

**Questions & Answers**  
**Cases and Solutions**

**MULTIPLE OPERATIONS**

**Preliminary Remarks:**

- ▶ The following are a series of situations that could occur in day to day practice. The answers given are in accordance with the amended VAT Act, as applicable from the 1<sup>st</sup> of May 2004. **However, while the VAT Department has made every effort to ensure that the content of this document is as legally accurate as possible, it should not be used as a substitute for the provisions of the VAT Act 1998, of the Act No X of 2003, of any other Act and of the relevant Legal Notices as published in the Malta Government Gazette, which are the only ones that have legal value.**
  
- ▶ Any reference in the examples/cases/situations described in this document to a particular European Union member state, to a specific country outside the European Union or to a specific product brand name is by way of example only. Answers remain valid when the name of the member state mentioned is substituted by the name of any other member state, when any outside country is substituted by any other outside country and when any brand name is substituted by any other brand name.
  
- ▶ As from the 1<sup>st</sup> of May 2004, European Union member states (besides Malta) are Austria, Belgium, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Netherlands, Poland, Portugal, Slovak Republic, Slovenia, Spain, Sweden and the United Kingdom.

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## CASE 1

Maltaco, a taxable person established and registered under art.10 in Malta, sells goods (being not new means of transport or excise goods) to different customers into the EU.

- A part of the goods are sold to a French customer and are transported to France on behalf of Maltaco.
- A part of the goods are sold to an Italian customer and are transported to the Freeport in Malta upon the request and on behalf of the Italian customer.
- A part of the goods are sold to another Italian customer who provides a valid Italian VAT number to Maltaco. The goods are however transported to Hungary upon the request and on behalf of the Italian customer.
- A part of the goods are sold to a regular Italian taxable person acting as such who provides a valid Italian VAT number to Maltaco. Goods are however transported to Tunisia on behalf of the Italian customer.
- Transportco, a taxable person established in Malta, transports the goods from Malta to France. In this respect, Maltaco provides Transportco with a valid French VAT number.
- Truckco, a taxable person established in Malta and registered under art.10, transports the goods to the Freeport in Malta. In this respect, the Italian customer provides his Italian VAT number to Truckco.
- Carco, a taxable person established in Malta and registered under art.10, transports the goods to Hungary. The Italian customer has found Carco thanks to the intervention of Interco, a taxable person established in Italy. The Italian customer provides Carco with his Italian VAT number.
- Truckco transports also the goods to Tunisia on behalf of the Italian customer. The Italian customer provides Truckco with a valid Maltese VAT number.
- The vessel transporting the goods from Malta to France is loaded, for the account of Maltaco, in the port of Valletta by Loadco, a taxable person established in Malta and registered under 10. In this respect, Maltaco provides Loadco with an Italian VAT number. Maltaco has found Loadco thanks to the intervention of Intraco, a Sicilian taxable person. Maltaco provides Intraco with his Maltese VAT number.
- Ancico, a taxable person established and registered under art.11 in Malta, unloads the goods transported to the Freeport. In this respect, the Italian customer provides his Maltese VAT number to Ancico. The Italian customer has found Ancico thanks to the intervention of Interco. The Italian customer provides to Interco a Maltese VAT number.
- Tunisco, a taxable person established in Tunisia, unloads the goods at the arrival of the vessel in Tunisia, for the account of Truckco, who provides his Maltese VAT number to Tunisco.
- Truckco has found Tunisco thanks to the intervention of Interco. In this respect, Truckco provides his Maltese VAT number to Interco.

### QUESTIONS

- Determine, by using the basic questions, the VAT treatment of the described transactions and operations under the Maltese VAT legislation applicable as from 1 May 2004
- What are the specific Maltese formalities (if any) to be fulfilled by different companies?

## **CASE 1 - SOLUTION**

Maltaco, a taxable person established and registered under art. 10 in Malta, sells goods (being not new means of transport or excise goods) to different customers into the EU.

- **A part of the goods are sold to a French customer and are transported to France on behalf of Maltaco.**

### **Solutions for the relationship Maltaco – French customer**

#### **Solution 1:**

- The French customer is a regular taxable person
- Hypothesis: Fr. customer provides Maltaco with another VAT nr. than a MT VAT nr.
  
- Taxable person: YES
- Operation in the scope of VAT: YES (supply of goods)
- Place of supply: Malta (where transport begins - Item 1 (b) Third Schedule)
- Exemption: YES (Item 3 (1) Part One Fifth Schedule)
- Person liable to pay VAT: N/A

#### ***Formalities (Maltaco)***

- Maltaco has to issue a tax invoice for the supply
- VAT return Maltaco: box 1
- Maltaco will report the exempt intra-Community supply in his recapitulative statement

#### **Solution 2:**

- The French customer is a regular taxable person
- Hypothesis: Fr. customer provides Maltaco with a MT VAT nr. or no VAT nr.
  
- Taxable person: YES
- Operation in the scope of VAT: YES (supply of goods)
- Place of supply: Malta (where transport begins - Item 1 (b) Third Schedule)
- Exemption: NO
- Person liable to pay VAT: Maltaco (Art. 20 (1) (a) VAT Act)

#### ***Formalities (Maltaco)***

- Maltaco has to issue a tax invoice for the supply
- VAT return Maltaco: box 18 and 23

#### **Solution 3:**

The French customer is a member of the « Group of 4 »

**Hypothesis 1: the distance sales threshold fixed by France is not exceeded by Maltaco and there is no option by Maltaco to pay VAT in France AND the French customer is a member of the group of 4 not exceeding the acquisition threshold and that has not opted**

- Taxable person: YES
- Operation in the scope of VAT: YES (supply of goods)
- Place of supply: Malta (where transport begins - Item 1 (b) Third Schedule)
- Exemption: NO
- Person liable to pay VAT: Maltaco (Art. 20 (1) (a) VAT Act)

***Formalities (Maltaco)***

- Maltaco has to issue a tax invoice for the supply
- VAT return Maltaco: box 18 and 23

**Hypothesis 2: the distance sales threshold fixed by France is exceeded by Maltaco or Maltaco opted to pay VAT in France AND the French customer is a member of the group of 4 not exceeding the acquisition threshold and that has not opted**

- Taxable person: YES
- Operation in the scope of VAT: YES (distance sale)
- Place of supply: France (where transport ends - Item 4 (2) (a) Third Schedule)
- Exemption: N/A
- Person liable to pay VAT: N/A

***Formalities (Maltaco)***

- Maltaco has to issue a tax invoice for the supply
- VAT return Maltaco: box 2

**Hypothesis 3: The French customer is a member of the group of 4 that exceeds the acquisition threshold thanks to this acquisition or that has opted**

- Taxable person: YES
- Operation in the scope of VAT: YES (intra-Community supply of goods)
- Place of supply: Malta (where transport begins - Item 1 (b) Third Schedule)
- Exemption: YES (Item 3 (1) Part One Fifth Schedule)
- Person liable to pay VAT: N/A

***Formalities (Maltaco)***

- Maltaco has to issue a tax invoice for the supply
- VAT return Italco: box 1
- Maltaco will report the exempt intra-Community supply in his recapitulative statement

#### **Solution 4:**

The French customer is a private individual

#### **Hypothesis 1: the distance sales threshold fixed by France is not exceeded by Maltaco and there is no option by Maltaco to pay VAT in France**

- Taxable person: YES
- Operation in the scope of VAT: YES (supply of goods)
- Place of supply: Malta (where transport begins - Item 1 (b) Third Schedule)
- Exemption: NO
- Person liable to pay VAT: Maltaco (Art. 20 (1) (a) VAT Act)

#### ***Formalities (Maltaco)***

- Maltaco has to issue a tax invoice for the supply
- VAT return Maltaco: box 18 and 23

#### **Hypothesis 2: the distance sales threshold fixed by France is exceeded by Maltaco or Maltaco opted to pay VAT in France**

- Taxable person: YES
- Operation in the scope of VAT: YES (distance sale)
- Place of supply: France (where transport ends - Item 4 (2) (a) Third Schedule)
- Exemption: N/A
- Person liable to pay VAT: N/A

#### ***Formalities (Maltaco)***

- Maltaco has to issue a tax invoice for the supply
- VAT return Maltaco: box 2

- ▶ **A part of the goods are sold to an Italian customer and are transported to the Freeport in Malta upon the request and on behalf of the Italian customer.**

#### **Solution for the relationship Maltaco – Italian customer**

- Taxable person: YES
- Operation in the scope of VAT: YES (supply of goods)
- Place of supply: Malta (where transport begins - Item 1 (b) Third Schedule)
- Exemption: YES (Item 2 (1) Part One Fifth Schedule)
- Person liable to pay VAT: N/A

#### ***Formalities (Maltaco)***

- Maltaco has to issue a tax invoice for the supply
- VAT return Maltaco: box 20

- ▶ **A part of the goods are sold to another Italian customer who provides a valid Italian VAT number to Maltaco. The goods are however transported to Hungary upon the request and on behalf of the Italian customer.**

**Solution for the relationship Maltaco – (other) Italian customer**

- Taxable person: YES
- Operation in the scope of VAT: YES (supply of goods)
- Place of supply: Malta (where transport begins - Item 1 (b) Third Schedule)
- Exemption: YES (Item 3 (1) Part One Fifth Schedule)
- Person liable to pay VAT: N/A

***Formalities (Maltaco)***

- Maltaco has to issue a tax invoice for the supply
- VAT return Maltaco: box 1
- Maltaco will report the exempt intra-Community supply in his recapitulative statement

- ▶ **A part of the goods are sold to a regular Italian taxable person acting as such who provides a valid Italian VAT number to Maltaco. Goods are however transported to Tunisia on behalf of the Italian customer.**

**Solution for the relationship Maltaco – (other) Italian customer**

- Taxable person: YES
- Operation in the scope of VAT: YES (supply of goods)
- Place of supply: Malta (where transport begins - Item 1 (b) Third Schedule)
- Exemption: YES (Item 1 (2) Part One Fifth Schedule)
- Person liable to pay VAT: N/A

***Formalities (Maltaco)***

- Maltaco has to issue a tax invoice for the supply
- VAT return Maltaco: box 20

- ▶ **Transportco, a taxable person established in Malta, transports the goods from Malta to France. In this respect, Maltaco provides Transportco with a valid French VAT number.**

**Solution for the relationship Transportco - Maltaco**

- Taxable person: YES
- Operation in the scope of VAT: YES (intra-Community transport of goods)
- Place of supply: France (MS of VAT identification number - Item 7 (2) second sentence Third Schedule)
- Exemption: N/A

- Person liable to pay VAT: N/A

**Remark: in case Transportco would be registered art. 11, the solution would be the same**

***Formalities (Transportco)***

- Transportco has to issue a tax invoice for the services
- VAT return Transportco: box 2

- ▶ **Truckco, a taxable person established in Malta and registered under art. 10, transports the goods to the Freeport in Malta. In this respect, the Italian customer provides his Italian VAT number to Truckco.**

**Solution for the relationship Truckco – Italian customer**

- Taxable person: YES
- Operation in the scope of VAT: YES (transport of goods)
- Place of supply: Malta (where the transport takes place having regard to the distances covered - Item 7 (1) Third Schedule)
- Exemption: NO
- Person liable to pay VAT: Truckco (art. 20 (1) (a) VAT Act)

***Formalities (Truckco)***

- Truckco has to issue a tax invoice for the services
- VAT return Truckco: box 18 and 23

- ▶ **Carco, a taxable person established in Malta and registered under art. 10, transports the goods to Hungary. The Italian customer has found Carco thanks to the intervention of Interco, a taxable person established in Italy. The Italian customer provides Carco with his Italian VAT number.**

**Solution for the relationship Carco – Italian customer**

- Taxable person: YES
- Operation in the scope of VAT: YES (intra-Community transport of goods)
- Place of supply: Italy (MS of VAT identification number - Item 7 (2) second sentence Third Schedule)
- Exemption: N/A
- Person liable to pay VAT: N/A

***Formalities (Carco)***

- Carco has to issue a tax invoice for the services
- VAT return Carco: box 2

**Solution for the relationship Interco – Italian customer**

**Hypothesis: Italian customer provides Interco with another VAT nr. than a MT VAT nr.**

- Taxable person: YES
- Operation in the scope of VAT: YES (intermediary services intra-Community transport of goods)
- Place of supply: MS of VAT identification number (Item 7 (4) second sentence Third Schedule)
- Exemption: N/A
- Person liable to pay VAT: N/A

**Hypothesis: It. customer provides Interco with a MT VAT nr. or no VAT nr.**

- Taxable person: YES
- Operation in the scope of VAT: YES (intermediary services intra-Community transport of goods)
- Place of supply: Malta (place of departure of ICT - Item 7 (4) first sentence Third Schedule)
- Exemption: NO
- Person liable to pay VAT: Interco (in case the Italian customer is not established in Malta and not registered art. 10 - Art. 20 (1) (a) VAT Act – Interco has to register art. 10) *or* Italian customer (in case the latter is established in Malta and registered art. 10 *and* Interco is not established in Malta and not registered art. 10)

► **Truckco transports also the goods to Tunisia on behalf of the Italian customer. The Italian customer provides Truckco with a valid Maltese VAT number.**

**Solution for the relationship Truckco – Italian customer**

- Taxable person: YES
- Operation in the scope of VAT: YES (transport of goods)
- Place of supply: Malta, high seas, Tunisia (where the transport takes place having regard to the distances covered - Item 7 (1) Third Schedule)
- Exemption: N/A (for the services taking place outside Malta) / YES (for the services taking place in Malta: Item 4 (3) Part One Fifth Schedule)
- Person liable to pay VAT: N/A

***Formalities (Truckco)***

- Truckco has to issue a tax invoice for the services
- VAT return Truckco:
  - Box 2: for the taxable value related to the services taking place outside Malta
  - Box 20: for the taxable value related to the (exempt) services taking place in Malta



- ▶ **The vessel transporting the goods from Malta to France is loaded, for the account of Maltaco, in the port of Valletta by Loadco, a taxable person established in Malta and registered under 10. In this respect, Maltaco provides Loadco with an Italian VAT number. Maltaco has found Loadco thanks to the intervention of Intraco, a Sicilian taxable person. Maltaco provides Intraco with his Maltese VAT number.**

**Solution for the relationship Loadco – Maltaco**

- Taxable person: YES
- Operation in the scope of VAT: YES (ancillary services re. ICT)
- Place of supply: Italy (MS of VAT identification number - Item 7 (3) second sentence Third Schedule)
- Exemption: N/A
- Person liable to pay VAT: N/A

***Formalities (Loadco)***

- Loadco has to issue a tax invoice for the services
- VAT return Loadco: box 2

**Solution for the relationship Intraco – Maltaco**

**Assumption: Intraco is registered art. 10 in Malta**

- Taxable person: YES
- Operation in the scope of VAT: YES (intermediary service re. ancillary services re. ICT)
- Place of supply: Malta (where the ancillary service is physically carried out - Item 7 (5) first sentence Third Schedule)
- Exemption: NO
- Person liable to pay VAT: Intraco (Art. 20 (1) (a) VAT Act)

***Formalities (Intraco)***

- Intraco has to issue a tax invoice for the services
- VAT return Intraco: box 18 and 23

***Formalities (Maltaco)***

- VAT return Maltaco: box 31 and 37

**Assumption: Intraco is not established and not registered art. 10 in Malta**

- Taxable person: YES
- Operation in the scope of VAT: YES (intermediary services re. ancillary services re. ICT of goods)
- Place of supply: Malta (where the ancillary service is physically carried out - Item 7 (5) first sentence Third Schedule)
- Exemption: NO

- Person liable to pay VAT: Maltaco (Art. 20 (2) (c) VAT Act)

***Formalities (Maltaco)***

- VAT return Maltaco: box 4 and 7 and box 11 and 15

- ▶ **Ancico, a taxable person established and registered under art. 11 in Malta , unloads the goods transported to the Freeport. In this respect, the Italian customer provides his Maltese VAT number to Ancico. The Italian customer has found Ancico thanks to the intervention of Interco. The Italian customer provides to Interco a Maltese VAT number.**

**Solution for the relationship Ancico – Italian customer**

- Taxable person: YES
- Operation in the scope of VAT: NO (Ancico is registered art. 11 – i.e. from a Maltese point of view)
- Place of supply: N/A
- Exemption: N/A
- Person liable to pay VAT: N/A

**Solution for the relationship Interco – Italian customer**

**Assumption: Interco is registered art. 10 in Malta**

- Taxable person: YES
- Operation in the scope of VAT: YES (intermediary services re. ancillary services related to an ICT of goods)
- Place of supply: Malta (where the ancillary service is physically out - Item 7 (5) first sentence Third Schedule)
- Exemption: NO
- Person liable to pay VAT: Interco (art. 20 (1) (a) VAT Act)

***Formalities (Interco)***

- Interco has to issue a tax invoice for the services
- VAT return Interco: box 18 and 23

***Formalities (Italian customer)***

- VAT return Italian customer: box 31 and 37

**Assumption: Interco is not established and not registered art. 10 in Malta**

- Taxable person: YES
- Operation in the scope of VAT: YES (intermediary services re. ancillary services related to an ICT of goods)
- Place of supply: Malta (where the ancillary service is physically out - Item 7 (5) first sentence Third Schedule)
- Exemption: NO

- Person liable to pay VAT: Italian customer (art. 20 (2) (c) VAT Act)

***Formalities (Italian customer)***

- VAT return Italian customer: box 4 and 7 and box 11 and 15

- ▶ **Tunisco, a taxable person established in Tunisia, unloads the goods at the arrival of the vessel in Tunisia, for the account of Truckco, who provides his Maltese VAT number to Tunisco.**

***Solution for the relationship Tunisco – Truckco***

- Taxable person: YES
- Operation in the scope of VAT: YES (ancillary services related to a transport of goods)
- Place of supply: Tunisia (where the ancillary service is physically out - Item 7 (3) first sentence Third Schedule)
- Exemption: N/A
- Person liable to pay VAT: N/A

- ▶ **Truckco has found Tunisco thanks to the intervention of Interco. In this respect, Truckco provides his Maltese VAT number to Interco.**

***Solution for the relationship Interco – Truckco***

- Taxable person: YES
- Operation in the scope of VAT: YES (intermediary services re. ancillary services related to a transport of goods)
- Place of supply: Tunisia (where the ancillary service is physically out - Item 12 Third Schedule)
- Exemption: N/A
- Person liable to pay VAT: N/A

## CASE 2

- Italgo, a regular taxable person established in Sicily, sends raw materials to Maltaco, a taxable person registered for VAT purposes under art.10, in order to be processed. At the time raw materials are moving from Sicily to Malta, Italgo does not know whether or not the processed goods will come back to Sicily.
- After processing, the goods are receiving the following destinations:
  - 25% are sold to a customer established in Malta and remain in Malta;
  - 25% are sold to a Tunisian customer and are transported directly from Malta to Tunisia on behalf of Italgo;
  - 15% are sold to Sicilco in Sicily and are transported directly from Malta to Sicily on behalf of Italgo and 10% are going back to the premises of Italgo;
  - 25% are sold to Spanishco in Spain and are transported directly from Malta to Spain on behalf of Italgo.
- Transportco, a regular taxable person established in Sicily, transports the raw materials from Sicily to Malta. In this respect, Italgo provides Transportco with his French VAT number.
- Truckco, a taxable person established in Malta and registered under art.10, transports the processed goods from Malta to Tunisia and to Spain. In this respect, Italgo provides his Italian VAT number to Truckco.
- Carco, a taxable person established in Malta and registered under art.10, transports the processed goods to Sicily. Italgo has found Carco thanks to the intervention of Interco, a taxable person established in Malta and registered under art.11.
- The vessel transporting the raw materials from Sicily to Malta is unloaded, for the account of Italgo, in the port of Valletta by Loadco, a taxable person established in Malta and registered under 10. In this respect, Italgo provides Loadco with his Italian VAT number. Italgo has found Loadco thanks to the intervention of Intraco, a Sicilian taxable person, who provides Italgo with a Maltese VAT number.
- Ancico, a taxable person established in Tunisia, unloads the goods transported from Malta to Tunisia in the port of Sousse. In this respect, Italgo provides his Maltese VAT number to Ancico. Italgo has found Ancico thanks to the intervention of Interco.
- Iberco, a taxable person established in Spain, transports the goods from the port of Barcelona up to Madrid, for the account of Truckco, which provides his Maltese VAT number to Iberco.

### QUESTIONS

- Determine, by using the basic questions, the VAT treatment of the described transactions and operations under the Maltese VAT legislation applicable as from 1 May 2004
- What are the specific Maltese formalities (if any) to be fulfilled by different companies?

## CASE 2 – SOLUTION

- ▶ **Italco, a regular taxable person established in Sicily, sends raw materials to Maltaco, a taxable person registered for VAT purposes under art. 10, in order to be processed. At the time raw materials are moving from Sicily to Malta, Italco does not know whether or not the processed goods will come back to Sicily.**

### **Solution: Italco**

- Taxable person: YES
- Operation in the scope of VAT: NO (no deemed IC acquisition)
- Place of supply: N/A
- Exemption: N/A
- Person liable to pay VAT: N/A

### **Formalities (Maltaco)**

- Maltaco will report the arrival of the goods in his register of materials received (Item 1 (j) Eleventh Schedule)

- ▶ **After processing, the goods are receiving the following destinations:**
  - **25% are sold to a customer established in Malta and remain in Malta**

### **Solution for the relationship Maltaco - Italco**

- Taxable person: YES
- Operation in the scope of VAT: YES (work on movable tangible property)
- Place of supply: Malta (where the service is physically carried out - Item 9 (1) Third Schedule)
- Exemption: NO
- Person liable to pay VAT: Maltaco (Art. 20 (1) (a) VAT Act)

### **Formalities (Maltaco)**

- Maltaco has to issue a tax invoice for the services
- Maltaco will report the dispatch of the goods concerned in his register of materials received (Item 1 (j) Eleventh Schedule)
- VAT return Maltaco: box 18 and 23

### **Solution: Italco**

- Taxable person: YES
- Operation in the scope of VAT: YES (no deemed ICA becomes a deemed ICA)
- Place of supply: Malta (where transport ends - Item 13 Third Schedule)
- Exemption: NO
- Person liable to pay VAT: Italco (Art. 20 (1) (b) VAT Act)

### ***Formalities (Italco)***

- Italco will have to register under art. 10 VAT Act
- VAT return Italco: box 3 and 6 and box 9 and 13

### **Solution for the relationship Italco - Maltese customer**

- Taxable person: YES
- Operation in the scope of VAT: YES (supply of goods)
- Place of supply: Malta (in principle where transport starts - Item 1 (b) Third Schedule)
- Exemption: NO
- Person liable to pay VAT: Italco (Art. 20 (1) (a) VAT Act)

### ***Formalities (Italco)***

- Italco has in principle to issue a tax invoice
- VAT return Italco: box 18 and 23
- **After processing, the goods are receiving the following destinations:**
  - **25% are sold to a Tunisian customer and are transported directly from Malta to Tunisia on behalf of Italco**

### **Solution for the relationship Maltaco – Italco**

**Hypothesis: Italco provides Maltaco with a MT VAT nr. or with no VAT number**

- Taxable person: YES
- Operation in the scope of VAT: YES (work on movable tangible property)
- Place of supply: Malta (where the service is physically carried out - Item 9 (1) Third Schedule)
- Exemption: NO
- Person liable to pay VAT: Maltaco (Art. 20 (1) (a) VAT Act)

### ***Formalities (Maltaco)***

- Maltaco has to issue a tax invoice for the services
- Maltaco will report the dispatch of the goods concerned in his register of materials received (Item 1 (j) Eleventh Schedule)
- VAT return Maltaco: box 18 and 23

**Hypothesis: Italco provides Maltaco with another VAT nr. than a MT VAT nr.**

- Taxable person: YES
- Operation in the scope of VAT: YES (work on movable tangible property)
- Place of supply: Member State that granted the VAT number (Item 9 (2) Third Schedule)
- Exemption: N/A
- Person liable to pay VAT: N/A

### ***Formalities (Maltaco)***

- Maltaco has to issue a tax invoice for the services
- Maltaco will report the dispatch of the goods concerned in his register of materials received (Item 1 (j) Eleventh Schedule)
- VAT return Maltaco: box 2

### **Solution: Italco**

- Taxable person: YES
- Operation in the scope of VAT: YES (no deemed ICA becomes a deemed ICA)
- Place of supply: Malta (where transport ends - Item 13 Third Schedule)
- Exemption: NO
- Person liable to pay VAT: Italco (Art. 20 (1) (b) VAT Act)

### **Solution for the relationship Italco– Tunisian customer**

- Taxable person: YES
- Operation in the scope of VAT: YES (supply of goods)
- Place of supply: Malta (where transport begins - Item 1 (b) Third Schedule)
- Exemption: YES (Item 1 (1) Part One Fifth Schedule)
- Person liable to pay VAT: N/A

### ***Formalities (Italco)***

- Italco has in principle to issue a tax invoice
- VAT return Italco: box 20

### **► After processing, the goods are receiving the following destinations:**

- **15% are sold to Sicilco in Sicily and are transported directly from Malta to Sicily on behalf of Italco and 10% are going back to the premises of Italco**

### **Solution for the relationship Maltaco - Italco**

**Hypothesis: Italco provides Maltaco with a MT VAT nr. or with no VAT number**

- Taxable person: YES
- Operation in the scope of VAT: YES (work on movable tangible property)
- Place of supply: Malta (where the service is physically carried out - Item 9 (1) Third Schedule)
- Exemption: NO
- Person liable to pay VAT: Maltaco (Art. 20 (1) (a) VAT Act)

### ***Formalities (Maltaco)***

- Maltaco has to issue a tax invoice for the services

- Maltaco will report the dispatch of the goods concerned in his register of materials received (Item 1 (j) Eleventh Schedule)
- VAT return Maltaco: box 18 and 23

**Hypothesis: Italco provides Maltaco with another VAT nr. than a MT VAT nr.**

- Taxable person: YES
- Operation in the scope of VAT: YES (work on movable tangible property)
- Place of supply: Member State that granted the VAT number (Item 9 (2) Third Schedule)
- Exemption: N/A
- Person liable to pay VAT: N/A

***Formalities (Maltaco)***

- Maltaco has to issue a tax invoice for the services
- Maltaco will report the dispatch of the goods concerned in his register of materials received (Item 1 (j) Eleventh Schedule)
- VAT return Maltaco: box 2

**Solution: Italco**

- Taxable person: YES
- Operation in the scope of VAT: YES (with respect to goods sent to Sicilco: no deemed ICA becomes a deemed ICA)
- Place of supply: Malta (where transport ends - Item 13 Third Schedule)
- Exemption: NO
- Person liable to pay VAT: Italco (Art. 20 (1) (b) VAT Act)

**Solution for the relationship Italco - Sicilco**

**Assumption: Sicilco is a regular taxable person**

- Taxable person: YES
- Operation in the scope of VAT: YES (supply of goods)
- Place of supply: Malta (where transport begins - Item 1 (b) Third Schedule)
- Exemption: YES (Item 3 (1) Part One Fifth Schedule)
- Person liable to pay VAT: N/A

***Formalities (Italco)***

- Italco has to issue a tax invoice for the services
- VAT return Italco: box 1
- Italco will report the exempt intra-Community supply in his (Maltese) recapitulative statement



**Assumption: Sicilco is a member of the « Group of 4 »**

**Hypothesis 1: the distance sales threshold fixed by Italy is not exceeded by Italco and there is no option by Italco to pay VAT in Italy AND Sicilco is a member of the group of 4 not exceeding the acquisition threshold and that has not opted**

- Taxable person: YES
- Operation in the scope of VAT: YES (supply of goods)
- Place of supply: Malta (where transport begins - Item 1 (b) Third Schedule)
- Exemption: NO
- Person liable to pay VAT: Italco (Art. 20 (1) (a) VAT Act)

***Formalities (Italco)***

- Italco has to issue a tax invoice for the services
- VAT return Italco: box 18 and 23

**Hypothesis 2: the distance sales threshold fixed by Italy is exceeded by Italco or Italco opted to pay VAT in Italy AND Sicilco is a member of the group of 4 not exceeding the acquisition threshold and that has not opted**

- Taxable person: YES
- Operation in the scope of VAT: YES (distance sale)
- Place of supply: Italy (where transport ends - Item 4 (2) (a) Third Schedule)
- Exemption: N/A
- Person liable to pay VAT: N/A

***Formalities (Italco)***

- Italco has to issue a tax invoice for the services
- VAT return Italco: box 2

**Hypothesis 3: Sicilco is a member of the group of 4 that exceeds the acquisition threshold thanks to this acquisition or that has opted**

- Taxable person: YES
- Operation in the scope of VAT: YES (intra-Community supply of goods)
- Place of supply: Malta (where transport begins - Item 1 (b) Third Schedule)
- Exemption: YES (Item 3 (1) Part One Fifth Schedule)
- Person liable to pay VAT: N/A

***Formalities (Italco)***

- Italco has to issue a tax invoice for the services
- VAT return Italco: box 1
- Italco will report the exempt intra-Community supply in his (Maltese) recapitulative statement

**IMPORTANT REMARK**

- In case Italco would only have to register for VAT purposes in Malta due to the subsequent move to Italy and the Maltese Treasury would not have a loss of revenue, it is preferable to take the position (as a tolerance) that the move of goods from Italy to Malta and from Malta back to Italy (even if they are sent to Sicilco) is treated as a non-transfer of goods. As such, a Maltese VAT registration of Italco is avoided.
- **After processing, the goods are receiving the following destinations:**
- **25% are sold to Spanishco in Spain and are transported directly from Malta to Spain on behalf of Italco**

**Solution for the relationship Maltaco - Italco**

**Hypothesis: Italco provides Maltaco with a MT VAT nr. or with no VAT number**

- Taxable person: YES
- Operation in the scope of VAT: YES (work on movable tangible property)
- Place of supply: Malta (where the service is physically carried out - Item 9 (1) Third Schedule)
- Exemption: NO
- Person liable to pay VAT: Maltaco (Art. 20 (1) (a) VAT Act)

***Formalities (Maltaco)***

- Maltaco has to issue a tax invoice for the services
- Maltaco will report the dispatch of the goods concerned in his register of materials received (Item 1 (j) Eleventh Schedule)
- VAT return Maltaco: box 18 and 23

**Hypothesis: Italco provides Maltaco with another VAT nr. than a MT VAT nr.**

- Taxable person: YES
- Operation in the scope of VAT: YES (work on movable tangible property)
- Place of supply: Member State that granted the VAT number (Item 9 (2) Third Schedule)
- Exemption: N/A
- Person liable to pay VAT: N/A

***Formalities (Maltaco)***

- Maltaco has to issue a tax invoice for the services
- Maltaco will report the dispatch of the goods concerned in his register of materials received (Item 1 (j) Eleventh Schedule)
- VAT return Maltaco: box 2

**Solution: Italco**

- Taxable person: YES

- Operation in the scope of VAT: YES (with respect to goods sent to Spanishco: no deemed ICA becomes a deemed ICA)
- Place of supply: Malta (where transport ends - Item 13 Third Schedule)
- Exemption: NO
- Person liable to pay VAT: Italco (Art. 20 (1) (b) VAT Act)

**Solution for the relationship Italco - Spanishco**

**Assumption: Spanishco is a regular taxable person and provides another VAT nr. than a Maltese VAT nr.**

**If this would not be the case, Maltese VAT is in principle due by Italco**

- Taxable person: YES
- Operation in the scope of VAT: YES (supply of goods)
- Place of supply: Malta (where transport begins - Item 1 (b) Third Schedule)
- Exemption: YES (Item 3 (1) Part One Fifth Schedule)
- Person liable to pay VAT: N/A

***Formalities (Italco)***

- Italco has to issue a tax invoice for the supply of goods
- VAT return Italco: box 1
- Italco will report the exempt intra-Community supply in his (Maltese) recapitulative statement

**Assumption: Spanishco is a member of the « Group of 4 »**

**Hypothesis 1: the distance sales threshold fixed by Spain is not exceeded by Italco and there is no option by Italco to pay VAT in Spain AND Spanishco is a member of the group of 4 not exceeding the acquisition threshold and that has not opted**

- Taxable person: YES
- Operation in the scope of VAT: YES (supply of goods)
- Place of supply: Malta (where transport begins - Item 1 (b) Third Schedule)
- Exemption: NO
- Person liable to pay VAT: Italco (Art. 20 (1) (a) VAT Act)

***Formalities (Italco)***

- Italco has to issue a tax invoice for the supply of goods
- VAT return Italco: box 18 and 23

**Hypothesis 2: the distance sales threshold fixed by Spain is exceeded by Italco or Italco opted to pay VAT in Spain AND Spanishco is a member of the group of 4 not exceeding the acquisition threshold and that has not opted**

- Taxable person: YES
- Operation in the scope of VAT: YES (distance sale)

- Place of supply: Italy (where transport ends - Item 4 (2) (a) Third Schedule)
- Exemption: N/A
- Person liable to pay VAT: N/A

***Formalities (Italco)***

- Italco has to issue a tax invoice for the supply of goods
- VAT return Italco: box 2

**Hypothesis 3: Spanishco is a member of the group of 4 that exceeds the acquisition threshold thanks to this acquisition or that has opted**

- Taxable person: YES
- Operation in the scope of VAT: YES (intra-Community supply of goods)
- Place of supply: Malta (where transport begins - Item 1 (b) Third Schedule)
- Exemption: YES (Item 3 (1) Part One Fifth Schedule)
- Person liable to pay VAT: N/A

***Formalities (Italco)***

- Italco has to issue a tax invoice for the supply of goods
- VAT return Italco: box 1
- Italco will report the exempt intra-Community supply in his (Maltese) recapitulative statement

- ▶ **Transportco, a regular taxable person established in Sicily, transports the raw materials from Sicily to Malta. In this respect, Italco provides Transportco with his French VAT number.**

**Solution for the relationship Transportco - Italco**

- Taxable person: YES
- Operation in the scope of VAT: YES (intra-Community transport of goods)
- Place of supply: France (MS of VAT identification number - Item 7 (2) second sentence Third Schedule)
- Exemption: N/A
- Person liable to pay VAT: N/A

- ▶ **Truckco, a taxable person established in Malta and registered under art. 10, transports the processed goods from Malta to Tunisia and to Spain. In this respect, Italco provides his Italian VAT number to Truckco.**

**Solution for the relationship Truckco - Italco**

**Transport Malta - Spain**

- Taxable person: YES
- Operation in the scope of VAT: YES (intra-Community transport of goods)

- Place of supply: Italy (MS of VAT identification number - Item 7 (2) second sentence Third Schedule)
- Exemption: N/A
- Person liable to pay VAT: N/A

***Formalities (Truckco)***

- Truckco has to issue a tax invoice for the services
- VAT return Truckco: box 2

**Transport Malta - Tunisia**

- Taxable person: YES
- Operation in the scope of VAT: YES (transport of goods)
- Place of supply: Malta, high seas, Tunisia (where the transport takes place having regard to the distances covered - Item 7 (1) Third Schedule)
- Exemption: N/A (for the services taking place outside Malta) / YES (for the services taking place in Malta: Item 4 (3) Part One Fifth Schedule)
- Person liable to pay VAT: N/A

***Formalities (Truckco)***

- Truckco has to issue a tax invoice for the services
- VAT return Truckco:
  - Box 2: for the taxable value related to the services taking place outside Malta
  - Box 20: for the taxable value related to the (exempt) services taking place in Malta

- ▶ **Carco, a taxable person established in Malta and registered under art. 10, transports the processed goods to Sicily. Italco has found Carco thanks to the intervention of Interco, a taxable person established in Malta and registered under art. 11.**

**Solution for the relationship Carco - Italco**

**Hypothesis: Italco provides Carco with a MT VAT nr. or with no VAT number**

- Taxable person: YES
- Operation in the scope of VAT: YES (intra-Community transport of goods)
- Place of supply: Malta (where transport begins - Item 7 (2) first sentence Third Schedule)
- Exemption: NO
- Person liable to pay VAT: Carco (Art. 20 (1) (a) VAT Act)

***Formalities (Carco)***

- Carco has to issue a tax invoice for the services
- VAT return Carco: box 18 and 23

**Hypothesis: Italco provides Carco with another VAT nr. than a MT VAT number**

- Taxable person: YES
- Operation in the scope of VAT: YES (intra-Community transport of goods)
- Place of supply: MS of VAT identification number (Item 7 (2) second sentence Third Schedule)
- Exemption: N/A
- Person liable to pay VAT: N/A

***Formalities (Carco)***

- Carco has to issue a tax invoice for the services
- VAT return Carco: box 2

**Solution for the relationship Interco - Italco**

- Taxable person: YES
- Operation in the scope of VAT: NO (from a Maltese point of view only!!)
- Place of supply:
  - In case Italco provides no or a MT VAT nr.: Malta (place of departure - Item 7 (4) first sentence Third Schedule)
  - In case Italco provides another VAT nr. than a MT VAT nr.: MS of VAT nr. (Item 7 (4) second sentence Third Schedule)
- Exemption: N/A
- Person liable to pay VAT: N/A

- **The vessel transporting the raw materials from Sicily to Malta is unloaded, for the account of Italco, in the port of Valletta by Loadco, a taxable person established in Malta and registered under 10. In this respect, Italco provides Loadco with his Italian VAT number. Italco has found Loadco thanks to the intervention of Intraco, a Sicilian taxable person, who provides Italco with a Maltese VAT number.**

**Solution for the relationship Loadco - Italco**

- Taxable person: YES
- Operation in the scope of VAT: YES (ancillary service re. ICT)
- Place of supply: Italy (MS of VAT identification nr. - Item 7 (3) second sentence Third Schedule)
- Exemption: N/A
- Person liable to pay VAT: N/A

***Formalities (Loadco)***

- Loadco has to issue a tax invoice for the services
- VAT return Loadco: box 2

### **Solution for the relationship Intraco - Italco**

#### **Hypothesis: Italco provides Intraco with a MT VAT nr. or with no VAT number**

- Taxable person: YES
- Operation in the scope of VAT: YES (intermediary service re. ancillary service re. ICT)
- Place of supply: Malta (where the ancillary service is physically carried out - Item 7 (5) first sentence Third Schedule)
- Exemption: NO
- Person liable to pay VAT: Intraco (Art. 20 (1) (a) VAT Act)

#### ***Formalities (Intraco)***

- Intraco has to issue a tax invoice for the services
- VAT return Intraco: box 18 and 23

#### ***Formalities (Italco)***

- VAT return Italco: box 31 and 37

#### **Hypothesis: Italco provides Intraco with another VAT nr. than a MT VAT number**

- Taxable person: YES
- Operation in the scope of VAT: YES (intermediary service re. ancillary service re. ICT)
- Place of supply: MS of the VAT identification number (Item 7 (5) second sentence Third Schedule)
- Exemption: N/A
- Person liable to pay VAT: N/A

#### ***Formalities (Intraco)***

- Intraco has to issue a tax invoice for the services
- VAT return Intraco: box 2

- **Ancico, a taxable person established in Tunisia, unloads the goods transported from Malta to Tunisia in the port of Sousse. In this respect, Italco provides his Maltese VAT number to Ancico. Italco has found Ancico thanks to the intervention of Interco.**

### **Solution for the relationship Ancico - Italco**

- Taxable person: YES
- Operation in the scope of VAT: YES (ancillary service re. a transport of goods)
- Place of supply: Tunisia (where the service is physically carried out - Item 7 (3) first sentence Third Schedule)
- Exemption: N/A
- Person liable to pay VAT: N/A

**Solution for the relationship Interco - Italgo**

**Remark: Interco is registered art. 11**

- Taxable person: YES
- Operation in the scope of VAT: NO (from a Maltese point of view only!!)
- Place of supply: Tunisia (where the underlying service is carried out - Item 12 Third Schedule)
- Exemption: N/A
- Person liable to pay VAT: N/A

- **Iberco, a taxable person established in Spain, transports the goods from the port of Barcelona up to Madrid, for the account of Truckco, which provides his Maltese VAT number to Iberco.**

**Solution for the relationship Iberco - Truckco**

**Assumption: Iberco is not established nor registered art. 10**

- Taxable person: YES
- Operation in the scope of VAT: YES (a deemed ICT)
- Place of supply: Malta (Item 7 (2) second sentence Third Schedule)
- Exemption: NO
- Person liable to pay VAT: Truckco (Art. 20 (2) (c) VAT Act)

***Formalities (Truckco)***

- VAT return Truckco: box 4 and 7 and box 11 and 15



## CASE 3

### Question

A Maltese person is coming to your office in order to know if Maltese VAT is due on the purchase of a car from a UK person.

- Based on the Maltese VAT legislation applicable as from 1 May 2004, give the list of questions to ask to the Maltese person in order to provide him with a precise answer (using the five basic questions)
- In this respect, determine all the possibilities regarding the case at hand as well as the solution by saying simply if Maltese VAT is due for all the possibilities

## CASE 3 SOLUTION

**Assumption: The car is a Community good and is transported from the UK to Malta following this purchase**

### Solution 1

**Question 1: Is the car a new means of transport ? YES**

Qualifying person?	Yes (the purchaser)
Operation in the scope of VAT?	Yes (an ICA)
Place of the operation?	In Malta (where transport ends)
Is there any exemption?	No
Person liable to pay VAT?	The purchaser

### Solution 2

**Question 1: Is the car a new means of transport ? NO**

**Question 2: Is the supplier a taxable person acting as such? NO**

Qualifying person?	Yes (the purchaser)
Operation in the scope of VAT?	Yes (an ICA)
Place of the operation?	In Malta (where transport ends)
<u>The ICA is not subject to Maltese VAT</u>	

### Solution 3

**Question 1: Is the car a new means of transport ? NO**

**Question 2: Is the supplier a taxable person acting as such? YES**

**Question 3: Is the supplier a small undertaking? YES**

Qualifying person?	Yes (the purchaser)
Operation in the scope of VAT?	Yes (an ICA)
Place of the operation?	In Malta (where transport ends)

The ICA is not subject to Maltese VAT

### Solution 4

**Question 1: Is the car a new means of transport ? NO**

**Question 2: Is the supplier a taxable person acting as such? YES**

**Question 3: Is the supplier a small undertaking? NO**

**Question 4: Is the car supplied under the profit margin scheme? YES**

Qualifying person?	Yes (the purchaser)
Operation in the scope of VAT?	Yes (an ICA)
Place of the operation?	In Malta (where transport ends)
Is there any exemption?	Yes (Schedule 5, Part 2, Item 6)

Person liable to pay VAT?

N/A

>>>>>>>>>> **However, UK VAT (profit margin) is due on the supply**

### **Solution 5**

**Question 1: Is the car a new means of transport ? NO**

**Question 2: Is the supplier a taxable person acting as such? YES**

**Question 3: Is the supplier a small undertaking? NO**

**Question 4: Is the car supplied under the profit margin scheme? NO**

**Question 5: Is the purchaser a taxable person reg. art.10 acting as such? YES**

Qualifying person?

Yes (the purchaser)

Operation in the scope of VAT?

Yes (an ICA)

Place of the operation?

In Malta (where transport ends)

Is there any exemption?

No

Person liable to pay VAT?

The purchaser (reverse charge in the VAT return)

### **Solution 6**

**Question 1: Is the car a new means of transport ? NO**

**Question 2: Is the supplier a taxable person acting as such? YES**

**Question 3: Is the supplier a small undertaking? NO**

**Question 4: Is the car supplied under the profit margin scheme? NO**

**Question 5: Is the purchaser a private individual or any person acting as such? YES**

**Question 6: Is the transport made by the private individual or for his account? YES**

Qualifying person?

Yes (the purchaser)

Operation in the scope of VAT?

Yes (an ICA)

Place of the operation?

In Malta (where transport ends)

The ICA is not subject to Maltese VAT

>>>>>>>>>> **However, UK VAT is due on the supply**

### **Solution 7**

**Question 1: Is the car a new means of transport ? NO**

**Question 2: Is the supplier a taxable person acting as such? YES**

**Question 3: Is the supplier a small undertaking? NO**

**Question 4: Is the car supplied under the profit margin scheme? NO**

**Question 5: Is the purchaser a private individual or any person acting as such? YES**

**Question 6: Is the transport made by the supplier or for his account? YES**

**Question 7: Is the distance sale threshold exceeded thanks to this supply or is there any option to tax this supply in Malta by the supplier? NO**

Supply:

Taxable person?

Yes (the supplier)

Operation in the scope of VAT? Yes (a supply of goods)

Place of the operation? In the UK (where transport begins)  
Is there any exemption? N/A  
Person liable to pay VAT? N/A

Acquisition:

Qualifying person? Yes (the purchaser)  
Operation in the scope of VAT? Yes (an ICA)  
Place of the operation? In Malta (where transport ends)

The ICA is not subject to Maltese VAT

### **Solution 8**

**Question 1: Is the car a new means of transport ? NO**

**Question 2: Is the supplier a taxable person acting as such? YES**

**Question 3: Is the supplier a small undertaking? NO**

**Question 4: Is the car supplied under the profit margin scheme? NO**

**Question 5: Is the purchaser a private individual or any person acting as such? YES**

**Question 6: Is the transport made by the supplier or for his account? YES**

**Question 7: Is the distance sale threshold exceeded thanks to this supply or is there any option to tax this supply in Malta by the supplier? YES**

Taxable person? Yes (the supplier)

Operation in the scope of VAT? Yes (a supply of goods)

Place of the operation? In Malta (where transport ends)

Is there any exemption? No

Person liable to pay VAT? The supplier (who must register for VAT in Malta under art. 10)

### **Solution 9**

**Question 1: Is the car a new means of transport ? NO**

**Question 2: Is the supplier a taxable person acting as such? YES**

**Question 3: Is the supplier a small undertaking? NO**

**Question 4: Is the car supplied under the profit margin scheme? NO**

**Question 5: Is the purchaser a member of the « Group of 3 » acting as such? YES**

**Question 6: Is the purchaser registered under art.12 or is the acquisition threshold exceeded thanks to this purchase? NO**

**Question 7: Is the purchaser making the transport? YES**

Qualifying person? Yes (the purchaser)

Operation in the scope of VAT? Yes (an ICA)

Place of the operation? In Malta (where transport ends)

The ICA is not subject to Maltese VAT

>>>>>>>>>> **However, UK VAT is due on the supply**

### **Solution 10**

**Question 1: Is the car a new means of transport ? NO**

**Question 2: Is the supplier a taxable person acting as such? YES**

**Question 3: Is the supplier a small undertaking? NO**

**Question 4: Is the car supplied under the profit margin scheme? NO**

**Question 5: Is the purchaser a member of the « Group of 3 » acting as such? YES**

**Question 6: Is the purchaser registered under art.12 or is the acquisition threshold exceeded thanks to this purchase? YES**

Qualifying person?	Yes (the purchaser)
Operation in the scope of VAT?	Yes (an ICA)
Place of the operation?	In Malta (where transport ends)
Is there any exemption?	No
Person liable to pay VAT?	The purchaser (special form)

### **Solution 11**

**Question 1: Is the car a new means of transport ? NO**

**Question 2: Is the supplier a taxable person acting as such? YES**

**Question 3: Is the supplier a small undertaking? NO**

**Question 4: Is the car supplied under the profit margin scheme? NO**

**Question 5: Is the purchaser a member of the « Group of 3 » acting as such? YES**

**Question 6: Is the purchaser registered under art.12 or is the acquisition threshold exceeded thanks to this purchase? NO**

**Question 7: Is the supplier making the transport? NO**

#### Supply:

Taxable person?	Yes (the supplier)
Operation in the scope of VAT?	Yes (a supply of goods)
Place of the operation?	In the UK (where transport begins)
Is there any exemption?	N/A
Person liable to pay VAT?	N/A

#### Acquisition:

Qualifying person?	Yes (the purchaser)
Operation in the scope of VAT?	Yes (an ICA)
Place of the operation?	In Malta (where transport ends)

The ICA is not subject to Maltese VAT

### **Solution 12**

**Question 1: Is the car a new means of transport ? NO**

**Question 2: Is the supplier a taxable person acting as such? YES**

**Question 3: Is the supplier a small undertaking? NO**

**Question 4: Is the car supplied under the profit margin scheme? NO**

**Question 5: Is the purchaser a member of the « Group of 3 » acting as such? YES**

**Question 6: Is the purchaser registered under art.12 or is the acquisition threshold exceeded thanks to this purchase? NO**

**Question 7: Is the supplier making the transport? YES**

**Question 8: Is the distance sale threshold exceeded thanks to this supply or is there any option to tax this supply in Malta by the supplier? NO**

Supply:

Taxable person?	Yes (the supplier)
Operation in the scope of VAT?	Yes (a supply of goods)
Place of the operation?	In the UK (where transport begins)
Is there any exemption?	N/A
Person liable to pay VAT?	N/A

Acquisition:

Qualifying person?	Yes (the purchaser)
Operation in the scope of VAT?	Yes (an ICA)
Place of the operation?	In Malta (where transport ends)

The ICA is not subject to Maltese VAT

### **Solution 13**

**Question 1: Is the car a new means of transport ? NO**

**Question 2: Is the supplier a taxable person acting as such? YES**

**Question 3: Is the supplier a small undertaking? NO**

**Question 4: Is the car supplied under the profit margin scheme? NO**

**Question 5: Is the purchaser a member of the « Group of 3 » acting as such? YES**

**Question 6: Is the purchaser registered under art.12 or is the acquisition threshold exceeded thanks to this purchase? NO**

**Question 7: Is the supplier making the transport? YES**

**Question 8: Is the distance sale threshold exceeded thanks to this supply or is there any option to tax this supply in Malta by the supplier? YES**

Taxable person?	Yes (the supplier)
Operation in the scope of VAT?	Yes (a supply of goods)
Place of the operation?	In Malta (where transport ends)
Is there any exemption?	No
Person liable to pay VAT?	The supplier (who must register for VAT purposes in Malta under art. 10)

## CASE 4

Maltaco, a taxable person registered for VAT purposes under art. 10, buys and resells goods to various customers.

- Maltaco buys 100 new cars from a Japanese car manufacturer. In the frame of this purchase goods are dispatched from Japan to Malta on behalf of Maltaco, who puts the goods into free circulation upon arrival.
- 50 of the cars are subsequently sold to a Carco (a Maltese car dealer) and delivered by Maltaco in the premises of Carco in Malta.
- 15 of the cars are subsequently sold to a French public authority (not registered for VAT in France) and dispatched on behalf of Maltaco to France.
- 35 of the cars are subsequently dispatched to the UK, where Maltaco has a stock of goods for resale on the UK market.
- All transports mentioned above are made by Moveco, a Maltese transport company registered under art. 10. Maltaco provided always its Maltese VAT number to Moveco.
- The sale between the Japanese car manufacturer and Maltaco was concluded thanks to the intervention of Interco, a Maltese company registered under art. 10. Interco acted on behalf of the Japanese company. As the Japanese company was not registered in the EU, it did not provide a VAT registration number to Interco.
- Maltaco also sells 25 computers to a Maltese municipality. Maltaco had bought these computers from a US manufacturer. The computers were delivered three months ago to Maltaco in the warehouse of the manufacturer in Houston.
- In the frame of the sale between Maltaco and the Maltese municipality, the latter has the goods transported to Germany. The Maltese municipality puts the goods into free circulation in Germany and immediately afterwards it has the goods dispatched from Germany to Malta.
- The above transport is performed for the Maltese municipality by Moveco, a Maltese transport company registered under art. 10.
- Maltaco also sells X-ray equipment to a Maltese hospital. At that moment goods were still at the Freeport. The hospital releases the equipment from the customs regime and has the goods transported to its premises by Moveco.
- The customs formalities have been dealt with by C, a Maltese customs agent, on behalf of the hospital. The hospital has found C through the intervention of Interco.
- Maltaco also bought a watch from a Swiss company and has the watch dispatched from Switzerland to Malta. Maltaco put the watch into free circulation.
- The watch was given as a present at the occasion of his marriage to the son of the managing director of Maltaco.
- Maltaco has found the Swiss company through the intervention of Interco. Maltaco provided Interco with an Italian VAT number.

### QUESTIONS

- Determine, by using the basic questions, the VAT treatment of the described transactions and operations under the Maltese VAT legislation applicable as from 1 May 2004
- Are there any specific formalities to be fulfilled by different companies?

# CASE 4 - SOLUTION

## PART 1

Maltaco, a taxable person registered for VAT purposes under art. 10, buys and resells goods to various customers.

- Maltaco buys 100 new cars from a Japanese car manufacturer. In the frame of this purchase goods are dispatched from Japan to Malta on behalf of Maltaco, who puts the goods into free circulation upon arrival
- 50 of the cars are subsequently sold to a Carco (a Maltese car dealer) and delivered by Maltaco in the premises of Carco in Malta
- 15 of the cars are subsequently sold to a French public authority and dispatched on behalf of Maltaco to France
- 35 of the cars are subsequently dispatched to the UK, where Maltaco has a stock of goods for resale on the UK market

### Supply to Carco

Taxable person?	Yes (Maltaco)
Operation in the scope of VAT?	Yes (a supply of goods)
Place of the operation?	In Malta (where transport begins)
Is there any exemption?	No
Person liable to pay VAT?	Maltaco

### *Formalities (Maltaco)*

- Maltaco has to issue a tax invoice for the supply
- VAT return Maltaco: box 18 and 23

### Supply to the French authority (which obviously exceeds its ICA threshold thanks to this purchase)

Taxable person?	Yes (Maltaco)
Operation in the scope of VAT?	Yes (a supply of goods)
Place of the operation?	In Malta (where transport begins)
Is there any exemption?	Yes (if transport to France is proven and if the French authority provides Maltaco with a valid FR VAT number)
Person liable to pay VAT?	N/A

### *Formalities (Maltaco)*

- Maltaco has to issue a tax invoice for the supply
- VAT return Maltaco: box 1
- Recapitulative statement



### **Move of the cars to the UK**

Taxable person?	Yes (Maltaco)
Operation in the scope of VAT? (goods = transfer)	Yes (a deemed supply of goods)
Place of the operation?	In Malta (where transport begins)
Is there any exemption?	Yes (if transport to the UK is proven and if Maltaco provides a valid UK VAT number to himself)
Person liable to pay VAT?	N/A

#### ***Formalities (Maltaco)***

- Maltaco has to issue a transfer document
- VAT return Maltaco: box 1
- Recapitulative statement

### **Importation of the cars by Maltaco**

Qualifying person?	Yes (Maltaco)
Operation in the scope of VAT?	Yes (an importation of goods)
Place of the operation?	In Malta (where goods are put into free circulation)
Is there any exemption?	No (for cars supplied to Carco)  Yes for cars supplied to the French authority or transferred to the UK if at the time of the importation Maltaco already knows these cars will go to France or the UK in the frame of an exempt (deemed) ICS
Person liable to pay VAT (if any)?	Maltaco or N/A

#### ***Formalities (Maltaco)***

- Maltaco has to be in possession of an import document at its name
- VAT return Maltaco: box 27 and 34 (VAT actually paid upon importation)

## **PART 2**

- All transports mentioned above are made by Moveco, a Maltese transport company registered under art. 10. Maltaco provided always its Maltese VAT number to Moveco

### **Transport of the cars from Japan to Malta**

Taxable person?	Yes (Moveco)
Operation in the scope of VAT?	Yes (a transport of goods)
Place of the operation?	In Malta (for the part of the transport taking place in Malta)
Is there any exemption?	Yes if the cost of the transport up to the premises of Maltaco is included in the taxable basis of the cars upon importation
Person liable to pay VAT?	N/A

## **Transport of the cars from Malta to France or to the UK**

Taxable person?	Yes (Moveco)
Operation in the scope of VAT?	Yes (an IC transport of goods)
Place of the operation?	In Malta (where transport begins)
Is there any exemption?	No
Person liable to pay VAT?	Moveco

### ***Formalities (Moveco)***

- Moveco has to issue a tax invoice for all transports
- VAT return Moveco: box 18 and 23 (IC transport)  
box 20 (transport exempt upon importation)

## **PART 3**

The sale between the Japanese car manufacturer and Maltaco was concluded thanks to the intervention of Interco, a Maltese company registered under art. 10. Interco acted on behalf of the Japanese company. As the Japanese company was not registered in the EU, it did not provide a VAT registration number to Interco

### **Intervention of Interco**

Taxable person?	Yes (Interco)
Operation in the scope of VAT?	Yes (an intermediary service in a supply of goods)
Place of the operation?	In Japan (where the supply of goods takes place)
Is there any exemption?	N/A
Person liable to pay VAT?	N/A

### ***Formalities (Interco)***

- Maltaco has to issue a tax invoice for the service
- VAT return Interco: box 2

## **PART 4**

- Maltaco also sells 25 computers to a Maltese municipality. Maltaco had bought these computers from a US manufacturer. The computers were delivered three months ago to Maltaco in the warehouse of the manufacturer in Houston
- In the frame of the sale between Maltaco and the Maltese municipality, the latter has the goods transported to Germany. The Maltese municipality puts the goods into free circulation in Germany and immediately afterwards it has the goods dispatched from Germany to Malta

### **Supply from the US manufacturer to Maltaco**

Taxable person?	Yes (US manufacturer)
Operation in the scope of VAT?	Yes (a supply of goods)

Place of the operation?	In the USA (where the goods are put at the disposal of Maltaco)
Is there any exemption?	N/A
Person liable to pay VAT?	N/A

***Formalities (Maltaco)***

- VAT return Maltaco: box 27

**Supply from Maltaco to the Maltese municipality**

Taxable person?	Yes (Maltaco)
Operation in the scope of VAT?	Yes (a supply of goods)
Place of the operation?	In the USA (where transport begins)
Is there any exemption?	N/A
Person liable to pay VAT?	N/A

***Formalities (Maltaco)***

- VAT return Maltaco: box 2

**Importation by the Maltese municipality**

Qualifying person?	Yes (the Maltese municipality)
Operation in the scope of VAT?	Yes (an importation of goods)
Place of the operation?	In Germany (where the goods are put into free circulation)
Is there any exemption?	N/A (German VAT is due)
Person liable to pay VAT?	N/A (the Maltese municipality is liable to pay German import VAT)

**Move of the goods to Malta by the Maltese municipality**

Qualifying person?	Yes (the Maltese municipality)
Operation in the scope of VAT?	Yes (an ICA of goods – Second Schedule Item 18 (1) (c))
Place of the operation?	In Malta (where transport ends)
Is there any exemption?	<u>The ICA is not subject to VAT if ICA threshold is not exceeded and no option</u> No (if ICA threshold exceeded or option = registration art.12)
Person liable to pay VAT (if any)?	The Maltese municipality

***Formalities (the Maltese municipality - Only in case of ICA subject to VAT in Malta)***

- Registration art.12
- Special VAT return and payment of VAT
- Refund of German import VAT (See in this respect art. 25 (4) Maltese VAT Act)

## **PART 5**

- Maltaco also sells X-ray equipment to a Maltese hospital. At that moment goods were still at the Freeport. The hospital releases the equipment from the customs regime and has the goods transported to its premises
- The customs formalities have been dealt with by C, a Maltese customs agent, on behalf of the hospital. The hospital has found C through the intervention of Interco

### **Supply from Maltaco to the hospital**

Taxable person?	Yes (Maltaco)
Operation in the scope of VAT?	Yes (a supply of goods)
Place of the operation?	In Malta (where transport begins or where goods are put at the disposal of the hospital)
Is there any exemption?	Yes (Fifth Schedule Part one Item 2 (1))
Person liable to pay VAT?	N/A

### ***Formalities (Maltaco)***

- Maltaco has to issue a tax invoice to the hospital
- VAT return Maltaco: box 20

### **Importation by the hospital**

Qualifying person?	Yes (the hospital)
Operation in the scope of VAT?	Yes (an importation of goods)
Place of the operation?	In Malta (where goods are put into free circulation)
Is there any exemption?	No
Person liable to pay VAT?	The Maltese hospital

### ***Formalities (by the Hospital)***

- Customs document and payment of VAT at the customs

### **Customs formalities by C**

Taxable person?	Yes (C)
Operation in the scope of VAT?	Yes (a supply of services)
<u>If C is registered under art. 11, the operation is not subject to Maltese VAT because C does not collect VAT</u>	
Place of the operation?	In Malta (where supplier is established)
Is there any exemption?	Yes (Fifth Schedule Part one Item 4 (6))
Person liable to pay VAT?	N/A

### ***Formalities (by C)***

- C has to issue a tax invoice to the hospital
- VAT return of C (not being registered under art. 11): box 20

### **Intervention of Interco**

Taxable person?	Yes (Interco)
Operation in the scope of VAT?	Yes (an intermediary service)
Place of the operation?	In Malta (where the underlying transaction takes place)
Is there any exemption?	No
Person liable to pay VAT?	Interco

### ***Formalities (Interco)***

- Interco has to issue a tax invoice to the hospital
- VAT return of Interco: box 18 and 23

### **PART 6**

- Maltaco also bought a watch from a Swiss company and has the watch dispatched from Switzerland to Malta. Maltaco put the watch into free circulation.
- The watch was given as a present at the occasion of his marriage to the son of the managing director of Maltaco.
- Maltaco has found the Swiss company through the intervention of Interco. Maltaco provided Interco with an Italian VAT number.

### **Importation of the watch**

Qualifying person?	Yes (Maltaco)
Operation in the scope of VAT?	Yes (an importation of goods)
Place of the operation?	In Malta (where goods are put into free circulation)
Is there any exemption?	No
Person liable to pay VAT?	Maltaco

### ***Formalities (Maltaco)***

- Customs document and payment of VAT at the customs
- VAT return: box 27 and 34 if the watch is for resale at the time of importation (this means that Maltaco does not know yet that the watch will be given as a present)
- VAT return: box 31 (without any right to deduct) if from the beginning Maltaco knows that this watch is to be given as a present

### **The watch is given as a present and VAT was deducted by Maltaco at the time of importation**

Taxable person?	Yes (Maltaco)
Operation in the scope of VAT?	Yes (a deemed supply of goods – Second Schedule Item 14 (1))
Place of the operation?	In Malta (where goods are put at the disposal of the son of the managing director)

Is there any exemption? No  
Person liable to pay VAT? Maltaco

***Formalities (Maltaco)***

- Internal document
- VAT return: box 18 and 23

**Intervention of Interco**

Taxable person? Yes (Interco)  
Operation in the scope of VAT? Yes (intermediary service into an importation)  
Place of the operation? In Italy (IT VAT identification number of Interco – Third Schedule Item 12)  
Is there any exemption? N/A  
Person liable to pay VAT? N/A

***Formalities (Interco)***

- Interco has to issue a tax invoice to Maltaco
- VAT return: box 2

***Formalities (Maltaco)***

- VAT return Maltaco: box 31 (to be confirmed by the management)

## CASE 5

- A Maltese bank B, registered under art. 10 as from 1 July 2004, buys a copy machine on 16 October 2005 (1,000 Lm + 18% VAT).
- B also rents a computer (contract starting on 1 January 2006 and ending on 31 December 2006) and pays as rental fee 200 Lm + 18% VAT. On 1 January 2007, B buys the computer (2,000 + 18% VAT). On 23 March 2008, B sells the computer to an employee (price paid by the employee: 1,000 + 18% VAT)
  - The definitive ratio for the tax periods ending in 2004 was **20 p.c.**
  - The definitive ratio for the four tax periods ending in 2005 was **10 p.c.**
  - The definitive ratio for the four tax periods ending in 2006 was **30 p.c.**
  - The definitive ratio for the four tax periods ending in 2007 was **15 p.c.**
  - The definitive ratio for the four tax periods ending in 2008 was **20 p.c.**
  - The definitive ratio for the four tax periods ending in 2009 was **5 p.c.**
  - The definitive ratio for the four tax periods ending in 2009 was **15 p.c.**

### Question:

- Can B deduct the said input VAT and to what extent?
- Are there any adjustments to be made by B? If yes, to what extent?

## CASE 5 – SOLUTION

### The period of reference is:

- For period 1: **07/04 -> 12/04**
- For period 2, 3, 4 and 5: **calendar year**

### COPY MACHINE

#### Adjustment first period

- VAT paid: 180 Lm
- Definitive ratio for tax periods ending on 31/12/2004 (and thus provisional ratio for tax periods ending on 31/12/2005) = **20%**
- Deduction of VAT = 30% x 180 Lm = **36 Lm**
- Definitive ratio for tax periods ending on 31/12/2005 = **10%**
- Taking into account this ratio, the taxable person could deduct 180 Lm x 10% = **18 Lm**
- Adjustment: X has to make an adjustment in favour of the State of **18 Lm** (i.e. amount already deducted 36 Lm - right to deduct 18 Lm) (box 40 VAT return)

**Remark:** This adjustment concerns the entire amount provisionally deducted at the origin and it consequently also covers the adjustment related to the first 1/5<sup>th</sup> for capital goods

### **Adjustment following period: adjustment per year**

- The adjustments for the periods 2, 3, 4 and 5 will this time concern only one fifth taking into account what follows:
  - VAT actually paid is divided by 5  $\rightarrow 180 : 5 = \underline{36}$
  - VAT actually deducted on basis of the definitive ratio of the first period is divided also by 5  $\rightarrow 18 : 5 = \underline{3,6}$
  - The result of 36 multiplied by the definitive ratio of each of the following periods will be compared with 3,6
  - The difference will result in an adjustment either in favour of the State or in favour of the taxable person

### **Adjustment second period**

*Adjustment for the second period 1/1  $\rightarrow$  30/12/2006*

The definitive ratio for the period calculated on the basis of the turnover is 30%

- Authorised deduction: 36 X 30% = 10,8
- Already deducted: 3,6
- Additional deduction allowed: 10,8 – 3,6 = 7,2 (box 41 VAT return)

### **Adjustment third period**

*Adjustment for the third period 1/1  $\rightarrow$  31/12/2007*

The definitive ratio for the period calculated on the basis of the turnover is 15%

- Authorised deduction: 36 X 15% = 5,4
- Already deducted: 3,6
- Additional deduction allowed: 5,4 – 3,6 = 1,8 (box 41 VAT return)

### **Adjustment fourth period**

*Adjustment for the fourth period 1/1  $\rightarrow$  31/12/2008*

The definitive ratio for the period calculated on the basis of the turnover is 20%

- Authorised deduction: 36 X 20% = 7,2
- Already deducted: 3,6
- Additional deduction allowed: 7,2 – 3,6 = 3,6 (box 41 VAT return)

### **Adjustment fifth period**

*Adjustment for the fifth period 1/1  $\rightarrow$  31/12/2009*

The definitive ratio for the period calculated on the basis of the turnover is 5%

- Authorised deduction: 36 X 5% = 1,8
- Already deducted: 3,6
- To be repaid to the State: 3,6 – 1,8 = 1,8 (box 40 VAT return)



## COMPUTER RENT

*Period 1/1 → 31/12/2006*

- Initial deduction:  $36 \times 10\%$  (i.e. provisional ratio for the reference period 2005) = 3,6 Lm
- In the VAT return related to the first tax period following the reference period 2006, an adjustment in favour of the tax payer should be made:
  - Authorised deduction:  $36 \times 30\% = 10,8$  LM
  - Already deducted: 3,6
  - Additional deduction allowed:  $10,8 - \underline{3,6} = 7,2$  (box 41 VAT return)

## PURCHASE

### Adjustment first period

- VAT paid: 360 Lm
- Definitive ratio for tax periods ending on 31/12/2006 (and thus provisional ratio for tax periods ending on 31/12/2007) = **30%**
- Deduction of VAT =  $30\% \times 360$  Lm = **72 Lm**
- Definitive ratio for tax periods ending on 31/12/2007 = **15%**
- Taking into account this ratio, the taxable person could deduct  $360$  Lm  $\times 15\% =$  **54 Lm**
- Adjustment: X has to make an adjustment in favour of the State of **18 Lm** (i.e. amount already deducted 72 Lm - right to deduct 54 Lm) (box 40 VAT return)

**Remark:** This adjustment concerns the entire amount provisionally deducted at the origin and it consequently also covers the adjustment related to the first 1/5<sup>th</sup> for capital goods

### Adjustment following period: adjustment per year

- The adjustments for the periods 2, 3, 4 and 5 will this time concern only one fifth taking into account what follows:
  - VAT actually paid is divided by 5 →  $360 : 5 = \underline{72}$
  - VAT actually deducted on basis of the definitive ratio of the first period is divided also by 5 →  $54 : 5 = \underline{10,8}$
  - The result of **72** multiplied by the definitive ratio of each of the following periods will be compared with **10,8**
  - The difference will result in an adjustment either in favour of the State or in favour of the taxable person

## SALE

### Adjustment second period

*Adjustment for the second period 1/1 → 30/12/2008*

- Period 1 ends on 31/12/2007 (taken into account)

The sale appears in period 2 (not taken into account)

As the taxpayer did not recover all VAT at the start, and now supplies the good with VAT, an adjustment in favour of the taxpayer should be made.

- 306 Lm (non-deducted VAT)  $\times \frac{4}{5} = 244,8$  Lm
- Limited to: 180 Lm (I.e. the VAT due on the supply)

Adjustment in favour of the taxpayer: 180 Lm (box 41 VAT return)