

Cyprus Yacht Leasing Scheme – New Regime



PKE Consultants Limited

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Introduction

The Cyprus Tax Department on 29 October 2019, released the Interpretative Circular 238 (VAT Tax), referring to the registration, in the VAT Registry, of Cypriot companies which operate in the business sector of leasing pleasure yachts (recreational boats) in Cyprus.

The aforementioned Circular applies to leases commencing from 29 October 2019 and after, introducing new procedures, which are in compliance with the European and Cypriot Law and most importantly are approved by the European Commission.

More specifically, the new circular provides that the use and enjoyment (provisions of Article 59a of the VAT Directive 2006/112/EC) of a yacht, will be determined by reference to the distance travelled.

According to the said Circular:

1. The legal entities (companies) which operate in the business sector of leasing pleasure yachts in Cyprus shall be registered in the Cyprus Tax Department (possessing a valid Cyprus VAT identification number), only in case there is appropriate evidence which justifies such business activity.
2. For the determination of the place of supply of those services and specifically that the supply of the said services is taking place outside the European Union (EU), the provisions of paragraph three (3) of the Thirteen Schedule of the Cypriot Value Added Tax ('VAT') Law of 2000 (Law 95(I)/2000), as amended, shall be applied. The aforementioned provisions are similar with article 59a of the VAT Directive 2006/112/EC. In addition, the lessor shall maintain detailed and sufficient evidence on the base of which the percentage of the use and enjoyment of the yacht outside or within the EU will be calculated, provided that the evidence is confirmed by the Bridge/Dock book or by the yacht geotracking system, which tracks her movement.



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Use and Enjoyment

For the sake of consistency and clarity, the use and enjoyment rules ensure that services are taxed where the service is used and enjoyed, preventing the double taxation, non-taxation or distortions of competition. These provisions ensure that the place of the supply of a service is where the service is actually used and enjoyed.

In other words, where the supply of relevant services would be regarded as made in Cyprus but the effective use and enjoyment of those services is outside the EU, the supply is deemed to be outside of the EU. Conversely, where the supply of relevant services would be regarded as made outside the EU but the effective use and enjoyment of the services is in Cyprus, the place of supply is deemed to be Cyprus.

- Given that the legal entity (company) which operates in the business sector of leasing pleasure yachts in Cyprus is registered in the Cyprus Tax Department, the Commissioner of Cyprus Tax Department taking into account all relevant evidence provided by the lessor, may, for the purposes of the protection of the public revenue, request the payment of the whole amount of VAT, which is based on the market value of the pleasure yacht on the date of its acquisition or its importation in the Republic. Once the relevant evidence is placed before the Commissioner of the Cyprus Tax Department, explicitly confirming the use of the pleasure yacht outside the EU, the Commissioner shall proceed, at a subsequent stage, to the appropriate adjustments derived from the provisions of the VAT Law.
- However, in order to proceed to such appropriate adjustments, the Commissioner must firstly confirm that the yacht is effectively used for the purposes of commercial activity. Furthermore, apart from the relevant log books and files which have to be kept, it is also compulsory for the lessor to keep a Bridge/Dock book (if kept by hand), otherwise there must be an ongoing geotracking system of the yacht, tracking her movement.
- Under no circumstances may a company be registered in the VAT Registry of Cypriot companies which operate in the business sector of leasing pleasure yachts, on the basis of pre-determined fixed percentages of the use and enjoyment of a pleasure yacht, within or outside the EU.

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