



REDUCED RATE OF TAX APPLICABLE TO QUALIFYING EXPATRIATES

Under the 'Highly Qualified Persons' Rules, tax on income received by a beneficiary under a 'qualifying contract' of employment in respect of activities carried out in Malta, shall be charged at a flat rate of 15%. Income that is earned by qualifying expatriates as from the 1st January 2010 will qualify from the reduced rate of 15%.

INDIVIDUALS BENEFITTING FROM THE REDUCED RATE OF TAX

Individuals eligible for the reduced rate of tax of 15% are those who:

1. qualify as 'beneficiaries' in terms of the Rules;
2. derive income from a 'qualifying contract of employment'; and
3. are engaged in an employment activity constituting an 'eligible office'.

BENEFICIARIES ARE THOSE INDIVIDUALS WHO:

- are neither domiciled nor ordinarily resident in Malta;
- derive employment income subject to tax in Malta and which was received against work or duties carried out in Malta or in respect of any period spent outside Malta in connection with such work or duties;
- have an employment contract subject to the Laws of Malta and prove to the satisfaction of the MFSA that this is drawn up for exercising genuine and effective work in Malta;
- have proved to the satisfaction of the competent authority that they are in possession of the required specific competence and professional qualifications and five years of experience;
- are in possession of stable and regular resources which are sufficient to maintain themselves and their family;
- are in possession of a valid travel document;
- are in possession of a sickness insurance; and
- reside in a normal accommodation for a comparable family in Malta.

Those Insurance and Investment Services who already benefit from those incentives contemplated under Article 6 of the Income Tax Act do not qualify for the reduced rate of tax, as referred to above.

a qualifying contract of employment' is considered as such if it gives rise to a minimum annual income of € 81,457 for 2015 (subject to an annual inflation). The annual value of any fringe benefits must be excluded for this purpose.



The activity contemplated in the contract of employment constitutes an eligible office provided the employment is with companies licensed and/or recognised by the MFSA and the Malta Gaming Authority and undertakings holding an air operators' certificate issued by the Authority for Transport in Malta, or an aerodrome license issued in terms of the Air Navigation Order and consists of specified senior positions including:

- Chief Executive Officer, Chief Risk Officer (including Fraud and Investigations Officer), Chief Financial Officer, Chief Operations Officer (including Aviation Accountable Manager), Chief Commercial Officer, and Chief Technology Officer;
- Portfolio Manager, Chief Investment Officer, Senior Trader/Trader, Senior Analyst (including Structuring Professional), Actuarial Professional, Chief Underwriting Officer, Chief Insurance Technical Officer, Odds Compiler Specialist, Head of Research and Development (including Search Engine Optimisation and Systems Architecture), Aviation Continuing Airworthiness Inspector, Aviation Flight Operations Inspector, Aviation Training Manager; Aviation Flight Operations Manager, and Aviation Ground Operations Manager;
- Head of Marketing (including Head of Distribution Channels), Head of Investor Relations; and
- Chief Executive Officer, with undertakings holding an aerodrome license issued by the competent authority.

Income shall not be construed to be income from a qualifying contract of employment if it is paid by the employer who has received a benefit or benefits under business incentive laws or arrangement in terms of the business incentive laws or is paid by a person who is related to the employer who has received a benefit or benefits under any business incentive laws or arrangement in terms of business incentive laws.

Should the income from a qualifying contract of employment exceed the sum of €5,000,000, no further tax would be charged on income from a qualifying contract of employment in excess of €5,000,000. Where a beneficiary applies for the reduced rate of tax, then no claim from any relief; deduction; reduction; credit or set-off of any kind, should be made.

EXERCISING THE OPTION

An application to the competent authority should be submitted by those individuals intending to avail themselves of such option in order to be granted a formal determination of their eligibility as beneficiaries. Furthermore, a declaration endorsed by the competent authority should be attached to the individual's income tax return.



For tax purposes, emoluments received in respect of income from a qualifying contract of employment as well as all income received from a person related to the employer, irrespective of whether this is paid in respect of the performance of duties in Malta or otherwise, should be disclosed. Both the competent authority as well as the Commissioner of Inland Revenue may request the individual to produce, within a specific timeframe, additional documents and information for the purpose of ascertaining the individual's right to exercise the option.

APPLICATION FOR THE REDUCED RATE OF TAX

The option for the income to be charged to tax at the reduced rate of 15% may be availed of as from year of assessment 2011 (year of income 2010). For those individuals who were employed under a contract of employment where the performance of their duties was executed in Malta, for the period of more than two years preceding 1st January 2011, the option to benefit from the reduced rate of tax is not available. This does not apply to individuals employed with an undertaking holding an air operators' certificate issued by the competent authority.

In the case of persons employed with undertakings holding an air operators' certificate issued by the competent authority, the option as aforementioned shall not be exercised by any person who was employed prior to 1st January 2012. The option may not be exercised in respect of any year of assessment preceding the year of assessment 2011.

Following the enactment of LN 225 of 2015, EU / EEA and Swiss nationals are eligible, upon application, for a one-time extension of five years to their period of benefit, subject to the continued adherence to the provisions of the rules. Such extension shall not be made available to any person who has been residing in Malta prior to the 1st of January 2008. Furthermore, the maximum qualifying period for EU/EEA/Swiss nationals undertaking the Highly Qualified Persons Programme, shall not exceed ten years of assessment.

LIMITATION FOR THIRD COUNTRY NATIONALS

Such individuals shall not qualify for the reduced rate if the individual either:

- physically stays in Malta, in the aggregate, for more than 1,460 days; or
- acquires directly, or indirectly, real rights over immovable property in Malta; or
- holds a beneficial interest directly or indirectly in real rights over immovable property situated in Malta.

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As a reputable organisation of over 25 years standing, and forming part of a worldwide network of independent business advisors, consultants, auditors and accounting firms present in over 120 countries, we are optimally positioned to offer global expertise. Along these years, we have built client loyalty around a credible reputation for delivering results whilst working to the highest professional standards.

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