

# VAT ON MALTESE REGISTERED PLEASURE YACHTS



The Maltese VAT department has embarked on an attractive VAT incentive package on VAT payment applicable to yacht leasing. These incentives apply to scenarios where a Maltese company purchases a pleasure yacht and enters into a "lease-sale" of the yacht with a third party. The aim of the scheme is that of assisting yacht owners to pay VAT on their yachts at an attractive VAT rate so as to place them within free circulation within the EU

## SCHEME FOR PAYMENT OF VAT ON PLEASURE YACHTS

The main features of this scheme are as follows:

1. A Maltese company would be set up and this would become the new owner of the yacht. The company would also be registered with a valid VAT number here in Malta. This same company would later become a **lessor** under the subsequent lease agreement.
2. This Maltese company will lease the yacht to another person, a Maltese or foreign person or company - **the Lessee**.
3. A leasing agreement (lease-purchase) of a pleasure craft being an agreement whereby the lessor (the owner of a craft) contracts the use of the craft to the lessee (the person who leases the craft) in return for a consideration is then entered into between the lessor and the lessee. At the end of the lease period, the lessee may opt to purchase the craft at a percentage of the original price. Any purchase value at the end of the lease agreement shall be not less than 1% of the original value of the craft, and this will be subject to the standard rate of VAT at 18%.
4. The initial VAT payable at source by the purchaser on the purchase price of the vessel would in actual terms not be payable by the lessor to the seller/supplier of the yacht. In making this statement there are three possible scenarios that may apply and in any one of them the end result would be nil VAT or refundable VAT on the purchase of the yacht. These scenarios are:
  - A The yacht is purchased locally.
  - B The yacht is purchased from another Member State.
  - C The yacht is imported into the European Union.
5. What would attract the payment of VAT is the lease of the craft as a **supply of services**. The supply of services is taxable according to the use of the craft within the territorial waters of the European Union.

The scheme introduced by the Maltese authorities operates as follows:

- i. It introduces a schedule of VAT rates which would be payable by the lessee on the lease services that are provided by the lessor. The schedule of VAT rates start from a rate of 5.4% going up to a maximum of 18% depending on the type of seacraft involved e.g. sailing boat, motor boat, and the length of the vessel concerned and the applicable VAT rate depends on the length of the yacht.

The *raison d'être* of this scheme is not to lower the applicable 18% without any reason, but rather because it is anticipated that yachts of a certain length spend only a part of their time in EU waters and a far greater time outside same. The VAT department presumes that a 24+ metre yacht should spend only 30% of its time in EU waters (whereas a 22 mtr vessel spends 40%, a 13 mtr vessel 50% and so on and so forth)

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- ii. Approval must be sought from the Commissioner of VAT. For this purpose the VAT department would be provided with details necessary to determine the value and size of the yacht which details depend on whether the vessel is a second hand or a new build. The VAT department would in turn advise the rate of VAT that would apply in virtue of the scheme as indicated below:

Type of Craft	% of lease subject to VAT	Effective rate of VAT
Sailing boats or motor boats over 24 metres in length	30%	5.4%
Sailing boats between 20.01 to 24 metres in length	40%	7.2%
Motor boats between 16.01 to 24 metres in length	40%	7.2%
Sailing boats between 10.01 to 20 metres in length	50%	9.0%
Motor boats between 12.01 to 16 metres in length	50%	9.0%
Sailing boats up to 10 metres in length	60%	10.8%
Motor boats between 7.51 to 12 metres in length (if registered in the commercial register)	60%	10.8%
Motor boats up to 7.5 metres in length (if registered in the commercial register)	90%	16.2%
Craft permitted to sail in protected waters only	100%	18.0 %

- iii. The VAT department, once it has approved the applicable rate, would upon request and once certain requirements are satisfied issue a provisional certificate at the beginning of this lease scheme confirming that VAT on the said yacht is applicable in Malta. This offers an additional safeguard to the lessee in that it may produce such certificate upon questioning by VAT authorities at any subsequent ports of call during the duration of the lease period.
- iv. The yacht must come to Malta, usually at the beginning of the lease agreement.
- v. An initial contribution is to be paid by the lessee to the lessor amounting to 50% of the value of the craft at the beginning of the lease period. Thus in the case of the purchase price of £6,510,000, an initial contribution of £3,255,000 is payable by the lessee to the lessor. VAT on the said amount would be payable at 5.4% in lieu of the standard 18% (in other words the 18% standard rate is applied only to 30% of the value of the yacht on the basis of time spent in EU waters as a result of its dimensions).
- vi. The balance of £3,255,000 would then be divided into equal monthly lease installments. The lease agreement is not to exceed 36 months. VAT would be charged on each monthly instalment at the applicable VAT rate i.e. according to our example 5.4%. However it is important to note that the scheme expects the Lessor to make a profit from the leasing agreement over and above the value of the boat, the amount of which is determinable by the Lessor. Naturally it is to be said that VAT is also to be calculated on the profit from the lease again at the applicable rate of 5.4%.
- vii. The lease agreement will grant the Lessee the option to buy the yacht at the end of the lease period at a price which must be not less than 1% of the original value of the vessel (in our example therefore at a price of not less than £65,000 on which amount 18% VAT equivalent to £11,700 must be paid.
- viii. At this stage, seeing the Lessee thus become the owner of the yacht and VAT thereon has been paid in full, the VAT Department will issue a VAT paid certificate in the name of the Lessee indicating that VAT has been paid in full.