

# The Customs Union: importation of civil passenger aircraft into Russia

## Introduction

The establishment of the Customs Union between Russia, Kazakhstan and Belarus in 2010 led to significant changes in the regulations of customs procedures used in relation to importing of leased foreign aircraft. Although initially not very clear, the new rules turned out to be even more friendly for the industry than those that applied previously under Russian customs legislation.

In this briefing we provide an overview of exemptions available to importers of civil passenger aircraft as well as certain import procedures that importers may use to reduce payment of customs duties and import VAT.

## Zero rate customs duty

Regardless of whether passenger aircraft is imported under the procedure for domestic use or under the temporary import procedure, the Unified Customs Tariff of the Customs Union provides for a full exemption from customs duty (but not import VAT) in respect of civil passenger aircraft with up to 50 seat capacity and manufacturers empty weight ("MEW") between 2,000 kg and 20,000 kg and with more than 300 seat capacity and MEW between 20,000 kg and 120,000 kg (MEW is a weight of the aircraft ready for take-off but without crew, fuel and temporary equipment).

In addition, customs duty (but not import VAT) is set at zero rate in respect of aircraft with MEW between 90,000 kg and 120,000 kg and with a seat capacity from 51 to 300 (inclusive).

## Temporary import procedure

Before the new customs legislation came into force, the temporary import regime has been one of the most commonly used methods for importation of leased aircraft into Russia. This is because this regime allowed importers to defer payment of customs duties and import VAT for up to 34 months. These benefits will continue to apply under the new procedure, and, in addition to that, the arrival of the Customs Union was accompanied by the introduction of additional exemptions in respect of certain types of aircraft. In particular, importation of all kinds of passenger civil aircraft that is placed under temporary import procedure and as such are subject to full or partial conditional exemption from payment of customs duties and taxes, has been exempted from payment of interest on switching subsequently to the procedure for domestic use, irrespective of the time such aircraft have been kept under the temporary import procedure.

There are also specific temporary exemptions for leased aircraft currently in place in the Customs Union. Under these exemptions, full conditional exemption from customs duty and import VAT is granted in respect of the leased aircraft with MEW of between 20,000 kg and 120,000 kg and with seat capacity from 111 to 170 (inclusive) or from 219 to 300 (inclusive). To fall under the exemption the aircraft must be imported before 31 December 2013. Full conditional exemption is available for a qualifying leased aircraft until 31 December 2018 (unless the relevant lease agreement is terminated earlier). If the lease agreement expires after that date, it will be possible to extend the temporary import procedure for an additional maximum period of 34 months, with applicable customs duty and VAT (if any) payable in 34 monthly instalments.

## Key Issues

### Zero rate customs duty

### Temporary import procedure

### Customs transit procedure

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### Customs transit procedure

A number of Russian airlines used to import aircraft not operated on domestic routes under the international customs transit regime. The use of the international customs transit regime was neither prohibited nor expressly permitted by the (now abolished) Russian Customs Code, and was more a result of practice that came about under certain regulations that have expired some years ago.

The Customs Union Code provides for a customs transit procedure that is similar to the abolished

international customs transit regime. The Customs Union Code is also silent as to whether this procedure may be used in respect of aircraft operated on cross-border routes. A practical difficulty with application of the customs transit procedure is that it generally requires declarants to provide security for customs payments or to be a "customs carrier" or an "approved economic operator". Whether any particular airline qualifies as a customs carrier or an approved economic operator will depend on its specific circumstances and operations.

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