

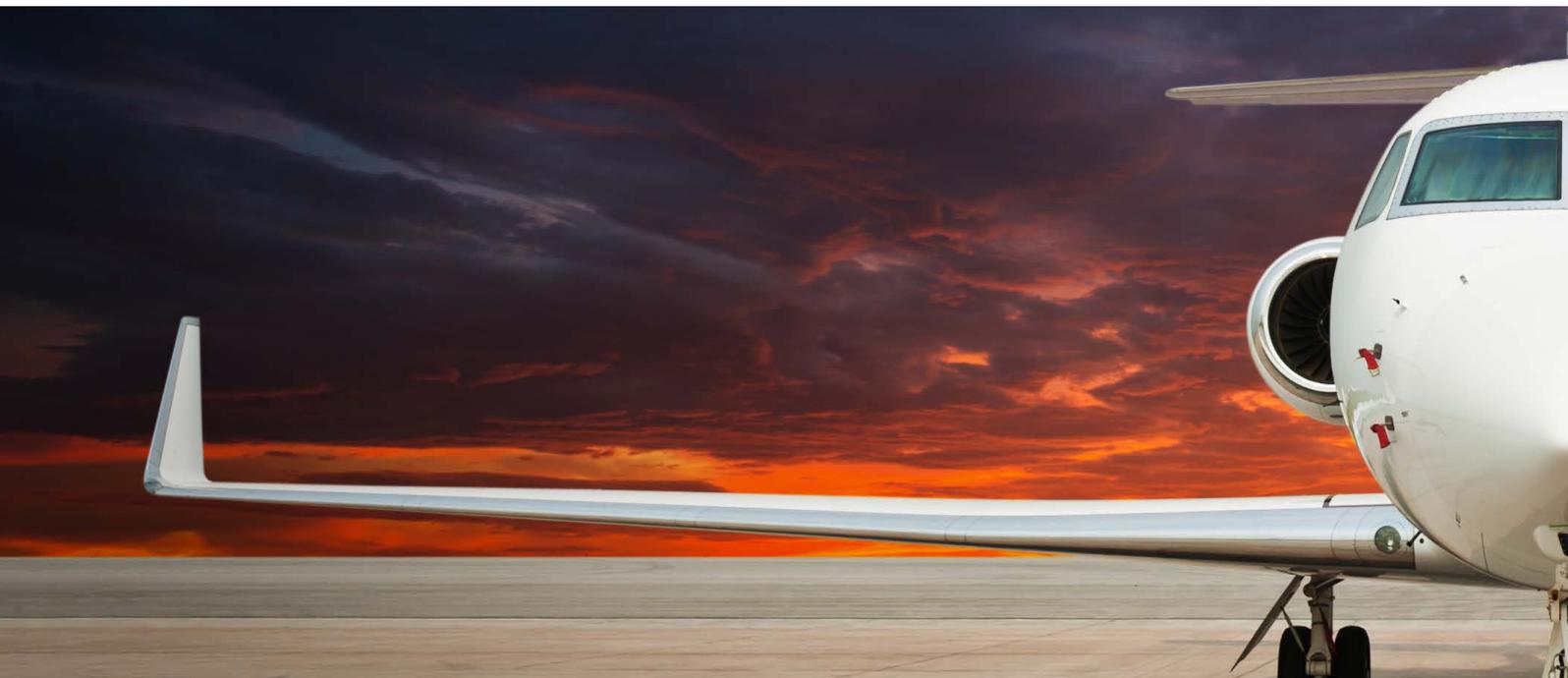


The aviation industry in Malta is growing in a stable manner, having a reliable legal backbone to sustain it. Malta was the first EU country to implement Cape Town, and has succeeded to introduce this in a straight forward easily accessible manner. It has a very attractive tax programme for owners, lessors and lessee who wish to operate the aircraft whether in Europe or outside.

ELIGIBILITY TO REGISTER AN AIRCRAFT

In order to register a commercial aircraft in Malta one has to be an individual who is a citizen of Malta or a citizen of the EU, EEA or Switzerland. A company, or other undertaking registered under the laws of Malta, an EU member state, the EEA or Switzerland may also register a commercial aircraft. It is important to also have a registered office and place of business within the said jurisdiction. Eligibility must be studied on a case-by-case basis in order to establish the best structure.

There is also the possibility to register the Aircraft as Private owner. This allows for a more flexible and wider spectrum of persons who can register an aircraft on the Maltese register. All persons, whether natural or legal, who are eligible to register a commercial aircraft are also eligible to register a private aircraft, together with any natural person or undertaking established in a member country of the OECD and any other country considered and approved by Malta. There are some further requirements in this regard which would include having the legal capacity to own and/or operate an aircraft in terms of law, the appointment of a local resident agent, and compliance with guidelines and regulations.



Malta's list of approved jurisdictions:

Albania	Algeria	Aruba	Bahamas	Bahrain
Barbados	Bosnia and Herzegovina	Brazil Bermuda	British Virgin Islands	Cayman Islands
China	Croatia	Egypt	Georgia	Gibraltar
Honduras	India	Indonesia	Iraq	Isle of Man
Kosovo	Jersey	Jordan	Kazakhstan	Kuwait
Lebanon	Macedonia	Malaysia	Marshall Islands	Monaco
Montenegro	Morocco	Oman	Panama	Philippines
Qatar	Russia	Saint Lucia	San Marino	St. Kitts and Nevis
St. Vincent and Grenadines	Saudi Arabia	Serbia	Singapore	South Africa
Syria	Tunisia	Ukraine	United Arab Emirates	

RESIDENT AGENTS

An international registrant must appoint a resident agent who is habitually resident in Malta, which agent is to act on his/her behalf and as a channel of communication between the Director General and the international registrant. The resident agent may also sign and file with the Director General all declarations and forms as required under Maltese Law. The resident Agent of the international registrant may also appear on behalf of the international registrant during judicial proceedings.



AIRCRAFT OPERATORS

The EU-OPS and JAR-OPS are applicable in Malta. In order to obtain an AOC a thorough check with regards to the applicant's business plan and operations plan must be carried out. The Chicago convention is also applicable in this case thus a Malta AOC holder is in line and compliant with international requirements and standards.

The method of obtaining an AOC licence is sectioned in 5 phases which include: the pre-application phase; the formal application phase; the document evaluation phase; the inspection and demonstration phase; and the certification phase. Any application must be submitted at least 90 days before the intended date of operation. The Operations Manual may be submitted up to 60 days before intended date of operation.

An aircraft operator licence must also be issued in order to fly and operate the aircraft accordingly. Aircraft operator licences are only issued to recognized AOC holders.

TAX PERSPECTIVE

Maltese companies are charged a 35% flat rate tax on all profits of the company, however Malta has a full imputation system of taxation and any income tax paid by the company is credited in full to the shareholder upon distribution of dividends.



In case of non-Maltese resident shareholders Malta also offers a 6/7th refund of the total tax paid. This refund does not constitute Maltese taxable income in the hands of the shareholder. Malta also has a vast regime of double taxation relief treaties, including double and unilateral taxation relief. This makes a properly studied on a case-by-case basis structure interesting to consider.

For companies incorporated outside of Malta, taxation will apply on income arising in Malta and income arising outside of Malta but remitted to Malta. Capital gains shall not be applicable. The source rules ensures that owners or operators of aircraft who are non-resident will not be taxed in Malta when any payments are made to such persons.

Malta's Source Rule

Another interesting measure applicable to the Maltese aviation industry is that income from ownership, leasing or operation of an aircraft or an aircraft engine, engaged in the international transport of passenger or goods, is deemed to arise outside of Malta. This rule applies irrespective of the country of registration, or whether the aircraft has called at or is operated from, a Maltese airport. Therefore income which does not arise in Malta is not taxable in Malta.

Private Aircraft

No income tax requirements are generated for the use of private aircraft which does not give rise to any profit or income. Taxes may be due relevant to any sales or purchases but limited to any vendor in Malta carrying out such sale as a trade, or in case of foreign vendors if such vendor is trading in such business in Malta.



Finance Leasing

If the Malta company is a lessee, there are several tax benefits which are applicable such as allowable deductions for the finance charges; maintenance; repairs; and insurance. There are also applicable capital allowances in respect of the aircraft if the aircraft is purchased by the lessee at the end of the lease and such purchase does not fall within the trading realm of lessor.

For the lessor such sale shall be deemed to be of a capital nature, and no tax shall be payable thereon. While the lessor is taxable on full amount of lease income, he/she can claim tax on depreciation on wear and tear, unless the lessee retains the right for depreciation tax claims on wear and tear. The lease payments are also fully deductible.

Malta offers excellent timings for wear and tear deductions which are claimable for machinery over a period of 6 years for aircraft frame: engines; and engine or airframe overhaul. An excellent 4-year base is applicable for aircraft interiors and other parts. There are other fringe benefits and tax credits which can be applicable on a case to case basis.

VAT

The intra-community acquisition, importation or supply of aircraft destined for use by an airline operator for reward, within the international transport of passengers or goods is considered to be exempt with credit supply. This also includes activities such as supplies of equipment to constructors; owners or operators of such aircraft or modification maintenance; chartering; and hiring of such aircraft.



The VAT applicable to both private and commercial aircraft operations is due exclusively on the amount of time the aircraft spends within the EU airspace. This applies to all aircraft, other than those used by airline operators in international traffic, since in this case, an exemption would apply.

The calculation on this is carried out by a technical test whereby factors such as: aircraft type; MTOM; maximum fuel capacity; optimum altitude; optimum cruising speed, fuel burn/hour are assessed. The effective VAT rate applicable to a non-qualifying aircraft flying within the EU airspace can reach a minimum of 5.4%. The standard VAT rate in Malta is of 18%.

The eligibility and calculations must be studied on a case-by-case basis. However, this is an excellent way to reduce tax while availing oneself from an EU jurisdictions.

HIGHLY QUALIFIED PERSONS

Malta's tax residence scheme applicable to highly qualified persons is also applicable to the aviation industry, whereby posts such as Chief Executive Officer, Chief Operations Officer, Chief Financial Officer, Accountable Managers, Inspectors, Aviation Training Managers, Flight Operations Inspectors, and they can avail themselves from a reduced tax rate of 15% for income arising from their employment.



This allows industry professionals who are required for the proper operation and establishment in Malta to operate within the industry to benefit as employees based in Malta. The eligibility, duration and conditions must be studied on a case-by-case basis. Some lease timeframes also may apply.

COSTS

Malta is a very competitive jurisdiction costwise as fees due for licencing; certificate; registrations; or testing are very low compared to other EU jurisdictions. While rates vary according to the aircraft, the increase is directly proportional to the MTOM. All fees applicable to any particular requirement may be calculated upon request. Malta also offers very competitive pricing with regards to human resource and maintenance costs for aircraft. Nexia BT team of professionals can also assist you with any further certification licences such as for CAMO or CATO.

WHY NEXIA BT?

Nexia BT provides a wide range of services ranging from basic company incorporation and compliance, to specialised advisory services, audit, tax and accounting, for particular sectors such as: financial services; international trade; remote gaming; investment funds; shipping and aviation. We offer international support including back office operations and advisory services, in a responsive, proficient and professional manner.

Nexia BT can provide assistance to a portfolio of services in connection with the aviation industry including: tax structuring; incorporation of the appropriate corporate structures; and liaison with legal and operations experts for the registration of aircraft and aircraft mortgages, co-ordination of aircraft financing transactions and administration; and acting as the resident agent in Malta on behalf of aircraft owners and operators.

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