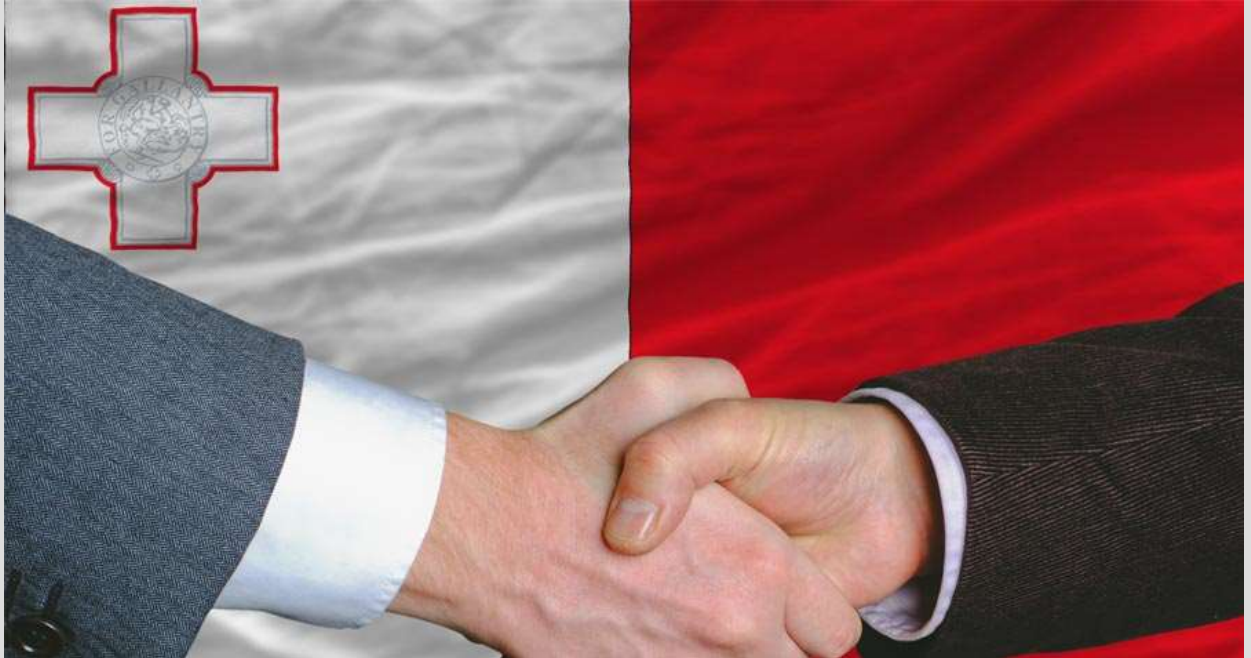


How to start Business in MALTA





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Introduction

1.1 GEOGRAPY – POPULATION – HISTORY

The Maltese Islands consist of the three inhabited islands; Malta (the largest), Gozo, and Comino, and the two uninhabited islets; Comminotto and Filfla.



Area: 122 sq mi (315 sq km)
 Population (2008 est.): 403,000
 Capital: Valletta

Malta is a small island located in the centre of the Mediterranean Sea approximately 93km south of Sicily and 288km North of Tunisia. The archipelago covers an area of 316 km² and consists of five islands, of which only Malta and Gozo are inhabited as such, with a population of just above of 400,000. The islands have played a vital role in the struggles of succession of powers for domination in the Mediterranean and have always been of strategic importance in the interplay between emerging Europe and the older cultures of Africa and the Middle East. The Maltese society has thus been moulded for centuries by foreign rule and various powers, including the Phoenicians, Romans, Greeks, Arabs, Normans, Sicilians, Swabians, Aragonese, Hospitalliers, French, and British.

As a result Malta has a mixture of Italian, Arab, British, and Phoenician heritage. About one-third of its total land area is arable, and Malta is self-sufficient in most food production. Tourism is Malta's major industry. As a Republic the President is the head of state with the prime minister as the head of government.

How to start Business in **MALTA**



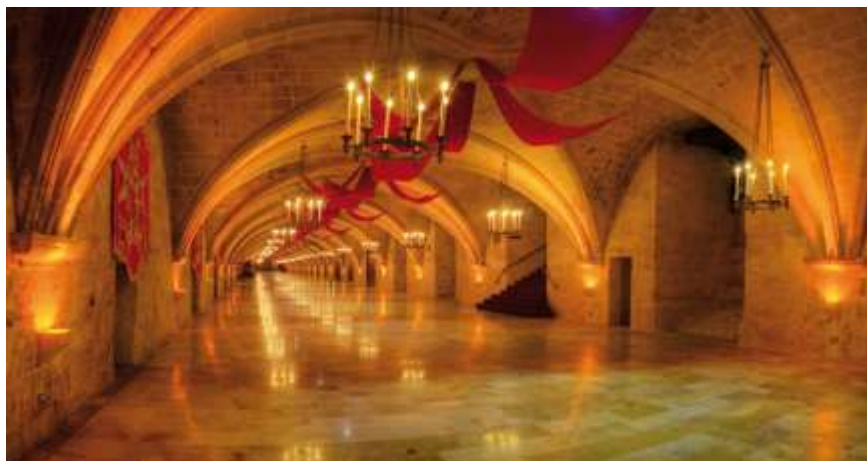
Evidence indicates that Malta was inhabited as early as 5000 BC by the Phoenicians, the Carthaginians who arrived in Malta by the 6th century BC and the Romans in 218 BC. In AD 60 St Paul the Apostle was shipwrecked on the Island and converted the inhabitants to Christianity. Malta remained under Byzantine rule until the Arabs seized control in 870. In 1091 the Normans defeated the Arabs, and Malta was ruled by a succession of feudal lords until the early 16th century. In 1530 it came under the control of the Hospitalliers (Knights of Malta). Napoleon seized control in 1798, and the British took it in the 1800. The 1802 Treaty of Amiens returned the islands to the Hospitalliers; however, the Maltese protested and acknowledged British sovereignty, which was ratified in the 1814 Treaty of Paris.

Malta became self-governing in 1921 but reverted to a colonial regime in 1936. Malta was heavily bombed by Germany and Italy during World War II, and in 1942 it received Britain's George Cross for "heroism and devotion," the first time that this medal was not conferred to an individual.

In 1964 Malta gained independence within the Commonwealth, and it became a republic in 1974. When its alliance with Britain ended in 1979, Malta proclaimed its neutral status. In 2004 it joined the European Union, and joined the Euro zone in 2008.

The weather and climate in the Maltese Islands is typically Mediterranean, similar to that found in southern Italy or southern Greece. Annual rainfall approximates 560mm and the average temperature is 18°C. Winters are generally mild and summers are very warm and dry.

The location of the Maltese islands has always been strategically attractive, as it is evidenced by its rich history of wars and conquests.



1.2 ECONOMY

Short of natural resources, Malta's main resource is its people. In the four decades since its independence, Malta's leaders have strived and laid the foundations for a sustainable economy based on tourism (2014 arrivals over 1.7m), industry and services. Until the mid-Eighties Malta's main core was tourism and manufacturing, using low wages and plentiful supply of labour available for those sectors. By the end of the Eighties, it was recognised that motivating, educating and training the workforce to increase highly qualified professionals would attract higher value added products and services to the island.

Malta GDP per capita, adjusted by purchasing power parity, stands at €26,930 and ranks in the 15th place in the list of EU countries in terms of purchasing power standard. Malta still relies heavily on tourism which contributes to approximately one fourth of the country's GDP. However, the island's focus on high value activities proved very successful in diversifying its economy which is evidenced by the growth of new industry sectors including i-gaming, pharmaceuticals, financial services and ICT (Information, Communication and Technology).

Malta boasts of a strong manufacturing base for high value-added products like electronics and pharmaceuticals. The manufacturing sector has more than 250 foreign-owned, export-oriented enterprises. Film production in Malta is another growing industry, despite stiff competition from other film locations in Eastern Europe and North Africa, with the Malta Film Commission providing support services to foreign film companies for the production of feature cinema, commercials and television series.

The island presents a highly interesting proposition to companies seeking the right location for their operations. Foreign investors are attracted by the modern business infrastructure, excellent telecommunications, highly skilled and educated English-speaking workforce together with other incentive packages available in Malta. Attracting foreign direct investment still remains a priority in the Maltese Government's agenda.

Business Entities and Compliance

2.1 SOLE PROPRIETORS

Several small businesses in Malta fall into this category. These also include highly qualified professionals practicing their profession such as certified public accountants, auditors, lawyers, consultants and lecturers.

Any person who undertakes a trading activity in his/her own name is required to register as a sole proprietor, irrespective whether such activity is being carried out on a full-time or part-time basis. The sole proprietorship requires the least formalities prior to commencing business operations as far as registration is concerned. The main risk of doing business through this method is that sole proprietors remain personally liable for their trading debts without limitation.

2.2 PARTNERSHIPS

A partnership registered in Malta may either be constituted as a general partnership or limited partnership.

General Partnership (*En Nom Collectif*)

Each and every partner has unlimited liability for the debts and obligations of the firm as a whole.

Limited Partnership (*En Commandite*)

One or more partners may act as a limited partner. Whilst the general partner has unlimited liability, limited partners have liability limited to the amount of their general contributions.

Partnerships are regulated by the Companies Act and the deed constituting the partnership is required to be registered with the Registrar.

2.3 COMPANIES

Companies in Malta are normally formed as private limited liability companies which is abbreviated as 'Ltd.'. In the case of public limited liability companies the abbreviation 'p.l.c.' is used after the name of the company.

The minimum authorised and issued share capital requirement for a private limited liability company is EUR1,165, which must be at least 20% paid-up. In the case of a public company the minimum authorised and issued share capital is EUR 46,590, which must be at least 25% paid-up.

Minimum number of directors is one for private companies and two for public companies. There are no restrictions on the nationality of the directors.

All Maltese companies must have a registered office in Malta.

2.4 BRANCHES AND SUBSIDIARIES

A foreign company may establish a place of business in Malta either in the form of a subsidiary or through a branch operation, referred to in the Companies Act as the Oversea Company.

Whilst a subsidiary is a normal company with a separate and distinct legal personality and subject to the general conditions applicable to other companies; a branch does not enjoy distinct legal personality. Branches registered in Malta do not have any share capital requirements.

An overseas company carrying business in Malta through a branch is required to register its branch with the Registrar of Companies in Malta, have a registered business address in Malta and appoint a Maltese resident person as its representative. The Maltese branch is therefore deemed as an extension of the foreign company into Malta.

2.5 REDOMICILIATION OF COMPANIES

The Companies Act allows companies incorporated or registered outside Malta to be continued in Malta without the need to be dissolved. Redomiciliation is conditional upon the laws of the foreign country having a specific provision allowing a body corporate incorporated therein to be continued in a foreign jurisdiction.

A foreign company which is successfully continued in Malta is deemed to be a company incorporated in Malta governed by the provisions of the Companies Act and subject to tax in accordance with the provisions of the Income Tax Act applicable to companies incorporated in Malta.

In view of detailed anti-abuse legislation adopted by high-taxed countries to legal persons incorporated in offshore jurisdictions, re-domiciliation to Malta may provide a practical solution to such companies to fall outside the scope of this legislation.

Income Tax Act allows for a revaluation of assets of a company being continued in Malta in the transition between one jurisdiction and another.

2.6 ACCOUNTING AND AUDIT REQUIREMENTS

Tax and VAT legislation require every form of business in Malta to maintain proper books of accounts. All accounting records and related documentation must be retained for a period of at least 10 years.

Sole proprietors and partnerships are required to prepare basic accounts for tax purposes only. The partners of a general partnership are required to report separately their share of profit in their individual tax return.

In general, Maltese Companies are required to prepare their full set of accounts in accordance with International Financial Reporting Standards approved by the board of directors on an annual basis. The accounts prepared by a Maltese company should be audited by a Maltese registered auditor. Companies which do not exceed a certain criteria mentioned in the Companies Act in relation to their balance sheet total, turnover and number of employees qualify as small companies. The Act exempts small companies from the requirement of auditing their annual accounts and from the requirement to prepare consolidated accounts. Notwithstanding this exemption the Inland Revenue Department requires the annual tax return to be supported by audited accounts irrespective of the size of the company.

Malta also caters for local financial reporting standards. The GAPSE, as the local standards are referred to and can be applied to companies depending on certain criteria.

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The accounts of a private company must be filed with the Registry of Companies within ten months from the end of the financial period. Those of a public company must be presented to the Registrar of Companies within seven months from the financial year-end. Where the financial period of a company is of a shorter or longer duration than the standard 12-month period, the period allowed to lay the accounts before the Registry of Companies is decreased or increased accordingly.

Companies have the option to file accounts in an abridged format with the Registrar of Companies. The format of such financial statements also depend on whether the status of the company is private or private exempt.

Licensed entities, such as funds, fund managers, insurance companies and other financial institutions have to do their filing with the Malta Financial Services Authority within four months from the year-end.



Working in Malta

3.1 WORKING LICENCES

Employees working in Malta who are not Maltese or EU nationals are required to apply for an employment licence. The licence application has to be endorsed by the prospective employer. EU nationals who intend to work in Malta should register with the Employment Training Corporation (ETC), the Social Service Department and the Tax Authorities, however less formalities are involved in this case.

In all cases an individual working in Malta must apply for a residence permit against which a Maltese identification card is issued.

3.2 EMPLOYMENT IN MALTA

Employment in Malta is regulated by the Employment and Industrial Relations Act. The Act embodies various provisions to protect against discrimination, victimisation and unfair dismissals but in general provides an equitable balance between the employer and the employee in various circumstances.

No employee may be taken without a contract of employment, but this may take the form of a simple letter with the basic details. Contracts may be for a fixed duration or indefinite. Employers are required to register their new employees with the ETC. There is an initial probationary period of at least 6 months for indefinite contracts unless both parties agree for a shorter period. Definite contracts have no probationary period unless the contract stipulates otherwise.

During the probation period any party may terminate the relationship without the need to provide for any reason. Notice of termination must be done in writing and the law provides for a termination period to be completed by the employee, which escalates according to the time the employee has been working with his employer.

3.3 SOCIAL SECURITY CONTRIBUTIONS

Social security contributions must be paid by both the employee and the employer. The contributions are, apart from certain exceptions, calculated on the basis of 10% of the basic weekly wage. In most cases the employer pays a contribution equal to that of the employee.

Sole proprietors are required to pay social security contributions for the year based on the net profit of the previous year. This is calculated at 15% on the net operating profit.

Both in the case of employed and self-employed individuals the rates provide for a minimum and a maximum contribution.

<https://ird.gov.mt/services/sscrates.aspx>

Taxation

4.1 INDIVIDUALS TAXATION

Individuals are taxed on a progressive rate basis. Various scales apply depending on the status of the tax payer.

<https://ird.gov.mt/services/taxrates.aspx>

Tax is paid and collected on a 'pay as you earn' system referred to as the Final Settlement System (FSS). Employees' taxes are settled by the employer on a monthly basis. Self-employed individuals have to make provisional tax installments every four months. Any underpayments that might be due are to be settled by June of the following year.

4.2 TAXATION OF PARTNERSHIPS

General Partnership (En nom Collectif)

A general partnership is treated as transparent flow-through entities for tax purposes. The income derived by the partnership is attributed directly to the partners who are subject to tax at the individual rates of tax. Non-resident partners are consequently not subject to tax in Malta.

Limited Partnership (En commandite)

A limited partnership can be treated as a company for tax purposes if its capital is divided into shares. The income derived by this type of partnership is subject to tax at the corporate income tax rate.

If the company status is not applied an LP is still considered as a transparent entity.

4.3 CORPORATE TAX

Companies incorporated in Malta

A company incorporated in Malta is deemed to be resident and domiciled in Malta therefore subject to tax in Malta on a world-wide basis.

Companies incorporated outside Malta

A company incorporated outside Malta which is managed and controlled in Malta is considered to be resident for tax purposes in Malta and therefore taxable on income derived from its operations in Malta or remitted to Malta. Capital gains arising outside Malta are not subject to tax in Malta even if such gains are remitted in Malta.

Non-resident companies

Companies which are incorporated outside Malta and which are not managed and controlled in Malta are subject to tax only on their income arising in Malta.

Taxation of Branches

Branches are subject to tax only on income arising in Malta. All profits derived by a Maltese branch is subject to tax at the corporate income tax rate. According to double tax treaties income of the branch is determined as though the branch is a separate entity dealing at arm's length with the foreign company.

Chargeable income

The accounting profits adjusted in accordance with the requirements of the Income Tax Act are used as a basis to determine the chargeable income. Only certain capital gains are subject to tax in Malta. Such gains are not taxed separately but added to the other income of the company and charged to tax at the normal corporate income tax rate. One can opt for a final withholding tax payment on the transfer of immovables.

Corporate tax rate

The corporate income tax rate in Malta is 35%.

4.4 TAX ACCOUNTS AND THE FULL IMPUTATION SYSTEM

Tax law outlines detailed rules in respect of tax accounting. Income and gains derived by the company have to be allocated to the appropriate tax account:

- a) *Final Tax Account*: Income which is not subject to further tax at the level of the company
- b) *Immovable Property Account* - Income which is derived directly or indirectly from immovable property situated in Malta
- c) *Foreign Income Account* - Income which arises outside Malta and subject to tax in Malta
- d) *Malta Taxed Account* - Income which is deemed to arise in Malta and subject to tax in Malta
- e) *Untaxed Account* – Any difference between income allocated to the taxed accounts listed above and accounting profits/losses is allocated to this tax account.

Malta operates a full imputation system of taxation. Under the full imputation system when a company pays a dividend, the tax suffered by a company on the distributed profits is imputed and credited against the shareholders' tax liability. Therefore, if an individual shareholder falls to be charged at tax rate lower than that suffered by the profits distributed by way of dividend, that shareholder would be entitled for a refund on the tax overpaid. Certain limitations apply.

4.5 RELIEF FROM DOUBLE TAXATION

Where foreign income is subject to Malta tax, the tax payable in Malta may be reduced at source by virtue of Double Tax Treaties with Malta and other available relief for double taxation inherent in Maltese tax law.

Double Tax Treaties (DTT):

Malta has an extensive network of double taxation agreements, with well over 60 different countries. This relief depends on the treaty signed between Malta and the country from which the foreign income is derived. All Malta's DTTs, provide for a reduced or an exemption from withholding tax on certain types of income paid to a resident of Malta. <http://www.mfsa.com.mt/pages/viewcontent.aspx?id=196>

Unilateral Relief:

Malta domestic law provides for relief on a unilateral basis for taxes suffered abroad on profits attributable to a Maltese company. This relief is limited to the amount of Malta tax that would have been due on these profits had they arisen in Malta. Relief for underlying tax also extends to situations where there is a chain of successive dividends from company to company. A proof of the tax suffered abroad together with its basis of computation is required.

Flat Rate Foreign Tax Credit (FRFTC):

The FRFTC assumes that the foreign income has been subject to tax at the rate of 25%, irrespective of whether tax has actually been levied in the country of source. Such type of relief is calculated on the net income received from abroad and may be availed of by a Maltese company only if the following conditions are fulfilled:

- The company is specifically empowered by its Memorandum and Articles of Association to receive income which stand to be allocated to the foreign income account
- A local auditor's certificate stating that the income falls to be allocated to the Foreign Income Account

Net Income received from abroad (FIA)	100.00
FRFTC Gross-up	25.00
Chargeable Income	125.00
Corporate Income tax @ 35%	43.75
FRFTC	(25.00)
Malta tax payable	18.75

4.6 TAX REFUNDS

The Maltese tax legislation as reformed with effect from 1st January 2007 provides that whenever a Maltese company distributes a dividend out of profits allocated into the foreign income account and the Maltese taxed account, the recipient of that dividend is entitled to claim certain refunds of tax paid by the Maltese company. The extent of this refund depends on the stream of income and various other conditions. The Shareholder may claim one of the following refund of tax:

Six-sevenths refund

The general refund amounts to 6/7ths of the ACIT (Advanced Company Income Tax), being the tax as calculated by Maltese law for these purposes.

Five-sevenths refund

Where the dividend is paid out of income received by the Maltese company in respect of its participation holding/s, the shareholder is entitled to a full refund of the tax paid in Malta

Two-Thirds refund

Where the dividend is paid out profits allocated to the Foreign Income Account and on which any form of double tax relief has not been claimed, the shareholder's entitlement to the refund is reduced further to 2/3 (two-thirds) of the tax paid in Malta.

Full refund

Where the dividend is paid out of income received by the Maltese company in respect of its participation holding/s, the shareholder is entitled to a full refund of the tax paid in Malta.

Except for certain instances as provided in the Maltese Tax Legislation, any refunds paid are not subject to further tax in Malta.

	6/7ths refund	5/7ths refund	2/3rds refund with FRFTC
Income	100.00	100.00	100.00
FRFTC @ 25%	-	-	25.00
Chargeable Income	100.00	100.00	125.00
CIT @ 35%	35.00	35.00	43.75
FRFTC	-	-	(25.00)
Malta Tax	35.00	35.00	18.75
Tax refund	30.00	25.00	12.50
Net tax exposure	5.00	10.00	6.25

4.7 TAXATION OF HOLDING COMPANIES

Participating Holding

A participation held by a Maltese company in a non-resident company qualifies as a participating holding if one of the following conditions is met;

- Owns 10% or more of the equity shares in the non-resident company
- Has the option to acquire the remaining balance of the equity shares in the non-resident company
- Is entitled to first refusal in the event of the proposed disposal, redemption or cancellation of the remaining balance of the equity shares in the non-resident company
- Is entitled to sit on the Board of the non-resident company
- The investment in the non-resident company amount to EUR 1,164,700 and is held for an uninterrupted period of at least 183 days
- The holding of shares in the non-resident company is for the furtherance of the business and the shares are not held for trading purposes

Participation exemption

Dividends and capital gains derived from a participating holding are 100% exempt from tax in Malta.

Anti-abuse provisions

Dividends derived from a participating holding are subject to a participation exemption only if the non-resident fulfils one of the following conditions:

- It is resident or incorporated in a country or territory which form part of the European Union;
- It is subject to any foreign tax of at least fifteen per cent (15%);
- It does not have more than fifty per cent (50%) of its income derived from passive interest or royalties

Other conditions may be fulfilled if the non-resident company does not satisfy at least one of the above.

Other salient features on the taxation of holding companies in Malta

- Capital gains exemption on the disposal of shares in the holding company
- Exemption from stamp duty on the disposal of shares in the holding company
- No withholding tax on outbound dividends, interest and royalty payments
- No thin capitalization rules in Malta
- Tax refunds on income from participation which does not qualify as a participating holding

4.8 INCENTIVES UNDER THE MALTA ENTERPRISE ACT

Malta Enterprise is enabled by the Malta Enterprise Act to support the development of enterprises in Malta. Malta Enterprise has developed a new set of incentives for the promotion and expansion of industry and the development of innovative enterprises.

Malta Enterprise provides incentives for foreign direct investors and local enterprises demonstrating commitment towards growth and increase in value added and employment. Enterprises engaged in manufacturing, ICT development activities, Call Centers, Healthcare, Pharmaceuticals, Biotechnology, among others, may benefit from these incentives.

Various incentives are launched from time to time covering various business areas providing for:

- Support to undertakings investing in product quality development.
- Support in education and training programs.
- Support new investment projects by subsidizing loan interest rate.
- Support by loan guarantees in the acquisition of capital assets.
- Support via investment aid tax credits.
- Support to enterprises on job creation.
- Support to studies in research and development of innovative products and solutions.
- Support on royalty income from licensing of patented knowledge.

Incentives apply to qualifying enterprises and eligible expenditure which must be approved by the Malta Enterprise.

4.9 VALUE ADDED TAX

Malta's Value Added Tax Act has been radically amended as of the 1st of May 2004, being the day of Malta's accession to the EU. Except for exceptional cases, any person engaged in an economic activity as defined in the Act is required to register for VAT purposes. The type of registration varies and depends on whether the registrants exceed the thresholds applicable to their economic activity.

The standard VAT rate in Malta is that of 18%, whereas the reduced VAT rates are 7% and 5%.

Certain type of accommodation, as specified by the Malta Travel and Tourism Act, attract VAT at 7%, whereas items at the reduced rate of 5% include the supply of electricity, specific confectionery and similar items, printed matter, works of art and collectors' items, and medical accessories including items for the exclusive use of the disabled.

Exempt transactions are divided into exempt with credit and exempt without credit. Exempt with credit transactions (i.e. input tax may be claimed) include exports, intra-community supplies, international transport, brokerage, supplies of sea vessels and aircrafts, supply of food (excluding catering) and pharmaceuticals. Exempt without credit transactions (i.e. input tax may not be claimed) include certain letting of immovable property, insurance services, credit and banking services, cultural, religious and sports activities, postal services, education, health and welfare, the supply of water and lotteries.

Pleasure Yachts VAT incentives

There is a specific scheme on the VAT treatment of yachts which are lease-purchased to third parties by a Maltese Company. Under this scheme, a financial leasing agreement of a pleasure craft is an agreement whereby the lessor (being the Maltese company as owner of the craft) leases the craft to a third party (the lessee) with an option in favour of the lessee to purchase the craft at a fraction of the price at the end of the lease. The Maltese VAT Department established that when a Maltese company buys a pleasure yacht and lease-purchases it to third parties, than VAT is due on the lease at the normal rates of VAT in Malta, i.e. at 18% because it is a supply of a service deemed to be supplied in Malta. However, following the use and enjoyment rules, VAT is only payable on that portion of lease during which the yacht is in EU waters. Since it is very difficult to establish this with precision, the Department has issued guidelines of a presumed length of stay in EU waters based on the size and type of the craft. This drastically reduces the effective rate of VAT charged in Malta, close to 5.4%.

