



Client Alert

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Aircraft Lease: New Rules concerning Import Duties on Rentals

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On July 19 2010 the State Administration of Customs issued a circular [2010] No. 47. Under this circular, the Chinese leasee is required to declare certain costs and expenses as parts of the rentals to the Chinese customs if the leasee has a duty to pay the same under the aircraft lease with the offshore lessor. In other words, the leasee shall pay the import duties on such costs and expenses.

I. Direct Rentals

Under the circular No. 47, the following expenses if paid by the Chinese leasee will be treated parts of the rentals and subject to the import duties:

1. Maintenance expenses for Heavy Maintenance borne by the Chinese leasee under the aircraft lease, whether occurring onshore or offshore

2. Bonds for repair and maintenance, if not refunded to the Chinese lessee upon expiry of the lease.
 3. Compensation to the offshore lessor due to unfavorable conditions of the aircraft upon expiry of lease.
- II. **Exception:** For repair and maintenance expenses borne by the Chinese lessee beyond the aircraft lease which occurs offshore, the parts shall be treated as “Goods Transported Abroad for Repair and Replacement”. As such, the import duties shall be calculated on the overseas repair charges and expenses of replacing components and spare parts.

III. Indirect Rentals

Please note also that if the lessee bears under the aircraft lease any PRC tax payable by the lessor, such tax will be treated as indirect rentals which shall also be subject to the import duties. Insurance to be borne by the lessee under the aircraft lease for all risks cover on the airframe, components and spare parts will also be treated as indirect rentals.

IV. Conclusions

The new circular No. 47 leaves little room for separating from the dutiable rentals certain maintenance expenses the lessee bears under the aircraft lease so as to save the cost of import duties from the perspective of the lessee. This circular may trigger renegotiation by the Chinese lessee of the expenses and costs it bears under aircraft lease.

Should you have any questions about this Client Alert, please contact the partner of HaoLiWen Aviation& Customs Practice:

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