

L.N. 428 of 2004

**INCOME TAX ACT
(CAP. 123)**

Residents Scheme Regulations, 2004

BY virtue of the powers conferred by articles 56(10) and 96 of the Income Tax Act, hereinafter referred to as “the Act”, the Prime Minister and Minister of Finance has made the following regulations:-

1. (1) The title of these regulations is the Residents Scheme Regulations, 2004. Title and commencement.

(2) These regulations shall be deemed to have come into force on the 1st May, 2004.

2. (1) For the purposes of these regulations and under the powers conferred upon him by the delegation issued by the Minister responsible for immigration in terms of article 26 of the Immigration Act, the Commissioner may issue a certificate which shall be deemed to constitute a permit issued in terms of article 7 of the Immigration Act, to individuals who satisfy the conditions established under these regulations. Certificate by the Commissioner. Cap. 217.

(2) Any permit issued under article 7 of the Immigration Act prior to the coming into force of these regulations shall be deemed to constitute a certificate issued under this regulation and the provisions of paragraphs (a), (b) and (c) of regulation 3 of these regulations shall also apply thereto.

(3) Without prejudice to the provisions of sub-regulation (2) hereof, the conditions applicable to any permits issued as aforesaid relating to income tax shall continue to be those which were applicable in respect of the said permits immediately prior to the coming into force of these regulations.

3. A certificate issued by the Commissioner on or after the 1st May, 2004 in accordance with regulation 2 hereof shall entitle the holder of such certificate to reside, settle or stay indefinitely in Malta, so however that:- Conditions.

L.N. 205 of 2004.

(a) the said certificate shall not entitle the holder thereof to any of the rights mentioned in the Immigration Regulations, 2004 (hereinafter referred to as “the Immigration Regulations);

(b) any citizen of the Union as defined in the Immigration Regulations, may at any time opt to renounce to such certificate and apply for a residence permit or a residence document under the Immigration Regulations, in which case the provisions of those regulations shall apply; and

(c) the certificate shall be monitored annually and it shall be considered to have been withdrawn if the holder thereof infringes any provision of these regulations or of the Income Tax Acts.

Limitation of rights.

4. Any rights conferred upon an individual through a permit issued under article 7 of the Immigration Act or through a certificate issued under these regulations shall not extend to any other person except the individual’s dependants as defined in the Immigration Act.

Application on prescribed form.

5. Applications for a certificate issued under these regulations shall be made on the form set out in Schedule A to these regulations and contain the information and documents therein requested.

Further conditions to be satisfied.

6. For the purposes of these regulations and without prejudice to any rights and duties emanating from the Immigration Regulations and unless any individual is already in possession of a residence document or a residence permit issued under the Immigration Regulations, such individual may apply for a certificate issued under regulation 2 hereof only if he:

(a) does not fall under paragraph (a) of sub-article (1) of article 4 of the Immigration Act;

(b) provides documentary proof that he can bring into Malta an annual income of not less than Lm6,000 in his respect and a further Lm1,000 in respect of each dependant, provided that in determining the amount of the annual income brought into Malta no consideration whatsoever shall be taken of any income which is re-transferred out of Malta; and

(c) provides documentary proof that from the date of the application referred to in regulation 5 onwards he has either an annual income of not less than Lm10,000 arising outside Malta or has in his possession a capital of not less than Lm150,000.

7. The certificate shall be deemed to have been withdrawn with immediate effect if the holder of the certificate:

Withdrawal of certificate.

(a) is issued with a residence permit or a residence document in terms of regulation 9 of the Immigration Regulations;

(b) does not take up residence in Malta within twelve months of the date of issue of the certificate and does not, within fifteen days of taking up residence in Malta, give notice to the Commissioner on the form as set out in Schedule B to these regulations, containing the information and documents requested therein;

(c) does not produce evidence that within twelve months of taking up residence in Malta he has purchased a flat at a cost of not less than Lm30,000 or a house of not less than Lm50,000 or taken on a leased property at not less than Lm1,800 per annum;

(d) does not comply with the provisions of sub-regulation (5) of regulation 9 of these regulations;

(e) does not continue to comply with the provisions of paragraph (c) of regulation 6 of these regulations.

8. (1) Where the conditions set out in regulation 6 have been satisfied and the holder of the certificate brings into Malta the amount of income referred to in paragraph (b) of that regulation, sub-paragraph (ii) of paragraph (a), and paragraph (b), of article 56(10) of the Act shall apply.

Applicability of article 56(10)(a)(ii) and (b) of the Act.

(2) For the purposes of the provisions of sub-regulation (1) hereof, in determining the amount of the annual income brought into Malta no consideration whatsoever shall be taken of any income which is transferred again out of Malta.

9. (1) The Commissioner shall notify the applicant or his representative in writing that his application referred to in regulation 5 hereof has been approved and the said applicant shall, within thirty days from the date of such notification, make a payment to the

Approval of application, issue of certificate and payment of taxL.N. 48 of 2000.

Commissioner equivalent to the minimum amount of tax that is due in terms of article 56(10)(a)(ii) of the Act.

(2) Upon the payment referred to in sub-regulation (1) hereof the Commissioner shall, within thirty days, issue to the applicant the certificate referred to in regulation 2 hereof.

(3) The payment referred to in sub-regulation (1) shall be available as a credit for the year in which the applicant takes up residence in Malta.

(4) Where as a result of an individual not taking up residence in Malta within twelve months of the issue of a certificate such certificate is deemed to have been withdrawn, an amount not exceeding one thousand three hundred Maltese liri of the tax paid by the said individual in accordance with sub-regulation (1) hereof shall be refunded to such individual.

(5) Notwithstanding the provisions of the Payment of Provisional Tax (P.T.) Rules, 2000, the P.T. benchmark with respect to provisional tax payable on account of the year immediately following that in which an applicant has taken up residence in Malta, shall be equivalent to the minimum amount of tax that is due in terms of article 56(10)(a)(ii) of the Act and shall be payable within the times prescribed in rule 5 of the Payment of Provisional Tax (P.T.) Rules, 2000.

SCHEDULE A

(Regulation 5)

INCOME TAX ACT
(CAP. 123)

Application under the Residents Scheme Regulations, 2004

Applicant's Details:

<i>Surname:</i>	<i>Forename(s):</i>
<i>Maiden Surname:</i>	<i>Nationality:</i>
<i>Date of Birth:</i>	<i>Passport/Identity Card No:</i>
<i>Place of Birth:</i>	<i>Place and Date of Issue:</i>
<i>Father's Name:</i>	<i>Mother's Name and Maiden Surname:</i>
<i>Marital Status:</i>	<i>Maltese Income Tax Registration No. (if applicable):</i>
<i>Tax Identification No. in Residence country</i>	

Postal Address of Applicant:	Representative's Local Address (if applicable):
_____	_____
_____	_____
_____	_____

Personal:	<i>Tel. No.:</i> _____	<i>Fax No:</i> _____	<i>E-mail:</i> _____
Representative: (if applicable)	<i>Tel. No.:</i> _____	<i>Fax No.:</i> _____	<i>E-mail:</i> _____

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Spouse Details (if applicant is married):

<i>Surname:</i>	<i>Forename(s)</i>
<i>Maiden Surname:</i>	<i>Nationality:</i>
<i>Date of Birth:</i>	<i>Passport/Identity Card No:</i>
<i>Place of Birth:</i>	<i>Place & Date of Issue:</i>
<i>Father's Name:</i>	<i>Mother's Name and Maiden Surname:</i>

Details of dependants:

(Sons and daughters under 21, parents or grandparents financially dependant on applicant)

	<i>Surname</i>	<i>Forename</i>	<i>Relationship to applicant</i>	<i>Nationality</i>	<i>Date of Birth</i>
<i>1.</i>					
<i>2.</i>					
<i>3.</i>					
<i>4.</i>					
<i>5.</i>					
<i>6.</i>					
<i>7.</i>					
<i>8.</i>					
<i>9.</i>					
<i>10.</i>					

Documentary Evidence to be produced with this application

<i>Checklist of Documents Attached</i>	√
Bankers' Certificate or equivalent	
Conduct Certificate/s	
Marriage Certificate/s or Full Birth Certificate/s	
Lease Agreement or Deed of Purchase of Immovable Property in Malta (where applicable)	
Declaration (if dependants on application include parents or grandparents)	
Three (3) recent passport size photographs of each person mentioned on application.	

Declaration

I declare that:

- all the information given in this application is true, complete and correct
- I am aware that the Commissioner of Inland Revenue has the right, as permitted by law, to verify the information given on this form
- I bind myself to inform immediately the Commissioner of Inland Revenue of any change in circumstances by means of a new application.

Signature of applicant _____

Full Name and Surname: _____
(In Block Letters)

Date ____/____/____

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SCHEDULE B

(Regulation 8)

**INCOME TAX ACT
(CAP. 123)**

**Notice of Residence to the Commissioner under
the Residents Scheme Regulations, 2004**

Income Tax Number _____
Residence Certificate No. _____
Certificate Date ____/____/____

I _____ do hereby declare that I arrived and took up residence in
Malta on ____/____/____. My present address in Malta is

_____.

I agree and accept all the conditions attached to the Residence Certificate Permit
issued under the Residents Scheme Regulations, 2004.

I authorise _____ [tax reference/ID No. _____]
Address: _____,
to act as my tax representative.

Signature: _____
Name in full: _____
Date: ____/____/____