

## **Guidelines for the VAT treatment of Road Assistance Services**

### **What is this document about?**

The aim of this document is to explain the changes in the VAT treatment of road assistance services which came into effect as from 17<sup>th</sup> July 2015. Following these changes, not all road assistance services are subject to VAT.

### **Who should read these Guidelines?**

This document may be of interest to operators of road assistance services, insurance companies and consumers in general.

### **What is the legal basis for the changes referred to in these Guidelines?**

The main EU VAT Directive (Council Directive 2006/112/EC) 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 5<sup>th</sup> Schedule to the VAT Act (Chapter 406, Laws of Malta) has, by means of Legal Notice 227/2015, been amended to reflect this change.

### **Impact on the operators**

As explained above, from the 17<sup>th</sup> 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.

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 10<sup>th</sup> 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.

Any further information may be obtained from the VAT Department.

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

Issued on 20<sup>th</sup> July, 2015.