

Guidelines for the VAT treatment of Road Assistance Services

Date: 28th January 2025

Purpose and Background

Article 135(1)(a) of Council Directive 2006/112/EC [the ‘VAT Directive’] provides that Member States shall exempt insurance and re-insurance transactions, including related services performed by insurance brokers and insurance agents. The Court of Justice of the European Union has ruled that such services also include road assistance services provided by a body who undertakes to provide such services, in return for a fixed subscription, should the risk of breakdown or accident covered by that body materialize.

In other words, this means that road assistance services rendered by service providers in the case of a breakdown or accident, and which are offered on a subscription basis must, for VAT purposes, be considered as exempt supplies of insurance services without the right of deduction of input VAT. On the other hand, where such services are provided on an ad hoc basis for a separate consideration (i.e. not as part of a membership/subscription package), then the services would be taxable at the standard rate of VAT with the right of deduction of input VAT.

Accordingly, for this purpose item 2, Part Two of the 5th Schedule to the VAT Act (Chapter 406, Laws of Malta) has, by means of Legal Notice 227/2015, been amended to reflect this change.

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, on the VAT treatment of Road Assistance Services.

Interpretation

As explained above, from the 17th July 2015 onwards the operators could end up in three different situations:

1. If they sell only road assistance services on a subscription basis, their supplies are exempt without credit. That is, they do not charge VAT on the subscription fee but they cannot claim input VAT incurred in the course of rendering such service. In that case, if they had in the past claimed any input VAT on capital expenditure, they may be subject to the rules of adjustment of input tax in terms of S.L. 406.12 – Value Added Tax (Adjustments relating to input tax on Capital Goods) Regulations.
2. If they sell only road assistance services ad hoc (not on a subscription basis) and possibly other taxable supplies, then their supplies would be taxable with the right of deduction of input tax. In that case, there are no changes in the VAT treatment of their supplies.

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3. If they sell both supplies which fall under points 1 and 2 above, then they have mixed supplies. That is, in principle, they cannot claim input VAT which is directly attributable to those supplies falling under point 1 while they can claim input VAT which is directly attributable to those supplies falling under point 2. Where any input VAT incurred is common to both points 1 and 2, input VAT may be claimed under the partial attribution rules in terms of the 10th Schedule to the VAT Act. Likewise, any input VAT claimed on capital goods may be subject to the rules of adjustment of input tax in terms of S.L. 406.12 – Value Added Tax (Adjustments relating to input tax on Capital Goods) Regulations

Disclaimer

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.

These guidelines shall apply only in respect of assessing the VAT treatment of supplies from a Maltese VAT perspective which take place in Malta.