

Guidelines on the application of the 0% VAT rate on sanitary items used for female sanitary protection and certain medical items used to compensate and overcome cancer in humans

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Purpose and Background

In line with the provisions of Article 98(2) of Council Directive 2006/112/EC, as amended by Council Directive (EU) 2022/542, by virtue of Legal Notice 355 of 2024 [Value Added Tax Act (Amendment of Fifth Schedule) (Amendment No. 4) Regulations, 2024, Malta introduced an exemption with deductibility of the VAT paid at the preceding stage (i.e. zero rate) to certain supplies of goods covered in points (3) and (4) of Annex III of the aforementioned Council Directive 2006/112/EC as amended.

Part One of the Fifth Schedule to the Value Added Tax Act (Cap. 406) (hereinafter referred to as the VAT Act) presents a list of supplies which are to be treated as zero rated (0% VAT), also referred to as exempt with credit for VAT purposes. This means that such supplies included in this Part are subject to a 0% VAT rate upon sale, whilst enabling input VAT recovery for input VAT related to such supplies. As part of this list, the supply of products used for female sanitary protection and certain medical items essential to compensate and overcome cancer are being included under new points 16 and 17 of Part One of the Fifth Schedule to the VAT Act respectively.

The purpose of this document is for the Commissioner for Tax and Customs ('CfTC') to provide guidance, in conformity with article 75(2) of the VAT Act, on the application of the VAT exemptions introduced through the aforementioned Legal Notice.

Interpretation

Item 16 of Part One of the Fifth Schedule to the VAT Act provides for a zero rate of VAT on:

"The supply of products used for female sanitary protection."

In accordance with item 2 of Part Three to the Fifth Schedule to the VAT Act and item 1 of Part Four of the Fifth Schedule to the VAT Act, the intra-community acquisition and importation, respectively, of the items referred to in item 16 of Part One of the Fifth Schedule to the VAT Act would also be exempt.

For ease of reference, the table below (Table 1) may be used as guidance in identifying the relevant codes under which such products would typically classify in terms of the Combined

Nomenclature (CN) contained in Annex I of Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff.

TABLE 1	
CN Code	Statistical Description
96190030	Sanitary towels and tampons, napkins and napkin liners for babies and similar sanitary articles, of wadding of textile materials
96190040	Sanitary towels, tampons and similar articles, of textile materials (excl. of wadding)
96190071	Sanitary towels (excl. of textile materials)
96190075	Tampons (excl. of textile materials)
96190079	Feminine hygiene products (excl. of textile materials, and sanitary towels and tampons)

Furthermore, in terms of the new item 17 of Part One of the Fifth Schedule to the VAT Act, the following items shall also be subject to a 0% VAT rate:

- (a) mastectomy undergarments;
- (b) urinary incontinence management devices;
- (c) vacuum constriction devices;
- (d) scalp cooling systems;
- (e) absorbent incontinence care products; and
- (f) supportive medical undergarments.

For ease of reference, the table below (Table 2) may be used as guidance in identifying the relevant codes under which such products would typically classify in terms of the Combined Nomenclature (CN) contained in Annex I of Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff.

TABLE 2		
Item	CN Code	Statistical Description
Mastectomy undergarments	62121090	Brassieres of all types of textile materials, whether or not elasticated, incl. knitted or crocheted (excl. in a set made up for retail sale containing a brassière and a brief)



Urinary incontinence management devices	90219090; or 39269097	Articles and appliances, which are worn or carried, or implanted in the body, to compensate for a defect or disability (excl. artificial parts of the body, hearing aids, incl. parts and accessories, and complete pacemakers for stimulating heart muscles); or Articles of plastics and articles of other materials of heading 3901 to 3914, n.e.s.
Vacuum constriction devices	84141089	Vacuum pumps (excl. vacuum pumps for use in semiconductor production, rotary piston vacuum pumps, sliding vane rotary pumps, molecular drag pumps and Roots pumps, diffusion pumps, cryopumps and adsorption pumps)
Scalp cooling systems	90189084	Instruments and appliances used in medical, surgical or veterinary sciences, n.e.s.;
Absorbent incontinence care products	96190030; 96190050; or 96190089.	Sanitary towels and tampons, napkins and napkin liners for babies and similar sanitary articles, of wadding of textile materials; Napkins and napkin liners for babies, and similar articles, of textile materials (excl. of wadding); or Sanitary articles, e.g. incontinence care articles (excl. of textile materials, and sanitary towels, tampons, napkins and napkin liners for babies).
Supportive medical undergarments	62104000; 62105000; or 90219090	Men's or boys' garments of textile fabrics, rubberised or impregnated, coated, covered or laminated with plastics or other substances (excl. of the type described in subheading 6201,11 to 6201,19, and babies' garments and clothing accessories); Women's or girls' garments of textile fabrics, rubberised or impregnated, coated, covered or laminated with plastics or other substances (excl. of the type described in subheading 6202,11 to 6202,19, and babies' garments and clothing accessories); or Articles and appliances, which are worn or carried, or implanted in the body, to compensate for a defect or disability (excl. artificial parts of the body, hearing aids, incl. parts and accessories, and complete pacemakers for stimulating heart muscles).

For the avoidance of doubt, an item which falls under the CN Codes included in Tables 1 and 2 does not automatically qualify for the 0% VAT rate – an assessment must be carried out in order to ensure that the item in question falling under the respective CN Code indicated in the above tables satisfies the definition of the item listed and, or described in the respective provisions of the VAT Act.

Disclaimer

These guidelines shall not prejudice in any way any of the powers of the CfTC in terms of the VAT Act.

These guidelines shall replace and supersede any previously applicable guidelines on the same matter.

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

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