



# DETENTION OF PRIVATE JETS FOR FAILURE TO PAY IMPORT DUTIES IN NIGERIA

JULY 10, 2024

## Introduction

On June 19, 2024, the Nigeria Custom Service (“NCS”) commenced a verification exercise for private aircraft owners. Press reports indicated that a number of private jets will be grounded and detained as a result of this exercise. While the exercise may appear to be a revenue drive by the NCS, it is also geared towards ensuring strict compliance with the extant customs laws and regulations. In this regard, the NCS intends to verify all importation clearance documents of private jet operators in a bid to identify operators who are in default of paying the requisite import duties on their private aircraft operating in Nigeria.

## Position of the law

To legally import and operate any aircraft (including private jets) in Nigeria, operators/owners may explore two options. These options are, however, dependent on whether the private jet is leased or purchased by the Nigerian operator/owner. Where the private jet is leased and therefore to be used in Nigeria for a relatively short period of time, the owner has the option of importing it into Nigeria under a Temporary Import Permit (“TIP”). A TIP generally gives the importer an exemption from the obligation to pay custom duties in respect of the applicable goods and is restricted to imports that can be acquired on lease basis, such as aircraft, offshore and onshore oil drilling rigs and survey/exploration vessels. However, such importer must provide a Bond for the full value of the customs duty prior to being issued a TIP. Upon re-exportation of the aircraft out of Nigeria at the expiration of the TIP, the full value of the Bond will be released to the importer.

Under the Guidelines for TIP, which predate the enactment of the NCS Act 2023, a TIP may be approved for a period of one (1) year and may be extended for two (2) subsequent periods of six (6) months each. In effect, the maximum total period of temporary importation is two (2) years, following which the relevant aircraft is expected to be exported out of Nigeria. Similarly, the recently introduced NCS Act 2023 provides for a Temporary Admissions Procedure, which allows goods, subject to certain conditions, to be temporarily imported into Nigeria without the obligation to pay customs duties. Unlike the previous Guidelines for TIP, the maximum period for the Temporary Admissions Procedure is three (3) years. It is important to reiterate that an owner/operator cannot import a private jet into Nigeria under a TIP where same has been purchased. It only avails those who lease aircraft and intend to use them temporarily before it is eventually re-exported out of Nigeria.



Where an owner/operator has acquired a private jet for use in Nigeria, he will be required to import same 'permanently' and therefore pay the requisite customs and import duties, which then allows use of the jet in Nigeria as long as the owner wishes. Unlike a temporary importation that obviates the requirement of payment of customs duties, an owner/operator who permanently imports a private jet must pay the full duties (rather than just providing a Bond as required for TIPs) before the private jet can be imported into Nigeria.

### CUSTOM IMPORT DUTY



### Conclusion

It will appear that the NCS has observed that certain private jet operators/owners explore the temporary importation process to import jets which have been purchased and fully acquired for use in Nigeria. Thus, in a bid to avoid paying duties, such aircraft, which have been fully purchased by operators/owners, are imported under a TIP, thereby evading payment of custom duties. Further, after the maximum period of the TIP, some owners/operators have found a way to keep renewing the TIPs or even procuring new TIPs, thereby ensuring that they do not pay the applicable customs duties for several years while these aircraft are in use in Nigeria.

Further to the foregoing, all private jet operators are required to regularize their positions, particularly for aircraft which were imported into Nigeria under TIP but have been fully purchased and yet, no customs duties have been paid thereto. In the event that ownership of the private jets was subsequently acquired under lease to own arrangements, legal advice can be sought on how to convert such temporarily imported aircraft for home use in Nigeria, without the need to re-export same out of Nigeria.

All operators are required to participate in the verification exercise as the NCS has begun to ground private aircraft, in respect of which the relevant import duty is yet to be paid. Further, the NCS may impose penalties on defaulting aircraft operators, for failure to remit the relevant import duties, within the statutory period.

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