

Guidelines on the application of the 0% VAT rate on devices and aids, including related goods, which are essential to compensate or overcome disability in humans

Publication Date: 05/03/2024

Last Updated: 28/05/2024

Purpose and Background

In line with the provisions of Article 98(2) of Council Directive 2006/112/EC, as amended by Council Directive (EU) 2022/542, by virtue of Legal Notice 12 of 2024 [Value Added Tax Act (Amendment of Fifth Schedule) Regulations, 2024, Malta introduced an exemption with deductibility of the VAT paid at the preceding stage to certain supplies of goods covered in point (4) of Annex III of the aforementioned Council Directive 2006/112/EC.

The intention of this exemption is to diminish the burden of VAT for non-profit making organisations who make available for free to individuals in need certain devices and aids, including related goods, for personal use which are essential to compensate or overcome disability in humans.

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 application of the VAT exemption introduced through the aforementioned Legal Notice.

Interpretation

A zero rate of VAT ('exemption') shall apply to the supply to, and the intra-community acquisition and importation by, non-profit making organisations specifically recognised as such by the CfTC for the purpose of said exemption, on devices and aids, including related goods, which are essential to compensate or overcome disability in humans.

For the purpose of the exemptions introduced by LN 12 of 2024, "*devices and aids, including related goods*", shall be interpreted to refer only to those small portable goods falling under the items included in Annex A of these guidelines.

This exemption shall accordingly apply to any such supplies, intra-community acquisitions and importations where the date the tax becomes chargeable, in terms of the Fourth Schedule to the VAT Act, falls on or after 1st January 2024 or as may be specified in Annex A.

For the avoidance of doubt, this exemption does not apply, under any circumstances, to supplies made by non-profit making organisations.

Further, where in the opinion of the CfTC any goods benefitting from this exemption are provided to a person by a non-profit making organisation directly or indirectly in return for a donation, contribution, or any other form of payment (whether in cash or in kind) received from that person; such donation, contribution or payment shall be deemed to be the consideration received for the supply of said goods by the non-profit making organisation on which the standard VAT rate (18%) applies:

Provided that the consideration deemed to be received for such a supply of goods shall be limited to the open market value of the goods concerned.

Furthermore, this exemption is not intended to apply where a non-profit making organisation provides or makes available to a person goods which are in any way used, for re-sale or otherwise, by that person to carry on any economic activity.

Recognition as a non-profit making organisation for this purpose

A non-profit making organisation shall be considered to be specifically recognised by the CfTC for the purpose of the exemptions introduced by LN 12 of 2024 where it satisfies the following conditions:

- It qualifies as a non-profit making organisation in accordance with item 5 of Part Five of the Fifth Schedule to the VAT Act (Chapter 406, Laws of Malta); and
- It is registered with the Commissioner for Voluntary Organisations as a Voluntary Organisation in terms of the Voluntary Organisations Act (Chapter 492, laws of Malta).

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.

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

Annex A – Small portable goods which are essential to compensate or overcome disability in humans subject to the exemptions introduced by Legal Notice 12 of 2024

LIST		
Item	Description	With effect from
(i)	Technological assistive devices and related goods, falling under CN Codes 85437007, 84716070 and 42029298	01.01.2024
(ii)	Devices and related goods falling under CN Codes 90214000, 90219010 and 90219090	01.01.2024

A concise list of CN Codes may be found on the website of the National Statistics Office as follows:

<https://nso.gov.mt/international-trade-in-goods-statistics-downloads/>