

Key Facts

Yacht Leasing

Malta is an established registration and structuring hub for the international yachting industry. In February 2019 Malta overhauled its long-established yacht leasing framework, which offers lessees of pleasure yachts the opportunity to reduce their VAT liabilities in line with the amount of time the leased vessel spends in EU waters.

The guidelines for the yacht leasing scheme primarily relate to the use and enjoyment by lessees of yachts within and outside EU territorial waters and in this regard, the guidelines provide the manner in which such use and enjoyment is to be determined. The resulting ratio shall determine the overall VAT rate to be charged on the hiring of a yacht, the supply of which shall take place in Malta.

As the guidelines are still based on Article 59a of the EU VAT Directive, the Commissioner for Revenue may consider the place of supply of the hiring of the means of transport to be outside Malta if the effective use and enjoyment of the yacht takes place outside EU territorial waters. To this end no VAT shall be due on the portion of the lease where the yacht is effectively used and enjoyed outside EU territorial waters.

Conditions for the Applicability of the Guidelines

- The lessor must be a Maltese entity and possess a valid Maltese VAT identification number
- The lessee must be a non-taxable person, i.e., not using the yacht for commercial business purposes
- There must be a yacht leasing agreement in place between the lessor and lessee setting out the conditions of the lease
- The yacht must be placed at the disposal of the lessee in Malta

- Prior approval of the lease in writing must be sought from the VAT Department for the lessor to apply Maltese VAT based on the effective use and enjoyment principle
- The lessor must maintain reasonable documentary and/or technological data to determine the actual use and enjoyment of the pleasure boat within and outside EU territorial waters
- An annual declaration must be filed by the lessor with the Commissioner for Revenue within the prescribed timeframe

Ratio of Effective Use and Enjoyment

After the lapse of the first tax period the lessor shall provide reasonable documentation and/or technological data to determine the actual use and enjoyment of the pleasure yacht by the lessee identifying the use and enjoyment within EU and outside EU territorial waters.

The calculation of the actual ratio is obtained using the following formula:

$$\frac{\text{Actual Use and Enjoyment in EU Territorial Waters}}{\text{Total Use and Enjoyment}}$$

In practical terms a yacht acquired at €15m and sold after a 5-year lease having up to 50% of its use and enjoyment outside EU territorial waters may result in up to €1m saved in VAT.

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The end result will be that VAT would only be charged on the actual use and enjoyment of the yacht by the lessee in EU territorial waters.

VAT-Paid Certificate

The Commissioner for Revenue will issue a VAT-paid certificate when all of the following occur:

- The place of supply of the transfer is Malta; and
- The taxable person has made taxable supplies in respect of the yacht which in aggregate exceed the taxable value of the yacht at time of acquisition; and
- The yacht is transferred at a taxable value which is not less than the amount computed in accordance with the Commissioner for Revenue Act (Taxable Value of Used Pleasure Boats) Regulations, 2019; and
- All VAT due has been paid and accounted for in the relevant VAT returns.

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