

Guidelines for the correction of a tax return by persons registered under article 10

What is this document about?

The aim of this document is to explain the changes in the treatment of corrections to VAT returns submitted by persons registered under article 10.

Who should read these guidelines?

This document may be of interest to persons registered under article 10 who would require to make adjustments to their VAT declaration or to tax practitioners acting on behalf of taxable persons registered under article 10.

What is the legal basis for the changes referred to in these Guidelines?

It is legally required in terms of article 28(1) of the VAT Act (Cap. 406, Laws of Malta) that corrections to a VAT return made by a person registered under article 10 are to be made on a specifically prescribed form. Accordingly, the requisite correction form is the one prescribed in terms of Legal Notice 128/2016. The use of such form shall come into force with effect from the 1st of May 2016 and therefore, corrections to a VAT return from such date onwards will only be accepted when made on the requisite prescribed form.

How do I make a correction?

As from the 1st of May 2016 corrections to a VAT return would only be possible if made on the prescribed form. Such prescribed form would be available from the VAT Department Offices or it could be downloaded from the VAT Department's website at cfr.gov.mt.

The filing of a correction form shall be subject to the following conditions:

- a) An applicant shall:
 - i) Fill in all the boxes in Part 1 of the form – *Details of Registered Persons and Tax Return*;
 - ii) For Part 2 – *Correction* – complete only those boxes affected by the correction;
 - iii) Sign and complete Part 3 – *Declaration*.
- b) A correction of an amount which has been assessed or for which a provisional assessment has been issued or which is subject to an appeal shall not be accepted.
- c) Where it results that the Commissioner for Revenue does not agree with a correction made, the applicant may be subject to an assessment in terms of the Act.
- d) Administrative penalties and interests are applicable in terms of the Act.

It is intended that, in due course the correction process will be available electronically.

What documents do I need to submit with a correction?

The requisite form only is required to be submitted for the correction.

However, registered persons are reminded that subsequent to a correction, the Commissioner for Revenue may request the submission of any documentation in support of any correction made. The legal obligation on the registered person to keep and provide requested documents within a period of six (6) years shall start to run from the date on which a correction is received and duly acknowledged by the Commissioner for Revenue in terms of article 48 of the VAT Act.

Moreover, where the Commissioner for Revenue does not agree with a correction made, the period of six (6) years prescribed in article 32 within which he may raise an assessment shall start to run from the date on which a correction is received and duly acknowledged by the Commissioner for Revenue.

In particular, it is to be borne in mind that with regards to both the obligation for the retention of records and the right to raise an assessment, in the case of capital goods the prescribed period which would start to run, after 5 years in the case of movable goods and after 20 years in the case of immovable goods, shall commence to run from the date on which a correction is made and duly acknowledged by the Commissioner for Revenue.

The Commissioner reserves the right to substitute, alter or withdraw these guidelines as necessary at any time.

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Disclaimer

The above notes are published for information purposes and as guidance for further exploration. Utmost care has been taken to ensure that the information given is correct. This notwithstanding it is to be pointed out that they are not legally binding and should not serve as a legal document providing legally binding rulings. If you require further information you are advised to either refer to the legal text or contact the VAT Department.