TAX & CUSTOMS ADMINISTRATION
MALTA

Guideline on Applications for Monthly Tax Periods in Accordance with Regulation 4(1) of S.L. 406.02

Date of Publication: 27 July 2026

Purpose and Background

The purpose of this document is for the Commissioner for Tax and Customs ('CfTC') to provide guidance, in conformity with article 75(2) of the VAT Act (Chapter 406, Laws of Malta), on the application of sub-regulations 4(1) and (2) of Subsidiary Legislation 406.02 (hereinafter referred to as "S.L. 406.02"), which provide that:

> *"(1) Where the Commissioner is satisfied that the credit for input tax to which a registered person is likely to be entitled for each of four consecutive tax periods will exceed the output tax for the said tax periods, the Commissioner may, on an application made by that person, determine by means of a notice in writing, that the tax period of the applicant as from such date as may be specified in the said notice, be a period of one month.*
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> *(2) The four consecutive tax periods referred to in subregulation (1), shall be four consecutive tax periods commencing with the tax period immediately following that during which an application for the purposes of this regulation is made."*

In particular, these guidelines outline the procedure for submitting an application pursuant to sub-regulation 4(1) as well as the circumstances in which the Commissioner may accept an application for a change to monthly tax periods.

Notwithstanding anything contained in these guidelines, it should be kept in view that in accordance with sub-regulation 4(4) of S.L. 406.02, the Commissioner may, for the purpose of ensuring the correct and regular collection of the tax, or for the objective of combating VAT fraud, allocate to a person monthly tax periods.

Interpretation

Application Approval Conditions

An application may only be submitted in respect of a tax period commencing on a future date.

The Commissioner **may** approve an application submitted pursuant to regulation 4(1) of S.L. 406.02 on condition that the credit for input tax to which a registered person is likely to be entitled for each of four consecutive tax periods, as detailed in sub-regulation 4(2), will exceed the output tax for the respective tax period.

This condition would be deemed to be satisfied where the credit for input tax to which a registered person is entitled exceeded the output tax in respect of **each** of the **preceding** four consecutive tax periods.

Further, any such application shall only be approved where:

i. the excess of such credit for input tax over the output tax during the preceding four tax periods collectively exceeds €50,000;

ii. at least 90% of the aggregate taxable value of the supplies made by the applicant[1] consist of:
   - supplies that are exempt with credit in accordance with Part One of the Fifth Schedule to the VAT Act; and/or
   - supplies whose place of supply is outside Malta in accordance with the Third Schedule to the VAT Act, provided that such supplies confer a right to deduct input tax; and

iii. the applicant is compliant with all tax[2] obligations upon application.

In cases where a person is submitting the application on behalf of another person, a power of attorney (POA) signed by the director(s) of the applicant shall be collected, unless the former may represent the latter in terms of a valid MTCA02/03[3]. Applications shall be rejected if the appropriate approvals/clearances are not received.

The fulfilment of the above conditions shall in any case not prejudice the Commissioner's right to reject any such application.

The Commissioner shall inform the applicant of his decision via electronic mail ('email') from an official electronic mail address belonging to the Commissioner or any person delegated by him in accordance with article 3 of the VAT Act, including where he may reject an application, and in such case giving reason where this is possible to disclose.

Submitting an Application

An application for a change to monthly tax periods shall be submitted by email to servizz@gov.mt and shall include the following information:

- A clear request for a change to monthly tax periods;
- The month from which the applicant requests the change to take effect (which must be the first month within a tax period commencing on a future date);
- A description of the applicant's economic activity and the circumstances giving rise to recurring excess input tax credits; and
- Confirmation that the credit for input tax is expected to exceed the output tax in each of the four consecutive tax periods referred in sub-regulation 4(2).

An application may be submitted by the person in respect of which the application is being made, or by an authorised person on behalf of the former.

Applications submitted by the applicant

Where an application is being submitted by the applicant, such application must be submitted using the authorised email address indicated in the applicant's 'My Account' found within the VAT e-services portal of a registered person.

Applications submitted by the applicant shall include the following further details:

[1] For the purposes of this document the term "applicant" shall mean the person for which the monthly tax period is being applied for.
[2] For the purpose of this specific condition, "tax" shall mean all taxes falling under the revenue acts as defined in the Commissioner for Tax and Customs Act (Chapter 517, Laws of Malta).
[3] https://mtca.gov.mt/personal-tax/self-employed/mtca-services-online-forms

- The full name of the applicant;
- The applicant's VAT identification number.

Applications submitted by a person on behalf of the applicant

An application may be submitted by an authorised person on behalf of the applicant. A person shall be deemed to be authorised if they are:

- **authorised to act on the applicant's behalf under a valid MTCA02**, in which case the application must be submitted using an email address linked to a PRN number[4] authorised for handling VAT services of the applicant, highlighting that PRN number in the application.
- **authorised to act on the applicant's behalf under a valid MTCA03**, in which case the application must be submitted using an email address authorised in terms of that MTCA03 form.
- **authorised to act on the applicant's behalf by use of the VAT online forms[5]**, the application must be submitted using an email address authorised to act on behalf of that other person authorised in terms of the relevant VAT online form;
- **Authorised to act on the applicant's behalf in terms of a power of attorney** duly signed by the director or directors of the applicant, a certified[6] copy of which shall be attached with the application.

Applications submitted on behalf of the applicant shall include the following further details:

- The full name of the person submitting the application on behalf of the applicant;
- A copy of the ID Card from the front and back of the person making the submission.

This shall be without prejudice to the Commissioner's right to request any further information, documentation, clarification or verification considered necessary for the proper assessment of the application.

<u>Post-Approval Conditions</u>

Where, at any time following approval:

i. the output tax exceeds the credit for input tax;
ii. the registered person fails to remain compliant with their tax[7] obligations, or
iii. less than 90% of the aggregate taxable value of the supplies made by the registered person consists of supplies that are exempt with credit in accordance with Part One of the Fifth Schedule to the VAT Act, and/or supplies whose place of supply is outside Malta in accordance with the Third Schedule to the VAT Act which confer a right to deduct input tax,

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[4] To authorise a person to act on behalf of a PRN holder, an MTCA01 form shall be submitted. Such form may be found here.
[5] https://mtca.gov.mt/1/top-level-menu-bar/eservices/vat/access-to-e-vat-outside-the-e-id-system
[6] Certified by any professional registered with the competent public body regulating the profession.
[7] For the purpose of this specific condition, "tax" shall mean all taxes falling under the revenue acts as defined in the Commissioner for Tax and Customs Act (Chapter 517, Laws of Malta).

the Commissioner may immediately revert the tax periods of the respective person to the applicable default tax periods to quarterly reporting. In such cases, any subsequent application to revert to monthly tax periods may be refused.

Disclaimers

These guidelines shall not prejudice in any way any of the powers of the CfTC in terms of the VAT Act.

These guidelines shall replace and supersede any previously applicable guidelines on the same matter.

Notwithstanding, this shall not prejudice the application of any previous guidelines prior to the date of publication of these guidelines.

The CfTC reserves the right to substitute, alter or withdraw these guidelines as necessary at any time.

Contact

For further information please contact:

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TAX & CUSTOMS ADMINISTRATION

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