

GUIDELINES REGARDING VAT TREATMENT OF YACHT LEASING

What is a leasing agreement of a pleasure boat?

A leasing agreement of a pleasure boat is an agreement whereby the *lessor* (the owner of a boat) contracts the use of the boat to the *lessee* (the person who leases the boat) in return for a consideration. In addition, at the end of the lease period, the *lessee* may opt to purchase the boat at a percentage of the original price. The final purchase is strictly an option which may be exercised at the end of the lease for a separate consideration.

How is the leasing agreement treated for VAT purposes?

For the purpose of VAT, the lease of the boat is a supply of services with the right of deduction of input VAT by the *lessor*, where the right of input VAT applies. This supply of services is taxable according to the use of the boat, attributed within the territorial waters of the European Union (EU), provided that the lessor is a Maltese company which is leasing the boat to any Maltese or non-Maltese person or company.

How is the use of boat within EU territorial waters calculated?

It is very difficult to trail the movements of pleasure boat in order to determine the period that the boat spends within the territorial waters of the EU and the time it spends outside the EU.

In this regard, these guidelines establish the estimated percentage portion of the lease based on the time that the boat is used within the territorial waters of the EU. These percentages are set according to the length of the boat and its means of propulsion (power or sailing).

The standard rate of VAT of 18% is applied on the established percentage of the lease, deemed to be related to the use of the boat in EU territorial waters. The table below indicates the established percentage portions according to the type of boat:

Type of boat	% of lease taking place in the EU	Computation of VAT
Sailing boats or motor boats over 24 metres in length	30%	30% of consideration x 18%
Sailing boats between 20.01 to 24 metres in length	40%	40% of consideration x 18%
Motor boats between 16.01 to 24 metres in length	40%	40% of consideration x 18%
Sailing boats between 10.01 to 20 metres in length	50%	50% of consideration x 18%
Motor boats between 12.01 to 16 metres in length	50%	50% of consideration x 18%
Sailing boats up to 10 metres in length	60%	60% of consideration x 18%
Motor boats between 7.51 to 12 metres in length (if registered in the commercial register)	60%	60% of consideration x 18%
Motor boats up to 7.5 metres in length (if registered in the commercial register)	90%	90% of consideration x 18%
Boat permitted to sail in protected waters only	100%	100% of consideration x 18%

In order to apply these guidelines the following conditions shall apply:

- The leasing agreement shall be between a Maltese company and any Maltese or foreign person or company.
- The Lease instalments shall be payable every month for a period of not more than 36 months.
- Prior approval shall be sought in writing from the Commissioner of VAT and each application will be considered on its own merits and certain conditions may be applied. Moreover the Commissioner of VAT may require the lessor to submit details regarding the use of the boat.

If the *lessee* exercises an option to purchase the boat after the end of the lease, a VAT paid certificate will be issued to the *lessee* provided that all VAT due has been paid.