



GUIDELINES TO THE VALUE ADDED TAX ACT (SCHEDULE 3, PART 2, ITEM 12)

1. IN GENERAL



The Commissioner for Revenue has noted that it is very difficult that when a yacht is leased, the lessor is able to assess to which extent the boat is effectively used and enjoyed within EU territorial waters. In line with the above mentioned consideration, through Item 12 of Part Two of the Third Schedule to the VAT Act, the Commissioner for Revenue is obliged to take into consideration where the boat is made available to the lessee and the actual location the effective enjoyment and use of the yacht has taken place. If the requirements of the Guidelines are fulfilled, tax is to be levied solely in accordance to the actual use within EU waters. With regards to leases beginning on or after the 1st of November 2018, then the Commissioner shall only apply this guideline.

2. THE INTRODUCTION OF A NEW LEASE

Upon the start of a lease for the use of a pleasure boat, which is planned to be effectively enjoyed and used mostly outside the EU territorial waters, then the lessor shall take into consideration the “expected effective use and enjoyment of the pleasure boat by the lessee”. Moreover, the lessor shall apply VAT in this manner:

- i. In the case where the lease begins at least 30 days before the termination of the tax period during which the lease starting date falls i.e. the first tax period, then the lessor shall apply the full VAT on the consideration payable by the lessee for the first tax period;
- ii. In the case where the lease starts prior to the 30 days before the termination of the first tax period, then the lessor shall apply the full VAT on the consideration payable by the lessee for the first tax period and also the following tax period i.e. the second tax period.



3. REGULATING THE PRELIMINARY RATIO WHICH IS ESTABLISHED ON ACTUAL EFFECTIVE ENJOYMENT AND USE



The lessor shall obtain from the lessee, upon the termination of the tax periods, geographic technological data in order to establish the actual effective enjoyment and use by the lessee of the pleasure boat inside and outside the EU territorial waters throughout the tax period/s as relevant.

Upon obtaining such data, the lessor shall be able to calculate a “Preliminary Ratio” with regards to the actual effective enjoyment and use inside the EU territorial waters by dividing the actual effective enjoyment and use of the pleasure boat inside the EU territorial waters by the total effective enjoyment and use both inside and outside the EU territorial waters, throughout the tax period/s as relevant.

4. THE APPLICATION OF THE “PRELIMINARY RATIO”

The above mentioned “Preliminary Ratio” shall be applied by the lessor in order to establish the extent of the lease payments which are attributable to the effective enjoyment and use inside the EU territorial waters for the following tax periods.

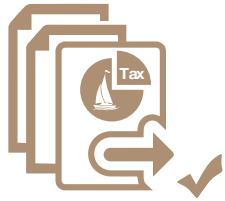
The “Preliminary Ratio” shall only be used up till the termination of the tax periods in which the first 12 months of the lease fall. This is referred to as the first annual period. If on the other hand, the period of the lease is shorter, then the Preliminary Ratio would be valid for the period of the lease.

for the scope of identifying the applicable VAT payable, the “Provisional Output Tax” is to be computed by multiplying the taxable value of each supply by the Preliminary Ratio, in accordance with the standard rate of VAT.





5. MODIFICATIONS IN TAX APPLICABLE FOR THE FIRST AND, IF APPLICABLE, THE SECOND TAX PERIOD/S



If there are any changes which appear in between:

- i. The full output tax as mentioned earlier in number 2, and;
- ii. If it is applicable, the second tax periods;

And the computation of the “Provisional Output Tax” for the mentioned tax periods utilising the “Preliminary Ratio”, denotes tax overpaid by the lessor, then the overpaid tax shall be altered in the tax return for subsequent tax period/s respectively, immediately after the first or the second tax period, as it is applicable.



6. ADJUSTMENTS OF THE OUTPUT TAX FOR THOSE LEASES WHOSE PERIOD DOESN'T SURPASS THE FIRST ANNUAL PERIOD

If there is a lease, which doesn't surpass the First Annual Period, and it ends following the second tax period, then the difference between the provisional calculation as explained above and the definitive computation of the output tax for the lease term, basing itself on the actual effective enjoyment and use throughout the full lease period a, is to be modified in the tax return for that tax period following that in which the lease ends.

7. THE COMPUTATION OF OUTPUT TAX OF LEASES WHICH ARE LONGER THAN THE FIRST ANNUAL PERIOD

Those leases which have a lengthier term than the First Annual Period, the chargeable output tax shall be computed as laid down hereunder. The “Subsequent Annual Period” refers to every number of tax period's covering 12 months following the First Annual Period. When referring to the First Annual Period and the Subsequent Annual Periods individually then they are referred to as an “Annual Period”, moreover when taken collectively, referred to as the “Annual Periods”.



- i. When the First Annual Period end and after every Subsequent Annual Period, the lessor has the obligation to acquire geographic data in order to compute the proportion between the actual effective enjoyment and use by the lessee of the pleasure boat inside and outside the EU territorial waters during the previous Annual Period;
- ii. The actual effective enjoyment and use of the pleasure boat within the EU territorial waters is divided by the total effective enjoyment and use of the pleasure boat both inside and outside the EU territorial waters throughout the previous Annual Period;
- iii. The computation attained under paragraph (ii) shall be applied as the “Actual Ratio” of effective enjoyment and use within the EU territorial waters. Such answer will also serve as a “Temporary Ratio” in order to establish the provisional effective enjoyment and use within the EU territorial waters. A “Provisional Output Tax” payment shall also be made for the following Annual Period/s;
- iv. The output tax shall be computed definitively for every preceding Annual Period, by multiplying the taxable value of the supplies by the Actual Ratio in accordance with the standard rate of VAT;
- v. The Provisional Output Tax shall be computed provisionally for every following Annual Period, by multiplying the taxable value of the supplies by the Actual Ratio in accordance with the standard rate of VAT;
- vi. Any changes in between the provisional output tax as computed either according to paragraph (v) or to number 4, and the total output tax as computed on the basis of the “Actual Ratio” in accordance to paragraph (iv), shall signify tax overpaid by that person or else tax due by that person, which tax shall be estimated in the tax return for the tax period subsequently to the end of the Annual Period or else in the tax return for the tax period ensuing that in which the lease period ends, whichever is the earlier.