



Asset Finance

Introduction

Mason Hayes+Curran is one of Ireland's leading law firms and we created a special business unit advising on Asset Finance for aircraft, ships, rail and other big ticket assets. We provide legal services to domestic and internationally based clients who are engaged in purchasing, leasing and financing of movable assets and/or lease administrators, managers, intermediaries and transaction arrangers.

The objective of the Asset Finance Unit is to progressive, creative and responsive to all of our clients timing requirements while providing clear, accurate and practical advice on contentious and non-contentious matters. We align ourselves with our clients needs and are solution driven. Our expertise encompasses asset leasing and financing transactions, cross-border structuring and taxation advice, corporate advise, insolvency and bankruptcy, dispute resolution and regulation.

Cross Border Transactions

The majority of asset finance transactions involve more than on jurisdiction. We have experience in dealing with asset finance experts all over the world and are familiar with the concepts and issues that frequently arise on such transactions.

We have built up a great network of contacts with international experts which will benefit our clients in facilitating, the speedy and efficient handling of international transactions.

Tax Planning

When considering the optimum transaction structure, taxation continues to be very important. We can provide comprehensive Irish tax advice and engage correspondent tax advisors abroad to optimise tax treatment of the transaction and minimise the likelihood of unforeseen tax costs applying in the future.

Typical direct tax issues in asset finance transactions include availability of tax depreciation, treatment of financing costs, timing of recognition of expenditure and income. Indirect tax issues that are likely to be relevant are issues such as transfer taxes, VAT, withholding tax treatment of cross border cash flows and availability of relief for withholding taxes. Ireland has an attractive rate of corporate tax for trading entities and has an extensive network of Double Taxation Agreements in place with other jurisdictions and that network is expanding continuously.

We try to maximise opportunities, minimise tax liabilities and optimise cash flow when structuring transactions.



Corporate, Company Secretarial & Administration Services

We regularly advise on all aspects relating to the establishment of new businesses including company formation, shareholder agreements, joint venture arrangements, raising finance and compliance with the relevant domestic and EU regulations including competition and anti-trust issues.

We have facilities to assist with company secretarial matters and regulatory filings required in Ireland. Furthermore we can assist and arrange the authentication of documents and can arrange for legalisation and apostille of documents for use abroad at short notice with speedy turn around times to facilitate your requirements.

Our experienced team have a solution orientated, pragmatic and responsive approach to assist you in all aspects of structuring and financing, companies and transactions.

Bankruptcy Assistance

While we endeavour to promote new business opportunities for our clients, we also recognise the current global economic downturn (2008/09). The impact of customer bankruptcy has significant consequences for the owners and financiers of the high value assets and other trade creditors.

Issues arising on bankruptcy may involve seeking emergency injunctive remedies to obtain control over the use and operation of the assets and/or operator funds. We have the resources to create multidisciplinary teams to deal with the issues and provide timely and practical solutions driven advice to minimise the adverse impact of customer insolvency.

Dispute Resolutions

Various national and international organisations or governmental agencies have rights and remedies which may adversely impact on owners' and secured financier's rights and the recovery of aircraft, aircraft engines, ships and plant and equipment.

In the case of ships, crews and maintenance providers have statutory protections and remedies at common-law and in the case of aircraft, maintenance facilities and statutory bodies may seek to impose or assert liens to protect or advance their claims.

Liens can achieve a result for the lien holder which takes precedence over and is in practical terms more effective than many other security interests. In such circumstances speed is essential to endeavour to ensure the immediate possession and relocation of the assets and all parts or to retake direct control and management of the assets to minimise financial losses. We have acted both for and against parties asserting liens.



Registration & Regulation

We have a designated Commercial Department who advice on regulatory matters pertinent to asset finance including the provision of Airport and Ports facilities, Aviation, Marine, EU competition law and procurement.

We have comprehensive knowledge of such regulations to assist you in dealing with the various governmental agencies as necessary from time to time.

Should you wish to find out more about how we can assist you and your business please do not hesitate to contact one of the team members listed below,

Asset Finance

Christine O'Donovan
Partner, Head of Aviation
+353 1 614 5082
codonovan@mhc.ie

Dispute Resolution

Declan Black
Partner, Head of Litigation
+353 1 614 5017
dblack@mhc.ie

Corporate

Justin McKenna
Partner
+353 1 614 5253
jmckenna@mhc.ie

Commercial and Regulatory

John Kettle
Partner
+ 0044 20 3178 3368
jkettle@mhc.ie

The content of this article is provided for information purposes only and does not constitute legal or other advice. Mason Hayes+Curran (www.mhc.ie) is a leading business law firm with offices in Dublin, London and New York. © Copyright Mason Hayes+Curran 2009. All rights reserved.