

VATalert

Indirect Tax Services

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PwC Indirect Tax network

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Amendments to VAT regulations

On the 28 December 2007, six Legal Notices (numbers 443 to 448) amending some schedules to the Value Added Tax Act were published and they also became effective on the same date. Legal Notices 443 and 448 are merely changes to the proper reference to the VAT Directive which has recently been recast (from a number of separate Directives) and has now become Council Directive 2006/112/EC whereas Legal Notice 447 corrects an erroneous reference in the Maltese version of the Tenth Schedule to the Act.

In respect of the other Legal Notices, we set out below a summary of the contents thereof and the scope for which these were published. We also include a comment in respect of Legal Notice 426 of 2007 published on 21 December 2007 to convert Maltese Lira amounts to their Euro equivalent in various laws including the VAT Act.

- **Legal Notice 444 of 2007
Value Added Tax (Third Schedule Amendment) (No. 2) Regulations, 2007**

This Legal Notice replaces the words “but not in the same Member State as the supplier” with the words “but not in the same country as the supplier” in both items 10 and 11 of the Third Schedule. This amendment does not result in any material change in the substance of the said provisions but brings them more in line with the respective provisions of the VAT Directive. It contemplates the possibility that the supplier would be established in a country which does not form part of the European Union.

Furthermore, this Legal Notice has also introduced a specific place-of-supply rule on intermediary services related to telecommunication services and electronically supplied services. In terms of the said new rule a supply of services by an intermediary acting in the name and for the account of another person, when

1. he procures for his principal telecommunication or electronically supplied services; and
2. such intermediary services are rendered to a person established outside the Community or to a taxable person established in the Community but not in the same country as the supplier

is deemed to be provided where the customer is established.

This change was not the result of an amendment in the VAT Directive but was required to correct a lacuna in the VAT Act that resulted from the different manner in which the place-of-supply rules in the VAT Act and the VAT Directive are drafted.



- **Legal Notice 445 of 2007
Value Added Tax (Fifth Schedule Amendment)
(No. 2) Regulations, 2007**

This Legal Notice contains two main amendments to the VAT Act:

1. Part Two of the Fifth Schedule to the VAT Act contains a list of supplies that are “exempt without credit” i.e. supplies on which no VAT is chargeable and in respect of which the supplier is not given a right to deduct input tax.

The first amendment made by this Legal Notice is the extension of the exemption on Education to ‘any training in the arts which is provided by an organisation accredited by the Register for the Accreditation in the Training of The Arts’.

This amendment follows the announcement made by the Prime Minister in his Budget Speech last October on the extension of the VAT exemption to lessons in the arts. It is understood that the Register for the Accreditation in the Training of the Arts will be administered by the Ministry for Culture.

2. Part Five of the Fifth Schedule to the VAT Act provides for the definition of certain terms found in the Schedule. It includes a definition of ‘letting of immovable property’ and in terms of this Legal Notice, this definition has been extended to include ‘the letting of space for artistic and cultural activities’.

As a result of this amendment, with effect from 28 December 2007, the letting of space for artistic and cultural activities will, subject to certain exceptions, be treated as exempt without credit (previously taxable at the standard rate of 18%). The exceptions include situations where the said letting is provided by a limited liability company to a VAT registered person (i.e. registered under Article 10) acting as such – in which case such letting will be subject to VAT at the standard rate.

- **Legal Notice 446 of 2007
Value Added Tax (Amendment of Eighth Schedule) (No. 2) Regulations, 2007**

The Eighth Schedule to the VAT Act contains a list of supplies that are subject to a reduced rate of VAT (5%). As from 28 December 2007, the admission to museums, art exhibitions, concerts and theatres has been included in this list. This amendment is in line with the announcement made by the Prime Minister in his Budget Speech last October for the reduction of the VAT applicable on the said activities.

The Legal Notice also includes a minor amendment to make the correct reference to the VAT Directive.

- **Legal Notice 426 of 2007
Euro Adoption Act (Adaptation of Laws - Chapters 401 - 450) Order, 2007**

This Legal Notice was published on the 21 December 2007 to provide for the conversion of monetary amounts/values in various legislation from Maltese Lira to Euro with effect from 1 January 2008. This Legal Notice therefore also includes the conversions applicable to the monetary amounts/values found in the VAT Act.

Of all the monetary amounts/values in the VAT Act, only the small undertakings thresholds found in the Sixth Schedule to the VAT Act were not converted at the Irrevocably Fixed Conversion Rate (IFCR) of 0.4293. Rather, these thresholds reverted to those actually agreed between Malta and the EU prior to accession and which are contained in the VAT Directive. The new thresholds are the following:

Category	Thresholds	
	Entry	Exit
Economic activities consisting principally in the supply of goods	€37,000	€28,000
Economic activities consisting principally in the supply of services with relatively low value added	€24,300	€18,700
Other economic activities	€14,600	€11,700

The notes are designed to keep readers abreast with financial and tax developments. They are not intended to be a definitive or comprehensive analysis of the subject and should not be acted upon without prior consultation with the Partners or Senior Consultants of the firm. For further details please do not hesitate to contact Neville Gatt or David Ferry at:

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