

## The Malta Aircraft Registration Regime - A Favourable Aviation Base in the EU

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By **Jonathan Vassallo**, 22nd March 2021

### Background

Malta has implemented an aircraft registration regime, structured in a manner to accommodate efficient registration of smaller aircrafts, in particular business jets. The regime is governed by The Aircraft Registration Act Chapter 503 of the Laws of Malta which will serve as the framework for registration of aircrafts in Malta.

In recent years Malta has actively positioned itself as a favourable aviation base in the EU. It has attracted several international carriers to operate from Malta and more importantly, the successful establishment of aircraft maintenance facilities such as those of SR Technics and Lufthansa Technik.

The Aircraft Registration Act addresses several important issues such as different types of registrants, the concept of fractional ownership and the protection of creditors and special privileges which may exist on the aircraft. Aircraft registration is administered by the Authority for Transport in Malta.

### The Registration Process – Key Information

An aircraft may be registered by the owner, operator, or its buyer, under a conditional sale. Only qualified persons and entities are entitled to register an aircraft in Malta.

Qualified persons are citizens of the European Union, EEA or Switzerland and qualified entities are entities that should be beneficially owned at least to the extent of 50% by individuals who are citizens of the European Union, EEA, or Switzerland. Qualification for registration is more flexible when it comes to the registration of private jets.

An aircraft which is not used for 'air services' may be registered by any undertaking established in an OECD Member State. Registration caters for issues of confidentiality in the sense that it is possible for the aircraft to be registered by a trustee. Foreign undertakings registering an aircraft in Malta are obliged to appoint a Maltese resident agent.

Maltese registration allows the possibility for separate registration of the aircraft and its engines. An aircraft which is still under construction may also be registered in Malta. The notion of fractional ownership is fully recognised by Maltese law allowing the ownership of an aircraft to be split into one or more shares. Details recorded on the public register include the physical details of the aircraft, physical details of its engines, name and address of the registrant(s), details of any registered mortgage(s) and details on any irrevocable de-registration and export request authorisation.

## **Registering a Mortgage on an Aircraft**

Maltese law allows the aircraft to act as a security for a debt or other obligation.

A mortgage on an aircraft may be registered and as such all registered mortgages including any special privileges are not affected by the bankruptcy or insolvency of its owner. Furthermore, the law protects the judicial sale of the aircraft (instituted by the registered mortgage) from being interrupted by the administrator overseeing the bankruptcy proceedings of the owner. A mortgage may be transferred or amended according to the relevant preferences and circumstances of the creditor. Special privileges are granted in respect of certain judicial costs, fees owed to the Malta Transport Authority, wages payable to the aircraft's crew, debts owed in relation to the repair and preservation of the aircraft and, if applicable, to wages and expenses in relation to salvage. Interpretation of the provision of the governing legislation has been consolidated and facilitated by Malta's ratification of the Cape Town Convention.

## **Taxation of Aviation Activities in Malta**

The regime is supported by attractive fiscal incentives:

- Income derived by a person from ownership, operation of leasing of aircrafts is not taxable in Malta unless this is remitted to Malta.
- 0% withholding tax on outbound lease and interest payments made to non-resident persons.
- Beneficial depreciation period for wear and tear.
- The Fringe Benefits (Amendment) Rules 2010 – in some cases, entities may be exempt from fringe benefit taxation (for example, the private use of an aircraft by an individual who is not resident in Malta and who is an employee of an entity whose business activities include ownership, leasing or operation of aircraft or aircraft engines, used for international transport of passengers/goods, shall not be considered as a fringe benefit, and is therefore, not taxable as a fringe benefit).

## **The Malta Highly Qualified Persons Programme and the Aviation Sector**

The Highly Qualified Persons Programme is directed towards professional individuals earning over €86,938 per annum, employed in Malta on a contractual basis within the aviation sector.

This scheme is open to EU nationals for five years, and to non-EU nationals for four years.

## **Tax Advantages Available to Individuals – Highly Qualified Persons Programme**

- Income tax is set at a flat rate of 15% for qualifying individuals (instead of paying income tax on an ascending scale with a current maximum top rate of 35%).
- No tax is payable on income earned over €5,000,000 relating to an employment contract for any one individual.

## How can Dixcart help?

Through our team of experienced professionals, Dixcart Management Malta Limited will assist you in all aspects of registering your aircraft in Malta. Services range from incorporation of the entity owning the aircraft in Malta and full corporate and tax compliance, to the registration of the aircraft under the Maltese Registry, whilst ensuring full compliance with Maltese Aviation legislation.

## Additional Information

If you would like further information regarding Aircraft Registration in Malta, please speak to [Jonathan Vassallo \(advice.malta@dixcart.com\)](mailto:advice.malta@dixcart.com) at the Dixcart office in Malta or your usual Dixcart contact.