

New Cyprus Yacht Leasing Guidelines

On 22 March 2019, the Cyprus Tax Authority issued a circular outlining the way leasing of pleasure yachts will be taxed going forward and the procedure to be followed in relation to the VAT registration of companies engaged in the leasing of pleasure yachts.

The circular applies to leases commencing on or after 22 March 2019 and offer owners and lessees solid workable solutions.

The previous guidelines which applied since 13 March 2012 in Cyprus relating to the VAT treatment of yacht leasing ceased to apply towards the end of last year.

The new circular aims to introduce new procedures which are compliant with EU and Cypriot law and ECJ jurisprudence as well as industry practice. It is also in line with guidance received from the European Commission.

The new circular determines the manner in which the use and enjoyment provisions of Article 59a of the EU VAT Directive will be applied going forward. It provides that the use and enjoyment of the yacht will be determined by reference to the distances travelled and not by reference to the type and size of the yacht which was the method followed in the past.

A. Determination of use and enjoyment of the yacht

If at the time of VAT registration the company cannot provide sufficient details of the place that the leasing services are expected to be used and enjoyed, the Commissioner may at his discretion, using the best of his abilities, predetermine the percentage of use and enjoyment within the EU.

A specific statement needs to be signed by the Director of the company in order to confirm the predetermined rates of use and enjoyment and the terms that will apply during the period that the company will be registered for VAT purposes, which cannot be shorter than 6 years.

If the length of the yacht is 20 meters or more, the company should provide details to the Tax Authority in relation to the lease and sail of the yacht every 6 months. The Commissioner can proceed with a new calculation of the VAT due if details regarding the use of the yacht deviate from the predetermined rates at any point in time (during the 6-year registration period).

No input VAT on running expenses of the yacht can be claimed by companies that use the predetermined rates for any operating expenses incurred in the course of running the leasing business.

B. Registration for VAT purposes

The taxpayer needs to register by submitting the relevant registration forms to the district tax office together with all supporting documents relating to his intention to carry out this type of business, as is done by all taxpayers wishing to register for VAT purposes.

Specifically, the following documents need to be submitted:

- (a) A copy of the lease agreement (if the business will operate based on the details of a single contract) or any other agreements signed with prospective customers;
- (b) A document which describes in detail the procedure to be implemented for keeping the logbook (if kept manually) or for operating a geotracking system.

The Director of the company must sign a statement agreeing that the registration of the company will be under probation for at least 6 months (can be extended up to the maximum of 1 year). During this period, the Commissioner has the authority to deregister the company, taking into account any new information that may arise, in order to protect the public revenue. In this case, the company will be obliged to account for VAT on the value of the pleasure boat at the standard rate of VAT.

If a lease agreement provides to the lessee the option to purchase the pleasure yacht at any point during the lease period, the Commissioner may reject the contract on the basis that the contract relates to supply of goods and not supply of services.

C. Conditions for VAT registration

The following conditions need to be satisfied in order for the VAT registration to be successfully completed:

- (a) A guarantee payment, based on the value of the pleasure yacht, is required on the registration date (cannot exceed 3% of the value of the pleasure yacht).
- (b) A document should be submitted in order to determine the value of the yacht at the time of the registration. If the yacht is new, its value should be verified by the purchase invoice. If the yacht is second hand, its value should be verified by a formal valuation certificate.
- (c) The company should remain registered for VAT for at least 6 consecutive years and submit VAT returns (even if the total VAT due has been paid).
- (d) The yacht should be put at the disposal of the lessee in the Republic. The lessee, who can be established within or outside the Republic, should be a physical person that does not lease the yacht for business purposes.

D. VAT deregistration

In case the company ceases to be engaged in the leasing activity and/or becomes deregistered from VAT at any point prior to the lapse of a 6-year period from registration, this will result in the imposition of VAT at the prevailing standard rate on the replacement value of the yacht at that date.

E. Other taxes

(a) For income tax purposes, the income tax due will be calculated in accordance with the Income Tax Law or based on any other methodology that may be determined by the Commissioner at the time of the company's registration.

(b) For non-Cyprus flagged vessels, the lease contract is subject to stamp duty. The value of the lease will be calculated based on the value of the vessel, its operating expenses and the expected profit of the company.

Way forward: how PwC can help you

Our team of indirect tax specialists is at your disposal to discuss the above developments with you and offer support.

Your contacts for Indirect Tax matters in PwC Cyprus



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