
TAX GUIDELINES BY INLAND REVENUE DEPARTMENT - MALTA

High Net Worth Individuals

Who is eligible to apply?

To apply under the HNWI Rules an individual must primarily not be domiciled in Malta and must have no intention of establishing his domicile in Malta within 5 years from the date of the application for this tax status.

Furthermore, the particular individual must also satisfy certain criteria which are applicable to all applicants irrespective of their nationality, i.e.:

- (i) The applicant must hold a 'Qualifying Property Holding' in Malta (minimum value of € 400,000 or € 20,000 rental per annum);
- (ii) The Qualifying Property must not be shared with other individuals, apart from his/her family members (the beneficiary's ascendants and descendants, brothers, sisters and spouses with whom the beneficiary is in a stable and durable relationship) ;
- (iii) The applicant must be in possession of health insurance which covers himself and his dependants in respect of all risks across the EU as are normally covered for Maltese nationals;
- (iv) The applicant must be a fit and proper person (an international due diligence exercise is carried out by the Inland Revenue Department prior to granting the special tax status);
- (v) A non-refundable one-off registration fee of €6,000 must be paid.

Certain additional conditions are applicable solely to non-EU/EEA/Swiss Nationals:

- (i) If the applicant intends to become a long-term resident under the Long Term Residents (Third Country Nationals) Regulations, or he/she is already a long term resident, the applicant must enter into a qualifying contract with the Government of Malta in a form prescribed by the Minister of Finance;
- (ii) The applicant must deliver to the Government of Malta a sum of €500,000 and €150,000 for every dependent which the Government of Malta holds by title of gratuitous voluntary deposit so as to cover the social costs incurred by such applicants;
- (iii) If the applicant intends to, or actually becomes a long-term resident prior to the expiration of four years from the date on which he/she has applied for special tax status, then the applicant will automatically forfeit all the rights over the 'Bond' (the deposit);
- (iv) The applicant must be fluent in either Maltese or English.

An individual who has been granted HNWI status must comply with the following obligations:

- (i) The 'Qualifying Property Holding' must be retained;
- (ii) The applicant must retain the health insurance and continue to have stable resources;
- (iii) The applicant must not become domiciled in Malta;
- (iv) The applicant must reside in Malta for a minimum of 90 days and not reside in any other jurisdiction for more than 183 days in any calendar year
- (v) (Special reporting obligations (the filing of an annual return together with the annual tax return) and notifications must be complied with.

The Tax Treatment

Once HNWI status has been acquired person is deemed to be resident for in Malta and is chargeable to tax income as follows:

- Foreign source income, which is in Malta is taxable at the rate of the possibility of claiming double tax relief on such income subject to the minimum annual tax liability referred below;
- The applicant must pay a minimum tax of €20,000 (EU/EEA/ Swiss) or €25,000 (others) per annum (EU/EEA/ Swiss) or €5,000 (others) per dependent;
- A beneficiary and his spouse cannot opt for a separate tax computation
- Other chargeable income of the beneficiary is charged at the rate of 35%. Authorised Registered Mandatory

An application for the special tax status must be made through the services of a person that qualifies as an 'Authorised Mandatory registered as such with the Inland Revenue Department.

Current Holders of a Permanent Resident Scheme Certificate (PR)

An individual who has acquired rights under the PR Regulations prior to 1 January 2011 is required to satisfy the above conditions by may continue to benefit from the arrangements which were previously applicable to him, subject to satisfying the following additional conditions:

- (i) The holder of the certificate must be in receipt of stable and regular resources sufficient to maintain himself and his dependents (as defined);
- (ii) The PR holder must be in possession of a health insurance in respect of all risks normally covered by Maltese nationals for himself and his family members
- (iii) The property being declared as the holder's place of residence cannot be occupied by any person other than the holder of the certificate and his/her family members.

The GLOBAL RESIDENCE PROGRAMME, 2013

The Malta Global Residence Programme is a programme designed to attract individuals who are not nationals of the EU, EEA or Switzerland and who are not long-term residents. Individuals benefitting from the Malta Global Residence Programme are not precluded from working in Malta, provided they satisfy the requisite conditions for obtaining a work permit.

This Programme builds on the success of Malta's reputation in attracting expatriates seeking an alternative residence base in a warm Mediterranean Island in the European Union. Malta's membership and full implementation of the Schengen Area Treaty offers further attraction on the basis of the ease of travel within the Schengen Area enjoyed by holders of the Malta Global Residence Programme permit. This programme is designed to attract individuals who are not nationals of the EU, EEA or Switzerland and who are not long-term residents.

Malta Global Residence: Eligibility Criteria

Applications under this programme are open to non-EU, non-EEA and non-Swiss nationals. One application can include the main applicant and his spouse, financially dependent ascendants and other non-family members and dependent relatives that are shown to be *bona fide* members of the household. Children under the age of 25 are automatically eligible for inclusion. Applicants must demonstrate their financial self-sufficiency and must be in possession of valid sickness insurance cover.

An applicant is eligible if he can show that he is economically self-sufficient to maintain himself and his dependant without making use of the social assistance system in Malta. The applicant must be in possession of sickness insurance which covers himself and his dependants in respect of all risks across the whole of the EU normally covered for Maltese nationals. The health insurance cover must be procured by a company licensed in Malta or by an international reputable health insurance company. The applicant is to be a fit and proper person and must produce a police conduct certificate issued not earlier than six months prior to the the date of submission of the application, together with a sworn declaration taken before a Commissioner for Oaths in Malta confirming that the applicant is not subject to any on-going civil or criminal proceedings.

Within 12 months of taking up residence under the Malta Global Residence Programme, the residence permit holder needs to comply with the requirement of acquiring or renting property in

Malta. Residence candidates are required to demonstrate that an address is available to them in Malta by buying or renting property in Malta.

Candidates for the residence programme need to meet minimum property value requirements at €275,000 for property in Malta, €220,000 for property in the Southern Region of Malta and €250,000 for property in Gozo. Candidates have the option to rent property in Malta at €9,600 or property in Gozo and the Southern Region of Malta at €8,750 in annual rent.

This qualifying property may not be let or sub-let.

Permit holders are required to reside not more than 183 days in any foreign jurisdiction in any year. The programme does not impose any formalities for evidencing any minimum residence requirement.

Malta Resident non-Dom Tax Treatment

An individual who has been granted special tax status in accordance with the GRP, hereinafter referred to as “beneficiary”, will be subject to tax at a rate of fifteen cents on every euro thereof on any income that is received in Malta from foreign sources by the beneficiary and his/her dependants indicated below. This rate of tax will apply from the year of confirmation of the special tax status up to year of cessation of status.

Dependants who will be able to benefit from the rate of fifteen cents on every euro are:

- The beneficiary’s spouse;
- Minor children including minor children and children who are in the care and custody of the beneficiary or the beneficiary’s spouse;
- Children including adopted children and children who are in the care and custody of the beneficiary or the beneficiary’s spouse, who are not minors but who because of circumstances of illness or disability of a serious gravity, are unable to maintain themselves.

Beneficiaries of special tax status granted in terms of the Global Residence Programme will need to pay a minimum tax of fifteen thousand euro (€15,000) annually. This minimum tax covers income of the beneficiary and his / her dependants mentioned below that arises outside Malta and is received in Malta and does not include income that arises in Malta.

Applications are to be processed via Mandatories authorised by the Maltese Government to handle application process and act as liaisons between the applicant and the Maltese authorities. Our law firm is registered as an authorised mandatory by the Maltese immigration and tax authorities according to Maltese law.

Taxation of returned migrants

Article 56(11) of the Income Tax Act contemplates a favourable tax regime for individuals who satisfy a number of conditions. These individuals are often referred to as Returned Migrants.

Returned migrants have a right to opt to be taxed at the rates of tax specified below, subject to a minimum annual tax liability of €2,325 after allowing for any double taxation relief to which he / she may be entitled to. Such an election may be renounced, but may not be availed of once it is renounced.

The returned migrant must be an individual who was born in Malta who, after emigrating has returned as a resident in Malta after the first day of January 1988. Furthermore, the individual must prove to the satisfaction of the Commissioner that either:

- (a) He/she had actually resided outside Malta for an aggregate period of 20 years falling within a period of 25 years preceding the first day of the year of assessment in which the individual returns as resident in Malta after the first day of January 1988; and
- (b) that he/she has received in Malta at one or more times during the year immediately preceding the year of assessment an amount of income of not less than €14,000 arising outside the island and chargeable to tax in Malta. In the case of a married person, the said amount of income €14,000 is increased by €2,400 in respect of every dependant relative including a spouse; or
- (c) he/she is not a Maltese national and does not satisfy the period of residence outside Malta referred to above, and that he/she satisfies conditions similar to those established by the Minister responsible for immigration under Article 7 of the Immigration Act, for the issue of a residence permit as existing at the time such an individual returns to Malta.

The applicable tax rates are as follows:

In the case of a married person

€0 - €5,900 at 0%

In excess of €5,900 at 15%

In the case of any other individual

€0 - €4,200 at 0%

In excess of €4,200 at 15%

Notwithstanding that Returned Migrants would be considered to be ordinarily resident and domiciled in Malta for Maltese income tax purposes and thus subject to tax in Malta on their world-wide income and capital gains, such individuals have the right to be treated as persons with limited liability to tax. If they exercise this right, such individuals will not be subject to tax on their world-wide income and capital gains, but will be subject to tax in Malta on:

- (a) income and capital gains arising in Malta; and
- (b) on foreign income which is received in Malta.

This means that Returned Migrants will for Maltese income tax purposes, be treated similar to persons who are resident but not domiciled in Malta, meaning that they will neither be subject to tax in Malta on foreign income which is not received in Malta nor on any foreign capital gains, even if such gains are received in Malta.

Any income and capital gains arising in Malta derived by the Returned Migrant will be subject to tax in Malta at the standard progressive rates of tax applicable to resident individuals, starting from the 15% tax bracket. Thus the special rates of tax referred to above will only apply to foreign sourced income which is received in Malta.

In the event of the demise of the Returned Migrant and who is charged to tax at the married tax rates referred to above, the surviving spouse will be entitled to elect to be charged to tax in the same manner and under the same conditions as the deceased individual and charged at the favourable rates of tax referred to above. Until such election is not renounced, the surviving spouse shall be considered to have satisfied in his/her own right the qualifying period of absence from Malta.

Malta Retirement Programme & Special Tax Status

By virtue of the inclusion of the Subsidiary Legislation 123.134 to the Maltese Income Tax Act, a special tax status has been issued for retirees from EU, EEA countries and Switzerland when remitting their pension into Malta. This means that a fixed tax rate of 15% will be due on the pension remitted, and the minimum tax payable shall be of €7,500 for the beneficiary and €500 for each of his/ her dependants (if any).

The Malta Retirement Programme Rules 2012 outline the salient conditions and features for one to benefit from the rules as follows:

- The beneficiary must be an EU/ EEA/ Swiss national who is not in employment;
- The beneficiary may hold a non-executive post on the board of a company resident in Malta or partake in activities related to any institution, trust or foundation of a public character and of any other similar organisation or body of persons, also of a public character, which is engaged in philanthropic, educational, or research and development work in Malta or Gozo;
- The beneficiary must purchase or rent property in Malta or Gozo. The rules establish minimum values of €275,000 (Malta), or €250,000 (Gozo) for purchased properties whilst for rented properties these minimum values are set at €9,600 per annum (Malta), or €8,750 (Gozo);
- The pension which is received in Malta, must constitute at least 75% of the beneficiary's chargeable income. Therefore, the beneficiary may only generate up to 25% of his/her total chargeable income from any non-executive posts;
- The beneficiary must have health insurance in respect of all risks across the all the EU (also covering her/ her dependants, if any);
- The beneficiary must not be domiciled in Malta and should not have any intention of so establishing his/her domicile in Malta within a period of 5 years;
- The beneficiary must reside in Malta for a minimum of 90 days in each calendar year (the mentioned 90 days are averaged over any 5-year period); and
- The beneficiary must not reside in any other jurisdiction for more than 183 days in any calendar year during which the retirement programme is availed of.