the freedom to fly whenever, and wherever wanted and the saving on time compared to commercial airlines.





Owning a new technology

Business aviation will not only be challenged in respect of owning new aircraft, but also the ownership of technology behind the next generation of aircraft. The benefits of holding intellectual property (IP), patents and trademarks in separate corporate vehicles are well established:

-  The potential for tax savings or tax preservation (both now and in the future);
-  Efficiency in managing (and using) your assets;
-  Limiting risk and liability; and
-  A reduction in litigation threats and bankruptcy remoteness.

However, in the rush to get ahead in the new era of aviation design and innovation, many of the smartest minds (and biggest investors) often consider ownership of their ideas too late and to their financial detriment.

With this in mind, business aircraft owners, would-be owners and stakeholders should consider the following:

-  Ownership is something that, whether we want to accept it or not, most of us aspire too.
-  Ownership gives freedom and flexibility.
-  Ownership allows the ability to say ‘that is mine’ – pride in ownership is even greater when we created the object of ownership – an idea, a design, a theory etc.
-  Ownership can protect owners, partners and investors when well thought out.

In an era when we see amazing aviation innovation, the challenge will be to ensure the same level of care is taken to choosing how your property and aircraft are owned to ensure ideas, designs and innovation are protected through ownership.

Innovators will be challenged to own their ideas in a way that will provide them the maximum flexibility, freedom and value for the future.

#2. The Human Toll of Money Laundering – Are We Living in a False Sense of Security?

By Juan McGuinness

Money laundering as a term is often associated exclusively with financial crime and illicit wealth. We make reference to it daily in the world of financial services; often when requesting address verification documents or certified copies of passports. In other words, money laundering has become a banal term connected to paperwork.

The reality of money laundering, however, is a very different tale. The underlying crimes which create the illicit wealth in need of laundering carry a human toll that is too often overlooked. In the shadows of this complex web of deceit and deception, some of the most vulnerable individuals in society fall victim to its devastating consequences. Human trafficking and slave labour are brutal crimes that thrive in the shadows of global economies. Often concealed beneath layers of legitimate business operations, the money generated from these heinous practices must be laundered to legitimise ill-gotten gains.

Human trafficking, a modern-day form of slavery, entraps millions of people worldwide. People from vulnerable populations are deprived of their basic human rights, subjected to physical and emotional abuse, and forced to work in deplorable conditions often with little or no pay. Money laundering plays a pivotal role in sustaining this cruel industry by funnelling profits into legal enterprises. Victims, predominantly women and children, are coerced, deceived, and forced into lives of servitude. The money laundered from their exploitation perpetuates a cycle of suffering that is difficult to break.

Behind the scenes, traffickers use money laundering to obscure the origins of their profits. They invest in legitimate businesses, purchase real estate, and open bank accounts under false identities, making it nearly impossible for law enforcement to trace the money back to its criminal source. Meanwhile, victims continue to endure physical and psychological abuse, trapped in a seemingly never-ending nightmare.



This was highlighted in 2023 in the bizarre case of the dozens of Malaysian citizens that were trafficked to Peru under the false pretence of lucrative job offers. Upon arrival, their passports were taken from them, their ability to contact friends and family removed. They were then forced to defraud people online with internet romances and cryptocurrency schemes for the benefit of their criminal gang captors.

While these real-life examples, in exotic locations like Peru are excellent at highlighting the impact of money laundering, they can create a false sense of security for those of us in the Isle of Man, where regulatory and law enforcement standards are believed to be more robust. However, the human toll of money laundering extends beyond the borders of developing nations, indeed infiltrating communities closer to home. Recent investigations on the Isle of Man revealed a disturbing case of human trafficking and organized immigration crime.

It was reported (July 2024) in the Isle of Man Newspapers, that authorities arrested six individuals and uncovered the exploitation of over 200 migrants from countries such as Algeria, the Philippines, India, and Pakistan. Sadly this story carries a familiar tale of migrants, lured by the promise of legitimate employment, finding themselves living in squalid conditions and working jobs vastly different from those advertised. The island's seasonal migrant visa scheme, initially designed to expand the working population,



was manipulated by unscrupulous employers seeing the opportunity to exploit the “light touch” policy and use the Isle of Man as a backdoor into the UK. These arrests exposed the vulnerabilities in the current immigration system and highlighting the urgent need for stricter regulations.

Recently a 24 year old UK resident has been in court on the Isle of Man, in relation to this nefarious operation, accused of producing fake job offer letters and entry certificates, charging migrants up to £25,000. This scheme, allegedly orchestrated by an international crime group, aimed to exploit migrants for financial gain, demonstrating that human trafficking is not confined to areas with weak law enforcement but can occur even in well-regulated environments. These recent events underscore the pervasive nature of money laundering and human trafficking, reminding us that these crimes can occur right under our noses. Vigilance and stringent enforcement are crucial in combating these insidious activities and protecting the most vulnerable members of our society.

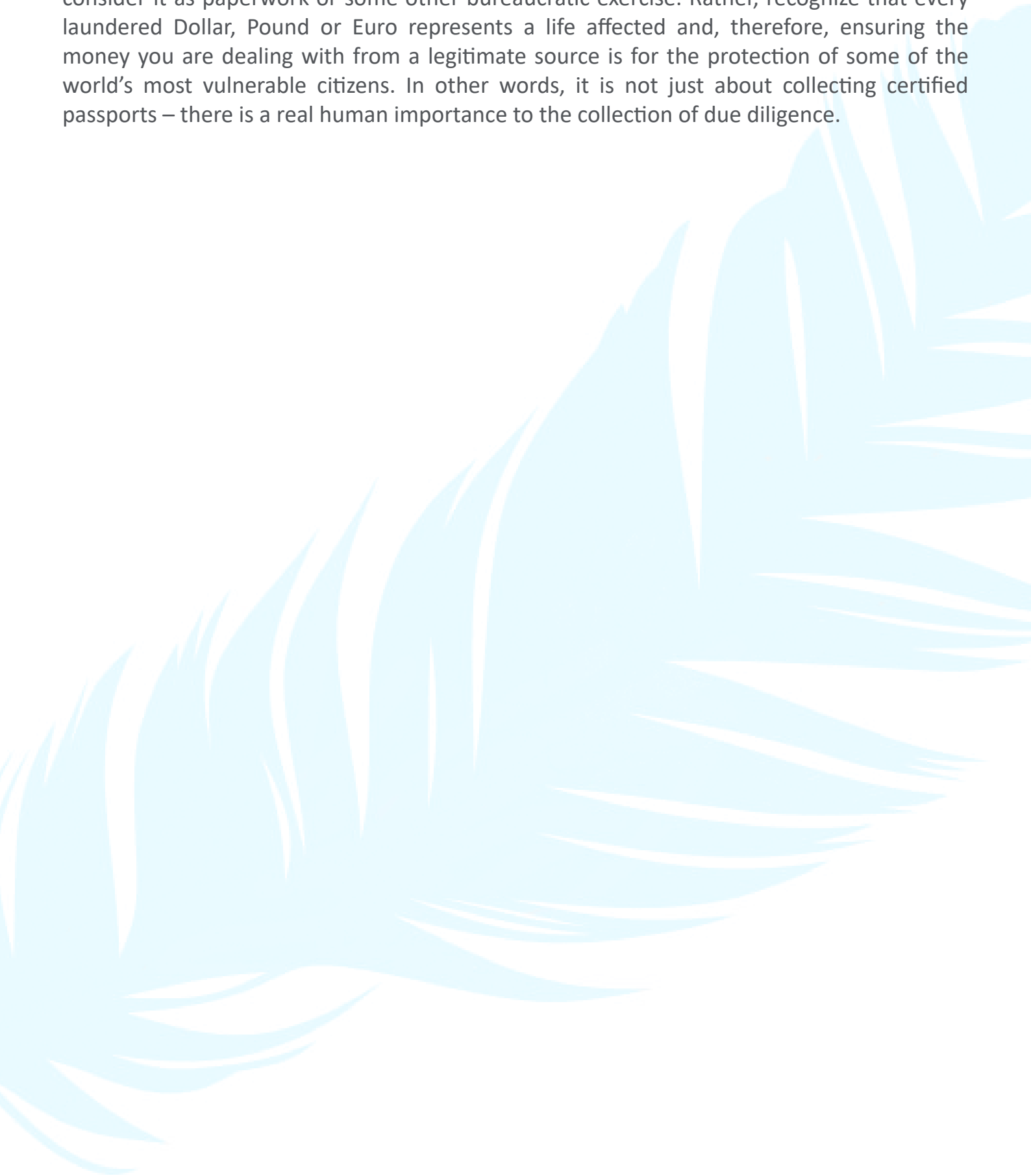
Whilst the majority (if not all) organisations will have robust policies and due diligence processes in place aiming to ensure ownership and control of clients or third parties is fully understood: are the underlying activities of the clients fully understood?

On an individual level, these crimes can be facilitated by the anonymity of the victims even if you pass them in the street. How much attention is paid to individuals who don't speak the local language and work in sectors that are unsocial in nature? Sadly this lack of awareness of the people who work night shifts to keep our offices clean or keep our shelves well stocked make these crimes easy to hide in plain sight.

The recent Isle of Man case exemplifies how human trafficking and associated crimes can infiltrate our communities. This underscores the necessity of thorough due diligence, staying

alert to potential red flags, and vigilant enforcement of immigration laws to prevent such exploitation and ensure justice for victims.

The next time you have to collect or are being asked to provide due diligence, don't just consider it as paperwork or some other bureaucratic exercise. Rather, recognize that every laundered Dollar, Pound or Euro represents a life affected and, therefore, ensuring the money you are dealing with from a legitimate source is for the protection of some of the world's most vulnerable citizens. In other words, it is not just about collecting certified passports – there is a real human importance to the collection of due diligence.



#3. A Glossary of Customs & VAT Terminology for Business aviation

By Greta Kemper

We are well aware of the complexity around VAT and Customs when it comes to business aviation. The terminology is confusing and it can be difficult to understand the principles involved or how they may impact your aircraft. That's why we have taken this opportunity to explain some of the most commonly used terms in the UK and EU.

Customs terms

Brexit – a portmanteau of 'Britain' and 'exit', Brexit refers to the withdrawal process of the United Kingdom, including the Isle of Man (IOM), from the European Union. The UK and EU became two separate VAT and Customs territories with effect from 1st January 2021. As a result of Brexit various new UK legislation was put in place to transfer the existing EU Customs laws and to allow for the mixed status of Northern Ireland. Under the new legislation the UK will be able to make changes to the EU rules subject to certain restrictions.

Customs Duty - a tariff imposed when goods (including aircraft) are transported across borders into a Customs Territory. This includes the separate Customs duties known as Import VAT and Import Duty. These are both treated as "duties of Customs" because they are managed by Customs officers as the goods cross the border, rather than by internal tax inspectors reviewing VAT returns submitted by VAT registered businesses. Under normal circumstances Import Duty does not apply to complete aircraft, but Import VAT may apply.

Customs Territory/VAT Territory (UK & EU) – The UK VAT and Customs territories now consist of the UK (including the Isle of Man). There are special arrangements for Northern Ireland.

The EU VAT and Customs territories are not entirely the same, for example the Canary Islands are in the EU Customs territory but not in the VAT territory, as are the Finish Åland Islands. Monaco, for example, is also part of the EU Customs and VAT territories by virtue of its relationship with France and is consequently part of the EU Customs territory. The Channel Islands are no longer part of a joined Customs territory with the EU.

Customs Warehouse – is a Customs special procedure which is used for goods stored in a warehouse location. Martyn Fiddler for example operates a virtual Customs warehouse arrangement by agreement with HMRC, whereby the procedure can be extended to cover other parties' facilities with their acceptance. Use of this procedure allows non imported goods including aircraft to arrive into a country without having to be imported, and there--

fore acts to suspend the payment of Customs duties and Import VAT. A key condition is that this procedure can only be used for non-free circulation aircraft, and there is a restriction on what works can be completed to an aircraft while it is under a Customs Warehouse. This is primarily a regime for storing goods including pending sale. The Customs warehouse procedure is put in place under an authorisation granted to the warehouse holder. The UK permits aircraft to be sold inside a CW without charging VAT, some EU member states may also permit this.

End Use Relief/Authorised Use (in the UK) – Certain goods can be imported at a reduced or zero rate of Customs Duty. The goods must be used for a specific purpose and be used within a set time period. This relief is known as end-use relief. It does not apply to Value Added Tax (VAT) or Excise Duties. Civilian registered aircraft are no longer subject to the requirement to evidence entitlement to End use relief in the EU or Authorised use the UK.

EU Member States – there are 27 EU member states post Brexit (1/1/21). The EU does not include the Channel Islands (Guernsey and Jersey), Greenland, Iceland, Norway, Switzerland or the UK & Isle of Man.

Free Circulation Status – also more commonly referred to as “imported” – goods - refers to goods, including aircraft, that have either been formally imported into the Customs territory or have been manufactured and sold inside that territory. Technically the two terms are not interchangeable, however for the purposes of general understanding “imported” is what is meant when this term is used. Please note that free circulation status is not permanent and can be lost in certain circumstances. Free circulation is technically lost on every departure – but Returned Goods Relief (RGR) (see below) is not, so free circulation can be recovered on aircraft’s return without further taxes becoming due, providing the relevant conditions are met.

Inward Processing (IP) – is another Customs special procedure similar to the Customs warehouse regime. However, IP is a relief specifically designed for non-imported goods, including aircraft, that are to be brought into a territory specifically for planned repair or maintenance works. Providing the aircraft stays in the IP regime, or moves to another Customs relief regime such as a Customs warehouse, then the aircraft does not need to be imported. Some EU member states may permit aircraft to be sold within IP without charging VAT.

Onward Supply Relief (OSR) – This is an EU relief. Under the normal import rules, VAT is due when the goods are imported into an EU country. However, if the goods are imported from a non-EU country - and they will be shipped on to another EU country then the importer may be able to claim the relief from the import VAT known as Onward Supply Relief (OSR). Any VAT due on the goods will subsequently be paid in the EU country where the goods are transported to.

Outward Processing – the opposite of Inward processing. The purpose of this procedure is to allow imported goods, including aircraft, to leave the territory for repair or maintenance works and to return without having to pay Import VAT/duty on the full value of the aircraft, i.e. VAT is then only due on the added value. This relief is generally not very well understood but failure to use it could put an aircraft at risk of Import VAT on the full value of the aircraft, not just the repairs conducted outside of that territory.

Returned Goods Relief (RGR) – RGR enables aircraft that were previously imported into a Customs territory, such as the UK or the EU, to re-enter without undergoing a new import process each time. To qualify for this relief, specific conditions must be met, including the requirement that the person or entity bringing the aircraft back into the territory must be the same as the one that originally removed it.

Temporary Admission – Temporary Admission (TA) is a globally recognised principle that allows non-locally registered and used aircraft to travel to a Customs territory, EU or UK, for private pleasure or private business purposes without needing to be imported. TA is free, and automatically granted providing that the aircraft and its use meet the TA requirements. There are various restrictions on its use and some EU Member states interpret the TA provisions differently to others so it is important to put in place procedures to ensure that any use of TA meets the conditions in full. The key risk of failing to meet the TA conditions is that the aircraft can be retrospectively imported and import VAT would then be due.

VAT terms

Deemed Export and Actual Export – Aircraft have the ability to travel independently, so any departure from the Customs territory (whether in the UK or EU) is considered a “deemed” export, even if no formal export declaration is made through Customs systems. Whether exported formally or as a deemed export, aircraft can be brought back under the Returned Goods Relief rules without incurring additional tax, provided specific conditions are met.

8th and 13th Directive Reclaims – a way of reclaiming VAT incurred inside the EU VAT territory by non-established taxable businesses. Generally not recommended for reclaiming import VAT on aircraft due to the length of time involved in clearing claims and the likelihood of challenge by the local tax authority to large reclaims. The UK now has an equivalent process for claims from entities that are not established in the UK.

Exempt VAT vs Zero Rated VAT – in the EU there are two types of exempt VAT:

- “exempt with recovery” VAT, i.e. with a right to reclaim VAT costs according to local rules, (known in the UK as “VAT zero-rated” or VAT @ 0%); and
- “exempt” with no right to reclaim VAT costs.

Import VAT – VAT imposed on aircraft crossing the border into a Customs territory. Import VAT is treated as a “duty of Customs” as it is managed by Customs officers, whereas VAT incurred inside the territory, either the UK or the EU, is managed by local tax inspectors. The nature of Import VAT is different to other, transactional VAT, and this can lead to some confusion for aircraft owners with regard to who can reclaim Import VAT. This is because of the different interpretation applied by some VAT authorities.

Intra-community Supply – This refers to where an EU aircraft is supplied from one EU member state to another and the recipient business is VAT registered. This mechanism allows the supplier not to charge local VAT providing the recipient holds a valid VAT registration number. The recipient then has to account for VAT on both the sale and reclaim VAT as purchaser according to the local VAT reclaim rules. This process is sometimes referred to as a “reverse charge”. (See also below for reverse charge of services).

Place of Supply – The VAT rules used to determine where a transaction is considered to occur, which dictates which country’s VAT regulations will apply to the transaction.

Qualifying Aircraft – an aircraft used by an airline – or a qualifying AOC - operating for reward chiefly on international routes. This can often result in VAT exemptions for the supply of the aircraft but there are detailed rules that should be observed.

Use and Enjoyment – a VAT adjustment mechanism to allow for use of aircraft outside of the territory where VAT has been charged. For example if UK VAT is charged on a lease and the aircraft is then used out of the UK for 80% of the time then it is likely that a reduction of the VAT by around 80% is possible. The same is true in reverse, i.e. where no VAT is initially charged but the aircraft is used inside the EU or UK then VAT will be due on the UK/EU use.

VAT Reverse Charge – a mechanism for accounting for VAT on services from overseas suppliers. This operates to ensure that all services received into the VAT territory are liable to local VAT according to the normal rules.

VAT Paid Status – where the correct amount of VAT has been paid on an aircraft, for example either Import VAT on crossing into the VAT territory or VAT has been charged on a purchase inside the VAT territory.

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