

Temporary Admission in the European Union

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Disclaimer: This resource provides general information and should not be construed as legal advice or a legal opinion on any specific facts or circumstances. You are urged to consult your attorney or other advisor concerning your own situation.

Temporary Admission in the European Union (EU) is a Customs relief regime designed to allow non-EU registered, owned and used aircraft to enter the EU for non-commercial purposes for a limited time period without the necessity for a full importation and the payment of duty and import taxes. Where aircraft are to be used in the EU for commercial purposes then this would create competition for existing EU fully imported or manufactured aircraft. So if this is the intention then the aircraft would instead need to be imported and pay any duties and import VAT due, or to be brought in under another Customs relief regime if available.

Once an aircraft arrives in the EU it is automatically granted Temporary Admission providing it meets all of the conditions, the key of which are that:

- It must be non-EU registered; owned by non-EU established or resident entities, and used by non-EU resident persons;
- The aircraft cannot be used for commercial purposes, so for example for paid flights, charter, lease or sale;
- The aircraft must not remain in the EU for more than six months in any continuous period;
- The aircraft must not be brought in for repair, maintenance or upgrades, and must leave the EU in the same state. If the aircraft is brought in for this kind of work then another Customs relief regime known as Inward Processing Relief or IPR which also allows for relief of duty and VAT should be used instead.

One of the main areas of risk with Temporary Admission is in ensuring that the “user” requirement will be met. The rules require that the “user” of the aircraft is not resident in the EU, but there is no formal definition of the term “resident” so this will depend on the individual circumstances and local interpretation.

There are also a narrowly defined set of circumstances whereby the aircraft may be used by EU residents. For example the aircraft may be used by employees of the key user in specific circumstances, or by non-paying guests where the primary non-EU user is also present. This is the kind of condition that may be interpreted differently depending on the Member State, so if there is any likelihood of any use by EU citizens this should be considered prior to entry to avoid any delays or queries. Some Member States may also require evidence such as a contract of employment to support the claimed use.

In the past there has been some confusion about what would be treated as “commercial” use so the International Business Aviation Council (IBAC) sought clarification on this point from the EU Customs Code Committee (CCC). Under the Union Customs Code (UCC) commercial use is defined as “the transport of persons for remuneration or the industrial or commercial transport of goods, whether or not for remuneration.” The CCC stated that “commercial use” for means of transport refers to either where passengers have paid for an air transport service by way of a ticket, or to the commercial transport of goods, whether or not for remuneration. This would not cover for example the transport of promotional brochures - where this is not the main purpose for the usage of the means of transport. Equally the citizenship or place of residence of the cabin crew does not impact the use of Temporary Admission given that they do not pay for the transport.

Use of Temporary Admission is automatic if the conditions are met. However it is advisable to formalise the Temporary Admission with paper documents for point to point flights inside the EU or where the aircraft will be in the EU for long periods. This should be stamped by the relevant Customs inspectors on arrival and on departure from the EU as evidence for the authorities in other Member States.

Use of Temporary Admission is clearly more economical and easy to put in place than a full importation where the aircraft meets the conditions set. It is crucial however that all the conditions set are met and continue to be met, as the EU Customs authorities can challenge the use of Temporary Admission where they believe the TA rules have been breached. If this is confirmed then Customs authorities can retrospectively impose a full importation with any duty and taxes due which may not be recoverable.

If the aircraft is frequently used within the EU it is advisable, and sometimes more cost effective, to consider full importation.