

## **Guidelines Regarding VAT Treatment of Aircraft Leasing Issued by the VAT Department**

On 26 October 2012, the VAT Department issued guidelines regarding the VAT treatment of aircraft leasing. By virtue of these guidelines, the VAT Department aims to clarify the determination of the time period during which the aircraft is used within the EU airspace, a fundamental yet difficult issue to determine when assessing the taxable value of the supply for VAT purposes.

The lease of an aircraft is a taxable supply of a service with the right of deduction of input VAT by the lessor (where applicable) in proportion to its use within the airspace of the EU. The VAT rate of 18% is levied on the deemed percentage of the lease relating to the period of time the aircraft is used within the airspace of the EU, which is calculated in accordance with a new formula based on an expert technical study and issued by virtue of the guidelines. In accordance with this formula, the percentage of use within the EU airspace is determined by reference to various criteria, such as the aircraft type, the maximum aircraft take-off mass (in kg), the maximum fuel capacity (in kg), the fuel burn, optimum altitude and optimum cruising speed.

However, the guidelines specify that for this VAT treatment to be applicable, the following conditions must be satisfied:

- (i) The leasing agreement shall be between a lessor and lessee who are both established in Malta and who must not be eligible to claim input VAT;
- (ii) The lease period must not exceed a period of 60 months and the lease instalments must be paid monthly;
- (iii) The Director General (VAT) may require the lessor to submit details regarding the use of the aircraft;
- (iv) Prior approval must be obtained from the VAT Department. Each application will be considered on its own merits. The Director General (VAT) may impose other conditions which he may deem appropriate.

If at the end of the lease period the lessee exercises the option to purchase the aircraft (in accordance with a purchase option), a VAT paid certificate will be issued provided that all the VAT due has been fully paid.

For further information, please contact us or alternatively you can refer to the guidelines: [http://www.vat.gov.mt/docs/GUIDELINES Aircraft Leasing 221012.pdf](http://www.vat.gov.mt/docs/GUIDELINES_Aircraft_Leasing_221012.pdf)