



INTRODUCTION

On 28th September 2012, the government of Malta launched a special tax status for EU/ EEA and Swiss nationals with the exclusion of Maltese nationals, who are in receipt of a pension, as defined, provided that certain conditions are met.

Individuals who are granted the said special tax status under the terms and conditions as stipulated in L.N. 317 of 2012, shall be charged to tax on their income arising outside Malta which is remitted to Malta at the rate of 15% with the possibility to claim double taxation relief.

THE RULES

The eligibility and requirements for the special tax status are set out in the Malta Retirement Programme Rules contained in L.N. 317 of 2012 (the Rules) and Guidelines issued by the Inland Revenue Department.

ELIGIBILITY CRITERIA TO APPLY FOR THE SPECIAL TAX STATUS

Applicants meeting all of the following criteria may apply:

1. are in possession of a Qualifying Property Holding being:
 - owner of an immovable property (purchased post 1st January 2011) in Malta for a value of € 275,000 or € 220,000 in the case of property situated in Gozo; and
 - rents an immovable property in Malta for not less than € 9,600 annually or € 8,750 annually in the case of property situated in Gozo.

The Rules allow that in the case of immovable property purchased before the 1st January 2011 for a value which is less than the above, such property shall still be considered as a qualifying property as long as the value of such property in terms of an architect's valuation, as at date of application under the Rules, is not less than the values indicated above.



The rules also provide that it is important that:

- the applicant and his/her dependents have their habitual residence in such property as their principal place of residence; and
- no person other than the beneficiary, his/her family members, his/her special carer or his/her household staff, reside in the Qualifying Property Holding.

For this purpose, the term 'household staff' has been defined as an individual who has been in an employment relationship, as evidenced by a contract of service, with the beneficiary for at least two years prior to the application provided, that the Commissioner is satisfied that the service is required to be provided in whole or in part within the qualifying property.

2. are in receipt of a pension, as supported by documentary evidence, all of which is received in Malta and which constitutes at least 75% of the applicant's chargeable income;
3. have a valid travel document;
4. are in possession of a sickness insurance across the European Union;
5. are neither a Maltese national, nor a third-country national;
6. are neither of a Maltese domicile, nor have the intention to establish a Maltese domicile within five years from the date of application under the Rules;
7. are fit and proper persons; and
8. have applied for a Registration Certificate in Malta.

For the purpose of the Rules, the term 'pension' is defined so as to include the following:

- periodic payments paid to a former employee in respect of past employment including remunerations paid in respect of services rendered to a state or a political subdivision or local authority thereof; and
- remunerations paid as lifetime or temporary annuities, as well as regular income from an occupational retirement scheme, personal overseas retirement plan and insurance policies.

An occupation retirement scheme is defined as a 'retirement scheme' established for, or by, an employer; a number of employers; or an association representing employers, jointly or separately, for



the benefit of employees and includes an overseas retirement scheme. The latter refers to as a scheme or arrangement, organised under the laws of a country outside Malta with the principal purpose of providing retirement benefits.

The rules do not cover pensions in the form of lump sum payments without periodic pension payments and any capital sum received by way of commutation of pension; retirement; death gratuity; or received as consolidated compensation for death; or injuries that are exempt in terms of article 12(1)(h) of the Income Tax Act.

CONTINUING OBLIGATIONS

Continuing obligations need to be satisfied by all successful applicants, being that the applicant:

1. must retain holdings of the qualified property;
2. must not become a Maltese national or a third country national;
3. must not fall to receive in Malta all the pension indicated in the documentary evidence submitted to the Commissioner with the application form;
4. must possess a sickness insurance in respect of all risk covered for Maltese nationals, for himself and dependents; and
5. must not establish a Maltese domicile.

THE SPECIAL TAX STATUS

Successful applicants who are granted the special tax status will be subject to a 15% tax in Malta on any income arising outside Malta, which is received in Malta by the beneficiary or by any of his/her dependants.

The beneficiary is also allowed the possibility to claim double taxation relief, with a minimum tax cap of € 7,500 in respect of any year of assessment. The scheme will also apply an additional minimum tax of € 500 per dependent of the applicant. The tax paid is non-refundable.



THE APPLICATION

An application is to be submitted together with an administration fee of € 2,500 to be paid by bank draft payable to the Commissioner of Inland Revenue and which is not refundable.

An application for special tax status ,and any changes, thereto may only be submitted to the Commissioner of Inland Revenue through the services of a person who qualifies as an Authorised Registered Mandatory. BT International Limited is registered as an Authorised Registered Mandatory with the Malta Inland Revenue and is authorised to act as such, and assist in relation to the application for the special tax status. Upon qualification for the specific tax status, the Commissioner of Inland Revenue will notify the Authorised Registered Mandatory in writing.

A final confirmation of the special tax status will be issued to the Authorised Registered Mandatory. Where the application is successful, the Commissioner shall determine in writing that applicant qualifies for the special tax status under the Rules.

CESSATION OF SPECIAL TAX STATUS

The special tax status will cease by choice of the beneficiary upon notification to the Commissioner of Inland Revenue, or by default of the Income Tax Act such as defaults in routine compliance obligations and failure to reply to the Commissioner of Inland Revenue when requested.

Furthermore, where any of the eligibility conditions and continuing obligations mentioned above are no longer satisfied by the individual, and the beneficiary of the status resided in Malta for less than 90 days, or stays in any other jurisdiction for more than 183 days in a calendar year; or his/her stay in Malta is deemed not to be in the public interest, the special tax status will cease with retrospective effect as from the



date on which the Commissioner of Inland Revenue had determined in writing the special tax status. An administrative penalty of € 5,000 applies where the individual does not notify the Commissioner of Inland Revenue within 4 weeks of becoming aware of any such event, with the exception of special concessions where failure in relation to any of the above conditions was due to unforeseen circumstance and proof that best efforts were exercised to remedy the indicated failure.

ANNUAL INCOME TAX RETURN

An individual who benefits from the special tax status must submit an annual tax return. The Commissioner of Inland Revenue may require the individual benefiting from a special tax status to produce information and documents including certifications and declarations within a time specified by the Commissioner in the request itself.

OTHER

The applicant does not benefit from the Residents Scheme Regulations, the High Net Worth Individuals - EU/EEA/Swiss Nationals Rules, the High Net Worth Individuals Rules - Non-EU/EEA/Swiss Nationals Rules, or the Highly Qualified Persons Rules.

Individuals benefitting under these Rules may hold a non-executive post on the board of directors of a company resident in Malta but are prohibited from being employed by the company in any capacity. Such individuals may also participate in activities related to any institution, trust or foundation of a public character and any other similar organisation or body of persons, which are also of a public character, that is engaged in philanthropic, educational or research and development work in Malta.

WHY NEXIA BT?

Established by Brian Tonna, managing partner, Nexia BT is a corporate and private client advisory, audit, accounting and tax firm. Our clients are local and international blue chip companies, financial and other institutions, SMEs, high-net-worth-individuals, the public sector and high-end organisations.

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.

Nexia BT's strength lies in the technically competent staff with experience across a varied range of industry sectors. We deliver solutions to our clients through a high calibre customised service reflected in the professional work approach and ethics of our staff and driven by our ethos 'Closer to you'. With the backing of this business approach, we confidently present you Nexia BT as your trustworthy, dependable and reliable partner in Malta.

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