

A GLOSSARY OF CUSTOMS & VAT TERMINOLOGY

for Business Aviation



MARTYN FIDDLER AVIATION

A glossary of VAT and Customs terms used in business aviation:

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) – This relief allows aircraft that have previously been imported into the relevant Customs territory, for example the UK or the EU, to return without the requirement for a fresh import each time. There are various conditions that apply to the use of this relief including the requirement for the person/entity returning the aircraft to the territory being the same as the person who 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 – as aircraft can travel under their own steam, any movement out of the Customs territory (UK or EU) is treated as a “deemed” export even when a formal export is not declared via the Customs systems. Aircraft removed by either deemed or formal export can return under the Returned Goods relief rules without further payment of tax, subject to certain conditions.

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 for determining where a transaction is treated as having taken place, and consequently which country’s VAT rules apply.

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.

Contact Martyn Fiddler Tax

If you would like to understand in more detail or have any particular concerns please feel free to get in touch with our tax team.



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