



## Yacht Leasing and Chartering From Malta

## Yacht Leasing

November 2005 has marked a crucial step forward with respect to yacht leasing from Malta. The VAT Department introduced reduced VAT rates for leasing agreements of pleasure boats entered into by a Maltese company as the lessor and any lessee. As the standard VAT rate in Malta is 18%, the monthly lease charges by the lessor to the lessee are still subject to this rate, however the innovative feature is that where the yacht will only be used partly within EU territorial waters, VAT shall be charged only with respect to such use in EU waters, whereas no VAT shall be levied on use in foreign waters.

Since it is very difficult to trail the movements of a yacht and determine the amount of time it would spend in EU territorial waters and the amount of time it is outside such waters, the VAT Department have issued guidelines to indicate how the percentage is to be established based on the length of the boat and its means of propulsion (power of sailing).

According to the guidelines, the standard 18% VAT rate is applied to the percentage of the lease established according to the type of boat as shown in the following table:

Type of Boat	% of lease subject to VAT	Effective rate of VAT
Sailing boats or motor boats over 24 metres in length	30%	5.4%
Sailing boats between 20.01 to 24 metres in length 4	40%	7.2%
Motor boats between 16.01 to 24 metres in length	40%	7.2%
Sailing boats between 10.01 to 20 metres in length	50%	9%
Motor boats between 12.01 to 16 metres in length	50%	9%
Sailing boats up to 10 metres in length	60%	10.8%
Motor boats between 7.51 to 12 metres in length (if registered in the commercial register)	60%	10.8%
Motor boats up to 7.5 metres in length (if registered in the commercial register)	90%	16.2%
Boat permitted to sail in protected waters only	100%	18%

## Application of the Leasing Guidelines

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

- The leasing agreement must necessarily be entered into by a Maltese company owning a yacht as the lessor and any lessee, be it any legal or natural person who is either Maltese or foreign.
- At the end of the lease period, the *lessee* may opt to purchase the boat at a percentage of the original price (not less than 1% of the original value of the yacht) and this shall be subject to the normal 18% VAT rate. If the lessee opts to purchase the yacht at the end of the lease, a VAT paid certificate will be issued to the lessee, provided all VAT has been paid. The final purchase is strictly an option which may be exercised only at the end of the lease for a separate consideration.
- The Lease instalments shall be payable every month for a period of not less than 12 months and not more than 36 months.
- Prior approval shall be sought in writing from the Commissioner of VAT and each application will be considered on its own merits and certain conditions may be applied. Moreover the Commissioner of VAT may require the lessor to submit details regarding the use of the boat.
- An initial contribution amounting to not less than 40% of value of the yacht by the lessee to the lessor.
- Following payment of VAT for the first quarter of lease payments, a provisional VAT-paid certificate shall be issued enabling the Yacht to cruise EU waters.
- The yacht must be registered under the Maltese Flag, Red Ensign or any other flag.
- The yacht must be physically imported into Malta during the lease period or at the time when the purchase option is availed of. Changes in the 'place of supply' rule in 2013 require that the yacht must be in Malta on the date of the commencement of the lease where the lease period exceeds 90 days.

## Short-term Yacht Chartering

A short-term charter is an agreement whereby the yacht owner contracts to a 3<sup>rd</sup> party the use of his yacht with a crew or on a bare-boat, in exchange of a consideration. The term of the charter cannot exceed 90 days. For VAT purposes the short-term charter of a yacht to be used for leisure purposes is a supply of service taxable at the standard VAT rate of 18%.

The place of taxation is the actual place where the yacht is made available for the disposal of the customer, in this case Malta. However, subject to certain conditions, the taxation of this supply shall be limited to the use of the yacht in EU territorial waters.

The VAT Department has issued guidelines on how to establish the estimated percentage portion of the charter based on the time that the yacht is used in EU territorial waters. The percentages are calculated according to the length of the vessel and its means of propulsion (power of sailing) and then multiplied by the standard 18% rate:

Type of Boat	% of lease subject to VAT	Effective rate of VAT
Sailing boats or motor boats over 24 metres in length	30%	5.4%
Sailing boats between 20.01 to 24 metres in length	40%	7.2%
Motor boats between 16.01 to 24 metres in length	40%	7.2%
Sailing boats between 10.01 to 20 metres in length	50%	9%
Motor boats between 12.01 to 16 metres in length	50%	9%
Boat permitted to sail in protected waters only	100%	18%

In order for the above rates to apply, the following criteria must be satisfied:

- The supplier of the yacht must be a person registered in Malta for VAT purposes.
- The chartering contract must indicate the place where the charter is to commence (i.e. Malta), the charter price and a statement that the yacht shall sail outside EU waters. Proof of any payment in connection with the charter may be demanded from VAT Department.
- Upon application, the supplier of the yacht must produce sufficient documentation to allow identification of the yacht with regards to hull number, port of registry, registration number and any further documentation confirming the size and type of yacht.
- Following submission of documentation and provided all the criteria are met to the satisfaction of the Director General (VAT), the applicant shall receive written notification regarding the applicable portion of the charter which shall be subject to VAT.
- Approval must be sought in writing from the VAT Department and each application shall be considered on its own merits.

Moreover, the Director General (VAT) may impose any other condition which he may deem necessary on a case by case basis and he may also refuse any application. The Director General (VAT) may also perform checks to confirm the actual use of the yacht outside EU waters and may also request the operator of the yacht to submit details about the voyage and the hire, even after completion of the charter.

The supplier of the charter has the right to claim input tax incurred on the fuelling and provision of the boat provided that these goods would be sold to the client of the charter under a separate contract or invoiced separately from the charter service. The supply of these goods will then be made at a full 18% VAT rate. The supplier shall also be entitled to claim input VAT incurred on fuel purchased for the outward journey of the yacht to its next port of destination after the completion of the charter. Other terms and conditions are applicable according to law.



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