

VAT GENERAL INFORMATION FOR BUSINESSES

SUPPLIERS OF SERVICES

These notes are mainly intended for suppliers of services who are registered under article 10 of the VAT Act. If you are registered as an exempt person because your turnover falls below the established turnover threshold, please read the notes for **Small undertakings registered as exempt persons**.

If you supply services only in the local market (i.e. in Malta to customers established in Malta) then the place of supply of the services that you provide would normally be Malta. The VAT rate of the member state where the place of supply takes place is generally the VAT rate that will apply. If you import goods from outside the European Union (EU) or if you buy goods from suppliers in other EU member states, then you are also advised to read the notes regarding **Importers & persons making Intra-Community Acquisitions**.

In the context of this write up, an “Import” refers only to goods bought from a person established in a third territory (i.e. any place in the world that is not the territory of a EU member state) and transported from that territory into Malta. “Intra-Community Acquisition of goods” refer to acquisitions of goods made by a person registered in one member state (in this case Malta) from a person in another member state, where the goods have been dispatched or transported to that member state (in this case Malta).

You are required to keep proper records and documents of your business activities including all Intra-Community Acquisitions. Further details on records and documents to be kept are to be found in the notes regarding **Records and documents to be kept by a business concern**.

For what follows, please take into account that a “taxable person” is any person who carries on an economic activity, whatever the purpose or the result of that activity (economic activity is further defined in article 5 of the VAT Act). Taxable persons who carry on an exempt economic activity, such as medical doctors, insurance companies, as well as persons registered under article 11 of the VAT Act (i.e. persons operating below the established threshold for small undertakings) and their equivalent in another Member State are also considered as taxable persons even though they do not charge and collect VAT.

In order to determine whether or not Maltese VAT is due on any service, it is necessary to establish whether that service takes place or is deemed to take place in Malta according to the provisions of the VAT Act. If the application of the rules set out in these notes lead to the conclusion that the service takes place in Malta or is deemed to take place in Malta, then Maltese VAT is due on that service (except if an exemption is applicable).

As a person registered for VAT under article 10, you will have to charge VAT due to your customer (and account for it in your VAT Return). You might also have to pay Maltese VAT on such a service supplied to you, by directly including the VAT due in your VAT Return. In principle you may also claim back credit of input VAT incurred in Malta for business use, including the Maltese VAT you paid on services received.

General Rule for Place of Supply of Services applicable for cross-border trading

The General Rule for the place of supply of a service depends on whether the service is supplied to a taxable person or to a non-taxable person.

In the case where your customer is a taxable person, the place of supply of your services shall be the place where the customer has established his business. However, if you supply these services to your customer in another place where he has a fixed establishment then the place of supply of those services shall be the place where that fixed establishment is located. Otherwise, in the absence of such place of establishment or fixed establishment, the place of supply of such services shall be the place where the taxable person who receives such services has his permanent address or usually resides.

On the other hand, in the case where your customer is a non-taxable person, the place of supply of your services shall be where the supplier (i.e. yourself) has established his business (i.e. Malta). However, if you supply these services from a fixed establishment of the supplier located in a place other than Malta, the place of supply of those services shall be the place where that fixed establishment is located. In the absence of such place of establishment or fixed establishment, the place of supply of services shall be the place where you have your permanent address or where you usually reside.

However, there are specific rules for the place of supply of the following services:

- (a) Services supplied by intermediaries to non-taxable persons;
- (b) Services connected with immovable property;
- (c) Transport Services;
- (d) Cultural, artistic, sporting, scientific, educational, entertainment and similar services,
- (e) Ancillary transport services and valuations of and work on movable property;
- (f) Restaurant and Catering Services;
- (g) Services consisting of hiring of means of transport;
- (h) Supply of electronically supplied services to non-taxable persons; and
- (i) Services to non-taxable persons outside the Community.

(a) Services supplied by intermediaries to non-taxable persons

If you supply services as an intermediary to a non-taxable person, i.e. you act in the name and on behalf of another person, the place of supply shall be the place where the underlying transaction is supplied.

(b) Services connected with immovable property

If you supply services connected with immovable property, including the services of:

- expert and estate agent,
- the provision of accommodation in the hotel sector or in sectors with a similar function, such as holiday camps or sites developed for use as camping sites,
- the granting of rights to use immovable property and services for the preparation and coordination of construction work, such as the services of an architect and of a firm providing on-site supervision,

the place of supply shall be the place where the immovable property is located.

(c) Transport Services

(1) If you supply passenger transport, the place of supply shall be the place where the transport takes place, proportionate to the distances covered.

(2) If you supply transport of goods, other than the intra-Community transport of goods, to non-taxable persons, the place of supply shall be the place where the transport takes place, proportionate to the distances covered.

(3) If you supply intra-Community transport of goods to non-taxable persons the place of supply shall be the place where the transport of the goods begins.

(d) Cultural, artistic, sporting, scientific, educational, entertainment and similar services,

If you supply any of these services to a taxable person, the place of supply shall be the place where those events actually take place.

If you supply any of these services to a non-taxable person, (including the supply of services of the organizers of such activities) the place of supply shall be the place where those activities actually take place.

(e) Ancillary transport services and valuations of and work on movable property

If you supply ancillary transport services (e.g. loading, unloading, handling and similar activities) or valuations of and work on movable tangible property, to a non-taxable person, the place of supply shall be the place where the services are physically carried out.

(f) Restaurant and Catering Services

If you supply restaurant and catering services other than those physically carried out on board ships, aircraft or trains during the section of a passenger transport operation effected within the community, the place of supply shall be the place where the services are physically carried out.

If you supply restaurant and catering services on board ships, aircraft or trains during the section of a passenger transport operation effected within the Community, the place of supply shall be at the point of departure of the passenger transport operation.

The "section of a passenger transport operation effected within the Community" shall mean the section of the operation effected, without a stopover outside the Community, between the point of departure and the point of arrival of the passenger transport operation.

The "point of departure of a passenger transport operation" shall mean the first scheduled point of passenger embarkation within the Community, where applicable after a stopover outside the Community.

The "point of arrival of a passenger transport operation" shall mean the last scheduled point of disembarkation within the Community of passengers who embarked in the Community, where applicable before a stopover outside the Community.

In the case of a return trip, the return leg shall be regarded as a separate transport operation.

(g) Services consisting of hiring of means of transport

(1) If you supply services consisting of short-term hiring of a means of transport, the place of supply shall be the place where the means of transport is actually put at the disposal of the customer.

(2) If you supply services consisting of hiring, other than short-term hiring, of a means of transport to a non-taxable person, the place of supply shall be the place where the customer is established, has his permanent address or usually resides.

However, in the case of a hiring of a pleasure boat to a non-taxable person, other than short-term hiring, if you actually provide this service from your place of business or fixed establishment situated in Malta, and the boat is put at the disposal of the customer in Malta, then the place of supply shall also be Malta.

(3) For the purposes of paragraphs (1) and (2), "short-term" shall mean the continuous possession or use of the means of transport throughout a period of not more than thirty days and, in the case of vessels, not more than ninety days.

(h) Supply of electronically supplied services to non-taxable persons

If you supply electronically supplied services to non-taxable persons who are established in another Member State, or who have their permanent address or usually reside in that Member State, the place of supply shall be the place where the non-taxable person is established, or where he has his permanent address or usually resides.

Services include:

- Telecommunication services
- Radio and television broadcasting services
- Electronically supplied services including web-hosting, distance maintenance of programmes and equipment, supply of software, images, text and information, and making available databases, broadcasts, supply of music, films, games, and the supply of distance teaching.

This rule also applies to non-EU established persons who supply these services to non-taxable persons established inside the EU. In order to simplify the consequences of this rule, a system has been set up whereby the supplier can register in only one member state and pay to that member state the VAT due in each of the other member states where the service is consumed.

Further details regarding how specific situations concerning supplies of services should be dealt with are found in the European Council Implementing Regulation (EU) No 282/2011.

(i) Services to non-taxable persons outside the Community

If you supply any of the following services to a non-taxable person who is established or has his permanent address or usually resides outside the Community, the place supply of such services shall be the place where that person is established, has his permanent address or usually resides:

- (a) transfers and assignments of copyrights, patents, licences, trade marks and similar rights;
- (b) advertising services;

- (c) the services of consultants, engineers, consultancy firms, lawyers, accountants and other similar services, as well as data processing and the provision of information;
- (d) obligations to refrain from pursuing or exercising, in whole or in part, a business activity or a right referred to in this item;
- (e) banking, financial and insurance transactions including reinsurance, with the exception of the hire of safes;
- (f) the supply of staff;
- (g) the hiring out of movable tangible property, with the exception of all means of transport;
- (h) the provision of access to a natural gas system situated within the territory of the Community or to any network connected to such a system, to the electricity system or to heating or cooling networks, or the transmission or distribution through these systems or networks, and the provision of other services directly linked thereto;
- (i) telecommunications services;
- (j) radio and television broadcasting services;
- (k) electronically supplied services.

Intra-community supplies of Services

If you supply Intra-Community Services to a taxable person where the place of supply is the member state where that taxable person is established, those services are exempt from VAT in Malta. However, you are responsible to:

- (a) Ensure that your customer in the other member state provides you with a valid VAT identification number. This identification number will start with a prefix of two letters that refer to the country of establishment. See further details on the format of this number in the notes regarding **Exporters and Intra-Community Suppliers**
- (b) You may check the validity of the VAT identification number of your client either over the internet (https://ec.europa.eu/taxation_customs/vies/) or by phoning the Central Liaison Office at the VAT Department in Malta. Such confirmation may also be obtained in writing and should be retained for future reference.

If the above conditions are met, you shall not charge VAT to your client. You are to quote the client's valid VAT identification number on the Tax Invoice that you issue to him and mention the words "**Reverse Charge**" on the invoice. You shall also report the supply of Intra-Community Services in the accounts of your business.

Please be advised that if your client does not have a valid identification number, you shall charge VAT on your supply as if it was a local supply. Otherwise, you will be responsible for the payment of the Value Added Tax due to the VAT Department in Malta.

You are also required to send to the VAT Department in Malta via its website, an electronic statement called the "**Recapitulative Statement**" in which you will provide a breakdown of all the exempt Intra-Community Services that you supplied during the previous calendar quarter. This statement should include the VAT numbers of your clients from the other member states and the total value of Intra-Community Services made to each of these clients. There is a penalty per month for failure to submit this "**Recapitulative Statement**" in time.

The data obtained from these statements in all the member states including Malta would be captured into the so-called VAT Information Exchange System (VIES) by all the member states for control purposes.

You are also required to keep proper records and documents of your business activities. Further details on records and documents to be kept are to be found in the notes concerning **Records and documents to be kept by a business concern.**

Reverse Charge

If you are a person registered in Malta under article 10, and you are receiving a service from a supplier in another member state or from a supplier established outside the EU, and the place of supply of that service is deemed to be Malta, Maltese VAT is due. In that case you are to account for the VAT due in your trade records and pay the amount by declaring it in your next VAT Return under the Reverse Charge Rule.

By the Reverse Charge Rule you have to declare the services and relative VAT due on your VAT return and then claim the tax back as a deduction, thus resulting in a zero balance. The whole amount of input VAT may only be claimed as a deduction if all these services are acquired for business use with a full right to deduct VAT.

Otherwise, you could only claim back as a deduction only that input VAT related to the part of the service that was for business use (having a right to deduct VAT) and you have to pay VAT on the remaining part of the service.

If you are a taxable person not registered under article 10 (because you are providing exempt without credit goods or services or because you are a small undertaking falling below the established turnover threshold and registered under article 11) and you receive such a service from any provider not established in Malta, then you have to pay the VAT due directly to the Commissioner of Revenue on a prescribed form by not later than the fifteenth day of the month following that during which it becomes chargeable.

Disclaimer:

Please be advised that the information in these notes is provided as guidance. The notes are simply guidelines and not legal documents providing legally binding rulings. If you require more precise information on how to implement VAT legislation in specific special situations, kindly contact the VAT Department or consult documents available in the special section for Tax Professionals at the VAT Department's website.

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