



## MOVEMENT ON THE SUBJECT OF THE EXEMPTION CERTIFICATES AND MOT

Recent decisions by the Federal Fiscal Court in Austria give hope to the industry in the discussion about the issuance of exemptions under the MOT law. Especially in the last months, one could observe the development that less and less restricted exemption certificates were issued by the customs offices for business aviation operators. The reason for this was not only formal errors by the applicants, but also different, non-harmonized interpretations of the various responsible customs offices, which sometimes contradicted each other.

As ABAA, we are committed to providing clarification on this subject. To this end, we have gathered feedback from various industry colleagues and exchanged experiences with the German Business Aviation Association (GBAA). We have also contacted the relevant authorities in Austria.

Due to isolated cases of the illegal tax-free purchase of mineral oil/kerosene in business aviation, the entire industry has been placed under general suspicion, thus making our daily work more difficult. As ABAA, we are working with the competent authorities to achieve a uniform understanding of the legal situation and a harmonized application of this by the regional customs offices, in order to facilitate the daily business of the Austrian business aviation operators on the one hand and to enable the authority to have common processes on the other hand.

Regarding the use of aircraft by owners as well as by third party customers in commercial air transport, there was a landmark decision by the Federal Fiscal Court (**GZ. RV/7200042/2019**). Thanks to this decision, there is now more clarity on the application of the law, both for aircraft operators and the competent authorities.

One issue that remains open is the interpretation of Section **§ 4 Abs 1 Z 1 MÖSt**, which currently leaves many aircraft operators still in uncertainty. The customs authorities require an invoice to be issued to the end customer as proof of the commercial nature of the flight; this is not possible for most aircraft operators, as marketing and payment are carried out via intermediaries (brokers). However, these flights are definitely commercial flights. Therefore, as ABAA, we are of the opinion that there is a reason to obtain the mineral oil / kerosene tax free. We are working with the relevant ministries to clarify any misunderstandings or differing interpretations and thus hope to be able to make a positive contribution to clarifying the facts for business aviation as an industry representative.

The ABAA is always available to our members for any assistance they may require with applications for free licenses **office@abaa.at**  
We will continue to keep you up to date with the latest developments.

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### **LINK TO REG RV/7200042/2019**

<https://www.ris.bka.gv.at/GeltendeFassung.wxe?Abfrage=Bundesnormen&Gesetzesnummer=10004908>