

Temporary Admission: does the nationality of the aircraft registration matter?

Most aircraft are flying internationally and many non-EU operators are using the Temporary Admission procedure when they are flying in the EU. The basic simplified rules are that an aircraft owned/operated/registered/based outside the EU, can use the Temporary Admission procedure. There has been an on-going discussion for years in the aviation society about whether or not the aircraft registrations within the EU customs territory can be used with the Temporary Admission procedure. Special focus has been on the Guernsey (2) and Isle of Man (M) registrations as both these jurisdictions are outside the EU but inside the EU customs territory. We have therefore commissioned another verification survey about this subject.



Does the nationality of the aircraft registration matter?

The nationality of the aircraft registration is extremely relevant to look at in this context. In our opinion there is no doubt that the aircraft registrations within the EU customs territory, the Guernsey (2) and Isle of Man (M) registrations cannot be used combined with the Temporary Admission procedure. The important article 212 (a) in the EU customs code (Commission Delegated Regulation No 2015/2446) about the conditions for granting total relief from import duty for means of transport mentions the following *“they (the aircraft) are registered outside the customs territory of the Union in the name of a person established outside that territory”*. This should leave no doubt.

The result

The feed-back is unanimous and the result is that the mentioned EU aircraft registrations cannot be used in combination with the Temporary Admission procedure. This also means that an Isle of Man or Guernsey registered aircraft based e.g. in the Middle East or Hong Kong is basically not allowed a single entry into the EU if the Temporary Admission procedure is used. The risk is that local customs will be asked for a full importation to be completed with a full payment of the VAT.

Figure 1: Corporate aircraft using Temporary Admission (TA) in various EU-member states

What kind of aircraft registration will local customs accept for use under the TA procedure?

Questions	Denmark	Germany	UK	Isle of Man	Ireland	The Netherlands	Malta
Will they accept an aircraft registered at the national aircraft registry	No	No	No	No	No	No	No
Will they accept an aircraft registered at the Guernsey or Isle of Man? (1)	No	No	No	No	No	No	No

The results are based on the answers received from an international consulting firm in the respective countries.

1) Both jurisdictions are outside the EU but inside the EU customs area.

The Isle of Man do it differently!

Even though the above result is unanimous, it is common knowledge at least within the aviation society that Isle of Man customs for years have accepted that their own M-registered aircraft could be used combined with the Temporary Admission procedure. It is unknown to us under which circumstances and legal references such a combination can be legal and aligned to the EU Customs Code and guidelines from the HMRC.

The Danish survey result is as expected and in accordance with the guidelines used by OPMAS for the last many years.

Many advantages with Temporary Admission

Most non-EU operators already use Temporary Admission. Full importation includes a lot of potential VAT/tax liability which nobody wants, and which typically requires 5 years of correct economic activity and 7 years of recordkeeping. All these factors are eliminated with the use of Temporary Admission and most non-EU operators will in fact have the same flying privileges as under full importation. Temporary Admission will give the declarant more flexibility and extra advantages such as unrestricted personal, family and guest usage also for EU-resident passengers.

What to do for an EU based entity or aircraft registered in the EU customs territory

The Temporary Admission procedure cannot be used by EU based entities or for aircraft registered in the EU customs territory. The only option is to use full importation. It is important to analyze your usage of the aircraft and eventually consult your local VAT adviser for a verification of the exact usage.

Always ask first

Our advice has always been to ask the local tax authorities for a binding advance tax ruling prior to any importation/admission in order to eliminate any doubt about the outcome. All cases have different details and a binding advance tax ruling will also consider all new European Court of Justice (ECJ) judgements. Even if you have a fully working set-up, we believe, an importation/admission without a binding advance tax ruling from the EU member state into which the aircraft is to be imported, is too great a risk to take.

 **KNOW MORE:** [Read the short story about full importation](#)

This update relates only to the use of Temporary Admission with total relief from import duties. It does not apply to full importation into the EU where the aircraft is exempt as being used for commercial flights with an AOC/Charter certificate or where full importation is used combined with reclaiming the VAT imposed during the importation.

OPMAS

Sonderborggade 9
DK-8000 Aarhus C
Denmark
Phone: +45 70 20 00 51
www.opmas.dk