

# VATalert

## Indirect Tax Services

Part of the PwC Indirect Tax network \*



Malta

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PwC Indirect Tax network

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## Amendments to VAT regulations

On the 27 April 2007, five legal notices (numbers 120 - 124 of 2007) amending the schedules to the Value Added Tax Act, and regulations issued under that Act, were published. Apart from Legal Notice 120 of 2007, which contains merely a rectification of an erroneous reference to a non-existent article in the Value Added Tax Act which was previously included in the Value Added Tax (Forms) Regulations, we set out below a summary of the contents of these legal notices and the scope for which they were published.

The effective date of all the amendments is the 27 April 2007, being the date of publication of the said legal notices.

- **Legal Notice 121 of 2007**  
**Value Added Tax (Fifth Schedule Amendment) Regulations, 2007**

Part Two of the Fifth Schedule to the Value Added Tax Act contains a list of supplies that are "exempt without credit" i.e. supplies on which no VAT is chargeable but in respect of which the supplier is not given a right to deduct input tax. Included in the said list were supplies made by "a person in the exercise of any profession regulated by the Medical and Kindred Professions Ordinance". With effect from the 21 November 2003, health care professions started to be regulated by the Health Care Professions Act and the scope of the Medical and Kindred Professions Ordinance were somewhat reduced.

The scope of this legal notice is to substitute the reference of "the Medical and Kindred Professions Ordinance" in item 11 (1) of part Two of the Fifth Schedule with 'the Health Care Professions Act or any Act which may be substituted therefor'.

- **Legal Notice 122 of 2007**  
**Value Added Tax (Sixth Schedule Amendment) Regulations, 2007**

Part One of the Sixth Schedule to the VAT Act contains thresholds and related regulations that are applicable in the case of small undertakings and their option to benefit for a VAT exemption. The law provides for two threshold levels being an Entry Threshold (i.e. the turnover level above which a person ceases to qualify as a small undertaking) and an Exit Threshold (i.e. the turnover level below which a person qualifies as a small undertaking). A small undertaking qualifying for and requesting an exemption is registered in terms of article 11 of the VAT Act rather than article 10.

\* **connectedthinking**

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The scope of this legal notice is to amend Part One of the Sixth Schedule as follows:

- (1) Correction of a reference to a wrong provision in the VAT Act
- (2) A new provision that requires that a business that is registered under article 10 does not qualify as a small undertaking if its turnover exceeds the exit threshold as set out in the table in Part One of the Sixth Schedule. Prior to this amendment, the rules only required that such a business qualifies for exemption if it qualified as a small undertaking without specifying the test that must be satisfied for the small undertaking qualification to be achieved;
- (3) Correction of a reference to the wrong threshold level in the case of a business that ceases to qualify as a small undertaking. If such business exceeds the entry threshold, that business would no longer qualify as a small undertaking and therefore would also no longer qualify for an exemption.

- **Legal Notice 123 of 2007  
Value Added Tax (Amendment of Eight Schedule) Regulations, 2007**

The purpose of this legal notice is to change the applicable VAT rate on certain labour intensive services (as allowed by the recast of the Sixth VAT Directive – Council Directive 2006/112/EC) from the standard rate of 18% to the reduced rate of 5%. The services in question are the following:

- Minor repairs of:
  - (a) bicycles;
  - (b) shoes and leather goods;
  - (c) clothing and household linen (including the mending and alteration thereof); and
- Domestic care services such as home help and care of the young, elderly, sick or the disabled.

The above-mentioned supplies will, as from the 27 April 2007, be subject to VAT at the reduced rate of 5%.

- **Legal Notice 124 of 2007  
Value Added Tax (Third Schedule Amendment) Regulations, 2007**

The provisions of the Third Schedule to the VAT Act contain the rules relevant for determining the place of supplies, intra-Community acquisitions and importations. In terms of the said provisions, the general rule for the place of supply of services is that these are provided in the place where the supplier is established. The Third Schedule also provides a list of supplies of services that do not follow this general rule. In terms of these exceptions, for example, certain services are deemed to be provided in the place where the customer (rather than the supplier) is established. These supplies are listed in Items 10 and 11 of the Third Schedule

The scope of this legal notice has been to introduce a new basis for determining the place of supply of services listed in Items 10 and 11 (and subject to certain exceptions). In terms of this new rule, the Commissioner of VAT now has the right to determine that the place of supply of the services listed in Items 10 and 11 be determined by the place where the said services are “effectively used and enjoyed”.

This new rule, which is provided as an option to the Member States in the Sixth VAT Directive, is of particular relevance to the letting of means of transport, particularly yachts and vessels. Thus, for instances, prior to the introduction of this new rule, the letting of a yacht was deemed to be supplied where the supplier was established, irrespective of the place where the particular yacht was used/enjoyed. In terms of the new rule, the Commissioner of VAT can now deem that the place of such a supply be the place where the yacht is used and enjoyed.

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:

167, Merchants Street, Valletta VLT 03, Malta

Tel: +356 21 247 000

Fax: +356 21 244 768

[www.pwc.com/mt](http://www.pwc.com/mt)

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