

Global Maritime Clusters – Competitive
Advantages & Business Development
Opportunities (Malta)

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Arrest of Vessels

How to proceed following the arrest

Arrest of Vessel in Malta

- Fast
- Cost Effective
- Tried and Tested

Judicial Sale by Auction

- Clean Title
- Public Auction
- Court Procedure

Court Approved Sale

- Clean Title
- Private Negotiations
- Court Application

Arrest of Vessels

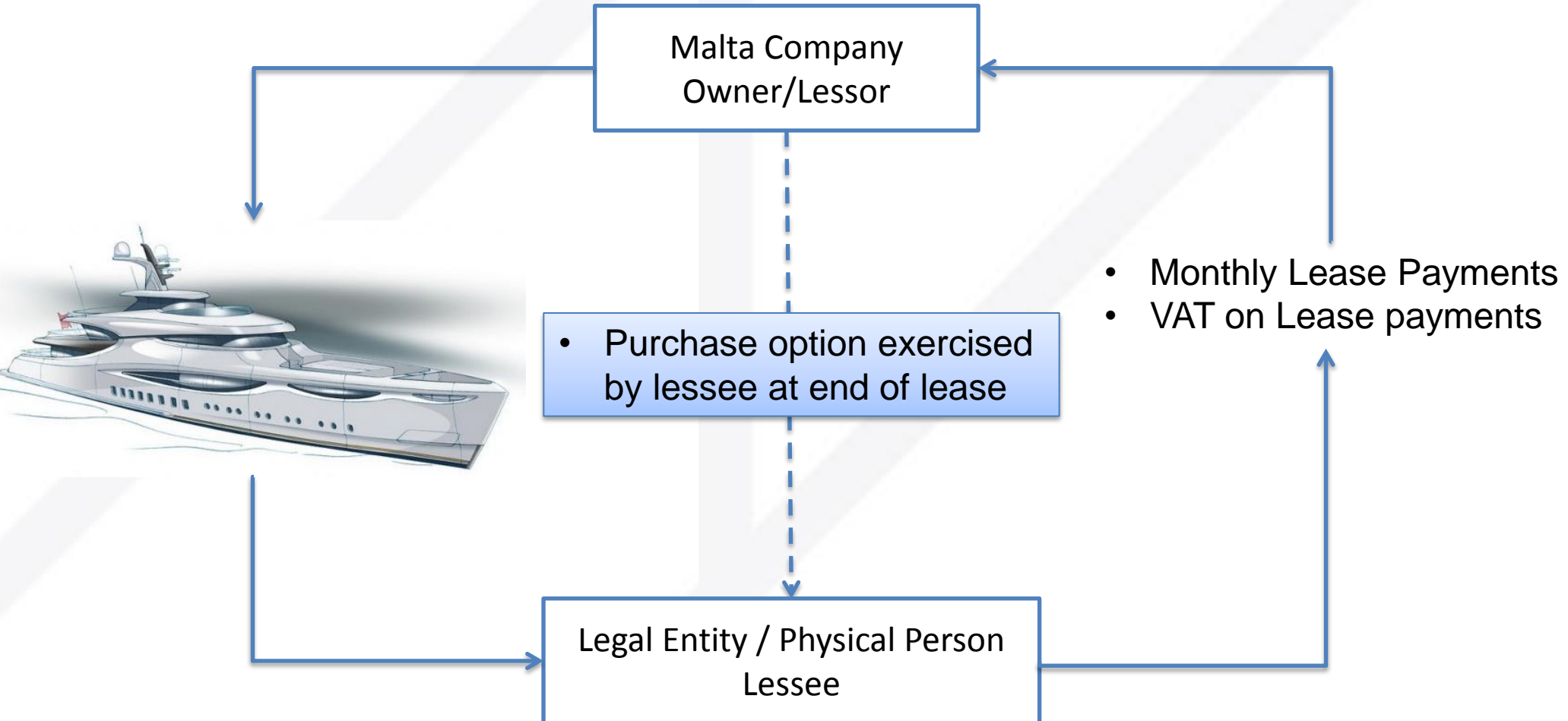
- A ship may be arrested:
 - If the ship is physically in Maltese territorial waters;
 - irrespective of the flag the ship flies;
 - subject to overall length of the vessel exceeding 10 metres;
 - if the claim for which the ship is arrested is worth a minimum of €7,000
- Article 742B of the COCP provides a very extensive list of maritime claims based on English Statute Law and the Arrest of Ships Conventions of 1952 and 1991.
- Designed to incorporate the benefits of a Judicial Sale by Auction and those of a Private Sale.

Arrest of Vessels

- For a Court Approved Private Sale to proceed, a creditor would need to:
 - Find a private buyer at an agreed price equal or greater than two previously obtained valuations by reputable valuers;
 - Submit a Court application exhibiting all documentation and substantiating benefit to all parties by proceeding with the sale.

Yachting

VAT TREATMENT OF YACHT LEASING



VAT TREATMENT OF YACHT LEASING

Eligibility Criteria

- the leasing agreement must be between a Maltese company and any Maltese or foreign person or company;
- the lease cannot exceed 36 months and instalments must be payable every month;
- prior approval must be sought in writing from the Commissioner of VAT;
- the Commissioner of VAT may require the lessor to submit details regarding the use of the boat.
- the yacht must call at Malta at the beginning and at the end of the lease / sale of the yacht.

VAT TREATMENT OF YACHT LEASING

Type of Yacht	% of Lease subject to VAT	Effective Rate of VAT
Sailing boats or motor boats over 24 metres in length	30%	5.4%
Sailing boats between 20.01 to 24 metres in length	40%	7.2%
Motor boats between 16.01 to 24 metres in length	40%	7.2%
Sailing boats between 10.01 to 20 metres in length	50%	9%
Motor boats between 12.01 to 16 metres in length	50%	9%
Sailing boats up to 10 metres in length	60%	10.8%
Motor boats between 7.51 to 12 metres in length (if registered in the commercial register)	60%	10.8%
Motor boats up to 7.5 metres in length (if registered in the commercial register)	90%	16.2%
Craft permitted to sail in protected waters only	100%	18%

VAT TREATMENT OF YACHT LEASING

Where leasing arrangements of yachts is deemed by the Commissioner of VAT to be in accordance with guidelines issued by the VAT department, the Inland Revenue Department requires the following tax treatment to be adopted for each year for the duration of the lease:

- a) the lessor is charged to tax only on the annual finance charge, namely the difference between the total lease payments less the capital element divided by the number of years of the lease;
- b) the lessee is allowed a deduction in respect of the (i) the finance charge; (ii) maintenance; (iii) repairs; and (iv) insurance;
- c) the lessee is allowed capital allowances in respect of the yacht and the parties may not opt to shift the burden of wear and tear onto the lessor;
- d) where the lessee exercises an option to purchase the yacht on the termination of the lease, the purchase price received by the lessor shall be considered to be of a capital nature and no tax thereon shall be payable by the lessor.

Mortgage System

Mortgages

- In the event of default on the part of the mortgagor, the mortgagee may simply serve written notice on the mortgagor, take possession of the ship and proceed with any one of the following courses of action:
 - the private sale of the ship or any share/s therein; or
 - file an application with the Civil Courts in Malta for the judicial sale of the vessel; or
 - file an application with the Civil Courts in Malta for a court approved sale.
- A mortgage is an executive title under the Maltese Law and can be enforced upon default without the need for a special judgment.
- In case of unilateral deletion of a vessel from the register the vessel shall cease to be a Maltese ship and the registry of the ship shall be considered as closed except so far as relates to any unsatisfied mortgages or privileges entered therein.

Finance Leasing Structures

Malta's Legislation

- Merchant Shipping Act allows for a certificate of registry to be issued in the name of the charterer or lessee;
- The lease agreement will not be publicly available;
- Civil Code provides that the lease of a ship or rights thereunder, shall be immediately dissolved or terminated by the lessor (or mortgagee who shall be deemed to have such power unless expressly waived) at any time in the event of a default and upon notice in writing to the lessee, notwithstanding the opposition by the lessee, without the need of any authorisation or confirmation by any court that an event of default has taken place;
- The lessor may, after notice to the lessee, take possession of the ship in accordance with the agreement between the parties and may ask the Court for an order authorising or directing these acts, and the Court shall render full support to the lessor or the mortgagee as expeditiously as possible;

Malta's Legislation

- Civil Code requirement for a notice by judicial act for the cessation of a lease shall not apply and the termination of the lease shall be regulated by the agreement between the parties and any notice of termination which may be required to be given by any parties may be given by notice in writing in any manner, including by electronic means (article 1526 was amended by article 41 Act 52/2016);
- Any financial institution, whether established or operating in Malta, carrying out the activity of financial leasing and all related transactions, shall not require a licence from the competent authority for the purposes of exercising its activities in Malta under the Financial Institutions Act;

Other Advantages

Other Advantages

Double Tax Treaties

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- Including Australia, China, Hong Kong, India, Singapore and United Arab Emirates

Tax Regimes

- Tonnage Tax; or
- Effective tax rate of 5% for income not derived from maritime activities.
- Participation Exemption

Tax Incentives

- Notional Interest Deductions
- No Withholding Tax on outbound interest, dividends, etc.
- Tax neutrality for Securitisation Vehicles

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