

VAT RATES APPLICABLE TO YACHT FINANCE LEASING STRUCTURES

The Maltese VAT Department has recently published guidelines regarding VAT treatment of yacht leasing, in terms of which the supply of the leasing service is taxable according to the extent of use of the yacht within EU territorial waters, provided that the lessor is a Maltese company. Insofar as the lessor is concerned, the lease of the craft is a supply of services with the right of deduction of input VAT, where such right applies. The VAT liability therefore arises in the hands of the lessee.

In view of the practical difficulties which arise in determining the period that the craft spends inside and outside EU territorial waters, the guidelines establish an estimated percentage portion of the lease based on the time that the craft is presumed to be used within EU territorial waters. These presumptions are tied up to the length of the vessel and its means of propulsion (power or sailing).

The following table sets out the relative percentage points applied by the VAT department in relation to yacht finance leasing.

Type of yacht	% of lease subject to VAT	Effective rate of VAT
Yachts over 24 metres in length	30%	5.4%
Sailing yachts between 20.01 and 24 metres in length	40%	7.2%
Motor yachts between 16.01 and 24 metres in length	40%	7.2%
Sailing yachts between 10.01 and 20 metres in length	50%	9%
Motor yachts between 12.01 and 16 metres in length	50%	9%
Sailing yachts up to 10 metres in length	60%	10.8%
Motor yachts between 7.51 to 12 metres in length (if registered in the commercial register)	60%	10.8%
Motor yachts up to 7.51 metres in length (if registered in the commercial register)	90%	16.2%

It should be stated that the transaction costs related to the implementation of this structure may increase the total outlay by a margin of approximately 2 or 3 %.

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

- The boat **must** come to Malta, possibly at the beginning of the lease agreement.
- The financial leasing agreement shall be **between a Maltese company and any Maltese or foreign person or company.**
- **Prior approval shall be sought in writing from the Commissioner of VAT** who is to confirm the rate applicable according to the use in EU territorial waters (depending on the size and propulsion of the craft), as well as the acceptability of the value of the craft as declared. For this purpose a valuation certificate of the craft shall be submitted with the application for approval.
- An initial contribution shall be paid by the lessee to the lessor amounting to 50% of the value of the craft.
- The Lease instalments shall be payable every month and the **lease agreement shall not exceed 36 months.**
- The lessor shall be expected to make a profit from the leasing agreement over and above the value of the boat.
- Any **purchase value at the end of the lease agreement shall not be less than 1% of the original value** of the craft, and this will be subject to the standard rate of VAT at 18%.
- If the lessee opts to purchase the craft at the end of the lease, a **VAT paid certificate will be issued to the lessee provided that all VAT due has been paid.**