

## Guidelines on the VAT exemption on other scheduled sea transport of passengers

Date: 1<sup>st</sup> August 2024

### Purpose and Background

The purpose of this document is for the Commissioner for Tax and Customs ('CfTC') to determine, in conformity with article 75(2) of the VAT Act (Chapter 406, Laws of Malta), the manner of application of the VAT exemption (zero VAT rate) contained under paragraph (b) of item 11 of Part One of the Fifth Schedule to the VAT Act.

Paragraph (b) of item 11 applies a zero rate of VAT to the supply of:

*"scheduled inter-island sea transport of passengers by authorised carriers and other scheduled sea transport of passengers recognised as such by the Commissioner.*

*For avoidance of doubt, "scheduled inter-island sea transport of passengers" shall mean scheduled transport of passengers between the islands of Malta and Gozo".*

These guidelines shall serve the specific purpose of determining what "other scheduled sea transport of passengers" would be recognised by the Commissioner for the purpose of the application of this zero rate of VAT.

### Determination

For the purpose of the application of the zero VAT rate on other scheduled sea transport of passengers referred to in paragraph (b) of item 11 of Part One of the Fifth Schedule to the VAT Act, **with effect from 1<sup>st</sup> August 2024** the Commissioner shall consider for recognition as such those services consisting of scheduled sea transport of passengers provided by a taxable person (hereinafter referred to as the "Operator") which satisfy the following conditions:

- i. The sea passenger transport service is provided on the basis of a pre-determined schedule in relation to which the Operator obtains an approval by the Authority for Transport in Malta in terms of Subsidiary Legislation 499.23 (Commercial Vessels Regulations);
- ii. The sea passenger transport service is operated on a fixed route established by the Operator in relation to which the Operator obtains an approval by the Authority for Transport in Malta in terms of Subsidiary Legislation 499.23 (Commercial Vessels Regulations);
- iii. The fixed route referred to in item (ii) shall specify a specific embarkation point as well as a specific disembarkation point or consequent specific embarkation/disembarkation

- points, as the case may be, within that fixed route. Such routes shall contain at least two different embarkation points and shall not consist of any stop-overs or deviations outside the established route;
- iv. The sea passenger transport service is provided using vessels which are duly registered and licensed in terms of the Ports and Shipping Act (Chapter 352, Laws of Malta);
  - v. The schedule referred to in item (i) shall provide a list of exact times and dates for any routes established as per item (ii) and shall be made publicly available online by the service provider at least 3 months in advance of the date of the transport service;
  - vi. The service provider shall ensure to retain the publicly available schedule referred to in item (iii) updated.

An application by an Operator for recognition by the Commissioner in this respect shall be filed via electronic mail addressed to the Commissioner on [servizz@gov.mt](mailto:servizz@gov.mt) containing the approvals of the Authority for Transport in Malta referred to in points (i) and (ii) and such other information relating the conditions outlined above. The exemption shall start to apply as from a date established by the Commissioner upon communication of a confirmation in this respect.

Failure to meet any of the conditions listed above shall immediately exclude any service provider from the ability to apply this zero VAT rate.

For the avoidance of doubt the following shall specifically not be recognised as scheduled passenger transport services for the purpose of the application of this zero VAT rate:

- a) services consisting of excursions by vessels, i.e. where the main purpose of the service is to provide a tour, cruise or sightseeing trip;
- b) services where the vessel is made available for use by the customer at a disembarkation point for more than thirty minutes, including for storage of any personal objects by customers on board the vessel;
- c) services where only the customer who departs from one embarkation point can use the transportation service in other embarkation points;
- d) on-demand sea passenger transport services;
- e) the hiring of vessels with crew or otherwise.

Further, any scheduled passenger transport services provided outside the established schedules and routes approved by the Authority for Transport in Malta in line with items (i) and (ii) above will not be eligible for this zero rate of VAT.

### **Supplies of goods and services on board vessels during the course of a scheduled passenger transport service**

Any supplies of goods and/or services, such as supplies of food and/or beverages, provided on board vessels during the course of a scheduled passenger transport service shall in no case be treated as a single composite supply together with the respective transport service. Such supplies of goods and services shall be treated for VAT purposes as supplies which are separate

from the supply of the respective passenger transport service irrespective as to whether such supplies of goods/services form part of the consideration for the supply of the passenger transport service or included in a package of services together with the transport service.

### **Coming into effect**

The recognition by the Commissioner of other scheduled passenger transport services in terms of these guidelines shall only apply where the date the tax on such services becomes chargeable in terms of the Fourth Schedule to the VAT Act falls on or after 1<sup>st</sup> August 2024.

### **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.

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