



## YACHT: Malta VAT Lease Scheme

### Brussels gives Malta new warning on yachts VAT rules

European Commission says Malta system to charge VAT on estimation that large yachts spend more time outside EU waters must change!

The European Commission has sent Malta an additional letter of formal notice for using an incorrect method of calculating VAT on the lease of yachts.

Following an initial letter of formal notice – a first warning – on 8 March 2018, Malta modified its laws to align it with the necessary requirements under EU law.

But these new national rules are still not completely in line with EU law, the Commission said.

Malta uses a “distance-based” method when calculating the effective use and enjoyment of a yacht outside the EU, so as to attract yacht owners to register their boats in Malta without being charged VAT when they use the boat outside of EU waters.

“EU rules do not allow such a method to be used but require the use of a timebased method. The Commission is now sending a complementary letter of formal notice to Malta in order to ensure full compliance with EU law. Without a satisfactory response within two months, the Commission may decide to address a reasoned opinion to Malta.”

If the Commission concludes that the country is failing to fulfil its obligations under EU law, it may send a reasoned opinion: a formal request to comply with EU law. It explains why the Commission considers that the country is breaching EU law. It also requests that the country inform the Commission of the measures taken, within a specified period, usually two months.

If the country still doesn't comply, the Commission may decide to refer the matter to the Court of Justice. Most cases are settled before being referred to the court.

The Paradise Papers and Malta Files had revealed widespread VAT evasion in the yacht sector, facilitated by national rules which do not comply with EU law.

Malta uses a system where the larger the boat is, the less the lease is estimated to take place in EU waters, a rule which greatly reduces the applicable VAT rate.

Maltese laws currently classify the leasing of a yacht as a supply of a service rather than a good. This allows yacht owners to transfer the property to another company they own, and then lease the yacht only when they use it. This results in VAT only being levied at the standard rate on a minor amount of the real cost price of the craft once the yacht has finally been bought, the rest being taxed as the supply of a service and at a greatly reduced rate.

Please feel free to contact us in case of any needs!

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