

OFFSHORE AIRCRAFT REGISTRATION

BACKGROUND

Historically, most private jets have been registered in the United States. However, there are many reasons why aircraft owners or operators chose a country other than their own in which to register an aircraft. Whilst this may mirror the “flag of convenience” concept so prevalent in the maritime industry, the aviation industry’s regulators would argue that this industry is somewhat different. The reasons for choosing to go offshore are varied but normally relate to a neutral jurisdiction for financing purposes down to lower tax costs.

The options in this regard have also expanded significantly recently. Bermuda and Cayman Islands have always been significant players in the offshore registration market, but the Isle of Man now has over 400 corporate aircraft on their register and is one of the fastest growing in the world. This year also saw the BVI announce the opening of its register and, given the popularity of the BVI company as an international vehicle, it will surely soon be making its presence felt in this field.

What then are the advantages of offshore registration? These are often listed lease and tax implications, along with a less complex legal framework. Ireland, for example is a major centre of aircraft leasing companies and many major jets are financed out of that country.

It is also common that the financier will prefer a neutral jurisdiction rather than the location of the lessee, as he would prefer somewhere neutral, or due to inadequate legal protection in the lessee’s jurisdiction.

We briefly look at a couple of the options available to potential aircraft owners and operators, although we note that there are other contenders such as Malta and Aruba which have also been active in this area.

British Virgin Islands

The BVI has a robust legal system based on English law which gives lenders the security they require. The BVI is also very well known for its International Business Companies which have been used worldwide, giving it a large degree of corporate and legal acceptance. It is a precondition then that the aircraft is owned by such a company for registration to occur. Obviously the fact that there is no tax in the BVI is an advantage, as is the fact that there is no duty on parts.

How to register

The responsibility for managing and maintaining the register has been delegated to the Director of Civil Aviation in the BVI who is overseen by the Air Safety Support Council, a body owned by the UK Civil Aviation Authority. This indirect responsibility by the UK CAA ensures the credibility of the process.

Procedure to achieve registration

Initially, what is required is a written request to the Director of Civil Aviation in the BVI, who will make available the Registration Application Form. In order to be registered the aircraft must be owned by specified individuals or company, which is likely to be a BVI Business Company. The director, after establishing this fact will then supply a registration package which includes all the necessary forms and guidance required as to operational and certification requirements.

This will include issues such as flight crew licensing and validation. Typically this will be for private use but in theory compliance with OTARs pars 121 and 135 is capable of being achieved.

Once this has been demonstrated, the applicant can apply for a certificate of airworthiness, the application of which will provide the applicant with all documentation, manuals, equipment status etc required for registration. We note the Director will accept certification from the FAA, Transport Canada or EASA for any first of type registration in the BVI.

In addition a technical director will need to be appointed to oversee continued maintenance to a suitable standard of airworthiness.

The registration number will be styled VP-L**.

Isle of Man

The Isle of Man opened its register in 2007 aiming it at professionally flown private and corporate aircraft. It has been remarkably successful with over 300 aircraft on the register by the end of 2010.

Like the BVI, the Isle of Man benefits from a corporate tax rate of zero percent and is part of the EU VAT system which has major advantages for operations in Europe. The Isle of Man is the only offshore register in Europe, and has a legal system based on English law which provides comfort to many people.

The Aircraft Registry is operated by the Department of Trade & Industry (DTI) and has a well deserved reputation for cost effectiveness and efficiency. It is focused on personal service and access to decision makers who are there to assist the process.

An aircraft registered in the Isle of Man will bear the nationality mark “M” followed by four characters, and it may be flown worldwide. It is also possible to personalize the letters to create customized “names”.

The registry also licenses aircrews and maintenance personnel. It adopts a sensible approach and will license crew and aircraft that comply with acceptable international standards. This alone is likely to lead to significant cost savings. The island is also well used for financing transactions and has a host of professionals who are used to dealing with this sort of transaction, including the registration of mortgages.

Of specific interest is that the Isle of Man allows registration of aircraft owned by Citizens and bodies incorporated in the ‘Commonwealth’, or of an EEA State. The Commonwealth and EEA states are listed on Annexure A hereto. However, we note that it is entirely possible to have an aircraft owned by a BVI company and to register it in the Isle of Man.

This modus operandi allows the best of both worlds with the most flexible corporate vehicle worldwide and utilising one of the most proactive and fastest growing registries in the world.

Cayman Islands

Due to its proximity to the US, the Cayman Islands has been used as a registration jurisdiction for some time. The Caymans only allows the registration of aircraft in the “private” category, which is very similar to the US FAR part 91 operation. The entire process takes a couple of weeks and the aircraft will be inspected in situ wherever the aircraft is located.

Maintenance needs to be done by an approved facility. Similarly to the case with the Isle of Man, this can typically be any FAA or JAA part 145 facility, thus covering most of the US and Europe. The Cayman Islands Civil Aviation Authority also provides for the validation of pilots certificates and ratings issued by all ICAO members.

Cayman Islands registered aircraft bear the registration marks VP-C followed by two letters assigned to that particular aircraft.

Conclusion

The move to offshore registration of private and corporate aircraft is well established and proceeding apace. At Osiris we understand aviation well and have been active players in the aviation and crew provision industry for more than a decade. We welcome assessing your requirements in this area and assisting you in the correct choice of jurisdiction to meet your particular needs.

Key Contact:

If you require advice or assistance in regard to any of the matters raised in this brochure, please contact your usual contact or

Peter Todd

+44 207 078 7581

Miles Walton

+1 284 494 9820

Osiris

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Annexure A

The "Commonwealth" as defined in the Air Navigation (Isle of Man) Order 2007

Anguilla	Grenada	Sierra Leone
Antigua and Barbuda	Guyana	Singapore
Australia	India	Solomon Islands
The Bahamas	Isle of Man	South Africa
Bangladesh	Jamaica	Sovereign Base areas on Cyprus
Barbados	Kenya	South Georgia & South Sandwich Islands
Belize	Kiribati	Sri Lanka
Bermuda	Lesotho	St Helena & its dependencies
Botswana	Malawi	(Ascension Island & Tristan da Cunha)
British Indian Ocean Territory	Malaysia	St Kitts and Nevis
British Antarctic Territory	Maldives	St Lucia
British Virgin Islands	Malta	St Vincent and the Grenadines
Brunei Darussalam	Mauritius	Swaziland
Cameroon	Montserrat	Tonga
Canada	Mozambique	Trinidad and Tobago
Cayman Islands	Namibia	Turks and Caicos Islands
Channel Islands	Nauru	Tuvalu
Cyprus	New Zealand	Uganda
Dominica	Nigeria	United Kingdom

Falkland Islands
Fiji Islands*
The Gambia
Gibraltar
Ghana

Pakistan
Pitcairn Islands
Papua New Guinea
Samoa
Seychelles

United Republic of Tanzania
Vanuatu
Zambia

*Currently suspended from the Commonwealth

EEA States

Austria
Belgium
Bulgaria
Czech
Cyprus
Denmark
Estonia
Finland
France
Germany

Greece
Hungary
Iceland
Republic Ireland
Italy
Latvia
Liechtenstein
Lithuania
Luxembourg
Malta

Netherlands
Norway
Poland
Portugal
Romania
Slovakia
Slovenia
Spain
Sweden
United Kingdom