

MARTYN FIDDLER AVIATION: BE PREPARED FOR 31st Dec 2020



September 2020

In less than 4 months' time the UK will leave the European Union (31 December 2020). At the time of writing there is no agreement in place to determine what the status of goods (including business aircraft) imported into the EU (including the UK and Isle of Man) before 31 December 2020 will be. This may result in:

- **Grandfathering:** anything imported prior to Brexit will retain its free circulation status after Brexit (in both the EU and the UK)
- **Need to re-import:** the EU and UK consider any import void if it was imported through the other jurisdiction (i.e. if imported through the UK the import is no longer valid in the EU and vice versa)
- **Temporary Admission:** UK, Isle of Man and Channel Islands registered aircraft which were previously unable to use TA are now able to use this option when operating between points in the EU

It is becoming increasingly clear that neither the UK nor EU Parliaments will provide clarity on the big issues (e.g. borders and migration) until much closer to decision day. Therefore, it is highly unlikely that discreet issues, such as aircraft customs and importation status, will be considered or contemplated in any detail (if at all). In consequence we are left needing to take all eventualities into consideration and plan for both a 'hard' and 'soft' Brexit. To do this we must ask the following question:

Will my current import be honoured in the new customs zones created by Brexit?

We need to understand whether an existing imported aircraft may fly into the new VAT area/ areas without the need to re-import the aircraft into either the UK and/or the EU. If the existing import will be honoured by both jurisdictions this is known as "grandfathering". Whether or not "grandfathering" rights will be granted will have a significant impact on what action will need to be taken.

If grandfathering rights are granted then, if your aircraft is currently imported into the UK, Isle of Man or EU, it will not need to be re-imported. You will be able to continue your ownership/operation as before without taking any action.

What happens if grandfathering isn't granted?

In the simplest terms, some sort of re-importation or customs procedure will need to be applied to your aircraft to re-import it into one of the two new VAT areas. Depending on usage and operations of the aircraft this could be resolved by:

- Permanent importation into the new customs area; or
- Temporary Admission of the aircraft into the new customs area

Re-importation with Martyn Fiddler Aviation does not require two parallel corporate structures to satisfy the VAT requirements of both the UK and Isle of Man and the EU; we are unique in this respect.

Business aircraft may be imported into each jurisdictions (UK and IOM and the EU) without the need for multiple corporate structures or any need to change your current ownership or registration of the aircraft.

One of the following solutions may be suited to your circumstances:

- **One-off permanent importation into the EU:** it is possible to import an aircraft into the EU without an EU corporate structure if the aircraft is used predominantly for business purposes. This importation can be arranged in the Netherlands and there is only one processing cost; no ongoing corporate structure is required. If you are currently imported through an Isle of Man VAT registered company this solution may be well suited to allow for seamless operations.
- **Permanent importation using an Irish corporate solution:** under the correct circumstances an Irish corporate aircraft owner may register for VAT and import the aircraft to provide an ongoing corporate VAT solution. This may be well suited to the use and operation of the aircraft within the EU and coupled with Temporary Admission for flights into the UK.
- **Permanent importation using an Isle of Man corporate solution:** under the correct circumstances an Isle of Man corporate aircraft owner may register for VAT and import the aircraft to provide an ongoing corporate VAT solution. This may be well suited to the use and operation of the aircraft in the UK and coupled with either temporary admission or a one-off permanent import for flights into the EU.
- **Temporary Admission into the UK or EU:** if you have no legal or domicile footprint in the new customs area and only fly on an occasional basis Temporary Admission may be ideal.

Take tax advice as early as possible

We strongly recommend seeking advice from your advisory team as soon as possible to anticipate your aircraft options. Martyn Fiddler Aviation have significant and in-depth experience handling all forms of Temporary Admission and full importation across the EU and highly recommend you consider the options early so you can make a better informed decision when (or if) the EU and the UK reach a final agreement.

Martyn Fiddler Tax can work with your in-house teams with specialist tax advice to support the decision making process. This can include a review of the various options that may be available to you based on use, operations and locations of the aircraft.

We would be happy to discuss with you any concerns you may have regarding Brexit and the impact it could have on your future use of the aircraft within the EU without any obligation or cost.

We look forward to hearing from you.