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Explanatory Notes

(for the purpose of article 3(2)(c) of Chapter 512 of the Laws of Malta)

1. Introduction

Title of Act	Budget Measures Act 2026 (hereinafter referred to as the "Act")
Activity to be regulated	Value Added Tax Act (Chapter 406 of the Laws of Malta) (hereinafter referred to as the "VAT Act")
Responsible entity	Malta Tax and Customs Administration

2. Summary and background

The Act transposes Article 2 of Council Directive (EU) 2025/516 (hereinafter referred to as 'ViDA'[1]) amending Directive 2006/112/EC (hereinafter referred to as the 'EU VAT Directive'[2]) as regards VAT rules for the digital age, and also amends several provisions in the VAT Act which have been identified as requiring clarification in accordance with the provisions of the EU VAT Directive as well as other changes to enhance or make local VAT legislation more relevant and robust.

3. Overview of the structure of the instrument

The Act amends various provisions of the VAT Act. Such amendments may be categorised in three:

1. Amendments required to transpose Article 2 of ViDA. Article 2 of ViDA brings a number of changes coming into force on 1 January 2027.

2. Amendments to certain provisions of the VAT Act which have been identified as requiring clarification in accordance with the provisions of the EU VAT Directive as well as other changes to enhance or make local VAT legislation more relevant and robust.

3. Other amendments introduced by the Act being cosmetic in nature and which have no material impact on the functioning of the VAT system in practice. Such amendments fall outside scope of these explanatory notes.

[1] For further reference access the link https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A02006L0112-20250414
[2] For further reference access the link https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A02006L0112-20250414

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4. Commentary

The principal changes brought about by the amending Act are as follows:

1) Transposition of Article 2 of ViDA.

Amendment to item 12A of the Second Schedule to the VAT Act;

The substitution of sub-item (2) of item 12A of the Second Schedule to the VAT Act essentially extends the deemed supplier rule for e-commerce platforms facilitating supplies of goods within the EU made to taxable persons, or a non-taxable legal person, whose intra-community acquisitions of goods are not subject to VAT pursuant to article 3(1) of the EU VAT Directive.

Amendment of item 17A of the Second Schedule to the VAT Act:

The substitution of paragraph (a) of sub-item (2) of item 17A of the Second Schedule to the VAT Act as well as the introduction of item 17A(8) of the Second Schedule of the VAT Act gradually phases out the call-off stock simplification to goods dispatched or transported on or before 30th June 2028, in view of replacement by the new transfer of own goods scheme being brought in by ViDA.

Amendments to item 4(5) of Part One and item 10(2) of Part Two of the Third Schedule to the VAT Act:

The amendments made to item 4(5) of Part One and item 10(2) of Part Two of the Third Schedule to the VAT Act clarify the rules for the applicability of the existing €10,000 VAT One Stop Shop ("OSS") threshold. More specifically, these amendments clarify that if a taxable person is registered under the OSS special scheme, that person is automatically treated as having opted to apply the alternative place-of-supply rules i.e. Item 4 of Part One and/or Item 10 of Part Two of the Third Schedule to the VAT Act.

For more information on the OSS €10,000 threshold please refer to section 3.2.7 of the EU Commission's explanatory notes available on the following website: https://vat-one-stop-shop.ec.europa.eu/guides_en .

Substitution of item 2(2) of Part One of the Fourteenth Schedule to the VAT Act

Item 2(2) of Part One of the Fourteenth Schedule to the VAT Act was substituted to stipulate that supplies made under the non-Union OSS scheme and Union OSS scheme cannot be subject to cash accounting rules.

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Substitution of item 2 of Section 2 of Part Seven of the Fourteenth Schedule to the VAT Act

This amendment effectively extends the non-Union OSS scheme to supplies of services taking place within the EU made to all customers, not only those established in the EU or having their permanent address or usually residing in the EU.

Amendments to item 11 of Section 2, item 10 of Section 3 and item 13 of Section 4 of Part Seven of the Fourteenth Schedule to the VAT Act.

These amendments clarify the rules for deduction of input VAT for those persons utilising the OSS and Import One Stop Shop ("IOSS") special schemes. More specifically, the amendments clarify that, although under the special VAT schemes a taxable person cannot deduct input VAT in the Member State of consumption, that same taxable person may still claim refunds, subject to conditions laid therein, in accordance with the 8th and 13th Directives.

Further information on VAT refunds pursuant to the 8th and 13th Directive, is available on the following website: https://mtca.gov.mt/business-tax/vat1/vat-compliance/vat-refunds/vat-refunds.

Substitution of item 2 of Section 3 of Part Seven of the Fourteenth Schedule to the VAT Act

This amendment extends the use of the OSS until 30 June 2028 for supplies of gas through a natural gas system situated within the territory of the Community or any network connected to such a system, the supply of electricity or the supply of heat or cooling energy through heating or cooling networks.

Amendments to item 3 of Section 4 of Part Seven of the Fourteenth Schedule to the VAT Act

The addition of sub-item (3) of item 3 of Section 4 of Part Seven of the Fourteenth Schedule to the VAT Act excludes exempt SMEs[3] from being eligible to use the IOSS special scheme.

Amendments to item 4(1)(c) of Section 2, item 6(1)(c) of Section 4 and item 6(3)(c) of Section 4 of Part Seven of the Fourteenth Schedule to the VAT Act

These amendments clarify that website details that a taxable person must provide to the Commissioner before commencing use of the OSS and the IOSS special schemes, shall only be provided where available.

[3] In terms of item 16 of Part Two of the Fifth Schedule to the VAT Act.

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2) Other amendments

Amendment to article 2 of the VAT Act

The definition of the term "public authority" contained in article 2 of the VAT Act has been amended to align with the definition contained in the EU VAT Directive and to clarify that it includes public authorities.

Amendment to article 9 of the VAT Act

The introduction of sub-article (3) to article 9 of the VAT Act provides a more robust basis for the adoption of exemptions for diplomatic and consular arrangements and international organisations necessary for the alignment of Maltese VAT law with European VAT law in accordance with Articles 144 and 151 of the EU VAT Directive and the Vienna Convention on Consular Relations as well as the Vienna Convention on Diplomatic Relations.

Amendment to article 10(4) of the VAT Act

Through this amendment persons not established in Malta making exempt supplies with credit in Malta, such as intra-Community supplies, are required to be identified for VAT purposes in Malta. The absence of any such requirement raises an issue with regard to the reporting for intra-Community supplies made in Malta by persons not established in Malta, which information should feed into the European VAT information exchange system (VIES).

Amendment to article 24 of the VAT Act

The substitution of article 24(2) of the VAT Act clarifies that refunds shall not be paid insofar as that taxable person failed to submit a VAT return and, or an income tax return.
It also adds the possibility for the Commissioner to set-off VAT refunds against other tax dues in accordance with the provisions of the revenue acts[4].

Amendment to article 47(1) of the VAT Act

This amendment effectively sets the period for which any of the parties having the right to appeal a decision made by the Tribunal to thirty (30) days from the date of the decision by the Tribunal, in line with other timelines for appeal to decisions by the Tribunal.

Amendments to article 49 of the VAT Act

The amendment to article 49 of the VAT Act clarifies that prices shall generally always be indicated to customers inclusive of any VAT. This means that a customer can legally presume that a price quoted to him for a supply of goods or services includes any applicable VAT.

[4] Refer to article 2 of the VAT Act for the definition of "revenue acts"

Prices can only be indicated as exclusive of VAT in the following cases:

i. Where the amount of VAT chargeable cannot be determined at the time the price is being indicated; or
ii. Where the customer identifies himself for the purpose of that supply by means of a valid VAT identification number.

Where a price is indicated excluding VAT, it must be specifically stated that the price excludes VAT.

The validity of VAT identification numbers can be verified using the EU VAT number validation tool available on the following website: https://ec.europa.eu/taxation_customs/vies/#/vat-validation.

Substitution of article 58 of the VAT Act

The substitution of article 58 of the VAT Act is to cater for the recovery of interest on late payments by the Commissioner. It also provides for the possibility of for persons to be informed of the issuance of demand notes through publications on the MTCA website.

Substitution of article 70 of the VAT Act

The amended article 70 of the VAT Act, as substituted, gives a more robust basis for the adoption of exemptions by means of VAT refunds for diplomatic and consular arrangements and international organisations necessary to align Maltese VAT law with European VAT law in accordance with Articles 144 and 151 of the EU VAT Directive and the Vienna Convention on Consular Relations as well as the Vienna Convention on Diplomatic Relations.

Substitution of article 73 of the VAT Act

The substitution of article 73 introduces the possibility for the Commissioner to notify persons electronically rather than only by post, or via Government Gazette.

Amendment of article 83 of the VAT Act

The deletion of sub-article (1) of article 83 of the VAT Act removes the requirement for the Commissioner of Police to obtain the sanction of the Commissioner for Tax and Customs for prosecution purposes in terms of criminal offenses under the VAT Act.

Substitution of item 15 of the Second Schedule to the VAT Act

Through this substitution a new anti-abuse measure transposing article 26(1)(b) of the EU VAT Directive concerning free supplies of services where input VAT would have been claimed in the rendering of such services is being introduced. Accordingly, this ensures that services provided free of charge are subjected to VAT where VAT incurred on goods and services which are used to provide such free of charge services would have been claimed back. This anti-abuse measure however shall not apply when such free of charge services are provided to non-profit making organisations.

Addition of item 17 in Part One and item 9 in Part Three of the Fifth Schedule to the VAT Act

These additions provide for an enabling provision for Malta to commence the procedure for requesting the application of a disaster relief exemption if needed in case of a natural disaster in accordance with Article 101a of the EU VAT Directive.

Substitution of item 6(2) of Part Two of the Fifth Schedule to the VAT Act

This amendment aligns the fund-raising activity exemption with the provisions of the EU VAT Directive, limiting the exemption to events carried out by a non-profit making organisation for its own benefit.

Amendment to item 2(1) of Part Five of the Fifth Schedule to the VAT Act

The amendment to item 2(1) of Part Five of the Fifth Schedule to the VAT Act clarifies the application of the exclusion from the concept of food supplied in the course of catering for packaged milkshakes and yogurts.

Substitution of item 5 of Part Five of the Fifth Schedule to the VAT Act

Provides a clarification of the definition of the term "non-profit making organisation" to clearly cover public authorities.

Substitution of item 8A of the Seventh Schedule to the VAT Act

This amendment introduces a new anti-abuse measure effectively transposing article 80 of the EU VAT Directive. This change introduces a transfer pricing concept for VAT in circumstances where a price which is not at arm's length is charged between related parties and which would lead to an unfair VAT advantage.

Amendments to item 13 of the Thirteenth Schedule to the VAT Act

These amendments clarify the possibility for fiscal receipts to be issued electronically.

5. Concluding sections

Amendments necessary to transpose Article 2 of ViDA shall come into force on 1st January 2027. All other amendments shall come into force upon the date of publication of the Act.

These Explanatory Notes shall not be construed as guidelines, explanations or instructions relating to the VAT Act in terms of article 75 of the said Act.

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N.B. These Explanatory Notes are not intended to be an exhaustive description of the instrument nor a substitute thereof or a legislative supplement thereto. These Explanatory Notes do not purport to be an authoritative ruling on the interpretation of the legislation.