

# Leasing Tax Newsalert

## Finance Act 2011

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## Significant enhancements to Ireland's aircraft finance offering

Finance Act 2011, introduces a number of amendments which will enhance Ireland's status as the location of choice for aircraft leasing companies. These include welcome changes to Ireland's securitisation framework or "Section 110" offering.

A Section 110 company is an Irish resident special purpose company which holds and/or manages "qualifying assets" and which provides an onshore investment platform (with access to Ireland's treaty network) in an environment of increased international focus on tax havens and transparency.

The Section 110 regime has been in existence since 1991 and with appropriate planning effectively allows for corporation tax neutral treatment provided that certain conditions are met. While Section 110 companies are subject to tax at a rate of 25%, they are entitled to a deduction for certain interest on profit participating loans. These entities are also entitled to avail of the terms of Ireland's treaty network. The regime is widely used by international banks, asset managers and investment funds in the context of securitisations, investment platforms, CDOs and capital markets bond issuances.

Prior to the publication of the Finance Act, Section 110 companies were limited to investing in financial assets. The term

"financial asset" is widely defined and includes both mainstream financial assets such as shares, loans, leases, bonds, debt and derivatives, but also assets such as greenhouse gas emissions allowances, all types of receivables, etc. The definition of "qualifying assets" has now been expanded to include plant and machinery (which would include aircraft and ships), certain commodities and carbon offsets.

Amending the legislation to enable Section 110 companies hold aircraft has greatly enhanced Ireland's offering in this space and may provide solutions to a number of commercial barriers which existed previously, particularly for less established lessors that do not have the necessary trading substance in Ireland. Using this vehicle to hold aircraft may now achieve a better tax result in a more cost effective manner while the 25% tax rate to which any residual profits of the Section 110 company are subject may solve potential CFC issues in certain jurisdictions. Combining the offering of a Section 110 structure with an onshore regulated fund ("Super QIF") could enhance the Irish offering to private equity investors in particular.

*If you would like to discuss these changes and opportunities further, please contact one of our aircraft leasing tax professionals listed opposite.*



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