

TAXATION

VAT IS IN THE AIR



By Panayiotis Panayi,
Senior VAT Consultant, Chelco VAT Ltd

Following in the footsteps of the VAT Yacht Leasing Scheme (VYLS), in 2015 the Tax Department introduced a similar scheme for private aircraft, the VAT Aircraft Leasing Scheme (VALS).

With plans to establish Cyprus as an aviation hub by utilising the old Lar-

naca airport and improving existing airport facilities, the VALS seemed ideal and although it did not materialise to the intended level, the VALS was introduced via Circular 190 on 24 March 2015 and is available to High Net Worth Individuals who would like to acquire a private aircraft for private or executive use at a reduced VAT rate. The scheme follows the same principles as the VYLS and is based on the

place of supply rules as per article 56 of the EU VAT Directive and the use and enjoyment provisions of article 59a(a) as applied through the Cyprus VAT Laws. Similar to the VYLS, the Tax Department introduced the following fixed rates based on the maximum takeoff weight and the type of engine that powers the private aircraft in order to avoid the arduous task of presenting travel logs as proof of usage.

TABLE A: PISTON ENGINES

Takeoff weight	Deemed % use within EU	Applicable VAT rate on the lease payment
Light: 1kg - 3,000kg	100%	19%
Small: 3,001kg - 5,700kg	80%	15.2% (80% x 19%)
Medium: 5,7001kg - 15,000kg	60%	11.4% (60% x 19%)
Large: Over 15,001kg	40%	7.6% (40% x 19%)

TABLE B: TURBO ENGINES

Takeoff weight	Deemed % use within EU	Applicable VAT rate on the lease payment
Light: 1kg - 3,000kg	55%	10.45% (55% x 19%)
Small: 3,001kg - 5,700kg	45%	8.55% (45% x 19%)
Medium: 5,7001kg - 15,000kg	35%	6.65% (35% x 19%)
Large: Over 15,001kg	25%	4.75% (25% x 19%)

TABLE C: JET ENGINES

Takeoff weight	Deemed % use within EU	Applicable VAT rate on the lease payment
Light: 1kg - 3,000kg	50%	9.5% (50% x 19%)
Small: 3,001kg - 5,700kg	40%	7.6% (40% x 19%)
Medium: 5,7001kg - 15,000kg	30%	5.7% (30% x 19%)
Large: Over 15,001kg	20%	3.8% (20% x 19%)

So, what are the conditions of the VALS and how does it work?

CONDITIONS:

- The lessor must be a Cyprus resident and VAT registered company. The lessee may be any legal or physical person established or having their permanent address in Cyprus and not engaged in any economic activity.
- The aircraft is required to fly to Cyprus within two months from the time the lease agreement is put in effect.
- The value of the aircraft will need to be ascertained either via the purchase documentation (usually applicable for new aircraft) or an independent valuation (usually applicable for the purchase of used aircraft) as may be required by the VAT Department.
- The maximum takeoff weight and engine type are determined as per the constructor's certificate.
- The lessee needs to contribute a minimum initial contribution of 40% of the aircraft value. This is subject to VAT at the reduced effective rate based on the aircraft specifications.
- Lease payments will be monthly and the agreement can neither be shorter than 3 months (91 days, to meet the long term leasing definition) nor longer than 60 months.
- Over the length of the leasing agreement the lessor must have a profit of no less than 5% of the aircraft value. This means that the total value of the lease agreement should represent the purchase value of the aircraft plus an additional minimum 5% margin. Half of that margin, that is 2.5% of the aircraft value, is applied over the lease payments and the other half over the last payment.
- The final payment under the option to purchase the aircraft by the lessee, cannot be less than 2.5% of the aircraft value. This final payment is always subject to the standard VAT rate (i.e. 19% as of 13/01/2014).
- To apply the VALS, prior application and written approval from the Commissioner of Taxation is required. Together with the application, the following certificates must also be submitted:

- Noise certificate
- Type certificate
- Certificate of airworthiness
- Airworthiness review certificate

The aircraft is not required to be registered in Cyprus. In fact, it may be registered on the register of any national aviation authority anywhere in the world. Upon completion of the VALS, a VAT paid certificate will be issued to the lessee if they have exercised the option to purchase. Also, the Cyprus Customs Department will issue a T2L certificate upon settlement of the 40% initial contribution required under the VALS scheme. Taking advantage of the favourable VAT regime under VALS in Cyprus means that the effective VAT rate on the purchase of a private aircraft could be reduced to as low as 4.4% based on the characteristics of the aircraft. ²⁶

EXAMPLE

Dassault Falcon X jet with takeoff weight of 30,000kg and a value of €20,000,000. Using the VALS leads to VAT savings of €2,926,000!

Net Amounts Involved:

Calculations	€
Aircraft value [(A)]	20,000,000
2,5% required profit [(B)=(A) x 2,5%]	500,000
Total value incl. 2,5% expected profit [(C)=(A)+(B)]	25,000,000
Initial contribution by lessee 40% [(D)=(A)*40%]	8,000,000
Total lease instalments [(E)=(C)-(D)]	12,500,000
Monthly lease payments [(F)=(E)/48]	1,416,667 per month
Final payment [(G)=(A) x 2,5%]	500,000

Tax amounts involved over the lease period:

VAT amounts	Effective VAT Rate	VAT Amount (€)
Initial contribution (8,000,000)	3.8%	304,000
12 Lease payments (12 x (F)=12.500.000)	3.8%	475,000
Final payment ((G) 500,000)	19%	95,000
Total VAT paid under VALS		874,000
Effective VAT rate (874,000/20,000,00)	4,4%	