

TAX update

03/15

CYPRUS AIRCRAFT LEASING
VAT SCHEME



KINANIS

A. INTRODUCTION

Following the successful implementation of the Yacht Leasing Scheme, the Cyprus VAT Department has recently introduced an Aircraft Leasing VAT Scheme.

Similar to the Yacht Leasing scheme, this new incentive refers to individuals who would like to buy a pleasure aircraft for flying within EU airspace and its aim is the reduction in the VAT rate which can be as low as 4.37% instead of 19%. This reduced effective vat rate is calculated as a percentage of the time that the aircraft is deemed to fly within EU airspace.

B. INTERPRETATION OF TERMS

According to the guidelines, aircraft leasing is an agreement whereby the lessor, (the owner of the aircraft), contracts the use of the aircraft to a lessee, (the person who leases the aircraft), for a consideration.

Such a lease agreement may also give the lessee the option to purchase the aircraft at the end of the lease period for a separate and additional consideration. When such option is exercised, a VAT paid certificate will be issued provided that all the VAT due has been fully paid.

C. CALCULATING THE USE OF THE AIRCRAFT WITHIN THE EU AIRSPACE

Since it is practically impossible to establish the period that an aircraft is used within the EU's airspace, the VAT Department has determined that the percentage of the lease taking place in the EU's airspace will depend:

- upon the type of aircraft involved e.g. Piston, Turbo, Jet and
- upon the maximum take-off weight

The following table determine the percentage of lease which is subject to VAT as well as the effective VAT rates for each type of aircraft:-

TYPE	WEIGHT (MAX TAKE OFF)	PERCENTAGE (%) OF USE WITHIN EU	EFFECTIVE VAT RATE%
PISTON	LARGE: OVER 15.00IKG	40%	8,27
	MEDIUM: 5.70IKG - 15.000KG	60%	12,16
	SMALL: 3.00I-5.700 KG	80%	16,06
	LIGHT: 1KG - 3.000 KG	100%	19,00
TURBO	LARGE: OVER 15.00IKG	25%	5,34
	MEDIUM: 5.70IKG - 15.000KG	35%	7,29
	SMALL: 3.00I-5.700 KG	45%	9,24
	LIGHT: 1KG - 3.000 KG	55%	11,19
JET	LARGE: OVER 15.00IKG	20%	4,37
	MEDIUM: 5.70IKG - 15.000KG	30%	6,32
	SMALL: 3.00I-5.700 KG	40%	8,27
	LIGHT: 1KG - 3.000 KG	50%	10,21

It must be noted that, the above VAT treatment does not apply to aircrafts used by airline operators in international traffic and in cases the lessee has the right to deduct input VAT.

D. QUALIFYING CRITERIA

In order for the lease to benefit from this reduced VAT level, the following conditions are applicable:

- Leasing agreement shall be between a lessor and a lessee who are both established in Cyprus (i.e. Cyprus Companies); It should be noted that the following leases also qualify:
 - Leases assigned from another EU Lessor company to a Cyprus one which will be acting as the lessor for an aircraft being leased to a Cyprus lessee and
 - leases where the Cyprus company acts as a sublessor of an aircraft being leased to a lessee established in Cyprus
- The lessor must be registered for VAT purposes with the Cyprus VAT Department;
- The lessee would not be eligible to claim input VAT (i.e. the lessee should not use the aircraft for business purposes but for pleasure);
- The aircraft should fly in Cyprus within 2 months from the date the lease-sale agreement of the aircraft becomes effective. An extension to this deadline can only be given by the Cyprus VAT Department.
- The lessee should initially pay the lessor at least the 40% of the value of the aircraft;
- The lease agreement period should not be less than 3 months (91 days) and not more than 60 months;
- The lease agreement should result in profit for the lessor amounting at least to 5% of the aircraft's original value (50% of that profit to be included in the monthly instalments and the remaining 50% with the final instalment).

Example

	€
Original Value of the aircraft	15.000.000
Required Profit on instalments - 2.5%	375.000
Total Value including 2.5% of the profit	15.375.000
Less Down payment - 40% of the original cost	6.000.000
Due in Instalments (Up to 60 months)	9.375.000
Residual Value 2.5% of the original value to be paid along with the final instalment	375.000
Total amount including 5% of the profit	15.750.000

- Lease instalments shall be paid every month;
- VAT shall be paid on a quarterly basis; and
- Prior approval must be sought in writing from the VAT Department and each case is considered on its own merits.

E. CONCLUSION

The VAT scheme on aircraft leasing is expected to have a positive response as it reduces the VAT liability significantly in accordance with the deemed usage of the aircraft within the European Union airspace. Coupled with the reduced corporate tax of Cyprus, the Cyprus aircraft leasing scheme aims to render Cyprus as one of the top jurisdictions for aircraft leasing.

F. HOW KINANIS LLC CAN ASSIST

Kinanis LLC will be in a position to offer a one-stop-shop solution and can provide you with the following services:

- Incorporating and administrating of the Cyprus lessor and lessee companies which will acquire and lease the aircraft respectively;
- Drafting the relevant lease agreement;
- Calculating of the percentage of the deemed usage of the aircraft within the EU airspace that will determine the applicable VAT saved a priori;
- Preliminary Tax advice;
- Completing and submitting of the relevant application with the VAT Authorities along with the necessary documentation;
- Completing and submitting the subsequent VAT Reporting;
- Arranging for the relevant VAT payments;
- Communicating with the VAT Department for any further requirements it may have;
- Annual Accounts and Audit.

G. DISCLAIMER

This publication has been prepared as a general guide and for information purposes only. It is not a substitution for professional advice. One must not rely on it without receiving independent advice based on the particular facts of his/her own case. No responsibility can be accepted by the authors or the publishers for any loss occasioned by acting or refraining from acting on the basis of this publication.

March 2015

Our Firm

Kinanis LLC, a law and consulting firm, is one of the leading and largest business law firms in Cyprus and advises for over 30 years the international investor and private clients on all aspects of law, tax and accounting.

Kinanis LLC absorbed the business of its shareholders which are in the legal and consulting profession since 1983, with local and international dimensions.

Experience and practice over the years brought forward the need for transformation from a traditional law firm to a more innovative multidisciplinary firm providing a full range of services combining law and accounting with the extensive expertise in corporate and tax advice to ensure that our clients will obtain the best possible spherical advice adopting the principle as to the services offered "All in one place", so that the client will find a quick, correct and efficient solution to its daily legal, accounting and tax issues in a trustworthy environment.

This combination of legal, accounting and tax services through our well qualified personnel and our involvement and participation in international transactions over the years, have established our firm as one of the key players in the field. Our involvement in international financial transactions has also provided us with the extensive expertise in representing groups, corporations, funds as well as the private client.

The firm is staffed with around 80 young, energetic and ambitious professionals, including lawyers, accountants and administrators who provide prompt, efficient and high quality services and who are capable of meeting the current demanding challenges of the local and international business environment.

We always look to give solutions in a simple and as possible quick way focusing on the needs of each client trying to anticipate the issues before becoming a problem.

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