

Questions & Answers
Cases and Solutions

INTANGIBLE SERVICES INCLUDING TELECOM AND E-
SERVICES
INTERMEDIARY SERVICES

Preliminary Remarks:

- ▶ The following are a series of situations that could occur in day to day practice. The answers given are in accordance with the amended VAT Act, as applicable from the 1st of May 2004. **However, while the VAT Department has made every effort to ensure that the content of this document is as legally accurate as possible, it should not be used as a substitute for the provisions of the VAT Act 1998, of the Act No X of 2003, of any other Act and of the relevant Legal Notices as published in the Malta Government Gazette, which are the only ones that have legal value.**

- ▶ Any reference in the examples/cases/situations described in this document to a particular European Union member state, to a specific country outside the European Union or to a specific product brand name is by way of example only. Answers remain valid when the name of the member state mentioned is substituted by the name of any other member state, when any outside country is substituted by any other outside country and when any brand name is substituted by any other brand name.

- ▶ As from the 1st of May 2004, European Union member states (besides Malta) are Austria, Belgium, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Netherlands, Poland, Portugal, Slovak Republic, Slovenia, Spain, Sweden and the United Kingdom.

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Q. *A Maltese tax consultant, registered under art. 10, provides advisory services on Maltese VAT to a Belgian private individual, who wants to start a restaurant in Gozo. Where is the service taking place?*

A. In Malta, since the supplier of the service is established in Malta

Q. *A, a UK lawyer, has drafted for the account of a Maltese bank an agreement on advertising services between this bank not registered under art. 10 and an advertising company established in France and not established in Malta. Where is the service of A taking place?*

A. In Malta, since the Maltese bank is established in Malta

Q. *A US lawyer provides legal services on US legislation on insurance to a Maltese insurance company not registered under art. 10. Where is the service taking place?*

A. In Malta, since the customer is established in Malta

Q. *At the request of a Maltese Insurance Company, company A (established in France) arranges for a publicity billboard to be placed in the stadium during the football match France versus Malta in Paris. Where is the place of supply?*

A. In Malta, since the receiver of the service is a taxable person established in Malta

Q. *The Maltese VAT Department rents 2 laptop computers from a Belgian leasing company B, not established in Malta, for use during meetings in Brussels. Where is the service taking place?*

A. In Belgium, where the supplier is established

Q. *A Maltese insurance company A, registered under art. 12, rents a copy machine from a Spanish leasing company B, not established in Malta. A does not provide its MT VAT identification number to B. Where is the service taking place?*

A. In Malta, where the customer is established

Q. *A Maltese company A, registered under art. 10, rents a special truck from an Italian company B, not established in Malta. A provides its MT VAT identification number to B. Where is the service taking place?*

A. In Italy, where the supplier B is established

Q. *A Maltese company A, registered under art. 10, rents a high sea vessel from an Italian company B, not established in Malta. A provides its MT VAT identification number to B and will use this vessel for commercial purposes. Where is the renting taking place?*

A. In Italy, where the supplier B is established

Q. *A, a company established in the USA, provides (for a consideration) internet access to B (a private individual with the Libyan nationality, but resident of/established in Malta) at his home in Malta. Where is the service from A to B taking place?*

A. The service from A to B is taking place in Malta because:

- The operation is performed by a taxable person
- The operation is in the scope of VAT (supply of telecommunication services)
- The place of supply is MALTA since:
 - the supplier is established **outside the EU**
 - the customer is established **in the EU** and is not a taxable person
- Art. 7 VAT Act and item 11 (2) Third Schedule
 - the services are effectively used and enjoyed in Malta

Furthermore:

- There is no an exemption
- The person liable to pay VAT is the supplier, i.e. the US company (VAT registration art. 10 VAT Act or special scheme)

Q. *A, a company established in the USA and also established in Malta, provides (for a consideration) Internet access to B (a private individual with the Maltese nationality) at his residence in Libya. Where is the service from A to B taking place?*

A. The service from A to B is taking place in Lybia because:

- The operation is performed by a taxable person
- The operation is in the scope of VAT (supply of telecommunication services)
- The place of supply is LYBIA, where the customer is established

Furthermore:

- There is no an exemption
- The person liable to pay VAT is the supplier, i.e. the US company (VAT registration art. 10 VAT Act or special scheme)

Q. *A, a company established in Luxembourg, provides (for a consideration) Internet access to B (a private individual with the Libyan nationality) at his home in Malta. Where is the service from A to B taking place?*

A. The service from A to B is taking place in Luxembourg because:

- The operation is performed by a taxable person
- The operation is in the scope of VAT (supply of telecommunication services)
- The place of the operation is Luxembourg where the supplier is established

Q. *B, a private individual with the French nationality, but resident of/established in Malta downloads music from the website of A, a company established in New Zealand and pays for it with his credit card. Where is the service from A to B taking place?*

A. The service from A to B is taking place in Malta because:

- The operation is performed by a taxable person
- The operation is in the scope of VAT (supply of electronic services)
- The place of supply is MALTA since:
 - the supplier is established **outside the EU**
 - the customer is established **in the EU** and is not a taxable person
- Art. 7 VAT Act and item 11 (2) Third Schedule
 - the services are effectively used and enjoyed in Malta

Furthermore:

- There is no an exemption
- The person liable to pay VAT is the supplier, i.e. the New Zealand company (which either must register in Malta under article 10 of the VAT Act or must register in a EU member state of its choice under a special scheme)

CASE 1 - DATA

- *A Maltese company A (registered under art. 10 VAT Act), lets all kinds of movable goods. Its customers are based in various countries.*
- *In some cases A sources services from abroad.*
- *A's activities can be summarised as follows:*

First group of clients: Maltese clients

- *B(1) is a Maltese hospital. A rents medical equipment to B(1). A dispatches the goods from its Maltese stock to B(1)'s premises in Malta.*
- *B(2) is a Maltese established company (registered art. 11 VAT Act). A rents computers to B(2). Since A does not have the goods in stock, A leases them from X, an Italian company (who dispatches the goods from Italy to Malta).*

Second group of clients: EU (other than Maltese) clients

- *C(1) is a Belgian hospital. A rents medical equipment to C(1). A dispatches the goods from Malta to Belgium. Is it important to know whether C(1) provides A with a BE VAT number? After one year C(1) decides to buy the said goods.*
- *C(2) is a French private individual that rents a car from A. A purchased the car from Y, a French dealer who puts the car at the disposal of A in its premises (i.e. the premises of the French dealer). A provides Y with his MT VAT number.*
- *C(3) is a Greek VAT registered company that leases machinery from A. A dispatches the goods from Malta to Greece. C(3) does not provide a VAT number to A.*

Third group of clients: non-EU clients

- *D(1) is a Libyan private individual who rents furniture from A. A buys the goods in Libya and puts them at the disposal of D(1). After the contract is finished, A dispatches the goods to Malta.*
- *D(2) is an Egyptian hotel. D(2) leases TV sets from A. A dispatches the goods from Malta to Egypt. At the end of the contract, D(2) decides to buy the TV sets.*
- *A could conclude the lease with D(2), thanks to the intervention of the intermediary Z, established in Malta and VAT registered under art. 10.*

Sourcing of some services

- *In order to increase supplies, A calls upon W, a US marketing company. The latter provides him with the outline of a marketing campaign to be launched in the Middle East.*
- *A has a representation office (which does not perform supplies) in Rome. In that respect, it calls upon V, an Italian telecom operator, for the provision of mobile communication services and internet access.*
- *A has an on-line subscription to a technical specialist journal for the leasing sector with Q, an editor established in Cyprus. A uses this journal for its*

economic activities, however A forgets to provide Q with his MT VAT number.

CASE 1 - QUESTIONS

- *Determine, by using the basic questions, the VAT treatment of the described transactions and operations under the Maltese VAT legislation applicable as from 1 May 2004*
- *Are there any specific formalities to be fulfilled by company A?*

CASE 1 - SOLUTION

► **First group of clients: Maltese clients**

- **B(1) is a Maltese hospital.** A rents medical equipment to B(1). A dispatches the goods from its Maltese stock to B(1)'s premises in Malta.

Solution: A-B(1)

1. Taxable person: YES
2. Operation in the scope of VAT: YES (intangible service – letting of movable tangible property)
3. Place of supply: Malta (where the supplier is established - Item 5 Third Schedule)
4. Exemption: NO
5. Person liable to pay VAT: A (Art. 20 (1) (a) VAT Act)

VAT return (A): boxes 18 and 23

- **B(2) is a Maltese established company (registered art. 11 VAT Act).** A rents computers to B(2). Since A does not have the goods in stock, A leases them from X, an Italian company (who dispatches the goods from Italy to Malta).

Solution: X-A

1. Taxable person: YES
2. Operation in the scope of VAT: YES (intangible service – letting of movable tangible property)
3. Place of supply: Malta (where the customer is established (conditions are met) - Item 10 Third Schedule)
4. Exemption: NO
5. Person liable to pay VAT: A (Art. 20 (2) (b) VAT Act - assumption: X is not established in Malta, nor registered under art. 10 VAT Act)

VAT return (A), assuming A = person liable to pay VAT:

- box 4 and 7 **and**
- box 11 and 15

Solution: X – arrival of computers in Malta

1. Taxable person: YES
2. Operation in the scope of VAT: NO (no deemed IC acquisition)
3. Place of acquisition: N/A
4. Exemption: N/A
5. Person liable to pay VAT: N/A

Solution: A-B(2)

1. Taxable person: YES
2. Operation in the scope of VAT: YES (intangible service – letting of movable tangible property)
3. Place of supply: Malta (where the supplier is established - Item 5 Third Schedule)
4. Exemption: NO
5. Person liable to pay VAT: A (Art. 20 (1) (a) VAT Act)

VAT return (A): box 18 and 23

► **Second group of clients: EU (other than Maltese) clients**

- **C(1) is a Belgian hospital.** A rents medical equipment to C(1). A dispatches the goods from Malta to Belgium. Is it important to know whether C(1) provides A with a BE VAT number? After one year C(1) decides to buy the said goods.

Solution: A-C(1)

1. Taxable person: YES
2. Operation in the scope of VAT: YES (intangible service – letting of movable tangible property)
3. Place of supply: Belgium (where the customer is established (conditions are met) - Item 10 Third Schedule)
4. Exemption: N/A
5. Person liable to pay VAT: N/A

Remark: From a Maltese perspective, public bodies performing activities that are exempt without credit, are considered to be taxable persons. E.g.: public hospitals, public schools, ... are considered to be taxable persons

Specific formalities:

- A should register the medical equipment sent to Belgium in his register of non-transfers
- VAT return (A): box 2

Solution: A-C(1)

1. Taxable person: YES

2. Operation in the scope of VAT: YES (supply of goods)
3. Place of supply: Belgium (where the goods are when they are placed at the disposal of the customer - Item 1 (a) Third Schedule)
4. Exemption: N/A
5. Person liable to pay VAT: N/A

VAT return (A): box 2

Solution: A – dispatch of computers to Belgium

1. Taxable person: YES
2. Operation in the scope of VAT: NO (no deemed intra-Community supply of goods). However, when selling the goods to C(1): deemed IC supply (non-transfer became transfer).
3. Place of supply: Malta (where the transport begins – item 1 (b) Third Schedule)
4. Exemption: YES (on the condition that the transport from Malta to another EU MS can be proved and A has a valid VAT identification number of another MS than Malta – item 3 (4) Part One Fifth Schedule)
5. Person liable to pay VAT: N/A

VAT return (A): box 1

Specific formalities:

With respect to the computers previously dispatched to Belgium:

- When the former non-transfer becomes a transfer, A should report this in his register of non-transfers
- A will have to report the exempt deemed IC supply in his recapitulative statement
- **C(2) is a French private individual** that rents a car from A. A purchased the car from Y, a French dealer who puts the car at the disposal of A in its premises (i.e. the premises of the French dealer). A provides Y with his MT VAT number.

Solution: Y-A

1. Taxable person: YES
2. Operation in the scope of VAT: YES (supply of goods)
3. Place of supply: France (where the goods are when they are placed at the disposal of the customer A - Item 1 (a) Third Schedule)
4. Exemption: N/A
5. Person liable to pay VAT: N/A

Solution: A-C(2)

1. Taxable person: YES
2. Operation in the scope of VAT: YES (letting of means of transport)

3. Place of supply: Malta (where the supplier is established - Item 5 Third Schedule)
4. Exemption: NO
5. Person liable to pay VAT: A (Art. 20 (1) (a) VAT Act)

VAT return (A): box 18 and 23

Remark: the same would apply if C(2) was a taxable person

- **C(3) is a Greek VAT registered company** that leases machinery from A. A dispatches the goods from Malta to Greece. C(3) does not provide a VAT number to A.

Solution: A-C(3)

1. Taxable person: YES
2. Operation in the scope of VAT: YES (intangible service – letting of movable tangible property)
3. Place of supply: Greece (where the customer is established (conditions are met) - Item 10 Third Schedule)
4. Exemption: N/A
5. Person liable to pay VAT: N/A

Specific formalities:

With respect to the machinery dispatched to Greece:

- A should register the machinery in his register of non-transfers
- VAT return (A): box 2

► **Third group of clients: non-EU clients**

- **D(1) is a Libyan private individual** who rents furniture from A. A buys the goods in Libya and puts them at the disposal of D(1). After the contract is finished, A dispatches the goods to Malta.

Solution: A-D(1)

1. Taxable person: YES
2. Operation in the scope of VAT: YES (intangible service – letting of movable tangible property)
3. Place of supply: Libya (where the customer is established - Item 10 Third Schedule)
4. Exemption: N/A
5. Person liable to pay VAT: N/A

VAT return (A): box 2

Solution: A – Dispatch of the goods to Malta

1. Qualifying person: YES

2. Operation in the scope of VAT: YES (an importation of goods)
3. Place of importation: Malta (Item 15 (1) Third Schedule)
4. Exemption: NO
5. Person liable to pay VAT: A (importer - Art. 20 (1) (c) VAT Act)

VAT return (A): box 27 and 34

- **D(2) is an Egyptian hotel.** D(2) leases TV sets from A. A dispatches the goods from Malta to Egypt. At the end of the contract, D(2) decides to buy the TV sets.

Solution: A-D(2)

1. Taxable person: YES
2. Operation in the scope of VAT: YES (intangible service – letting of movable tangible property)
3. Place of supply: Egypt (where the customer is established - Item 10 Third Schedule)
4. Exemption: N/A
5. Person liable to pay VAT: N/A

VAT return (A): box 2

Solution: A – dispatch of computers to Egypt

1. Taxable person: YES
2. Operation in the scope of VAT: NO (no supply of goods, nor deemed supply of goods – goods will be put under a regime of temporary exportation)
3. Place of supply: N/A
4. Exemption: N/A
5. Person liable to pay VAT: N/A

Solution: A-D(2)

1. Taxable person: YES
2. Operation in the scope of VAT: YES (supply of goods)
3. Place of supply: Egypt (where the goods are when they are placed at the disposal of the customer - Item 1 (a) Third Schedule)
4. Exemption: N/A
5. Person liable to pay VAT: N/A

VAT return (A): box 2

The regime of temporary exportation must be cleared

- **A could conclude the lease with D(2)**, thanks to the intervention of the intermediary Z, established in Malta and VAT registered under art. 10.

Solution: Z-A

1. Taxable person: YES

2. Operation in the scope of VAT: YES (other intermediary services)
3. Place of supply: Egypt (where the underlying transaction takes place - Item 12 Third Schedule)
4. Exemption: N/A
5. Person liable to pay VAT: N/A

VAT return (Z): box 2

► **Sourcing of some services**

- In order to increase supplies, A calls upon **W, a US marketing company**. The latter provides him with the outline of a marketing campaign to be launched in the Middle East.

Solution: W-A

1. Taxable person: YES
2. Operation in the scope of VAT: YES (intangible service)
3. Place of supply: Malta (where the customer is established (conditions are met) - Item 10 Third Schedule)
4. Exemption: NO
5. Person liable to pay VAT: A (Art. 20 (2) (b) VAT Act - assumption: W is not established in Malta, nor registered under art. 10 VAT Act)

VAT return (A), assuming A = person liable to pay VAT): box 4 and 7 **and** box 11 and 15

- **A has a representation office** (which does not perform supplies) **in Rome**. In that respect, it calls upon V, an Italian telecom operator, for the provision of mobile communication services and internet access.

Solution: V-A

1. Taxable person: YES
2. Operation in the scope of VAT: YES (telecommunication service)
3. Place of supply: Malta (where the customer is established (conditions are met) - Item 10 Third Schedule)
4. Exemption: NO
5. Person liable to pay VAT: A (Art. 20 (2) (b) VAT Act - assumption: V is not established in Malta, nor registered under art. 10 VAT Act)

VAT return (A), assuming A = person liable to pay VAT): box 4 and 7 **and** box 11 and 15

- **A has an on-line subscription to a technical specialist journal** for the leasing sector with Q, an editor established **in Cyprus**. A uses this journal for its economic activities, however A forgets to provide Q with his MT VAT number.

Solution: Q-A

1. Taxable person: YES
2. Operation in the scope of VAT: YES (intangible service)
3. Place of supply: Malta (where the customer is established (conditions are met)
- Item 10 Third Schedule)
4. Exemption: NO
5. Person liable to pay VAT: A (Art. 20 (2) (b) VAT Act - assumption: Q is not established in Malta, nor registered under art. 10 VAT Act)

VAT return (A), assuming A = person liable to pay VAT): box 4 and 7 **and** box 11 and 15

CASE 2 - DATA

- *A Maltese company A (registered under art. 10 VAT Act), is specialised in intermediary services (as a disclosed agent). Its customers are based in various countries.*
- *A's activities can be summarised as follows:*

First intervention

- *B, a Maltese customer registered under art. 10, calls upon A to find him a supplier of children clothes. A finds him X, a UK supplier. X sells the goods to B and dispatches the goods from UK to Malta. The transport of the goods is made by Y, a Maltese transport company on behalf of X, who provides Y with his UK VAT number.*

Second intervention

- *B, a Maltese customer registered under art. 10, also calls upon A to find him a customer for computer equipment. A finds him Z, an Italian VAT registered company. B sells the goods to Z and dispatches the goods from France to Italy. The transport of the goods is made by Y, a Maltese transport company on behalf of Z, who provides Y with his IT VAT number. Is it important to know whether B provides A with a VAT number?*

Third intervention

- *An Egyptian company C calls upon A to find him a customer for his handbags in crocodile leather. A finds him another Egyptian company D, who is a distributor of these products. C sells the goods to D and has them dispatched from Cairo to Tripoli. The transport is done by the Maltese company Y for the account of C.*

Fourth intervention

- *E, a Maltese bank registered under art. 12, calls upon A to find him a US lawyer that can provide E advice on US law (to be used for one of E's clients). A finds him W, a US law firm. W provides E its advice via the telephone and subsequently sends a confirmation of his advice by e-mail. E does not provide A with his art. 12 VAT number.*

Fifth intervention

- *F, a Greek museum, calls upon A to find him a valuator of art works. A finds him Q, a French VAT registered valuator. F has three paintings transported to Q in France, who provides F with a valuation. Subsequently, the goods are sent back to Greece. F does not provide Q with a VAT registration number, but provides A with a Greek VAT number (with prefix EL).*
- *The transport of the paintings is made by Y, a Maltese transport company on behalf of F. Is it important to know whether F provides Y with a VAT number?*

CASE 2 - QUESTION

Determine, by using the basic questions, the VAT treatment of the described transactions and operations under the Maltese VAT legislation applicable as from 1 May 2004

CASE 2 – SOLUTION

► First intervention

- **B, a Maltese customer registered under art. 10**, calls upon A to find him a supplier of children clothes. A finds him X, a UK supplier. X sells the goods to B and dispatches the goods from UK to Malta. The transport of the goods is made by Y, a Maltese transport company on behalf of X, who provides Y with his UK VAT number.

Solution: X-B in the head of X

1. Taxable person: YES
2. Operation in the scope of VAT: YES (supply of goods)
3. Place of supply: UK (where the transport begins - Item 1 (b) Third Schedule)
4. Exemption: N/A
5. Person liable to pay VAT: N/A

Solution: X-B in the head of B

1. Taxable person: YES
2. Operation in the scope of VAT: YES (intra-Community acquisition of goods)
3. Place of ICA: Malta (where the transport ends - Item 13 Third Schedule)
4. Exemption: NO
5. Person liable to pay VAT: B (art. 20 (1) (b) VAT Act)

VAT return (B): box 3 and 6 **and** box 9 (or 10) and 13 (or 14)

Solution: A-B

1. Taxable person: YES
2. Operation in the scope of VAT: YES (intermediary services related to an IC acquisition of goods)
3. Place of supply: Malta (where IC acquisition takes place - Item 12, first sentence Third Schedule)
4. Exemption: NO
5. Person liable to pay VAT: A (Art. 20 (1) (a) VAT Act)

VAT return (A): box 18 and 23

VAT return (B): box 27 and 34

Solution: Y-X

1. Taxable person: YES
2. Operation in the scope of VAT: YES (an intra-Community transport of goods)
3. Place of supply: UK (where the transport begins - Item 7 (2) first sentence Third Schedule)
4. Exemption: N/A
5. Person liable to pay VAT: N/A

VAT return (Y): box 2

Remark: If Y is registered art. 11, the transaction would from a Maltese point of view be considered as being out of scope of VAT. However, for the UK, the fact that Y is registered art. 11 will not be taken into account and Y will be considered as a normal taxable person.

► **Second intervention**

- **B, a Maltese customer registered under art. 10**, also calls upon A to find him a customer for computer equipment. A finds him Z, an Italian VAT registered company. B sells the goods to Z and dispatches the goods from France to Italy. The transport of the goods is made by Y, a Maltese transport company on behalf of Z, who provides Y with his IT VAT number. Is it important to know whether B provides A with a VAT number?

Solution: B-Z in the head of B

1. Taxable person: YES
2. Operation in the scope of VAT: YES (supply of goods)
3. Place of supply: France (where the transport begins - Item 1 (b) Third Schedule)
4. Exemption: N/A
5. Person liable to pay VAT: N/A

VAT return (B): box 2

Solution: B-Z in the head of Z

1. Taxable person: YES
2. Operation in the scope of VAT: YES (intra-Community acquisition of goods)
3. Place of ICA: Italy (where the transport ends - Item 13 Third Schedule)
4. Exemption: N/A
5. Person liable to pay VAT: N/A

Solution: A-B

1. Taxable person: YES
2. Operation in the scope of VAT: YES (intermediary services related to an IC supply of goods)
3. Place of supply: France (where IC supply takes place - Item 12, first sentence Third Schedule) *or*, in case B provides A with another valid VAT number than a French VAT number: MS of VAT registration number (item 12, first sentence Third Schedule)
4. Exemption: N/A *or*, in case the MS of VAT registration number is Malta, NO
5. Person liable to pay VAT: in case the MS of VAT registration number is Malta: A (Art. 20 (1) (a) VAT Act)

VAT return (A):

- Service taking place in Malta: box 18 and 23
- Service not taking place in Malta: box 2

Solution: Y-Z

1. Taxable person: YES
2. Operation in the scope of VAT: YES (an intra-Community transport of goods)
3. Place of supply: Italy (MS of VAT registration - Item 7 (2) second sentence Third Schedule)
4. Exemption: N/A
5. Person liable to pay VAT: N/A

VAT return (Y): box 2

Remark: If Y is registered art. 11, the transaction would from a Maltese point of view be considered as being out of scope of VAT. However, for Italy, the fact that Y is registered art. 11 will not be taken into account and Y will be considered as a normal taxable person.

► **Third intervention**

- **An Egyptian company C** calls upon A to find him a customer for his handbags in crocodile leather. A finds him another Egyptian company D, who is a distributor of these products. C sells the goods to D and has them dispatched from Cairo to Tripoli. The transport is done by the Maltese company Y for the account of C.

Solution: C-D

1. Taxable person: YES
2. Operation in the scope of VAT: YES (supply of goods)
3. Place of supply: Egypt (where transport begins - Item 1 (b) Third Schedule)
4. Exemption: N/A
5. Person liable to pay VAT: N/A

Solution: A-C

1. Taxable person: YES
2. Operation in the scope of VAT: YES (intermediary services related to a supply of goods)
3. Place of supply: Egypt (where underlying supply takes place - Item 12, first sentence Third Schedule)
4. Exemption: N/A
5. Person liable to pay VAT: N/A

VAT return (A): box 2

Solution: Y-C

1. Taxable person: YES

2. Operation in the scope of VAT: YES (a transport of goods)
3. Place of supply: Egypt - Libya (where transport takes place, having regard to the distances covered - Item 7 (1) Third Schedule)
4. Exemption: N/A
5. Person liable to pay VAT: N/A

VAT return (Y): box 2

► **Fourth intervention**

- **E, a Maltese bank registered under art. 12**, calls upon A to find him a US lawyer that can provide E advice on US law (to be used for one of E's clients). A finds him W, a US law firm. W provides E its advice via the telephone and subsequently sends a confirmation of his advice by e-mail. E does not provide A with his art. 12 VAT number.

Solution: W-E

1. Taxable person: YES
2. Operation in the scope of VAT: YES (an advisory service)
3. Place of supply: Malta (where the customer is established - Item 10 (c) Third Schedule)
4. Exemption: NO
5. Person liable to pay VAT: E (Art. 20 (2) (b) VAT Act - assumption: W is not established in Malta, nor registered under art. 10 VAT Act)

Specific formalities by E:

- E shall give notice to the Commissioner within 30 days from the receipt of the invoice **Art. 15 (4) VAT Act**
- E shall pay the VAT over these services for which he is liable, not later than the 15th day of the month following the month during which he is required to deliver the above notice **Art. 21 (3) VAT Act**
- E shall file a special VAT return **See art. 30 (4) VAT Act**

Solution: A-E

1. Taxable person: YES
2. Operation in the scope of VAT: YES (intermediary services related to an intangible service)
3. Place of supply: Malta (where the supplier is established - Item 5 Third Schedule)
4. Exemption: NO
5. Person liable to pay VAT: A (Art. 20 (1) (a) VAT Act)

VAT return (A): box 18 and 23

► **Fifth intervention**

- **F, a Greek museum**, calls upon A to find him a valuator of art works. A finds him Q, a French VAT registered valuator. F has three paintings transported to Q in France, who provides F with a valuation. Subsequently, the goods are sent back to Greece. F does not provide Q with a VAT registration number, but provides A with a Greek VAT number (with prefix EL).

Solution: Q-F

1. Taxable person: YES
2. Operation in the scope of VAT: YES (valuation of movable tangible property)
3. Place of supply: France (where the service is physically carried out - Item 9 (1) Third Schedule)
4. Exemption: N/A
5. Person liable to pay VAT: N/A

Solution: A-F

1. Taxable person: YES
2. Operation in the scope of VAT: YES (intermediary services re. valuation of movable tangible property)
3. Place of supply: Greece (MS of VAT registration - Item 12, second sentence Third Schedule)
4. Exemption: N/A
5. Person liable to pay VAT: N/A

VAT return (A): box 2

- **The transport of the paintings is made by Y, a Maltese transport company** on behalf of F. Is it important to know whether F provides Y with a VAT number?

Solution: Y-F – transport Greece/France

1. Taxable person: YES
2. Operation in the scope of VAT: YES (intra-Community transport of goods)
3. Place of supply: Greece (where the transport begins - Item 7 (2), first sentence Third Schedule) *or* in case F provides Y with another valid VAT number than a Greek VAT number: MS of VAT registration number (item 7 (2), second sentence Third Schedule)
4. Exemption: N/A *or*, in case the MS of VAT registration number is Malta, NO
5. Person liable to pay VAT: in case the MS of VAT registration number is Malta: Y (Art. 20 (1) (a) VAT Act)

VAT return (Y):

- Service taking place in Malta: box 18 and 23
- Service not taking place in Malta: box 2

Solution: Y-F – transport France/Greece

1. Taxable person: YES
2. Operation in the scope of VAT: YES (intra-Community transport of goods)
3. Place of supply: France (where the transport begins - Item 7 (2), first sentence Third Schedule) *or* in case F provides Y with another valid VAT number than a French VAT number: MS of VAT registration number (item 7 (2), second sentence Third Schedule)
4. Exemption: N/A *or*, in case the MS of VAT registration number is Malta, NO
5. Person liable to pay VAT: in case the MS of VAT registration number is Malta: Y (Art. 20 (1) (a) VAT Act)

VAT return (Y):

- Service taking place in Malta: box 18 and 23
- Service not taking place in Malta: box 2

Remark: If Y is registered art. 11, the transaction would from a Maltese point of view be considered as being out of scope of VAT. However, for France or the MS of VAT registration (other than Malta), the fact that Y is registered art. 11 will not be taken into account and Y will be considered as a normal taxable person.