



Aviation finance and, in particular aircraft leasing and aircraft lessor securitisation, is experiencing a boom on a global scale. These transactions provide the opportunity to employ innovative mechanisms for financings of all kinds.

Bermuda is currently enjoying a resurgence in this arena and playing an active role in these types of transactions. By using a Bermuda special purpose vehicle (**SPV**) funding and leasing arrangements may provide certain tax, regulatory and capital restriction relief.

Introduction of the SPV into the structure depends upon financing and leasing regulations in the jurisdictions of the participant airlines, lessors or sub-lessors. The SPV's role in each structure is tailored to fit the particular transaction.

There are numerous benefits in establishing the SPV in Bermuda. Bermuda is a tax neutral jurisdiction (meaning there are no additional taxes in Bermuda that will affect or be harmful to the transaction) with appropriate, but not overly burdensome, regulation. The legal framework of Bermuda is based on common law principles with English common law being persuasive authority. In addition, Bermuda is a British Overseas Territory and has a stable political system. In some cases an airline is based in a country without a similar stable political and legal system and, as such, it is beneficial to the structure to establish the SPV in Bermuda.

In the typical financing structure, a Bermuda SPV is formed to act as owner and lessor or as lessee and sub-lessor of the aircraft. The location of the company in a tax neutral and flexible jurisdiction may offer certain protections against the bankruptcy of other involved parties and facilitates innovative and cost-effective methods of asset finance, often utilising cross-back tax benefits.

## AIRCRAFT REGISTRATION

The use of a Bermuda SPV also enables the aircraft to be registered on the Bermuda Register of Aircraft. Furthermore, its use in the structure is dependent upon the financing, legal and regulatory requirements in the home jurisdiction of the airline and as such, each transaction will be structured differently. Nonetheless, Bermuda offers the aircraft industry a commercially flexible approach with considerable expertise.

The policy of the Bermuda Department of Civil Aviation (**DCA**) is to avoid the Bermuda Register of Civil Aircraft being used as a *flag of convenience* and, therefore, applications are carefully scrutinised. The DCA require an application for registration of an aircraft in the private category to be accompanied by certain documentation including:

1. Copies of certain corporate documents and records showing capacity and authority to own or lease the aircraft;
2. Evidence as to ownership of the aircraft;

3. A statement attesting that the aircraft is not on a similar register of any other state or territory and confirmation of deletion of the aircraft from its previous registry by direct communications from the country or state of such registry;
4. Statements in relation to the ongoing management and maintenance of the aircraft;
5. Export Certificate of Airworthiness covering the export of the aircraft to Bermuda;
6. Evidence that the aircraft is adequately insured; and
7. Documents relating to the application for an aircraft radio licence.

It should be noted that registration in any other category will require the submission of additional documentation.

Details as to the aircraft radio licence and airworthiness requirement are available on request. It should be noted that there are requirements as to the expertise and approved licence rating of the crew and pilot of the aircraft.

Please note that in respect of the technical side of the aircraft registration the DCA will liaise directly with the operator/management company in order to get all the technical registration specifications, including registering the aircraft crew. Once all details regarding the model of the aircraft and whether it is a new or second-hand aircraft is known, the method of inspection and level of fees will be known.

Please feel free to contact the following BeesMont Law attorneys to discuss your structure and registration needs:

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At BeesMont Law we strive to provide the highest standard of legal service for our clients through our responsive, thorough and innovative approach. We have a friendly and dynamic team who are approachable and sensitive to the commercial and practical needs of our clients, for whom we seek to provide tailored solutions.

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