

# A GLOSSARY OF CUSTOMS & VAT TERMINOLOGY

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for Business Aviation



MARTYN FIDDLER AVIATION

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

We are all aware of the complexity around Customs and VAT 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 EU and the UK.

## Customs terms

**Customs duty** - duties applied when aircraft cross the border into a Customs territory. This includes import VAT and import duty which are both treated as duties of Customs because they are managed by Customs officers rather than by VAT inspectors. Under normal circumstances import duty does not apply to civilian aircraft, but import VAT may apply.

### **Customs territory/VAT territory (UK & EU) –**

- The UK VAT and Customs territory (from 1 January 2021) consists of mainland UK and the Isle of Man with special arrangements in place 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. Monaco is only treated as part of the EU Customs and VAT territories by virtue of its relationship with France and San Marino has a Customs union agreement with the EU but is not part of the EU Customs territory.
- Please note that the Channel Islands are no longer part of a joined Customs territory with the UK or the EU.

**Customs warehouse** – a Customs warehouse (CW) is a Customs special procedure which can cover goods stored in a warehouse location. Use of this procedure allows non imported goods, including aircraft, to arrive in a country without having to be imported and paying Customs duties including import VAT. Use of this procedure is only for non-free circulation aircraft and there is a restriction on what works (for example maintenance) can be completed to an aircraft under CW; it is primarily a regime for storing goods pending sale. The CW procedure is put in place under an authorisation granted to the warehouse holder. The UK, and some EU member states, permit aircraft to be sold inside a CW without charging VAT.

**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, as it is now known in the UK post Brexit.

**EU member states** – there are 27 EU member states after 1 January 2021. The EU does not include the Channel Islands (Guernsey and Jersey), Greenland, Iceland, Norway, San Marino, Switzerland and the UK & Isle of Man.

**Free circulation status** – goods, including aircraft, that have either been formally imported into the Customs territory or have been manufactured and sold inside that territory. Please note that free circulation status is not permanent and can be lost in certain circumstances. Free circulation is lost on every departure – but RGR is not, so free circulation can be recovered on aircraft's return without further taxes becoming due.

**Inward processing** – Inward processing (IP) is another Customs special procedure similar to the Customs warehouse regime, but IP is a relief specifically designed for non-imported goods, including aircraft, to be brought into a territory to have planned repair or maintenance works carried out. 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. The UK and some EU member states permit aircraft to be sold within IP without charging VAT.

**Onward supply relief** – 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. only VAT is 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.

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**Returned goods relief** – under certain conditions, aircraft that are in EU or in UK free circulation can leave and return under the Returned Goods Relief (RGR) regime without being required to re-import. Failure to meet these conditions may require the aircraft to be re-imported and any tax due brought to account. There has been considerable discussion about the degree to which RGR can be used for aircraft that were imported before 1 January 2021 (pre-Brexit) to return to the EU or the UK after 1 January 2021 (post Brexit). Please note that this is a particularly complicated issue currently and you should always seek specialist advice.

**Temporary admission** – Temporary Admission (TA) is a globally recognised principle that allows non-locally registered and used aircraft to travel to a Customs territory (the EU or the UK for example) for private pleasure or private business purposes without needing to be imported. TA is free and automatically granted so long as the aircraft and its use meet the TA requirements. There are various restrictions on aircraft 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

**8th and 13th Directive reclaims** – these directives provide a way of reclaiming VAT incurred inside a VAT territory by non-established taxable businesses. We would generally not recommend using these directives to reclaim import VAT on aircraft due to the length of time involved in clearing reclaims and the likelihood of challenge by the local tax authority to large reclaims. The UK now has an equivalent process for reclaims from entities that are not established in the UK.

**Deemed export and actual export** – as aircraft can travel under their own power, any movement out of the VAT and Customs territory (EU or UK) is 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 (RGR) rules without further payment of tax, subject to certain conditions.

**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, (This is known in the UK as “VAT zero-rated” to reflect the fact that the VAT due is at 0% but related VAT costs can be reclaimed subject to the UK VAT rules.)
- and “exempt” where there is no right to reclaim VAT costs, for example the provision of health-care or insurance.

**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/domestic tax inspectors. This can lead to some confusion for aircraft owners regarding some of the principles of VAT reclaims between the Customs and VAT teams.

**Intra-community supply** – this is where an EU aircraft is supplied from one VAT registered entity in an EU member state to a VAT registered entity in another EU member state. This mechanism allows the supplier not to charge VAT providing the recipient holds a valid VAT registration number. The recipient then has to account for the VAT on the sale via their VAT return, as if they are the seller, and then reclaim according to the local 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 or EU member state'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.

**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 on a purchase inside the VAT territory.

**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 have VAT charged and accounted for VAT at the rate applicable in the country of receipt.

**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 EU/UK use.

## Contact our tax team

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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