



## Benefits of Registering Private and Corporate Aircraft in Bermuda



You may be flying your personal or private jet in the United States or through Europe but registration in such jurisdictions may not be the right decision for you.

The Bermuda Register, in existence since 1931, is used by many multi-national companies and high net worth individuals. Currently there are over 700 aircraft on the Bermuda Register with approximately 130 of those registered in the private category.

The registration of corporate and private aircraft in Bermuda is sought for a number of purposes and Bermuda registered aircraft are based and operated throughout the world. The success of the Bermuda Register is reflected in the quality of the aircraft: many of the private registrations relate to large executive jets such as the Boeing 747SP, Boeing Business Jet, Gulfstream G650 and G5/550, Falcon 7X and 900B, Bombardier Global Express and Airbus Corporate Jetliner or commercial type craft such as the Boeings 727, 737, 747-800, 757, 767 and 787 registered for private use. Why is Bermuda so popular? Benefits include the following:

- High quality international reputation and excellent service levels;
- High regulatory standards
- Confidentiality and security
- Favourable tax regime
- Competitive and simple fee structure
- Recognised jurisdiction for aviation finance
- Secure mortgage register
- Stable legal and political environment
- OECD 'white listed' jurisdiction
- No requirement that aircraft be based in and primarily used in Bermuda. Aircraft may be operated anywhere in the world (excluding war zones and similar areas).

### Bermuda Department of Civil Aviation (“BDCA”)

#### **Responsive and professional aviation authority**

The BDCA is rated as a Category 1 Aviation Regulatory Authority by the US Federal Aviation Administration (“FAA”). The BDCA is prepared to accept more than one internationally recognised set of airworthiness requirements and various flight crew licences for validation without the imposition of further requirements.

The BDCA has an excellent reputation for its high level of responsiveness when dealing with enquiries and requirements. This is partly due to the absence of administrative bureaucracy often encountered when dealing with other key aviation jurisdictions. In addition, Bermuda offers the full range of professional and administrative services necessary to ensure that all legal and other requirements are properly met and to ensure that the BDCA and the Bermuda Register retain a high level of international respect and confidence.



### **Safe and neutral registration marks**

The Bermuda registration marks VP-B and VQ-B with two subsequent letters is seen as a neutral, “low-profile” mark of high standard which is internationally accepted and its registered aircraft are accepted for operations worldwide. The “low-profile” registration mark can be valuable when operating in areas of the world subject to security risks or political instability. The tail number is also nation-neutral and offers a level of anonymity. Security considerations are becoming more and more important.

### **Competitive and simple fee structure**

The principal registration fee in Bermuda relates to the issue of the Certificate of Airworthiness, calculated by reference to the maximum take-off mass of the aircraft. This fee is payable prior to the initial registration and annually thereafter.

This is unlike other jurisdictions which have a number of fees payable according to various fee schedules. For example, several other registries are subject to a complex charges scheme which includes numerous layers of sub-charges related to licensing, airworthiness and operations.

## **Operational Oversight**

Bermuda is an Overseas Territories of the United Kingdom and, as such, the legislative framework relating to the registration of aircraft emanates from the United Kingdom pursuant to the provisions of the Air Navigation (Overseas Territories) Order 2013 (the “Order”). Air Safety Support International (“ASSI”), a wholly owned subsidiary company of the Civil Aviation Authority of the United Kingdom, acts as the oversight regulatory body of the Overseas Territories of the United Kingdom in relation to aviation matters.

The BDCA implemented Article 134 of the Order as of 1 November 2009, requiring the operators of all aircraft who fall within the provisions of such Article to comply with the safety and other requirements set out in that Article. Aircraft approved under Article 134 are deemed to be operating at a higher safety level. This standard is fully compliant with ICAO Annex 6 Part 2 (all sections) and is anticipated to be an acceptable means of compliance for the forthcoming European regulations for Non-Commercial Third Country Operators. Also, in certain circumstances this can allow aircraft owners to negotiate a reduction in their annual aircraft insurance with their insurance companies.

The BDCA is subject to the Overseas Territories Aviation Requirements (OTARs) which are similar to those of the EASA, the FAA and Transport Canada and based on ICAO standards. This means that air safety regulations in Bermuda conform to and in some instances surpass those of the three main aviation authorities. In the context of a resale of an aircraft registered on the Bermuda Register, a potential buyer would generally view such registration positively.

It should be noted that aircraft registered in the private category on the Bermuda Register may not be operated for hire and reward; however, it is permissible for the owner to have a management arrangement in place to secure the operation of the aircraft.

## **Privacy and Security**

In today’s world, privacy and security can be critical to the safety of the individuals concerned. The ability of a third party in the public domain to find out who owns an aircraft, when it is in flight and its flight path can cause security concerns. Aircraft ownership in the United States is a matter of public record and is available on the Internet.



Such information is not so easily available to the public in respect of aircraft on the Bermuda Register. Aircraft are registered on the Bermuda register in the name of a Bermuda exempted company. The register of shareholders of a Bermuda company is not a public register, though Bermuda law does require the register to be open for inspection at the registered office of the company in Bermuda; however, it is possible for the shares of a Bermuda company to be held in the name of a nominee. Although information on the ultimate beneficial owner must be disclosed to the Bermuda Monetary Authority as part of the incorporation process, such disclosure is kept confidential. Incorporation of the company is a relatively simple and expedient process and a company can be formed solely for the purposes of owning and operating or leasing an aircraft on the Bermuda Register.

The Bermuda Register and the Certificate of Registration issued in respect of the aircraft will only record certain descriptive particulars relating to the aircraft, the date of its registration and the name of the Bermuda Company in which the aircraft is registered. All other records related to the owner and the aircraft are treated in confidence by the BDCA.

### Tax Neutrality

There is presently no Bermuda income or profits tax, withholding tax, capital gains tax, capital transfer tax, estate duty or inheritance tax or stamp duty payable by a Bermuda exempted company or its shareholders, other than by individual shareholders ordinarily resident in Bermuda. The government will issue a tax assurance undertaking valid until 2035 that, in the event of there being enacted in Bermuda any legislation imposing tax computed on profits or income, or computed on any capital assets, gain or appreciation, or any tax in the nature of estate duty or inheritance tax, such tax shall not be applicable to the exempted company which is the registered owner or lessee of the aircraft on the Bermuda Register.

In the past few years, there have been various changes to the charging of VAT on aircraft being imported into the European Union. An aircraft which is owned by a non-EU citizen or company and registered in Bermuda should have access to the temporary importation regime, which under current EU rules allows for a zero-rating for VAT purposes, subject to all the relevant rules regarding temporary imports of aircraft<sup>1</sup>. In addition, the BDCA will issue a document titled "Certificate of Commercial Use" which is intended to enable private operators to reclaim the EU VAT on jet fuel, on the basis that the private owner is using the aircraft solely in the pursuit of his legitimate business.

### Aircraft Financing and Bermuda Registration

Private aircraft are often purchased by a foreign owner using finance supplied by an international lender.

Bermuda meets, and in most cases surpasses, the risk threshold for financiers in today's environment who want to hold assets in international well respected jurisdictions which clearly recognise their ownership rights based on common law principles. Financiers involved in asset-based finance transactions require the possession rights of a borrower and security rights of a lender to be clearly and consistently applied. Financiers require that their rights in moveable equipment be registerable in a manner which is universally recognised and understood and wish to deal with a jurisdiction familiar with, and prepared for, sophisticated finance and leasing structures. Bermuda meets all of these needs.

The legal framework of Bermuda is known, stable, consistent and based upon the common law with the highest court of appeal in Bermuda being the Judicial Committee of the UK Privy Council.

<sup>1</sup> It should be noted that the applicable tax regulations are complex and subject to change and appropriate tax advice should be obtained prior to attempting to import an aircraft into the European Union.



Under the *Mortgaging of Aircraft and Aircraft Engines Act, 1999* and related regulations, a Register of Aircraft Mortgages and a Register of Aircraft Engine Mortgages is maintained to assist in the registration of security interests in both aircraft and aircraft engines owned by companies incorporated in Bermuda. In both instances, the priority of a mortgage can be fixed by acceptance of a priority notice by the BDCA, pursuant to which the priority of a yet to be executed mortgage can be fixed for a 14-day renewable period. Fees are reasonable and presently set on a sliding scale up to a maximum of US\$800.

The Bermuda Register operates substantially as an adjunct to the wide range of services provided by Bermuda to international business. Bermuda registration enjoys global acceptance and respect and operations on the Bermuda Register are conducted with a high standard of regulatory safeguards to ensure that this position continues.

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