

Department of Contracts
Notre Dame Ravelin
FLORIANA

To Permanent Secretaries
Directors General
Directors
Heads of Public Sector Organisations

21 February 2024

OBLIGATION TO DECLARE DIRECT IMPORTS AND EXPORTS TO AND FROM THE EUROPEAN UNION

In 2021, through Contracts Circular N° 06/2021, the Department of Contracts, as part of its regulatory role, in liaison with the National Statistics Office (NSO), reminded all Contracting Authorities¹ / Entities² of their legal obligation in respect of the Declaration of Direct Imports and/or Exports to and from the European Union (EU) as established in the Subsidiary Legislation 406.08, Value Added Tax (Collection of Supplementary Information), L.N. 105 of 2008.

Accordingly, Contracting Authorities / Entities involved in imports / exports, when applying the VAT³ reverse charge, should have an MT VAT number. In fact, the regulation obliges that all VAT-Registered⁴ Contracting Authorities / Entities provide all relevant information in the Intrastat Supplementary Declaration System which is accessible through <https://intrastat.nso.gov.mt/>.

To this end, Contracting Authorities / Entities are reminded that when carrying out a Procurement / Concession Procedure which involves the Direct Import and / or Export of Goods / Supplies to and from an EU Member State, the legal responsibilities necessitate the provision of Supplementary Information through the Intrastat Form in line with

¹ Contracting Authorities in S.L. 601.03 and in S.L. 601.05 are defined as the 'State, regional or local authorities, bodies governed by public law or associations formed by one or more such authorities or one or more such bodies governed by public law'. Contracting Authorities in S.L. 601.09 are defined as per S.L. 601.03 with the additional inclusion of ... 'other than those authorities, bodies or associations which pursue one of the activities referred to in Schedule 4 and award a concession for the pursuit of one of those activities'.

² Contracting Entities in S.L. 601.05 are entities which: (a) are contracting authorities or public undertakings and which pursue one of the activities referred to in regulations 8 to 14; (b) when they are not contracting authorities or public undertakings, have as one of their activities any of the activities referred to in regulations 7 to 13, or any combination thereof and operate on the basis of special or exclusive rights granted by a competent authority. Schedule 4 of S.L. 601.09 also makes reference to the activities exercised by Contracting Entities.

³ VAT means Value Added Tax.

⁴ Contracting Authorities/Entities may use the VIES website https://ec.europa.eu/taxation_customs/vies/vatResponse.html to check whether the VAT number is valid for Intra-Community Trade.

Regulation 3⁵ of S.L. 406.08 which specifically relates to a ‘System of Collection of Supplementary Information’.

Contracting Authorities / Entities are reminded to adhere to the relevant processes and instructions emanating through the Commissioner for Revenue, including the need to register for a Value Added Tax (VAT) Number if such is not yet available.

Furthermore, in support to Regulation 3 of S.L. 406.08, Contracting Authorities / Entities may wish to refer to Article 7 (Parties Responsible for Providing Information) of Regulation EC 638/2004 titled ‘Community Statistics relating to the Trading of Goods between Member States’.

Compilation of the Intrastat Supplementary Declaration System

The NSO has an organised approach that allows for the proper management of the Collection of Supplementary Information. From time to time, as necessary, the NSO updates the process to enhance efficiency.

To this effect, Contracting Authorities / Entities importing / exporting Community Goods directly from / to countries in the European Union are reminded to use the online Intrastat Supplementary Declaration System (<https://intrastat.nso.gov.mt/>) to declare any Import / Export from / to the EU Countries only (including Northern Ireland). Declarations for Imports are labelled as ‘New Arrival’ whereas Declarations for Exports are labelled as ‘New Dispatch’. Such a Declaration shall be submitted in the same month of the acquired Imports and / or Exports.

If Contracting Authorities / Entities do not have an Intrastat Account, the submission of the Declaration shall be preceded by a Registration for an Intrastat Account. In such instances, Contracting Authorities / Entities are required to fill in the form (downloadable from: <https://nso.gov.mt/wp-content/uploads/Intrastat-Supplementary-Declaration-updated-2.pdf>) and send it by email to intrastat@gov.mt. It is important to note that, once the account is created, it must be activated within 48 hours.

⁵ Regulation 3 of S.L. 406.08 states: ‘(1) A system for the collection of supplementary information is hereby being established and shall compile all statistics relating to the trading of goods between Malta and other Member States. (2) All persons who trade in Community goods between Malta and the other Member States shall be required to submit supplementary information relating to the goods being traded as may, from time to time, be required. (3) All Community goods traded between Malta and the other Member States shall be subject to the submission of supplementary information as required by these regulations: Provided that goods shall be considered as moving between Malta and the other Member States even if in so doing they cross the external frontier of the Community and whether or not they subsequently enter the territory of a non-Member State. (4) The supplementary information required for the purposes of the system of collection of supplementary information shall be stipulated by the Commissioner [for Revenue] in an apposite format and shall be submitted by the persons responsible, or their authorised agent, in periodic declarations.’

Further to an internal review exercise, the NSO notes that the Supplementary Declaration System is not regularly updated by Contracting Authorities / Entities. Thus, it is important that, with immediate effect, Contracting Authorities / Entities shall complete the required back-dated information on imports (and exports if applicable) of Goods / Supplies that took place between 2018 and 2023 from / to the EU. With regard to any imports (and exports, if applicable) that took place / shall take place between January and March 2024 shall be updated by no later than 31 March 2024.

Thereafter, as of 01 April 2024, Contracting Authorities / Entities shall commit to fill-in the Supplementary Declaration System in the same month when the imports / exports took place to obtain real time information.

Applicability of Imports / Exports on the Intrastat Supplementary Declaration System

The NSO wishes to bring to the attention of Contracting Authorities / Entities affecting any Direct Import and / or Export of Goods / Supplies that this activity is indeed considered as conducting a Business-to-Business Transaction. Therefore, when Contracting Authorities / Entities make Online Purchases, such Import / Export from / to the EU Member States shall be declared on the Intrastat Supplementary Declaration System, in particular when the Economic Operator's / Supplier's Invoice bears an Invoice with an EU (non-Maltese)⁶ VAT Number.

Furthermore, Contracting Authorities / Entities are to take note that when carrying out a Procurement / Concession Procedure which involves the Direct Import and / or Export of Goods / Supplies to and from *non-EU Countries*, such purchases should not be declared in the Intrastat Supplementary Declaration System.

Additional Information

For additional information on the Intrastat Supplementary Declaration System, Contracting Authorities / Entities are encouraged to read through the various guidelines and notes provided via https://nso.gov.mt/wp-content/uploads/Intrastat-Declaration-System-Presentation_V5.pdf.

The obligations stemming from S.L. 406.08 (and any applicable exclusions), which fall under the Commissioner for Revenue, may be reviewed on MJR's⁷ website, specifically through <https://legislation.mt/eli/sl/406.8/eng>.

⁶ Example – Purchases from Amazon.com: If the Amazon.com invoice bears an EU VAT number, such imports / exports are to be declared on the Intrastat Declaration System. However, if the Amazon.com invoice bears a Maltese VAT number, then an Intrastat Declaration should not be submitted.

⁷ MJR: Ministry for Justice and Reform of the Construction Sector.

The full provisions relating to Regulation EC 638/2004 may be viewed through <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32004R0638&from=EN>.

For any information and resources regarding ITGS (International Trade in Goods Statistics) one may visit https://nso.gov.mt/international_trade_in_goods/.

Contact

Contracting Authorities/Entities are encouraged to submit any queries to the National Statistics Office on intrastat@gov.mt or +356 2599 7161-8. Alternatively, one may contact directly Mr Joseph Galea, Head of the International Trade Statistics Unit on +356 2599 7164.

In addition, one may also seek generic assistance from the Department of Contracts' Customer Care service on info.contracts@gov.mt or +356 2378 1001.

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