

L.N. 297 of 2018

**VALUE ADDED TAX ACT
(CAP. 406)**

**Value Added Tax Act (Amendment of Third Schedule)
Regulations, 2018**

BY VIRTUE of the powers conferred by articles 7 and 75 of the Value Added Tax Act, the Minister for Finance has made the following regulations:-

1. (1) The title of these regulations is the Value Added Tax Act (Amendment of Third Schedule) Regulations, 2018, and these regulations shall be read and construed as one with the Third Schedule to the Value Added Tax Act, which Third Schedule is hereinafter in these regulations referred to as "the Schedule".

Citation, scope and commencement.

Cap. 406.

(2) These regulations implement the provisions of article 1 of Council Directive (EU) 2017/2455 of the 5th December 2017 amending Directive 2006/112/EC and Directive 2009/132/EC as regards certain value added tax obligations for supplies of services and distance sales of goods.

(3) These regulations shall come into force on the 1st January 2019.

2. Item 10 in Part Two of the Schedule shall be substituted by the following:

Substitutes item 10 in Part Two of the Schedule.

"10. (1) The place of supply of the following services to a non-taxable person shall be the place where that person is established, has his permanent address or usually resides:

- (a) telecommunications services;
- (b) radio and television broadcasting services;

(c) electronically supplied services, in particular services relating to website supply, web-hosting, distance maintenance of programmes and equipment, supply of software and updating thereof, supply of images, text and information and making available of databases, supply of music, films and games, including games of chance and gambling games, and of political, cultural, artistic, sporting, scientific and entertainment broadcasts and

events, and supply of distance teaching.

Where the supplier of a service and the customer communicate via electronic mail, that shall not of itself mean that the service supplied is an electronically supplied service.

(2) Paragraph (1) shall not apply where the following conditions are met:

(a) the supplier is established or, in the absence of an establishment, has his permanent address or usually resides in Malta only; and

(b) services are supplied to non-taxable persons who are established, have their permanent address or usually reside in any Member State other than Malta; and

(c) the total value, exclusive of VAT, of the supplies referred to in sub-paragraph (b) does not in the current calendar year exceed EUR 10,000 and did not do so in the course of the preceding calendar year.

(3) Where, during a calendar year, the threshold referred to in paragraph (2)(c) is exceeded, paragraph (1) shall apply as of that time.

(4) The Commissioner shall grant to those suppliers referred to in paragraph (2) the right to opt for the place of supply to be determined in accordance with paragraph (1), which shall in any event cover two calendar years:

Provided that, a valid election for this purpose shall be made by means of a notice in writing to the Commissioner on a form acceptable to the Commissioner specifying the date from which it applies, not being earlier than thirty days from the date on which it is furnished."