

Guidelines on the VAT treatment of Electronically Supplied Services

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Purpose and Background

The purpose of this document is for the Commissioner for Tax and Customs ('CfTC') to provide guidance on the interpretation of the definition of the term "electronically supplied services" in the context of paragraph (c) of sub-item 10(1) of Part Two of the Third Schedule to the VAT Act (Chapter 406, laws of Malta), in conformity with article 75(2) of the VAT Act.

Paragraph (c) of sub-item 10(1) provides that:

"10. (1) The place of supply of the following services to a non-taxable person shall be the place where that person is established, has his permanent address or usually resides:

....

*(c) **electronically supplied services**, in particular services relating to websites supply, web-hosting, distance maintenance of programmes and equipment, supply of software and updating thereof, supply of images, text and information, and making available of databases, supply of music, films and games, including games of chance and gambling games, and of political, cultural, artistic, sporting, scientific and entertainment broadcasts and events, and supply of distance teaching."*

These guidelines shall apply with effect from 1st October 2026.

Interpretation

Article 7 of Council Implementing Regulation 282/2011¹ defines "Electronically Supplied Services" as *"services which are delivered over the Internet or an electronic network and the nature of which renders their supply essentially automated and involving minimal human intervention, and impossible to ensure in the absence of information technology."*

Therefore in order for a service to classify as an electronically supplied service for the purposes of Item 10 of Part 2 of the Third Schedule to the VAT Act, the following conditions must be satisfied:

1. The service must be delivered over the Internet or an electronic network;

¹ Council Implementing Regulation (EU) No 282/2011 of 15 March 2011 laying down implementing measures for Directive 2006/112/EC on the common system of value added tax

2. The nature of the service must be such that it renders its supply essentially automated and involving minimal human intervention; and
3. The nature of the service must be such that it renders its supply impossible to ensure in the absence of information technology.

The following non-exhaustive list of supplies shall, in particular, qualify as electronically supplied services for the purposes of Item 10 of Part 2 of the Third Schedule to the VAT Act:

- i. the supply of digitised products generally, including software and changes to or upgrades of software;
- ii. services providing or supporting a business or personal presence on an electronic network such as a website or a webpage;
- iii. services automatically generated from a computer via the Internet or an electronic network, in response to specific data input by the recipient;
- iv. the transfer for consideration of the right to put goods or services up for sale on an Internet site operating as an online market on which potential buyers make their bids by an automated procedure and on which the parties are notified of a sale by electronic mail automatically generated from a computer;
- v. internet Service Packages (ISP) of information in which the telecommunications component forms an ancillary and subordinate part (i.e. packages going beyond mere Internet access and including other elements such as content pages giving access to news, weather or travel reports; playgrounds; website hosting; access to online debates etc.);
- vi. the offering of a facility for the placing of bets on the internet or via an electronic network in connection with any event, whether the event is live or otherwise, where the placing and processing of such bets is essentially automated;
- vii. online access to gambling platforms which enable players to play 'random number generator' games, whether against the 'house' (such as casino-type games) or against other players (e.g. poker) where the players are geographically remote from one another, and where the entire process is automated and the service provider's staff cannot impact on the transaction nor intervene in the process;
- viii. online access to bingo games with numbers generated by the system or to streamed conventional bingo games where players make their selection during the game by using the electronic system and winners are identified automatically;
- ix. website hosting and webpage hosting;
- x. automated, online and distance maintenance of programmes;
- xi. remote systems administration;
- xii. online data warehousing where specific data is stored and retrieved electronically;
- xiii. online supply of on-demand disc space;
- xiv. Accessing or downloading software (including procurement/accountancy programmes and anti-virus software) plus updates;
- xv. software to block banner adverts showing, otherwise known as Banner blockers;
- xvi. download drivers, such as software that interfaces computers with peripheral equipment (such as printers);

- xvii. online automated installation of filters on websites;
- xviii. online automated installation of firewalls;
- xix. Accessing or downloading desktop themes;
- xx. accessing or downloading photographic or pictorial images or screensavers;
- xxi. the digitised content of books and other electronic publications;
- xxii. subscription to online newspapers and journals;
- xxiii. weblogs and website statistics;
- xxiv. online news, traffic information and weather reports;
- xxv. online information generated automatically by software from specific data input by the customer, such as legal and financial data, (in particular such data as continually updated stock market data, in real time);
- xxvi. the provision of advertising space including banner ads on a website/web page;
- xxvii. use of search engines and Internet directories.

In particular, the following non-exhaustive list of services, when supplied as standalone services, shall not be regarded as “electronically supplied services” for the purposes of Item 10 of Part 2 of the Third Schedule to the VAT Act:

- i. the purchase of goods over the internet or an electronic network, where the order is processed electronically;
- ii. the supply of books, newspapers, newsletters or journals disseminated electronically on tangible media, such as audio books or books published on CDs, DVDs, SD-cards or USB drives, even where these are ordered over the internet;
- iii. the purchase of services over the internet or an electronic network, where the order is processed electronically but the services are delivered in a traditional manner such as accommodation, car-hire, restaurant services and passenger transport services;
- iv. the online purchase of tickets to physically attend a cultural, artistic, sporting, scientific, educational, entertainment, or similar event;
- v. An interactive online course, where the course content is delivered live by a tutor over the Internet or an electronic network (namely via a remote link), such as a live webinar;
- vi. An online course delivered by a tutor over the internet, where the course content is pre-recorded, but where live support is provided by a tutor;
- vii. The offering of a facility for internet gambling pursuant to the streaming of a live casino event;
- viii. Conventional auctioneers’ services reliant on direct human intervention, even if the bids are placed over the internet;
- ix. The provision of professional services (such as professional services provided by lawyers and financial consultants), where the services are delivered by e-mail;
- x. The provision of access to the internet, including the World Wide Web (this service would classify as a “Telecommunications” service for the purposes of item 10 of Part 2 of the Third Schedule to the VAT Act).

Disclaimer

These guidelines shall not prejudice in any way any of the powers of the CfTC in terms of the VAT Act, including the power to withdraw any confirmation issued in terms of these guidelines.

These guidelines shall replace and supersede any previously applicable guidelines on the same matter with effect from 1st October 2026.

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