

VALUE ADDED TAX AND THE EUROPEAN UNION

SERVICES PROVIDED BY TRAVEL AGENTS AND OTHER OPERATORS IN THE TOURISM INDUSTRY

1. Based on the definition in the “*Malta Travel and Tourism Services Act*”, a "travel agent" can be described as “any person who, whether as principal or agent, arranges for, advises on or undertakes to provide to tourists and other persons, whether singly or in groups, travel arrangements in respect of travel, including accommodation in a hotel, guest house, hostel, holiday premises or house used for the provision of accommodation to tourists; travel by air, land or sea; organised excursions and all other matters normally or by custom connected with the tourism industry”. A tour operator is normally a wholesale operator dealing with travel agencies.
2. A travel agent normally provides the following types of services:
 - Advice
 - Transportation
 - Accommodation
 - Catering
 - Guidance and Other Services
3. He provides these types of services in one of three ways:
 - In his own name and for his own account and using his own means.
 - As an intermediary i.e. in the name and for the account of another person.
 - In his own name but for the account of another person.
4. In brief:
 - Where a travel agent acts in his own name and for his own account, directly organising the travel himself using his own means, the normal VAT rules apply.
 - If the travel agent acts as an agent for someone else who organises a supply of travel services, he charges VAT only on his commission (unless an exemption applies).
 - In all other cases travel agents are treated as agents of their customers and the special regime for travel agents applies. VAT due is calculated on the agent’s margin.

More in detail, for a travel agent established in Malta and operating from Malta, the VAT rules apply as follows.

1. SERVICES PROVIDED BY THE TRAVEL AGENT IN HIS OWN NAME AND FOR HIS OWN ACCOUNT.

5. Principle: All services are taxable (unless an exemption applies) and the basis for taxation is the price paid by the customer. The travel agent is entitled to fully deduct Maltese VAT charged to him with respect to his business inputs and he may be entitled to deduction of VAT incurred in other EU Member States under the procedure of the 8th EU VAT Directive.

- **Advice**

6. Providing advice includes sending information in the form of leaflets, brochures, video’s, etc. to potential customers, explaining advantages and disadvantages of specific destinations, hotels, airlines, etc., comparing alternative kinds of holidays (cruise versus land tour; coach versus airplane; camping versus hotel; package tour versus “a la carte”).

Most of the time, a travel agent will not charge his customer separately for travel advice he provides. However, if the travel agent provides advice to his customer for a separate consideration, then, in accordance with Items 5 and 10 of the Third Schedule to the VAT Act, the following rules apply:

- the customer is established in Malta: Maltese VAT is due at the rate of 18 % on the price charged
- the customer is established in another EU Member State but is not a Taxable Person for VAT: Maltese VAT is due at the rate of 18 % on the price charged;
- the customer is established in another EU Member State and is a Taxable Person for VAT acting as such: VAT is due in the country of the customer at the rate and according to the rules applicable in that country; normally, the customer will have to pay the VAT in his country using the reverse charge mechanism;
- the customer is established outside the EU: no Maltese VAT and no other EU VAT is due.

7. On the other hand, if a travel agent established in Malta and registered for VAT as a “normal” taxable person (under Article 10 of the VAT Act) receives advice (for which he is charged a fee or any other consideration – including exchange of advice) from a taxable person established anywhere in the world outside Malta, the Maltese travel agent must pay Maltese VAT on that service at the rate of 18 %. However, that VAT will normally be deductible. In practice in this case, the travel agent will have to include in his VAT Return the price of the service in Boxes 4 and 11, the VAT due in Box 7 and the VAT deductible in Box 15.

8. Even if a travel agent established in Malta is a small undertaking and registered for VAT as an exempt person (under Article 11 of the VAT Act) he has to pay Maltese VAT at the rate of 18 % whenever he receives advice (for which he is charged a fee or any other consideration – including exchange of advice) from a taxable person established anywhere in the world outside Malta. However, in this case that VAT will not be deductible. In practice, the travel agent will have to file the special VAT Form 006/2004 (this form can be obtained from the VAT Department or downloaded from the VAT Department’s website at <http://www.vat.gov.mt>) entering the price of the service in Box 1 and the VAT due in Box 2. The travel agent must file the special form and pay the VAT due to the VAT Department at the latest by the 15th of the month following the month during which the service was received.

▪ **Transportation**

9. For transportation of people, the general rule is that it takes place (and that it is therefore taxable with VAT) at the place where it is carried out, in accordance with the distances covered.

Consequently, if a travel agent provides his customer with transportation using its own means of transportation (car, coach, ship, hot air balloon, helicopter, plane, etc.), this service:

- is subject to Maltese VAT at the rate of 18 % to the extent that the entire transport takes place within the territory of Malta (including Gozo, Comino and the territorial waters of Malta).

This rule applies regardless of whether the customer is established in Malta or anywhere else and regardless of whether the customer is a taxable person for VAT or not. Moreover, the exemption with credit provided for in Item 11 (a) and (b) of Part One of the Fifth Schedule to the VAT Act does not apply, as in this case the transportation provided is not a scheduled bus service nor a scheduled inter-island sea transport of passengers. For example, the “harbour cruises”, “cruise around Malta” and the various trips to Comino and other places offered by certain companies from Sliema Strand and Buggiba (or from any other place) are all deemed to take place completely within Malta and these are therefore taxable at the rate of 18 %.

- is exempt with credit by virtue of Item 4 (1) of Part One of the Fifth Schedule to the VAT Act if the transport provided is part of a journey which brings the customer to any place outside Malta (whether in the EU or not) as in this case the Maltese part of the transport service is considered (part of) an international transport of persons.

It is noted that the relative parts (in accordance with distances covered in each country) of the journey which take place in other EU Member States will be subject to the local VAT in each

of these EU Member States to the extent that the transport is carried out by car or coach (indeed, if the transport is by air or sea, an exemption with credit applies in all EU Member States). In this case, the travel agent must register for VAT in each Member State. However, in some EU Member States, a simplification system applies which allows the travel agent to simply declare the VAT due on a special form and pay it to the VAT authorities without actually having to register for VAT.

Finally, VAT of a third (non-EU) country could apply if the journey is to or passes through a third country.

10. A transportation service includes making available, renting out to the customer, etc. a means of transport together with a driver, pilot, etc. It does not include renting out vehicles, vessels, etc. without a driver, captain, pilot or similar. The VAT treatment of the latter services is explained under “Other Services” below.

- **Accommodation**

11. The service consisting of providing accommodation in a hotel or similar place (including so-called “time-sharing”) is considered to be a service in connection with immovable property and therefore takes place where the place of accommodation is located and the VAT of the latter country will apply.

Consequently, if a Maltese travel agent (or any other taxable person for that matter) owns a hotel or apartments (or any other place of accommodation for which a license is required in virtue of the “*Malta Travel and Tourism Services Act*”) located in Malta and provides accommodation at that place to any type of customer (VAT taxable person or not, Maltese or foreigner) for any period of less than twelve months, Maltese VAT is due on the room rate or on the rent charged, at the reduced rate of 5 % (for periods longer than one year, no VAT is due). The reduced rate also applies when a (Maltese or foreign) travel agent or tour operator hires a number of hotel rooms or other holiday accommodation during certain specified periods of the year for an agreed price in order to “re-sell” these rooms to tourists at a higher price, often as part of a “package tour”.

The reduced rate also applies for “time sharing” agreements for less than 12 months concluded directly with customers who are not buying the time-shares for re-sale. If the owner of the accommodation sells time-shares to a taxable person who intends to re-sell these, then the VAT is due at the rate of 18 %, because in such case, it is not possible to determine at the time of the sale to the taxable person whether the condition for applying the reduced rate will be met.

12. For the implementation of the above rules, “*accommodation*” includes “*bed and breakfast*”, “*half board*” or “*full board*”, as the case may be, which is included in the price of such accommodation (Article 2 (1) of the VAT Act). On the other hand, meals (breakfast, lunch, dinner, etc.) and drinks served to the customer at the hotel (at the bar or a restaurant that is part of the hotel or under “room service”) but not included in the price charged for the accommodation are subject to VAT separately at the rate of 18 %. The same goes for Other Services provided to the customer at a separate price and which are not falling within the meaning of accommodation, such as excursions, transportation from and to the airport, telephone charges, fees for Internet access, TV and video rental and watching, services by the “Business Office”, etc. It is pointed out in this respect that specific rules apply to determine where these services take place (see also under “Other Services” below).

13. Where a unique “lump sum” price is charged covering the supply of accommodation, the supply of unlimited food and drinks and the supply of Other Services that the customer may request or require, that unique price must be split, whereby 80 % of that price is deemed to cover the supply of “full board” accommodation and the remaining 20 % is covering any other supplies. Consequently, the twenty percent part of the price that is not for accommodation is subject to the VAT at the rate of 18 percent.

14. In practice, the price for the accommodation (including bed and breakfast, half or full board) normally has to be charged separately and taxed at 5 percent. Any extra’s should be charged at 18

percent. If an overall “lump sum” price is charged, then for VAT purposes, that price must be split up 80 – 20, with the 80 percent being taxed at 5 percent and the rest at 18 percent. If the travel agent/service provider does not split up the “lump sum” price as required, VAT will be considered to be due at the rate of 18 % over the entire price charged.

15. If a Maltese travel agent owns a hotel or apartments (or any other place of accommodation) located in any place outside Malta and provides accommodation at that place to any type of customer (VAT taxable person or not, Maltese or foreigner) for any period, no Maltese VAT is due but the VAT applicable in the country where the accommodation is located will normally be due and the Maltese travel agent may be required to register for VAT purposes in that country.

- **Catering**

16. With regard to catering (provision of drinks and/or meals for a consideration), the rule is that this service takes place where the provider is established.

Consequently, if a travel agent (or any other taxable person) owns or manages (other than as an employee of the owner) a bar or a restaurant in Malta and in the course of business provides drinks and/or meals there to any person (taxable or not, foreigner or Maltese), then that agent or person will be deemed to be established in Malta and Maltese VAT is due (article 2 (2) (a) and (b) of the VAT Act: fixed establishment from which the taxable person carries out his economic activity).

17. Maltese VAT is also due on drinks and meals provided by the travel agent (or any other taxable person) established in Malta in the course of an excursion or journey organised by him or by anyone else, even if that journey takes place abroad. Note, however, that Item 12 of Part One of the Fifth Schedule to the VAT Act exempts the supply of goods for consumption on board cruise liners.

If a Maltese travel agent owns a catering establishment in another EU country, then the travel agent will be considered to be established in that country for VAT purposes and consequently, with respect to any drinks or meals provided from that establishment the VAT of the EU country where the catering establishment is located will be due in accordance with the rules and at the rate applicable.

- **Guidance**

18. The service consisting of providing guidance is deemed to take place where the provider of the service is established.

Consequently, if a travel agent established in Malta provides a tour guide who accompanies travellers on their journey or guides these travellers in Malta or abroad, that service is taxable with Maltese VAT at the rate of 18 %, no matter where the guide actually performs the service. If the tour guide is not an employee of the travel agent but is registered as a “normal” taxable person (under article 10 of the VAT Act or a similar regime in another country), s/he will of course have to charge to the travel agent the VAT of whatever EU country s/he is established in. In principle, the travel agent will be able to deduct that VAT, possibly in the other EU country if he is registered there for VAT or through the procedure of refunds of the 8th EU VAT Directive, unless the travel agent uses the service of the guide as part of a package (in such case, the travel agent acts in his own name but for the account of another person: see below). However, if the guide is considered a small undertaking and (registered for VAT as) an exempt person, no VAT will be due because in that case, the service by the guide is not within the scope of the VAT.

- **Other services**

19. For any other service provided with own resources by a travel agent or by any other person active in the travel, tourism or leisure business, it will have to be established where that service is taking place in order to determine whether and where VAT is due and payable. For example, if a company in Malta provides **entertainment** to travellers or to any people for that matter at its own premises located

in Malta, then Maltese VAT will be due because for VAT purposes entertainment services are deemed to take place where they are physically carried out. If a foreign singer gives a concert in Malta, Maltese VAT is due at the rate of 18 %. The foreign singer or the organisation representing him will need to register for VAT in Malta. If entertainment services are provided in a place in another country, the VAT of that country will normally be due and the provider of the service will have to register in the country where the entertainment takes place. In some cases, an exemption (without credit) may apply. This may be the case for certain cultural services in Malta (as approved by the Minister) and applies to, for instance, gambling. If the entertainment takes place on board a cruise ship navigating on the high seas, no VAT is due.

Other services include:

20. **Rental of any tangible, movable goods other than means of transport**, such as sports gear (for example, rental of scuba diving equipment, tennis rackets, golf clubs, bowling shoes, etc.) and other equipment and objects (other than means of transport) such as beach chairs, parasols, clothing items, game consoles, books, image projectors and screens, TV sets, VCR sets, flipchart, white board, etc.

Any such rental services provided to local and foreign tourists and to taxable persons acting as such established in Malta (such as Maltese travel agencies) are subject to Maltese VAT, as the service takes place where the provider is established. However, if such services are provided to taxable persons acting as such established in the EU but not in Malta (a travel agent established in the UK, for example), VAT is due in the country where the customer is established and no Maltese VAT is due. Conversely, if a travel agent established in Malta hires sports gear and other equipment in an EU Member State (other than Malta) in order to include it in a “package tour” it sells to Maltese – or any other - customers, Maltese VAT is due on this service. If the travel agent is registered for VAT in Malta as a “normal” taxable person, he will have to pay Maltese VAT on that service at the rate of 18 %. That VAT will be deductible if the travel agent is simply acting as an intermediary (see Chapter 2 below). In practice in that case, the travel agent will have to include in his VAT Return the price of the service in Boxes 4 and 11, the VAT due in Box 7 and the VAT deductible in Box 15. If the hiring is done in order to include the service in a package deal, the VAT would not be deductible.

21. Note that even if the travel agent established in Malta is a small undertaking and registered for VAT as an exempt person (under Article 11 of the VAT Act) he has to pay Maltese VAT at the rate of 18 % whenever he hires sports gear and other items in an EU Member State. That VAT will not be deductible, no matter how the service is used. In practice, the travel agent will have to file the special VAT Form 006/2004 (this form can be obtained from the VAT Department or downloaded from the VAT Department’s website at <http://www.vat.gov.mt>) entering the price of the service in Box 1 and the VAT due in Box 2. The travel agent must file the special form and pay the VAT due to the VAT Department at the latest by the 15th of the month following the month during which the service was received.

22. **Rental of any means of transport** (bicycle, motorcycle, jeep, car, canoe, yacht, water-scooter, hot air balloon, any type of small aircraft, etc.) without a driver, captain, pilot, etc. This service is deemed to take place where the provider is established. Therefore, no matter who the customer is or where that customer is established, Maltese VAT at the rate of 18 % will always be due when such service is provided by a taxable person established in Malta, unless the provider is registered for VAT as an exempt person because he is a small undertaking. Note that the VAT must be calculated on the total consideration charged, including, for example, the part of the price covering insurance (unless the service provider is also a licensed insurance company).

23. **Supply of telecommunication services**. Telecommunication services, including access to Internet, take place where the customer is established if these services are rendered to a person established outside the European Community or to a taxable person established in another Member State than Malta. Consequently, Maltese VAT is due whenever anyone established in Malta provides such a service to any person established within the European Union, unless that person can demonstrate that he is a taxable person for VAT. No Maltese VAT is due for such services provided to any persons not established in the EU. It is specified here that anyone charging a separate price for telecommunication services is deemed to

have provided these services himself. This is the case, for example, for a hotel charging his customers a separate amount for phone calls they make from their room, for Internet access or for broadcasting services such as pay per view movies.

24. **Local transportation by scheduled bus service** and scheduled inter-island sea transport of passengers by authorised carriers is exempt from VAT with credit.

25. The service consisting of **providing scuba diving and snorkelling courses and aerobics** and similar classes. This service is deemed to take place where it is physically carried out. Consequently, if such courses take place in Malta, Maltese VAT is due at the rate of 18 %, no matter who the customers are or where they come from.

26. The service consisting of **providing language courses** to foreign students and others is a service that is exempt without credit. No VAT is due but the provider cannot deduct or claim refund of any input VAT.

27. **Use of sports and similar facilities** like gyms, sauna, swimming pools, tennis courts, etc. against a consideration. These services are considered sporting and entertainment activities and therefore, they are deemed to take place where they are physically carried out. Consequently, if such services are provided in Malta, Maltese VAT is due at the rate of 18 %, no matter who the customer is or where he comes from. It is specified that the exemption without credit provided for in Item 5 of Part Two of the Fifth Schedule to the VAT Act does not apply as in this case the service is not provided by a non-profit making organisation.

28. **Spa and other “health and beauty treatments”**. These services are also considered sports and entertainment activities and therefore, they are deemed to take place where they are physically carried out. Consequently, if such services are provided in Malta, Maltese VAT is due at the rate of 18 %, no matter who the customer is or where he comes from. It is specified that the exemption without credit provided for in Item 11 of Part Two of the Fifth Schedule to the VAT Act does not apply as in this case the service is not a health service provided by a person in the exercise of a profession regulated by the Medical and Kindred Professions Ordinance or by a non-profit making institution approved by the Minister whose activities fall within the social and welfare policy of the government.

29. **Organisation of meetings, conferences, congresses, etc.** This service typically includes the temporary use of a meeting room (or rooms), the letting of equipment such as projectors, flipchart, whiteboard, etc., the provision of catering (welcome reception, lunch, coffee breaks) and often the supply of staff (for secretarial work, for example) and telecommunication services (access to Internet, telephone and fax-connections). The temporary use of the rooms takes place where the provider of the service is established, so in most cases, Maltese VAT at the rate of 18 % will be due for the use of conference rooms located in Malta. The letting of equipment is taxable as explained above. With respect to the supply of staff, the same rules apply as for the letting of equipment. Telecommunication services are taxed or not taxed in accordance with the distinctions made above.

If the complete organisation of meetings is sold for a single price, that price may have to be split in parts covering respectively the services that are subject to Maltese VAT in any case (use of the conference rooms, etc.) and those services that under certain conditions are deemed to take place in another member State, such as the letting of tangible movable property, the supply of staff and telecommunication services. If the single price is not split up, VAT will be considered to be due at the rate of 18 % over the entire “single” price charged (see also under “Mixed Services” below).

- **Mixed services**

30. If, using his own resources, a travel agent provides to his customer, for a single price, a package of services for which different rules apply as to where these services take place and to the extent that these different rules result in these services taking place in different places, the single price must be split for the implementation of the VAT. If the travel agent/service provider does not split up the

single price as required, VAT will be considered to be due at the rate of 18 % over the entire “single” price charged.

▪ **Cruise Packages**

31. If a tour operator owns a cruise ship (or leases such a ship) and sells “all in” cruise packages at a global price to a travel agent or directly to travellers, then this package is exempt from VAT. Indeed, the main service provided is the international transportation of passengers, which takes place where it is carried out according to distances covered but which is also exempt with credit. Accommodation, catering (provision of meals, etc.) and all other goods and services provided or sold to the passengers during the cruise are deemed to be part of the main service and are therefore also exempt. It is reminded in this respect that Item 12 of Part One of the Fifth Schedule to the VAT Act exempts the supply of goods for consumption on board cruise liners, that some of the services provided on board would be exempt in any case (i.e. gambling¹ and currency exchange) and that most other services, such as entertainment, currency exchange, rental of clothing (for example evening gowns), sports and games equipment, hairdresser and beauty parlour services, gambling, etc. are deemed to take place where they are physically carried out and are therefore not subject to any countries’ VAT when they are carried out on board a cruise ship during a journey.

2. SERVICES PROVIDED BY THE TRAVEL AGENT AS AN INTERMEDIARY, IN THE NAME AND FOR THE ACCOUNT OF ANOTHER PERSON.

32. The determination of whether a travel agent acts in his own name or in the name of another person will depend upon the agent’s behaviour towards the recipient of the service. In simple terms the interpretation as to whether a service is deemed to be a re-sale of a service (subject to taxation under the special margin scheme – see under 3. below) or a service of an intermediary will depend upon the terms of the contract the travel agent has concluded with the service provider.

In accordance with Item 12 of the Third Schedule to the VAT Act, in this case a supply of services by a travel agent acting as an intermediary in the name and for the account of other persons takes place where the underlying transactions are carried out. However, where the services are rendered to a customer who is identified for the purpose of that supply by a value added tax identification number assigned by the competent authorities of a Member State other than that where those transactions are carried out the supply is deemed to take place in the Member State which assigned that identification number.

Moreover, in accordance with Item 5 of Part One of the Fifth Schedule to the VAT Act, the supply by the travel agent will be exempt with credit if the underlying transaction is also exempt with credit in accordance with Items 1, 2, 6, 7, 8, 9 and 10 of Part One of the Fifth Schedule to the VAT Act. This is the case, for example, when the travel agent intervenes in the chartering or hiring of a cruise ship or the supply of food (other than in the course of catering).

33. It is pointed out that this exemption does not apply with respect to the sale by a travel agent of airline tickets for international air travel (in fact, in such case the travel agent gets a commission from the airline for each ticket sold). Therefore, in principle, VAT would be due on that part of the travel agent’s commission which covers the part of the total itinerary of the international air travel that actually takes place on Maltese territory. However, taking into account that the latter part is always insignificant (compared to the total journey) due to the small size of Malta, the VAT Department accepts, by way of concession, that no Maltese VAT is charged on such commission.

34. In summary, when the travel agent acts in the name and for the account of another person, (e.g. arranging a transport service or a hotel room), VAT is due on the amount of the commission charged

¹ Note that gambling is exempt without credit and therefore restricts the travel agent’s overall rights to deduct input VAT.

by the agent. The margin scheme does not apply to such services. If the service in which the travel agent intermediates is exempt from VAT, the agent's commission is also exempt.

Examples:

- a travel agent has concluded a contract with a hotel under which the travel agent commits himself to sell at least 200 nights at that hotel over a specified period. The travel agent will receive a commission of 10 % of the price charged by the hotel to the agent if the 200 nights are indeed sold. For any nights above 200 the commission will be 12 %. The traveller has to pay the price of the room directly to the hotel.

In this case, the travel agent is clearly working as an intermediary. In fact, from the point of view of the traveller, the agent is merely making a reservation at the hotel. The service by the agent is supplied to the hotel and the agent will send an invoice to the hotel to claim his commission each time he has booked a room at the hotel. If the hotel is located in Malta, the commission is taxable with Maltese VAT at the rate of 18 % but the hotel will be entitled to deduct this input VAT. If the hotel is located outside Malta, no Maltese VAT is due because there is no Maltese VAT on the underlying transaction (accommodation service outside Malta).

- a travel agent has concluded a contract with a hotel under which the travel agent buys 200 nights at that hotel over a specified period at a special discounted price. The travel agent then sells rooms at that hotel to travellers, charging them a price that is, of course, higher than the price charged by the hotel to the agent. The traveller pays the price for the room to the travel agent.

In this case, the travel agent is clearly buying and re-selling a service and the special margin scheme applies. VAT is due in the country where the travel agent is established on the margin of the travel agent, to the extent that the hotel is located within the European Union (see under 3. below). If the travel agent is established in Malta, 18 % VAT will be due on the agent's margin.

3. SERVICES PROVIDED BY THE TRAVEL AGENT IN HIS OWN NAME BUT FOR THE ACCOUNT OF ANOTHER PERSON.

35. In this case, the travel agent is in fact buying travel services from third parties (hotels, transport companies, entertainment places) and re-selling these, possibly after "re-packaging" (but not changing) the services.

Principle: The service by the travel agent is taxable in Malta if the underlying services take place within the EU and the basis for taxation is the profit margin of the travel agent.

Rationale for a special scheme

36. If a travel agent buys travel services from third parties and re-sells these within the country in which he is based, the normal VAT rules could be applied without difficulty. Indeed, the seller (hotel, coach owner, restaurant owner, etc.) could just charge VAT to the agent; the agent could deduct that VAT and then charge VAT to his customer over the total price charged to that customer (which would include the travel agent's margin). The rate to be applied would be the rate applicable to each service.

However, where a travel agent re-sells travel services that take place in another country, the deduction of the VAT charged by the provider would pose a problem: either the travel agent would have to register for VAT in that country in order to be able to deduct the input VAT paid or it would have to claim a refund of that input VAT in that country through the procedure of the 8th EU VAT Directive. This problem has been recognised by the EU and therefore, a special regime for travel agents was introduced.

37. The special scheme ensures that:

- Holiday accommodation and other travel facilities are taxed in the EU Member State of consumption.

This is achieved by preventing the recovery by tour operators/travel agents of local VAT charged on such supplies. This VAT cannot generally be recovered either as input tax or under the 8th EU Directive refund procedure.

- The travel agent's own services (i.e. the putting together of a package of travel facilities, for which the consideration is their margin) are taxed once, and only once, in the country in which the agent's economic activity takes place.

This is achieved by modifying the normal place of supply rules, so that the travel agent's own services are deemed to take place in the Member State in which the agent is established.

- There is no need for travel agents to register for VAT in every Member State in which their tours are enjoyed, which would obviously impose on them excessive compliance costs.

When does the special scheme apply

38. In accordance with the provisions of Part 4 of the Fourteenth Schedule to the VAT Act, the special scheme for travel agents applies when a travel agent or a tour operator buys in and re-sells travel, hotel, holiday and other related services to travellers without material alterations.

In other words, the special scheme applies to the operations of travel agents, where the agent deals with the customer in his own name and uses the supplies and services of other persons in the provision of travel facilities. The scheme does not apply to a travel agent who acts only as an intermediary and merely makes a repayment of expenses to another person in the name and for the account of the traveller.

39. Travellers in this context are private physical persons as well as taxable persons (including companies) acting in the course of their economic activity. However, the scheme does not apply where the customer is a tour operator or another travel agent.

Taxation of the margin will apply even if within the scope of a journey only a single travel input service is required, i.e. a service supplied by a third party.

How the special scheme works

40. Under the special scheme, all transactions performed by a travel agent for the benefit of the traveller in connection with a journey are treated as a single supply of services supplied by the agent to the traveller. That single supply of services is deemed to take place entirely in the country where the travel agent is established and therefore subject to VAT in that country. It does not matter where the traveller is actually going or where he will actually enjoy the services supplied as long as he stays and enjoys the services within the territory of the European Union.

If the single supply of services includes services which physically take place both inside and outside the European Community, that part of the travel agent's services relating to transactions outside the Community is exempt with credit.

41. In other words, all supplies that are sold under the scheme or that are part of packages sold under the scheme are subject to VAT, to the extent that these are enjoyed inside the EU. To the extent that such packages are enjoyed outside the EU, they are zero-rated. The result of this is that the traveller (that is the travel agent's customer) pays the VAT, if any, on the supplies he purchases via the travel agent, at the rate applicable where the supply is subject to VAT and that the service of the travel agent is subject to VAT where the agent is established, unless it relates to travel facilities outside the Community.

Consequently, if the travel agent is established in Malta, Maltese VAT is due on the agent's margin to the extent that the services are enjoyed inside the EU.

Basis of Tax Calculation

42. The taxable value of a single supply of services made by a travel agent is the difference between the cost of the supplies to the travel agent **inclusive** of value added tax and the total price charged to the traveller **exclusive** of value added tax, where the supplies are for the direct benefit of the traveller.

The standard VAT rate of 18% is applied to the taxable value calculated as explained above, in so far as the input services will be used within the territory of the EU. The portions of the input services that are performed in third countries are exempt. The right to exempt supplies must be proven in the records of the travel agent.

43. The amount paid by the traveller (journey price) includes, inter alia, the following expenses:

- prices shown in the catalogue;
- additional arrangements within a journey (e.g. theatres, sightseeing, etc.);
- booking fees;
- fees for telephone, telex, telegram and telefax; and
- fees for obtaining visa.

The journey price does not include:

- tourist taxes; and
- cancellation fees (these fees can be treated as exempt in general).

44. Supplies to the travel agents ("Travel input services") are all services supplied by a third party and for the direct benefit of the traveller. Travel input services include:

- transportation to various destinations;
- accommodation and meals;
- services provided by independent tourist guides;
- arrangements within a travel (e.g. visits to theatres, operas, etc.); and
- cancellation insurance costs.

The following should not be considered as travel input services:

- services of intermediaries;
- catalogues;
- office rent, electricity, office material; and
- purchase of equipment (e.g. a bus).

45. Example: a travel agent sells a package tour to France, Belgium and Germany, including transportation by air and by coach, accommodation with breakfast at hotels, specified meals, local tour guides and entrance fees to entertainment places (theatres, etc.) in various cities visited.

1° VAT is not included in the price

Amount paid by the traveller (journey price, VAT not included)	Lm 2,000
Less travel input services (VAT included)	Lm 1,500
Balance = agent's margin = basis for tax calculation	Lm 500
VAT Due: 18 % of Lm 500 =	Lm 90
Total amount charged to the traveller: Lm 2,000 + 18 % of Lm 500 =	Lm 2,090

2° VAT is included in the price

Amount paid by the traveller (journey price, VAT included)	Lm 2,000
Profit margin:	10 %
Percentage of VAT included in the price: 18 % of 10 %	Lm 1,8 %
Price (VAT not included): $2,000 \times 100 / 101,8$	Lm 1,964.63
Taxable value: $1964.63 \times 10 \%$	Lm 196,46

Mixed travel services

46. Supplies of mixed travel services will occur where a travel agent both supplies own services and uses travel input services, i.e. the services of a third party. The margin scheme only applies to the extent that the travel agent makes use of the travel input services. Consequently, the price paid by the traveller must be divided into own services and services performed by third parties. For this purpose, the own services can be computed as the travel agents' costs (including VAT), and the services performed by third parties can be computed as the consideration paid to such parties (including VAT).

Miscellaneous Provisions

47. Where a supply to a travel agent is required to be supported by a tax invoice, the cost of that supply shall only be taken into account if the travel agent holds such a tax invoice.

48. A travel agent is not allowed to deduct or get a refund of the VAT charged to him by other taxable persons on supplies made for the purpose of the single supply under the special margin scheme. However, he is still entitled to claim back other input tax incurred in the normal running of his business (for example, VAT on office equipment, on telecommunication services, on electricity, etc.).

49. A travel agent must keep, in addition to the records he must keep as a registered taxable person, any other records that may be necessary to readily ascertain the amount of tax chargeable under this special margin scheme.