

INFORMATION - Malta

Use and Enjoyment - VAT Directive 2006/112/EC - Article 59a

Malta does not currently apply use and enjoyment rules for the supply of telecommunications, broadcasting and electronically supplied services, despite that the law allows for such application.

Time of supply / chargeability - Deferment and Cash Accounting Scheme - VAT Directive 2006/112/EC - Article 66

In Malta, the time of supply for services is at the earliest of any of the following two events: the performance of the service or the receipt of full or partial payment. Cash accounting is not applied in the sector of telecommunications, broadcasting or electronically supplied services.

Time of supply / chargeability - Continuous supplies - VAT Directive 2006/112/EC - Article 64(2)

In Malta, continuous supplies of services that do not give rise to statements of account or payment during a year shall be regarded as being completed at least at intervals of one year.
Reference to the above may be found in item 2(2) of the Fourth Schedule to the Maltese VAT Act Cap. 406 of the Laws of Malta.

Re-valuation of services at open market value - VAT Directive 2006/112/EC - Article 80

Malta has not implemented provisions in its VAT legislation pursuant to which the taxable amount (of telecommunications, broadcasting and electronic services provided to non-VAT taxable persons) may be deemed to be the open market value.

Bad Debt relief - VAT Directive 2006/112/EC - Article 90

Bad debt relief is available in Malta. The Maltese VAT Act provides that a claim for bad debt relief is subject to approval by the Commissioner. Bad debt relief can usually be made following a Court judgment according to which the VAT Department can be satisfied that the debt cannot be recouped.
Reference to the above may be found in item 10 of the Tenth Schedule to the Maltese VAT Act Cap. 406 of the Laws of Malta and Guidelines for Bad Debt Relief Claims issued on 30 November 2014

Application of reduced VAT rates - VAT Directive 2006/112/EC - Article 98

In Malta, no reduced VAT rates apply with respect to telecommunications, broadcasting and electronic services provided to non-VAT taxable persons.
Reference to the above may be found in the Eighth Schedule to the Maltese VAT Act Cap. 406 of the Laws of Malta.

Standard VAT Rate - VAT Directive 2006/112/EC - Article 96-97

In Malta the standard VAT rate is 18%.

Release from payment of insignificant amounts of VAT - VAT Directive 2006/112/EC - Article 212

Malta has not implemented a rule under its domestic legislation whereby taxable persons are released from the payment of VAT where the amount due is insignificant.

Invoicing Obligations - Obligation to issue an invoice - VAT Directive 2006/112/EC - Articles 217-249

In Malta, there is no obligation to issue a VAT invoice with respect to the supply of telecommunications, broadcasting and electronic services provided to non-VAT taxable persons under the MOSS.

Invoicing Obligations - Content of an invoice - VAT Directive 2006/112/EC - Articles 217-249

Not applicable given that there is no obligation to issue a VAT invoice in relation to telecommunications, broadcasting and electronic services provided to non-VAT taxable persons under the MOSS.

Invoicing Obligations - Time limit for issuing an invoice - VAT Directive 2006/112/EC - Articles 217-249

Not applicable given that there is no obligation to issue a VAT invoice in relation to telecommunications, broadcasting and electronic services provided to non-VAT taxable persons under the MOSS.

Invoicing Obligations - Summary Invoices - VAT Directive 2006/112/EC - Articles 217-249

Not applicable given that there is no obligation to issue a VAT invoice in relation to telecommunications, broadcasting and electronic services provided to non-VAT taxable persons under the MOSS.

Invoicing Obligations - Electronic invoices - VAT Directive 2006/112/EC - Articles 217-249

Not applicable given that there is no obligation to issue a VAT invoice in relation to telecommunications, broadcasting and electronic services provided to non-VAT taxable persons under the MOSS.

Invoicing Obligations - Batch of electronic invoices - VAT Directive 2006/112/EC - Articles 217-249

Not applicable given that there is no obligation to issue a VAT invoice in relation to telecommunications, broadcasting and electronic services provided to non-VAT taxable persons under the MOSS.

Additional obligations deemed necessary for collecting VAT and preventing evasion (anti-avoidance measures) - VAT Directive 2006/112/EC - Article 273

Malta has not implemented any rules or anti-avoidance measures that may directly impact telecommunications, broadcasting and electronic services provided to non-VAT taxable persons

Stand-still scheme - Derogations for States which were members of the Community on 1 January 1978 - VAT Directive 2006/112/EC - Articles 370-391

N/A

Stand-still scheme - Derogations for States which acceded to the Community after 1 January 1978 - VAT Directive 2006/112/EC - Articles 370-391

There are no provisions which are applicable under a Stand-still Scheme in Maltese VAT legislation or subject to common practice in Malta that may be relevant for telecommunications, broadcasting and electronic services provided to non-VAT taxable persons.

VAT Treatment of vouchers

There are currently no specific rules with regards to the VAT treatment of vouchers in Malta. The applicable treatment is determined on a case-by-case basis by the VAT Department.

Exemptions - VAT Directive 2006/112/EC - Articles 132 & 135 (E-learning activities)

The following educational related supplies are exempt from Maltese VAT:

- The provision of education or educational research, including distance learning, by a government school or institution, by the University of Malta, by a school or institution registered under the Education Act, or by any educational establishment recognised as such by the Commissioner.
- The provision of education or educational research, including distance learning, of a kind provided by a school or university, or of religious instruction, by a non-profit making institution recognised as such by the Commissioner.
- Tuition given privately by teachers acting in an independent capacity in subjects which are normally taught in the course of education provided by a school or university but excluding tuition in recreational, physical or sporting activities or disciplines.
- Any training in the arts which is provided by an organisation accredited by the Register for the Accreditation in the Training of the Arts.
- The supply of goods and services where the said supply is connected with and essential for the supply of services referred to in paragraphs (1), (2), (3) and (4) by the school, institution, university, teacher or organisation, as the case may be, supplying the said services, or supplied by any other organisation recognised by the Commissioner as an organisation which has similar objectives.

E-learning services should also be subject to these exemptions provided that they satisfy the conditions listed above. Reference to above may be found in item 12 of part two of the Fifth Schedule to the Maltese VAT Act Cap. 406 of the Laws of Malta.

Exemptions - VAT Directive 2006/112/EC - Articles 132 & 135 (Gambling activities)

Services related to gambling (including bets) provided by gaming operators are generally VAT exempt in Malta. There is currently no specific guidance in Malta with regards to the VAT treatment of bonus points/credits granted as part of e-gambling activities. The applicable treatment is determined on a case-by-case basis by the VAT Department. Reference to the above may be found in item 9 of part two of the Fifth Schedule to the Maltese VAT Act Cap. 406 of the Laws of Malta.

Exemptions - VAT Directive 2006/112/EC - Articles 132 & 135 (General)

The activities of public radio and television bodies other than those of a commercial nature are exempt from VAT in terms of item 14 of Part Two of the Fifth Schedule to the Malta VAT Act.

VAT Registration Process

In Malta, the procedure applicable for registration under the MOSS is broadly the same as the local VAT registration process: an applicant must file a registration application form and certain due diligence documentation must be provided. In Malta, a MOSS registration application may only be made electronically. The Maltese VAT Department may - at its discretion - request additional information. The registration process normally takes 5 - 8 working days.

Access to web-portal and contact details of the local VAT Authorities

To access the web-portal:

- Maltese resident taxpayers and tax practitioners must use their EID credentials
- Non-Maltese resident users must apply with the VAT Department in order to be supplied with an online account

The links to access the web portal are the following:

EU Scheme - <http://secure2.gov.mt/moss/login.aspx>

Non EU Scheme - <https://secure2.gov.mt/moss/regnoneu.aspx>

General Contact:

Mr. Brian Debono (Assistant Director)

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Contact VAT obligations and reimbursements:

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Appointment of a VAT Agent

Although not common practice in Malta, it should be possible to appoint a VAT agent in accordance with general Maltese legislation (Article 66 of the Maltese VAT Act Cap.406 of the Laws of Malta).

Penalties for non-compliance (Failure to register and late registration)

The penalty applicable for late registration is the higher of:

- 1% of the VAT due for the first tax period following the registration; and
- EUR 20 for every month or part thereof from the date on which the application should have been made and the earlier of when the registration application is submitted to the Commissioner for Revenue and the date when that person is registered by the Commissioner for Revenue.

If the VAT due for the first period following the registration is EUR 2,000 or less, the penalty shall not exceed EUR 250 and where the VAT due for the first period following the registration is more than EUR 2,000 the penalty shall not exceed 20% of the VAT due.

Reference to the above may be found in Article 39 of the Maltese VAT Act Cap. 406 of the Laws of Malta.

Penalties for non-compliance (Non-payment and late payment of VAT)

Currently, interest is due for non-payment/late payment of Malta VAT at 0.54% for each month or part thereof during which the VAT due remains unpaid.

Reference to the above may be found in Article 21 (4) of the Maltese VAT Act Cap. 406 of the Laws of Malta and Legal Notice 52 of 2014.

Penalties for non-compliance (Non-submission and late submission of VAT returns)

With respect to domestic VAT returns, a penalty is applicable in an amount equivalent to the higher of:

- 1% of the excess, if any, of the VAT due (disregarding any excess credits brought forward from a previous tax period); and
- EUR 20 for every month or part thereof that elapses from the date by which the tax return should have been filed and the date when it is filed to the Commissioner for Revenue.

The penalty shall not exceed EUR 250 per late return. Furthermore if the VAT due is less than EUR 250, the penalty shall not exceed the higher of the total VAT due or EUR 50.

To date, there are no specific provisions imposing penalties to MOSS registered, foreign based suppliers for failure to (timely) report in a MOSS return taxable B2C supplies of broadcasting, telecommunications and e-services made to non-taxable persons located in Malta and it would in our opinion be reasonable to expect that the penalties applicable for non-submission/late submission of a domestic Malta VAT return may be applied mutatis mutandis. Reference to the above penalty may be found in Article 38 of the Maltese VAT Act Cap. 406 of the Laws of Malta.

Penalties for non-compliance (Incomplete and incorrect VAT returns)

With respect to domestic VAT returns, the following penalties are applicable:

Penalty in an amount equivalent to 20% of the total of:

- the under-declared output VAT; and/or
- the over-recovered input VAT.

In case of voluntary disclosure, the penalty will be reduced to 10% of the above.

To date, there are no specific provisions imposing penalties to MOSS registered, foreign based suppliers for failure to (correctly) report in a MOSS return taxable B2C supplies of broadcasting, telecommunications and e-services made to non-taxable persons located in Malta and it would in our opinion be reasonable to expect that the penalties applicable for incomplete/incorrect domestic Malta VAT returns may be applied mutatis mutandis.

Reference to the above may be found in Article 37 of the Maltese VAT Act Cap. 406 of the Laws of Malta.

Penalties for non-compliance (Non-compliance with invoicing and accounting obligations)

Criminal fines range from EUR 700 to EUR 10,000. The fines will depend on the type of offence committed and may include imprisonment (depending on the seriousness of the case).

In addition, the supplier shall be liable to the payment of an extra fine of EUR 5 for each day until the relevant corrections are made.

A compromise/agreement may however be concluded with the Maltese VAT Authorities instead of criminal charges. Reference to the above may be found in Articles 76, 77 & 84 of the Maltese VAT Act Cap. 406 of the Laws of Malta.