

SUBSIDIARY LEGISLATION 123.134**MALTA RETIREMENT PROGRAMME RULES**

28th September, 2012

LEGAL NOTICE 317 of 2012, as amended by Legal Notices 269 of 2014 and 69 of 2020.

1. The title of these rules is the the Malta Retirement Programme Rules. Citation.

2. For the purposes of these rules, unless the context otherwise requires: Interpretation.
Amended by:
L.N. 269 of 2014;
L.N. 69 of 2020.

"Act" means the Income Tax Act;

Cap. 123.

"appointed day" means the date on which the Commissioner shall determine in writing that an individual qualifies for special tax status under these rules;

"application" means an application filed in terms of rule 3(1);

"authorised mandatory" means a person who is in possession of a warrant to practise as an advocate under the Code of Organization and Civil Procedure, a person who holds a warrant to practise as a legal procurator under the Code of Organization and Civil Procedure, a person who has been appointed notary public in accordance with the provisions of the Notarial Profession and Notarial Archives Act, a person who holds a warrant to practise the profession of accountant under the Accountancy Profession Act, a person who is a member of the Institute of Financial Services Practitioners, a person who is a member of the Malta Institute of Taxation or a person who is a member of the Malta Institute of Accountants or a person who is a member of the Institute of Management: Cap. 12.
Cap. 55.
Cap. 281.

Provided that a person that is not an individual, having at least 75% (directly or indirectly) of its shareholders, partners or other members, as the case may be, who are persons in possession of the above-mentioned warrants or being a member of the above-mentioned institutes, shall also be considered to be an authorised mandatory;

"authorised registered mandatory" means an authorised mandatory who is registered with the Commissioner under these rules;

"beneficiary" means an individual, who is not in an employment relationship and who has been granted special tax status in terms of these rules;

Provided that a 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;

"Commissioner" means the Commissioner for Revenue;

"dependent" means:

- (a) the beneficiary's spouse or person with whom the beneficiary is in a stable and durable relationship; or
- (b) the beneficiary's unmarried minor children, adopted minor children of the beneficiary or of the spouse, as the case may be, where the beneficiary or the spouse has custody and the minor children are financially dependent on him and children of the beneficiary or of 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;

and in any case -

S.L. 123.148.
S.L. 123.129.

S.L. 123.130.

S.L. 123.126.

S.L. 123.168.

S.L. 123.141.

S.L. 123.182.
S.L. 123.160.
S.L. 123.79.
S.L. 123.165

- (i) is not a beneficiary under the Global Residence Programme Rules; the High Net Worth Individuals – EU/ EEA/Swiss Nationals Rules; the High Net Worth Individuals Rules – Non-EU/EEA/Swiss Nationals Rules; the Highly Qualified Persons Rules; the Qualifying Employment in Aviation (Personal Tax) Rules; the Qualifying Employment in Innovation and Creativity (Personal Tax) Rules; the Qualifying Employment in Maritime Activities and the Servicing of Offshore Oil and Gas Industry Activities (Personal Tax) Rules; the Residence Programme Rules; the Residents Scheme Regulations or the United Nations ("UN") Pensions Programme Rules; and
- (ii) resides with the beneficiary in the qualifying property;

"household staff" means an individual who is in an employment relationship, as evidenced by a contract of service, with the beneficiary and who satisfies such conditions as the Commissioner may determine by guidelines;

"lease" includes sub-lease;

"long-term resident" means:

S.L. 217.05.

- (a) a person who has long-term resident status in terms of the Status of Long-term Residents (Third Country Nationals) Regulations; or

S.L. 217.05.

- (b) a person who applies for long-term resident status under the Status of Long-term Residents (Third Country Nationals) Regulations;"

"Minister" means the Minister responsible for Finance;

"occupational retirement scheme" means a retirement scheme established for, or by, an employer or a number of employers or an association representing employers, jointly or separately, for the benefit of employees and includes an overseas retirement scheme;

"overseas retirement plan" means a *bona fide* scheme or arrangement, organized under the laws of a country outside of Malta, which govern the rights and responsibilities of the parties thereto, and under which payments are made to beneficiaries for the principal purpose of providing retirement benefits;

"overseas retirement scheme" means a scheme or arrangement, organised under the laws of a country outside Malta with the principal purpose of providing retirement benefits;

"pension" means periodic payments paid to a former employee in respect of past employment including where remunerations are paid in respect of services rendered to a State or a political subdivision or local authority thereof. The term "pension" also includes remunerations paid as lifetime or temporary annuities, as well as regular income from an occupational retirement scheme, personal overseas retirement plan and insurance policies but does not include a pension in the form of a lump sum payment without periodic pension payments and any capital sum received by way of commutation of pension, retiring or death gratuity or received as consolidated compensation for death or injuries that are exempt under article 12(1)(h) of the Act;

"permanent resident of Malta" means:

- (a) a person who has right of permanent residence in terms of article 6 and is in possession of a permanent residence certificate issued in terms of article 7 of the Free Movement of European Union Nationals and their Family Members Order; or S.L. 460.17.
- (b) a person who applies for right of permanent residence in terms of article 6 of the Free Movement of European Union Nationals and their Family Members Order; S.L. 460.17.

"primary residence" means the dwelling house in which an individual habitually resides as his principal place of abode worldwide;

"property" means any immovable property situated in Malta or Gozo and any right over such property;

"public interest" includes the interests of public safety, the protection of public order, national security, territorial integrity, public health or morals;

"qualifying property" means either a qualifying owned property or a qualifying rented property, as the case may be;

"qualifying property holding" means a holding which arises where a beneficiary either:

- (a) owns qualifying owned property; or
- (b) rents qualifying rented property as a lessee;

and, in either case, occupies such property as his primary residence:

Provided that the persons who reside in the qualifying property are not persons other than (a) the beneficiary, and (b)

persons that qualify as his dependants or household staff provided that the Commissioner has been notified that such dependants or household staff will be so residing;

"qualifying owned property" means an immovable property purchased:

- (a) after 1 January 2011 up to 30 June, 2013 at a consideration of not less than:
 - (i) two hundred and seventy-five thousand euro (€275,000) for a property situated in Malta; or
 - (ii) two hundred and fifty thousand euro (€250,000) for a property situated in Gozo;
- (b) on or after 1 July, 2013, at a consideration of not less than:
 - (i) subject to the provisions of paragraph (b), two hundred and seventy-five thousand euro (€275,000) for a property situated in Malta; or
 - (ii) two hundred and twenty thousand euro (€220,000) for a property situated in Gozo or in the south of Malta;

Provided that an immovable property purchased before 1 July 2013 for a consideration which is less than the amounts indicated in paragraph (b) above shall be considered to be "qualifying owned property" insofar as the value of such immovable property as declared on the date of application by the applicant is not less than the amounts indicated in paragraph (b) above as supported by a separate and independent architect valuation including architect's plan which are delivered to the Commissioner upon application:

Provided further that the Commissioner, or any officer authorised by him in writing, architect or surveyor shall have full and free access to the qualifying owned property to the extent that such access is likely to assist him in determining the value of the said property;

"qualifying rented property" means a leased property taken on at a lease of not less than:

- (a) subject to paragraph (b), nine thousand and six hundred euro (€9,600) per annum for a property situated in Malta; or
- (b) eight thousand and seven hundred and fifty euro (€8,750) per annum for a property situated in Gozo or in the south of Malta;

"rights acquired under this law" means the right to pay tax at the rate of tax contemplated in article 56(23) of the Act and these Rules;

"south of Malta" means the areas within set boundaries as designated in the Second Schedule to the Local Government Act of the localities listed in the Schedule to these rules;

"these rules" shall include the provisions of article 56(23) of the Act and the rules contained in these Rules;

3. (1) An individual, as duly represented by an authorised registered mandatary, may apply to the Commissioner for special tax status under these rules, in such form as the Commissioner may require and by paying an administrative fee of two thousand and five hundred euro (€2,500) upon application.

Special tax status.
Amended:
L.N. 69 of 2020.

(2) Where it is established that the individual mentioned in sub-rule (1) qualifies as a beneficiary, the Commissioner shall determine in writing that such individual qualifies for special tax status under these rules.

(3) Following the death of a beneficiary, the special tax status granted in terms of sub-rule (2) shall be granted to a dependent of that deceased beneficiary who has inherited the property that was the primary residence of such beneficiary, or who rents a qualifying rented property immediately after the death of the said beneficiary and satisfies all the other requirements set out in rule 4. Such status shall only be transferred once the said dependent provides proof to the Commissioner that all the requirements of rule 4 are satisfied in such manner as the Minister for Finance may determine further to consultation with the Commissioner.

4. A beneficiary is an individual who proves to the satisfaction of the Commissioner that:

Beneficiary.
Amended by:
L.N. 269 of 2014.

- (a) he holds a qualifying property holding: provided that where two individuals are spouses or prove to the satisfaction of the Commissioner that they are in a stable and durable relationship with one another, both individuals may hold jointly the same qualifying property holding;
- (b) he is not a person who benefits under the Global Residence Programme Rules; the High Net Worth Individuals – EU / EEA / Swiss Nationals Rules; the High Net Worth Individuals Rules – Non-EU / EEA / Swiss Nationals Rules; the Highly Qualified Persons Rules; the Qualifying Employment in Aviation (Personal Tax) Rules; the Qualifying Employment in Innovation and Creativity (Personal Tax) Rules; the Qualifying Employment in Maritime Activities and the Servicing of Offshore Oil and Gas Industry Activities (Personal Tax) Rules; the Residence Programme Rules; the Residents Scheme Regulations or the United Nations ("UN") Pensions Programme Rules;
- (c) he is not a Maltese national;
- (d) he is in receipt of a pension, as supported by documentary evidence, all of which is received in Malta and constitutes at least 75% of the beneficiary's chargeable income;
- (e) he is in possession of a valid travel document;
- (f) he is in possession of sickness insurance in respect of

S.L. 123.148.
S.L. 123.129.
S.L. 123.130.
S.L. 123.126.
S.L. 123.168.
S.L. 123.141.
S.L. 123.182.
S.L. 123.160.
S.L. 123.79.
S.L. 123.165.

all risks across the whole of the European Union normally covered for Maltese nationals for himself and his dependents;

- (g) he is not domiciled in Malta and that he does not, within five years from the date of application, intend to establish his domicile in Malta; and
- (h) he is a fit and proper person.

15% rate.
Amended by:
L.N. 269 of 2014;
L.N. 69 of 2020.

5. (1) In these rules, the rate of fifteen cents (0.15) on every euro shall apply on any income arising outside Malta which is received in Malta by the beneficiary, the beneficiary's spouse and children referred to in paragraph (b) of the definition "dependant" in rule 2, with the possibility to claim relief of double taxation under article 74(a) and (b) of the Act:

Provided that the minimum amount of tax payable in terms of these rules in respect of any year of assessment shall be seven thousand and five hundred euro (€7,500) in respect of the beneficiary and five hundred euro (€500) per year of assessment for every dependent and every special carer. Such minimum amounts are payable in full in both the year when the special tax status was granted and in the year when the individual ceases to possess the said special tax status.

(2) Income of a beneficiary or dependent that is not chargeable to tax under these rules at the rate referred to in sub-rule (1) shall be charged as separate income at the rate of thirty-five cents (0.35) on every euro.

(3) Notwithstanding any provision in the Income Tax Acts -

- (a) subject to the provisions of paragraph (b), the minimum tax referred to in the proviso to sub-rule (1) shall be payable by not later than the 30th April of the year immediately preceding the relevant year of assessment. Such payment shall be accompanied by a return made to the Commissioner that provides proof that all the requirements of rule 4 continue to be satisfied. The said return, which shall be in such form as the Commissioner may determine, does not need to be submitted in the year in which the special tax status is granted;
- (b) in the case of the year in which the special tax status is granted, where it is evident that the special tax status will not be granted before the 30th April, the minimum tax referred to in the proviso to sub-rule (1) is to be paid before the special tax status is granted;
- (c) any tax paid under the provisions of sub-rule (1) shall not be refundable.

(4) (a) Notwithstanding any provision in the Act, an individual who falls under the definition "long-term resident" or "permanent resident of Malta" in rule 2 shall be taxable on any income accruing in or derived from Malta or elsewhere, and whether received in Malta or not in respect of income mentioned in

article 4 of the Act and subject to tax at the rates mentioned in article 56 of the Act;

- (b) In the case where the individual referred to in paragraph (a) is a beneficiary or dependent, the relevant authorised registered mandatary shall -
 - (i) enquire and obtain information from the relevant beneficiary as to whether the beneficiary or any of his dependants has applied for or acquired the permanent residence certificate referred to in paragraph (a) as at the 31st December of each year from the year of the appointed date onwards; and
 - (ii) notify the Commissioner of any individual that is a beneficiary or dependent that has applied for or acquired the permanent residence certificate referred to in paragraph (a) by not later than the 30th April following the 31st December referred to in sub-paragraph (i) on such form as the Commissioner may determine. Where the authorised registered mandatary is not able to obtain such information, he is to notify the Commissioner by the said 30th April of this state of affairs and provide proof that at least two attempts at enquiry were made. Where such notifications are not made within the time specified, the authorised registered mandatary shall be charged an administrative penalty of ten thousand euro (€10,000).

6. (1) An individual shall, with effect from the appointed day, cease to possess special tax status under these rules:

Cessation of status.
Amended by:
L.N. 69 of 2020.

- (a) if, at any time, after the appointed day, such individual does not hold a qualifying property;
- (b) if the individual becomes a Maltese national or a third country national;
- (c) if the individual fails to receive in Malta all the pension indicated in the documentary evidence submitted to the Commissioner according to rule 4(d);
- (d) if, after the appointed day, the individual is not in possession of sickness insurance in respect of all risks normally covered for Maltese nationals for himself and dependents;
- (e) if the individual establishes his domicile in Malta;
- (f) if at any time, after the appointed day, such individual becomes a permanent resident or long-term resident of Malta;
- (g) if the individual's stay is not in the public interest;
- (h) if the individual resides in Malta for less than ninety days a year averaged over any five year period; or
- (i) if the individual stays in any other jurisdiction for

S.L. 460.17

more than one hundred and eighty-three days in a calendar year.

- (2) (a) An individual who ceases to possess special tax status for any of the reasons specified in sub-rule (1) shall notify the Commissioner of such event by not later than four weeks from the date when he becomes aware of such event. This notification is to be made on such form as may be required by the Commissioner.
- (b) Where such notification is not made within the time specified, the person responsible for such event shall be charged an administrative penalty of five thousand euro (€5,000).

(3) An individual shall, with immediate effect, cease to possess special tax status from the relative year of assessment under these rules if he notifies the Commissioner of his intention not to remain in possession of special tax status on such form as the Commissioner may require.

Cap. 372.

(4) An individual shall, with effect from the beginning of the relative year of assessment, cease to possess special tax status under these rules if he is in breach of the Act and, or of the Income Tax Management Act.

(5) The Minister shall have the power to condone any failure to satisfy any one of the conditions in sub-rule (1) if:

- (a) such failure was due to unforeseen circumstances which are beyond the control of the individual;
- (b) such individual notifies the Minister of such failure; and
- (c) such individual has exercised his best efforts to remedy the failure.

Request for
information.
Amended by:
L.N. 69 of 2020.

7. (1) For the purpose of ascertaining an individual's entitlement to rights acquired under these rules and ensuring the proper application of these rules, the Commissioner may require that individual to produce, within the time indicated by the Commissioner in that request, such information and documents as the Commissioner may consider necessary, including certifications and declarations.

S.L. 217.05.

S.L. 460.17.

(2) Notwithstanding any other provision in any law, the Commissioner and the competent authority in relation to the Status of Long-term Residents (Third Country Nationals) Regulations or in relation to the Free Movement of European Union Nationals and their Family Members Order, as the case may be, may exchange information that is in their possession concerning an individual –

- (a) making an application in terms of rule 3;
- (b) that is a beneficiary; or

- (c) that has long-term residence status in terms of the Status of Long-term Residents (Third Country Nationals) Regulations or that has right of permanent residence in terms of the Free Movement of European Union Nationals and their Family Members Order as the case may be. S.L. 217.05.
S.L. 460.17.
- (3) The information referred to in sub-rule (2) may be exchanged for the purposes of these rules and for the purposes of the long-term residence status in terms of the status of Long-term Residents (Third Country Nationals) Regulations or for the purposes of the right of permanent residence in terms of the Free Movement of European Union Nationals and their Family Members Order, as the case may be. S.L. 217.05.
S.L. 460.17.
8. If an individual benefits under these rules where that person was not so entitled, the Commissioner may issue an assessment in terms of article 31 of the Income Tax Management Act. Abuse of rights.
Cap. 372.
9. The return required in terms of article 10 of the Income Tax Management Act shall, in the case of a beneficiary under these rules, include such form as the Commissioner may require. Annual reporting obligation.
Cap. 372.
10. (1) An individual shall authorise a person who is an authorised registered mandatary to act on his behalf in respect of all applications, correspondence, submissions, filings, declarations and notifications contemplated under these rules. All such acts are to be filed by the said authorised registered mandatary. Authorised registered mandatary.
Amended by: L.N. 269 of 2014.
- (2) The authorisation referred to in sub-rule (1) shall be made in such form as the Commissioner may require.
- (3) Unless the Commissioner specifically authorizes in writing, a person may not authorise more than one authorised mandatary.
- (4) Registration as an authorised registered mandatary with the Commissioner shall be made by filling in and delivering to the Commissioner such form as the Commissioner may require.
- (5) Registration as authorised registered mandatary in terms of these rules shall be subject to such terms and conditions as the Commissioner may from time to time determine.
- (6) Acceptance of registration in terms of these rules shall be notified by the Commissioner to the person requesting such registration.
- (7) When a person who has been registered with the Commissioner desires to cancel such registration, he shall make a request in such form as the Commissioner may require.
- (8) Where an authorised registered mandatary repeatedly fails to carry out a function required under these rules, he shall cease to be an authorised registered mandatary. For the purposes of this paragraph, "repeatedly" means more than two failures of carrying out functions required under these rules.

*Added by:
L.N. 269 of 2014.*

SCHEDULE

(Rule 2)

Localities for the purposes of the definition of "south of Malta"

Birżebbuġia

Cospicua

Fgura

Għaxaq

Gudja

Kalkara

Kirkop

Luqa

Marsascala

Marsaxlokk

Mqabba

Paola

Qrendi

Safi

Santa Luċija

Senglea

Siġġiewi

Tarxien

Vittoriosa

Xgħajra

Żabbar

Żejtun

Żurrieq
