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VAT Treatment of Yacht Leasing

Thanks to guidelines which were issued by the VAT Department in 2005, the VAT treatment of the leasing of yachts by a Maltese Company makes Malta an attractive jurisdiction for existing and prospective yacht owners. With careful planning, one may become the owner of an EU VAT-Paid yacht by paying a fraction of the normal 18% rate (as little as 5.4%).

In brief, the benefits arise when a boat is purchased by a Maltese Company which leases it to a third party which may be a Maltese or a non-Maltese person or Company. VAT is due on the proceeds of the lease when this is deemed to be a service being supplied in Malta (i.e. when the boat is put at the disposal of the lessee in Malta and the lessor is also established in Malta), however VAT is only payable on the portion of the lease during which the boat is deemed to be in EU territorial waters (see table below). If at the end of the lease, the lessee exercises the option to purchase the boat, a VAT paid certificate will be issued to the lessee provided that all VAT due has been paid, resulting in an amount of VAT paid which is lower than the standard rate of 18%. Furthermore, the lease instalments received by the lessor which would be a Maltese Company would be deemed to be trading income and would thus be subject to income tax at the rate of 35% in Malta. Subject to the satisfaction of certain conditions, the shareholders of this Company may claim a refund of 6/7ths of the Malta tax suffered at Company level on the dividends distributed from this income stream following distribution of dividends. This is subject to the tax treatment of the dividend income and the corresponding refund in the jurisdiction where the shareholders are tax resident. In certain cases, a two-tier company structure in Malta may be required in order to ensure that the application of the refund is successful.

One of the major requirements for taking full advantage of these benefits lies in the lease agreement of the pleasure boat. This is an agreement whereby the lessor, being the owner of the yacht (a Maltese Company), contracts the use of the yacht to the lessee in return for a consideration. The agreement should grant the lessee the right to purchase the boat at a percentage of the original price (not less than 10%) at the end of the lease. The first lease instalment should amount to at least 50% of the value of the boat. The final purchase should strictly be an option which may be exercised at the end of the lease for a separate consideration.

The lease of the boat is considered 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 in accordance with the attributed use of the boat within the territorial waters of the EU, provided that the lessor is a Maltese Company which is leasing the boat to any Maltese or non-Maltese person or company.

Since it is very difficult to trail the movements of pleasure boats, in order to determine the period of time that the boat is deemed to spend within EU territorial waters, the VAT department has set out guidelines to attribute the estimated portion of the lease during which the boat is used within EU territorial waters.

The standard rate of VAT (18%) is applied on the established percentage of the lease deemed to be related to the use of the boat in EU territorial waters. Such deemed percentage shall be determined on the basis of the size and type of boat (power or sailing) as laid out below:



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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%

Certain conditions must be met in order for the above-mentioned guidelines to apply, namely:

- The lease agreement must 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; and
- Prior approval of the Commissioner of VAT is required and each application will be considered on its own merits and certain conditions may be applied. The Commissioner of VAT may require the lessor to submit details regarding the use of the boat.

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

In order to minimise the incidence of income tax arising from the income derived from the lease instalments received by the lessor one may make use of the 6/7ths refund as outlined briefly above.

For more information on how TMF Group Malta can assist you, please email malta@tmf-group.com.