

## VAT GENERAL INFORMATION FOR BUSINESSES

### INTRA-COMMUNITY ACQUISITIONS BY “EXEMPT” TAXABLE PERSONS AND NON-TAXABLE LEGAL PERSONS

These notes are aimed for persons who intend to make Intra-Community Acquisitions and who are:

- (a) only performing activities that are exempt without credit;
- (b) small undertakings registered as exempt (whose turnover is below the established threshold);
- (c) non-taxable legal persons.

In the context of this write up, “Taxable person” means a 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). Therefore taxable persons who carry on an exempt economic activity such as medical doctors, insurance companies and persons registered under article 11 (i.e. persons operating below the established threshold for small undertakings) are also considered as taxable persons even though they are not obliged to charge and collect VAT.

Goods refer to goods that are not excise goods or new means of transport.

A “non-taxable person” is a person who is not a taxable person i.e. who does not carry on an economic activity (e.g. a normal individual who is employed)

A “non-taxable legal person” is a non-taxable person who is not a physical person (e.g. a Public Authority, a pure Holding Company etc.)

“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).

“Intra-Community Services” are services that are provided from a person established in one member state to person established in another member state.

If you are one of the three types of persons mentioned in the first paragraph above and you wish to make Intra-Community Acquisitions of goods in Malta from a person in another member state and the annual value of such acquisitions does not exceed 10,000 Euros, then you have a choice. You may pay VAT on these acquisitions in the other member state or you may pay VAT in Malta.

However as soon as the total accumulated value of your acquisitions since the beginning of the calendar year exceeds 10,000 Euros, you are obliged to pay VAT in Malta. This threshold does not apply to Intra-Community Acquisitions of Excise Goods or of New Means of Transport as these will always be liable for VAT on entry into Malta or upon registration, respectively.

On the other hand if you are provided with any Intra-Community services by a person in another member state whose place of supply is Malta, you have to pay VAT in

Malta. Please note that unlike for Intra-Community Acquisitions of goods, there is no threshold with regard to Intra-Community services.

In order to pay VAT in Malta on your Intra-Community Acquisitions of goods or Intra-community services you have to register with the VAT Department in Malta under article 12 of the VAT Act by completing the prescribed form. You will be given a registration number starting with the two-letter prefix MT. If you are already registered under article 11, you will still retain your number for local operations and you will be given another different number with the MT prefix for your Intra-Community Acquisitions.

When making an Intra-Community Acquisition of goods or when purchasing Intra-Community Services from a registered person in another member state you need to provide the person in the other member state with the VAT identification number having the MT prefix. Your supplier will check the validity of your VAT identification number either through Internet or by phoning the Central Liaison Office at the VAT Administration in his member state. After the validity of your number is confirmed and, in the case of goods, your supplier obtains proof that the goods are to be transported from another member state to Malta, he will exempt his intra-community supply.

As within the European Union there is no border control, there will be no customs formalities when the goods arrive in Malta and VAT is not paid at the point of entry. You are therefore required to pay VAT due on the acquisition at the applicable Maltese rate to the VAT Department in Malta. This payment should be accompanied by a prescribed form, and should be made by not later than the 15<sup>th</sup> of the month following that in which tax has become chargeable.

It is important to note that this procedure is to be followed after the arrival of each consignment.

Every year, you will be required to furnish to the department on a prescribed form, a simple declaration in which you state the total value of the acquisitions of goods and intra-community services for which you were liable to pay VAT, which serves as a reconciliation statement. Penalties and interest are imposed on defaulters and the department reserves the right to take further legal action if such procedures are not followed or if payment due is not effected in time.

You are advised that your suppliers in each member state have to report the total supplies made to you against your VAT Identification number to the tax administration in their respective member states. The data will then be captured in a system called VAT Information Exchange System (VIES) that is shared on-line by all member states for control purposes. The VAT Department in Malta checks the acquisitions reported on the VIES system with the returns of locally registered persons to ascertain that all such acquisitions are reported and VAT accounted for locally.

If goods are dispatched or transported from a third country and you import these goods into another EU member state than Malta before sending them to Malta, these goods are deemed to have been dispatched or transported from the Member State of

importation to Malta. Therefore in that case, an Intra-Community Acquisition of goods takes place and if through this operation you exceed the threshold for Intra-Community Acquisitions or if you are already registered under article 12, you should pay VAT in Malta.

If you are a non-taxable legal person and you import goods into Malta that are transported from a third country and the place of arrival of the transported goods is a Member State other than Malta, you may claim a refund in Malta of the VAT paid on the importation of those goods if you prove that the intra-Community acquisition of those goods was subject to value added tax in that other Member State.

On the other hand, if you are a non-taxable legal person who imports goods from a third country in another member state than Malta and the goods are transported to Malta from the Member state of arrival, you may claim a refund of the VAT paid on the importation of those goods from the other member state, if you prove that the intra-Community acquisition of these goods was subject to value added tax in Malta. These goods will be considered to have been transported from the member state of importation and the amount of the purchase will be taken into account for the calculation of the acquisition threshold.

You are required to keep proper records and documents of 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**. Persons registered under article 11 are also advised to read the notes regarding **Small undertakings registered as exempt persons**.

If you are a party in two transactions (once as purchaser and once as seller) involving three parties established in three different member states and if goods are directly transported from the first member state to the third member state, you may be interested to read the notes on **Triangulation**.

**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 .**

(Updated 17 June 2013)