

FAA Registrations the USVI Way – A must for your foreign clients



Foreigners frequently register aircraft with the US Federal Aviation Administration in order to obtain an “N” registration number. However, two challenges – one regulatory, the other fiscal – confront the foreigner when seeking the coveted “N” registration. How these are dealt with is discussed in this profile.

VOTING TRUST

- The first challenge is that where an aircraft is owned by a foreign individual or corporation a structure that qualifies as a “citizen of the United States” under FAA rules must be established to own the aircraft. This requirement is met by forming a company in one of the states or territories of the US which satisfies the following two requirements:
 - The President and at least 2/3 of the board of directors and principal officers of the company must be US citizens.
 - At least 75% of the company’s voting interests must be owned and/or controlled by US citizens.
- The “voting interests” requirement is normally satisfied by means of a voting trust through which an independent trustee is given the right to exercise at least 75% of the shareholders’ voting power. The executed voting trust agreement and an affidavit of the voting trustee confirming that the trustee is a US citizen and not related to the beneficial foreign owner is filed with the FAA.

TAXATION

The second challenge confronting the foreign owner are US taxes. The problem of using a company incorporated in one of the US states is that the company, even if owned by a qualified voting trust, has to file tax returns with the IRS and potentially be subject to US income and capital gains taxes, whether or not its business activities are conducted within or outside the US.

THE USVI SOLUTION

The US Virgin Islands Exempt Company regime offers a solution to the problem of IRS reporting and US exposure to income tax and reporting obligations. How is this possible? A USVI Exempt Company which meets the following requirements will ensure that the company and its shareholders are exempt from all US and USVI taxes:

- The company does not engage in the active conduct of a trade or business in either the US or USVI.
- No more than 10% of the total voting power and total value of the stock of the company is owned by US or USVI persons.

ADDITIONAL BENEFITS OF THE EXEMPT COMPANY REGIME

The company is eligible for a 20-year contract from the USVI government guaranteeing that its tax status will not be changed.

The Exempt Company does not require a Virgin Islands business license.

Provided no income is earned from US or USVI sources, no income tax return needs to be filed with either the USVI tax authorities or the IRS.

The only amount payable to the USVI government is a \$1,000 annual franchise tax which is paid and filed annually together with a simplified form of annual report.

REDOMICILIATION TO THE USVI

A foreign company that already owns an aircraft can take advantage of the USVI redomiciliation statute to become a USVI Exempt Company. There is no termination of the foreign company's corporate status and, as an Exempt Company, it will qualify the aircraft for an "N" registration through the use of a voting trust.

HOW WE CAN HELP?

Trident Trust is a leading provider of corporate, trust and fund services to the financial services sector worldwide with 29 offices in 23 jurisdictions. We have had a presence in the USVI since 1984 and assisted hundreds of US companies obtain benefits under the Foreign Sales Corporation which was in force until 2004. Since the introduction of the USVI Exempt Company regime in 1986 we have assisted many professional advisors and their clients with the formation and administration of Exempt Companies and serving as trustees of voting trust trusts.

For more information on our USVI Exempt Company services and how we can assist you please contact Graham Dunn at 1-340-774-7322 or gdunn@tridenttrust.com.