

Aircraft Leasing in Ireland



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Ireland is a favourable jurisdiction for Aviation leasing, with 14 of the world's 15 largest operators headquartered in Ireland. The Government is committed to continuing its support for the aviation leasing sector and to the development of Ireland as a hub for aircraft financing.



Favourable Tax Regime

Irish tax residence

In order to avail of the favourable tax regime in Ireland (and its Tax Treaty network), it is important that the leasing company is Irish tax resident.

In general, an Irish-incorporated company is treated as an Irish tax resident company. With certain exceptions a company may also be Irish tax resident if its central management and control is exercised in Ireland.

Trading status of lessors

Commercial considerations often require a leased asset be held in a Special Purpose Vehicle (SPV) in order for the asset security to be approved, or to provide legal protection in a bankruptcy situation.

The Irish Government has reiterated its commitment to continue with the 12.5% corporation tax rate for trading companies. The Irish tax authorities have confirmed that trading status may apply to an SPV operated by an 'active' leasing company.

If the SPV is a trading company the leasing profits are taxed at the 12.5% Corporation Tax rate for trading companies. If the SPV is not carrying on an active trade, the leasing profits are taxable at the 25% Corporation Tax rate for non trading companies.

It is possible to obtain an opinion from the Irish Revenue Commissioners on the trading status of a SPV leasing company.

"Section 110" Regime

A company involved in aviation finance will typically acquire aircraft, engines or aircraft leases using debt, with a view to entering into leasing transactions. These companies are liable to tax on profits at 25%. However Sec 110 ensures that these companies can be tax neutral as a deduction is available for interest paid that is in excess of arms length interest rates.

Features of the Section 110 company regime include:

- The company must be tax resident in Ireland.
- A tax deduction for profit participating interest and interest in excess of arms length rates.
- Tax depreciation is allowed at a rate of 12.5% straight line over 8 years.
- Exemptions from Irish withholding tax on interest paid exist.
- The minimum asset value limit is €10 million and this is imposed in respect of the first securitisation transaction carried out by the SPV.



No thin capitalisation rules.

Ireland does not have thin capitalisation rules. There is no requirement for a company to be financed by a minimum amount of equity. This allows companies to be fully financed through debt provided the rate of interest charged on loans does not exceed a reasonable rate.

Double Tax Treaty Network

Ireland has an extensive Double Tax Treaty Network, having signed 71 Agreements. Tax Treaties play a key role by reducing or eliminating withholding taxes on inbound lease rental payments.

In recent developments, an Irish lessor can now claim a tax credit on a unilateral basis by virtue of domestic Irish law. This makes Ireland an attractive location for leasing aircraft into countries which do not have a wide Treaty network.

Other Factors

Cape Town Convention

The Convention and Protocol came into force in Ireland on 1 March 2006 and Ireland joined almost 50 countries that have ratified the Convention and its associated Aircraft Protocol.

The computerised registry of financial interests in aircraft is established in Ireland. The registration serves as a notification for owners, creditors, debtors, lessors, lessees, agents and others in protecting their financial interest which is recognised by all ratifying states, with priority being determined on a "first-to-file" basis.

Registration with Irish Aviation Authority (IAA)

A lessor may register an aircraft with the IAA even where the aircraft are operated by overseas operators. This ensures that the aircraft is supervised by a competent authority, and is maintained to a standard which will make the aircraft readily marketable and not adversely affect the residual value of the aircraft.

Other

- Ireland has a Common Law System that is similar to UK and US systems.
- Ireland is an EU Member State with the Euro currency.
- English speaking population.
- The Irish Stock Exchange (ISE) has become the largest European exchange for the listing of asset backed debt securities.

For information on the Irish tax regime for lessors please contact a member of our experienced aviation team.

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About Moore Stephens

Moore Stephens is a leading Irish owned provider of accountancy and advisory services for smart, commercially ambitious enterprises seeking the highest standards in client service and expertise. We are ranked in the top 10 Irish accountancy practices with 10 partners and over 100 staff. We have offices in Dublin and Cork and have grown steadily in the Irish marketplace since our foundation in 1970.

We provide our clients with access to a range of core and specialist services including audit and tax compliance, business and personal tax planning, corporate finance, insolvency, corporate governance and forensic accounting.

Our success stems from our industry focus, which enables us to provide an innovative and personal service to clients in niche markets.

Specialist sectors include credit unions, healthcare, banking recovery and restructuring, agriculture and education, while maintaining our predominant foothold in the Irish SME sector. We recognise that Irish business will become increasingly export orientated in line with the national recovery plan.

To address our clients' need for the highest quality international advice we have joined the Moore Stephens International Network.

Moore Stephens globally

Moore Stephens International Limited is a global accountancy and consulting association with its headquarters in London. With fees of US\$2.6 billion and offices in 106 countries, you can be confident that we have access to the resources and capabilities to meet your needs.

Moore Stephens International independent member firms share common values: integrity, personal service, quality, knowledge and a global view.

Aviation

Moore Stephens is a leading accountancy firm with significant experience in the aviation sector. Through our international network of member firms we are able to offer the global coverage required to meet the needs of aircraft owners and operators of all sizes. Please contact a member of our experienced aviation team for support and advice on:

- Ownership Structures
- Advice on Import, Registration & Sale of Aircraft
- Value Added Tax
- Tax Registration and Compliance Requirements
- Accounting
- Crew payroll and benefits

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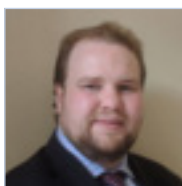
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