

**L.N. 162 of 2018****VALUE ADDED TAX ACT  
(CAP. 406)****Value Added Tax (Registration as a Single Taxable Person)  
Regulations, 2018**

BY VIRTUE of the powers conferred by article 5(6) of the Value Added Tax Act, the Minister for Finance has made the following regulations:-

Citation and commencement.

**1. (1)** The title of these regulations is the Value Added Tax (Registration as a Single Taxable Person) Regulations, 2018.

(2) These regulations shall come into force on 1st June 2018, and shall apply only to applications, received in terms of regulation 8, which come into effect on or after such date.

Definitions.

**2. (1)** In these regulations, save as provided in sub-regulation (2), all words and phrases shall have the meaning as prescribed in the Act.

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(2) In these regulations, unless the context otherwise requires:

"the Act" means the Value Added Tax Act;

"economic links" has the meaning given in regulation 3(3);

"Group Reporting Entity" means the member of a VAT Group appointed as such pursuant to regulation 4;

"established" has the meaning given in article 2 of the Act;

"financial links" has the meaning given in regulation 3(3);

"member of a VAT Group" shall mean a person who forms part of a VAT Group registered as such in terms of these regulations and shall include the Group Reporting Entity;

"organisational links" has the meaning given in regulation 3(3);

"person" means a legal person and shall not include a physical person;

"Schedule" means the Schedule to these regulations as may be amended by the Commissioner from time to time by way of notice in

the Gazette;

"VAT Group" means two or more persons who, pursuant to regulation 5, are registered under the Act as a single taxable person.

3. (1) Two or more persons established in Malta may apply to the Commissioner to be registered as a single taxable person for the purposes of the Act if the following conditions are satisfied:

(a) at least one of the applicants is a taxable person who is licensed or recognised in terms of the legislation listed in the Schedule;

(b) each of the applicants is bound to each of the others by financial links, organisational links and economic links; and

(c) at the time of application, all the applicants have submitted all returns and notices due under articles 27 and 30 of the Act, and all returns of income due in terms of the Income Tax Management Act, and have settled in full any and all amounts due by way of tax declared in the aforementioned returns and notices, as well as any interest and administrative penalties due pursuant to the Act and the Income Tax Act and Income Tax Management Act:

Provided that, when a valid objection or appeal has been made against an assessment issued to any of the said applicants, any tax and, or administrative penalty assessed which is in dispute and which is kept in abeyance as a result of the said objection or appeal, as well as any interest accruing thereon, shall be disregarded for the purposes of this paragraph.

(2) A person established in Malta may apply to the Commissioner to be admitted as a member of an existing VAT Group, provided that the conditions set out in sub-regulation (1)(b) and (c) are satisfied.

(3) For the purposes of this regulation:

(a) the required financial links shall be deemed to exist where any two or more of the following are, directly or indirectly, held as to more than 90% by the same person or persons (whether a legal person or an individual):

(i) the voting rights or equivalent interests;

(ii) the entitlement to profits available for distribution; or

(iii) the entitlement to surplus assets available for distribution on a winding up or equivalent event;

(b) "organisational links" shall be deemed to exist where the applicants have a shared management structure, whether in whole or in part;

(c) the required economic links shall be deemed to exist where the activity of each of the applicants is of the same nature or within the same industry, or where the activities of the applicants are interdependent or complementary, or where one member of the group carries out activities which are wholly or substantially to the benefit of any one or more of the other members:

Provided that, for the purposes of determining whether the required economic links exist, the Commissioner may request such additional information and documentation as may be required to evidence such links, and the decision of the Commissioner shall be final and conclusive.

(4) No person may be a member of more than one VAT Group at the same time.

(5) Persons bound to each other by financial links, organisational links and economic links may only form part of the same VAT Group.

(6) In order for a group of persons to be treated as a VAT Group, or to be admitted to a VAT Group, an application shall be made in the manner specified in regulation 8.

Group  
Reporting  
Entity.

**4.** (1) The members of a VAT Group shall nominate from amongst themselves the Group Reporting Entity, which shall exercise any and all rights and discharge any and all obligations arising to the VAT Group under the Act.

(2) Any supply made by a member of a VAT Group shall be treated, for the purposes of the Act, as a supply made by the Group Reporting Entity.

(3) Any supply falling within the scope of article 4 of the Act made to a member of a VAT Group shall be treated, for the purposes of the Act, as a supply made to the Group Reporting Entity.

(4) Any intra-community acquisition falling within the scope of article 4 of the Act made by a member of a VAT Group shall be treated, for the purposes of the Act, as an intra-community acquisition

made by the Group Reporting Entity.

(5) Any importation falling within the scope of article 4 of the Act made by a member of a VAT Group shall be treated, for the purposes of the Act, as an importation made by the Group Reporting Entity.

(6) For the avoidance of any doubt, notwithstanding the particular description of any of the members of a VAT Group as a taxable person or a non-taxable legal person, a VAT Group registered as such pursuant to these regulations shall, for the purposes of any supply, acquisition or importation referred to in sub-regulations (2), (3), (4) and (5), be regarded as a taxable person.

**5.** (1) The Commissioner shall, following receipt of an application made in the manner prescribed in regulation 8(1), register the applicants as a VAT Group if satisfied that the eligibility conditions specified in regulation 3 have been met and shall, by notice in writing:

Notification of  
Group  
treatment.

(a) specify the date with effect from which the applicants are to be regarded as a VAT Group for the purposes of the Act;

(b) designate the person nominated in terms of regulation 4(1), or such other person from amongst the applicants as the Commissioner may deem fit, as the Group Reporting Entity;

(c) issue a Value Added Tax identification number to the group pursuant to articles 10 or 12 of the Act, as the case may be.

The notice in terms of this sub-regulation shall be issued to the Group Reporting Entity.

(2) The rights and obligations arising in terms of the Act to a person registered under article 10 or 12, as the case may be, shall apply to the VAT Group with effect from the date referred to in sub-regulation (1)(a).

(3) The Commissioner shall, following an application made in the manner prescribed in regulation 8(2), where he is satisfied that the conditions prescribed in the said regulation are satisfied, by notice in writing to the applicant and the Group Reporting Entity, deem the applicant to be a member of the VAT Group with effect from the date specified in the said notice.

Supplies  
between  
members of a  
VAT Group.

**6.** (1) Notwithstanding the provisions of article 4 of the Act, and without prejudice to the powers of the Commissioner arising in terms of sub-regulation (2), any supply of goods or supply of services made by one member of a VAT Group to another member of that VAT Group shall be disregarded for the purposes of the Act.

(2) The Commissioner may, in order to prevent tax avoidance or evasion through the application of the provisions of these regulations, direct that the provisions of sub-regulation (1) shall not apply to a supply of goods or services made by one member of a VAT Group to another member of that VAT Group which supply would, had the VAT Group not existed, fall within the scope of article 4 of the Act.

(3) Where a determination is made by the Commissioner pursuant to sub-regulation (2), the supplies made by a member of the VAT Group to another member of the VAT Group shall be treated, for the purposes of the Act, as supplies made by the Group Reporting Entity to itself.

(4) The Commissioner shall, in any direction given in terms of sub-regulation (2), provide any such instructions as may be necessary to enable the Group Reporting Entity to fulfil its obligations under the Act.

Supplies  
between  
establishments  
of the same  
entity who are  
not in the VAT  
Group.

**7.** Notwithstanding that the provision of services by one establishment of a taxable person to another establishment of the same taxable person shall not constitute a supply of services for consideration by a taxable person acting as such for the purposes of article 4 of the Act, the provisions of regulation 6(1) shall not apply to supplies of services made by or to an establishment situated outside Malta if that establishment is a member of a VAT group in a Member State that operates a system of VAT grouping in terms of which the establishment alone, and not the entire enterprise of which it forms part, is incorporated in a VAT group, and, in such circumstances, supplies of services made by or to the establishment situated outside Malta shall be treated, for the purposes of the Act, as supplies made by or to a separate taxable person.

Application.

**8.** (1) An application for registration of two or more persons as a VAT Group shall be made electronically, in the format determined by the Commissioner, and shall contain, in particular, information on the manner in which the applicants are bound by financial links, organisational links and economic links, and shall indicate the date with effect from which the applicants elect to be registered as a VAT Group.

(2) An application for the admission of a person as a member of an existing VAT Group shall be made electronically in the format

determined by the Commissioner, and shall contain, in particular, information on the manner in which that person is bound to the other members of the VAT Group by financial links, organisational links and economic links, and shall indicate the date with effect from which the applicant elects to be admitted to the VAT Group.

(3) The Commissioner may request any one or more of the applicants for registration as members of a VAT Group, or the applicant for admission to an existing VAT Group, as the case may be, to provide such other information and documentation as may be required.

**9.** (1) Where any one or more of the individual applicants for registration as a VAT Group, or for admission to an existing VAT Group, are already registered under the Act, the Commissioner shall, immediately upon the issuance of a notification in terms of regulation 5(1) or (3), as the case may be, cancel any such registration:

Cancellation of prior registrations.

Provided that the provisions of item 14(2) of the Second Schedule to the Act shall not apply to any such cancellation of registration.

(2) The cancellation of the individual VAT registration of an applicant for membership of, or admission to, a VAT Group in terms of sub-regulation (1) shall not relieve that person from any liability incurred under this Act in virtue of anything done or omitted to be done before the date of the cancellation.

(3) Following the cancellation of the individual VAT registration of an applicant for membership of, or admission to, a VAT Group in terms of sub-regulation (1), any excess credit or refund entitlement which had arisen to that person in terms of article 24 of the Act in respect of a tax period which ended prior to the effective registration of, or admission to, the VAT Group shall be and remain a refund payable to that person in accordance with the provisions of article 24 of the Act, and shall not be available for set off by, or refund to, the Group Reporting Entity.

**10.** (1) Where the assets of the economic activity of any of the applicants for membership of a VAT Group or for admission to an existing VAT Group include capital goods, as defined in the Value Added Tax (Adjustments relating to input tax on capital goods) Regulations, in respect of which the period of reference for the purposes of determining the adjustment of the initial deduction referred to in regulation 3 of the said Value Added Tax (Adjustments relating to input tax on capital goods) Regulations has already started to run, the said period of reference shall continue to run subsequent to

Where assets of the economic activity include capital goods. S.L. 406.12

the date referred to in regulation 5(1)(a) or (3), as the case may be, notwithstanding the cancellation of the said applicant's individual registration in terms of regulation 9(2).

S.L. 406.12 (2) If any of the events referred to in regulation 4 of the Value Added Tax (Adjustments relating to input tax on capital goods) Regulations occur in relation to the capital goods referred to in sub-regulation (1) subsequent to the date specified in regulation 5, the Group Reporting Entity shall make any adjustment required to the initial deduction adjustment in the manner prescribed in the said Value Added Tax (Adjustments relating to input tax on capital goods) Regulations.

S.L. 406.12 (3) Where the assets belonging to a person who is a member of a VAT Group include capital goods, as defined in the Value Added Tax (Adjustments relating to input tax on capital goods) Regulations, in respect of which the period of reference for the purposes of determining the adjustment of the initial deduction referred to in regulation 3 of the said Value Added Tax (Adjustments relating to input tax on capital goods) Regulations started to run or was running whilst that person was a member of the VAT Group, the said period of reference shall continue to run subsequent to the termination of that person's membership of the VAT Group, or the dissolution and deregistration of the VAT Group, in terms of regulation 12, and the provisions of the Value Added Tax (Adjustments relating to input tax on capital goods) Regulations shall continue to apply in respect of the said capital goods:

S.L. 406.12 Provided that if any of the events referred to in regulation 4 of the Value Added Tax (Adjustments relating to input tax on capital goods) Regulations occur in relation to the capital goods referred to above on or after the termination of that person's membership of the VAT Group, or the dissolution and deregistration of the VAT Group, as the case may be, that person shall make any adjustment required to the initial deduction adjustment in the manner prescribed in the said Value Added Tax (Adjustments relating to input tax on capital goods) Regulations unless such adjustment has already been made by the Group Reporting Entity.

Joint and several liability.

**11.** (1) Each member of a VAT Group shall be jointly and severally liable for the payment of any tax, administrative penalties and interest arising under the Act, which have become due and payable by the Group Reporting Entity pursuant to the application of regulation 4.

(2) Following the termination of a person's membership of a VAT Group in terms of regulation 12, that person shall remain jointly and severally liable with the other members of a VAT Group for the

payment of any tax, administrative penalties and interest arising under the Act in connection with anything done or omitted to be done prior to the termination of that person's membership of the VAT Group.

**12.** (1) Where a member of a VAT Group no longer satisfies or shall no longer satisfy any one or more of the conditions set out in regulation 3(1)(b), the Group Reporting Entity shall, prior to the lapse of fifteen days from the date of change in circumstances, notify the Commissioner of the change or the intended change, as the case may be. The Commissioner shall, once satisfied that any one or more of the required conditions are or shall no longer be satisfied, terminate that person's membership of a VAT Group, and shall serve notice on that person indicating the effective date of the termination of membership.

Termination of  
Group  
membership.

(2) Where it appears to the Commissioner that a member of a VAT Group no longer satisfies any one or more of the conditions set out in regulation 3(1)(b), the Commissioner shall, unless satisfactory evidence to the contrary is provided, terminate that person's membership of a VAT Group, and shall serve notice on that person indicating the effective date of the termination of membership.

(3) The date of termination of a person's membership of the VAT Group pursuant to sub-regulations (1) or (2) shall not be a date earlier than the date on which that person ceased to satisfy the requirements of regulation 3(1)(b).

(4) Where the membership of a VAT Group of the Group Reporting Entity is terminated, the remaining members shall immediately appoint from amongst themselves a new Group Reporting Entity, which shall notify the Commissioner in writing within fifteen days from the date of the notification received pursuant to sub-regulations (1) or (2):

Provided that, in such circumstances, the Commissioner may, at any time and as he shall deem fit, designate in lieu of the person so appointed, any other member of the VAT Group as the Group Reporting Entity.

(5) The cancellation of a person's membership of a VAT Group shall not relieve that person from any liability incurred under the Act in virtue of anything done or omitted to be done before the date of the cancellation, or from the obligation of that person to make an application for a fresh registration in any of the circumstances under which a person is required to apply for registration in terms of any provision of the Act:



Provided that, where the person whose membership of a VAT Group is cancelled as aforesaid is not liable to make an application for registration under article 10 of the Act, the provisions of item 14 of the Second Schedule to the Act shall apply in respect of any goods belonging to that person, where the value added tax on those goods had been wholly or partially deducted.

(6) The members of a VAT Group may apply to the Commissioner to dissolve and cancel the registration of the VAT Group at any time after the lapse of twenty-four full calendar months from the effective date of registration of the VAT Group, and a VAT Group cannot subsequently be reconstituted with the same membership until the lapse of twenty-four full calendar months from the effective date of the cancellation thereof.

(7) When the registration of a VAT Group is cancelled pursuant to sub-regulation (6), the Commissioner shall serve notice on the Group Reporting Entity indicating the effective date of cancellation of the registration:

Provided that the cancellation of registration of a VAT Group shall not relieve the persons who were members of the VAT Group prior to the said date of cancellation from any liability incurred under the Act in virtue of anything done or omitted to be done before the date of the cancellation, nor from the obligation to make an application for a fresh registration in any of the circumstances under which a person is required to apply for registration in terms of any provision of the Act:

Provided further that where a person who was a member of the VAT Group prior to the said date of cancellation of its registration is not liable to make an application for registration under article 10 of the Act, the provisions of item 14 of the Second Schedule of the Act shall apply in respect of any goods belonging to that person, where the value added tax on those goods had been wholly or partially deducted.

References in  
the Act.

**13.** (1) Unless otherwise stated herein, any reference in the Act to a person registered under article 10 of the Act or a person registered under article 12 of the Act, as the case may be, shall be construed to include a reference to a VAT Group registered as such in terms of these regulations.

(2) Any reference to a "person" and "registered taxable person" in Part VI of the Act shall be construed as a reference to each of the individual members of a VAT Group and, in particular, each individual member of a VAT Group shall be required to keep full and

proper records of all transactions entered into with other members of the VAT Group and with persons not being members of the VAT Group:

Provided that the Group Reporting Entity shall, in addition, be required to keep consolidated records of all transactions which, in terms of regulation 4, are treated as carried out by the Group Reporting Entity, in the manner specified in the Eleventh Schedule to the Act.

(3) The term "supplier" in item 4(2)(b) of Part One of the Third Schedule to the Act shall, for the purposes of determining the Distance Sales Threshold referred to in item 1 of Part Three of the Sixth Schedule to the Act, be construed as referring to all the members of the VAT Group.

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SCHEDULE  
(Regulations 2 and 3)

For the purposes of these regulations, the legislation referred to is that listed hereunder:

the Banking Act, Chapter 371 of the Laws of Malta;

the Financial Institutions Act, Chapter 376 of the Laws of Malta;

the Gaming Act, Chapter 400 of the Laws of Malta;

the Insurance Business Act, Chapter 403 of the Laws of Malta;

the Insurance Intermediaries Act, Chapter 487 of the Laws of Malta;

the Investment Services Act, Chapter 370 of the Laws of Malta;

the Lotteries and Other Games Act, Chapter 438 of the Laws of Malta;

the Retirement Pensions Act, Chapter 514 of the Laws of Malta;

the Securitisation Act, Chapter 484 of the Laws of Malta.

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