L.N. 232 of 2002

INCOME TAX MANAGEMENT ACT
(CAP. 372)

Electronic Communications (Income Tax) Regulations, 2002

IN exercise of the powers conferred by paragraph (b) of article 58 of the Income Tax Management Act, hereinafter referred to as "the Act", the Minister of Finance has made the following regulations:-

Title and commencement.

1. The title of these regulations is the Electronic Communications (Income Tax) Regulations, 2002, and they shall come into force upon their publication in the Gazette with respect to the year of assessment 2002 and subsequent years of assessment.

Interpretation.

2. In these regulations, unless the context otherwise requires --

Cap. 281.

"tax practitioner" means a person or a firm who is in possession of a warrant issued under the Accountancy Profession Act or is a member of the Malta Institute of Taxation and who is registered with the Commissioner under the provisions of regulation 5 of these regulations as a provider of electronic services over the internet specified in regulation 3 of these regulations;

"tax representative" means a person who is a tax practitioner as defined in these regulations and who is authorised by a company under the provisions of regulation 6 of these regulations to act on its behalf in connection with any of the electronic services over the internet specified in regulation 3 of these regulations;

"official computer system" means the computer system maintained by or on behalf of the Commissioner of Inland Revenue.

Scope.

3. The electronic services which may be provided under these regulations shall be the following -

(a) the making and delivery to the Commissioner, of a return of income made in terms of article 10 of the Act using electronic communications;

(b) the making and delivery to the Commissioner, of the form prescribed in the Schedule to the Payment of Provisional Tax (P.T.) Rules, 2000, using electronic communications; L.N. 48 of 2000.

(c) the making and delivery to the Commissioner of any other form as may be specified in Schedule D to these regulations, using electronic communications.

4. These regulations shall apply to companies as defined in the Income Tax Act which are resident in Malta but shall not apply to:- Application. Cap. 123.

(a) a trust;

(b) a company carrying on banking business under the Banking Act; Cap. 371.

(c) a company carrying on the business of insurance under the Insurance Business Act; Cap 403.

(d) a company which is owned and controlled, directly or indirectly, by such company referred to at paragraphs (b) or (c) hereof.

(e) a company which is registered under article 24 of the Malta Financial Services Centre Act. Cap.330.

5. (1) Registration as a tax practitioner with the Commissioner is to be made by filling and delivering to the Commissioner the form prescribed in Schedule A to these regulations. Registration as tax practitioner.

(2) Where registration as a tax practitioner is made by a firm, such registration shall also be made on the form prescribed in Schedule C to these regulations, indicating the names of not more than five members of the firm as users of the internet services of the Commissioner, including the name of the one user who is appointed by the firm to manage within the firm the access to electronic services by the other users:

Provided that nothing in this paragraph shall be interpreted as imposing an obligation upon the Commissioner to accept any individual as a user or to accept any number of users from any registering firm.

(3) Registration in terms of paragraphs (1) and (2) above shall be subject to such terms and conditions as the Commissioner may from time to time determine.

(4) Acceptance of registration in terms of paragraphs (1) and (2) above shall be notified by the Commissioner to the person or firm requesting such registration.

(5) when a person or firm who has been registered under paragraph (1) hereof with the Commissioner desires to cancel such registration he shall make a request in writing asking for his registration to be cancelled.

(6) The cancellation of the registration of a person or firm referred to in paragraph (3) hereof shall not relieve that person or firm from any liability incurred before the date of the cancellation or in virtue of anything done or omitted to be done before that date.

Authorization of tax representative by company.

6. (1) A company to which these regulations apply may authorize a tax practitioner to act as its tax representative on its behalf in respect of all or any of the electronic services specified in regulation 3 or of the facilities specified in regulation 7 of these regulations.

(2) The authorization referred to in paragraph (1) hereof is to be made on the form prescribed in Schedule B to these regulations.

(3) Unless the Commissioner specifically authorizes in writing, a company to which these regulations apply may not authorize more than one tax practitioner at a time to act as its tax representative with respect to the service referred to in paragraph (a) of regulation 3 of these regulations.

(4) The Commissioner may, notwithstanding anything contained in the other provisions of these regulations, grant to a company, to which these regulations apply, an authorization to act as a tax representative on its own behalf following an application in writing by such company.

(5) The authorization referred to paragraph (1) hereof may be, at any time, cancelled by the company by notice in writing to the Commissioner.

Access to facilities.

7. The Commissioner may, in his discretion, give permission to a tax representative acting on behalf of a company and duly registered under regulation 6 of these regulations, to have electronic access to all or any of the facilities listed in Schedule E to these regulations.

Cancellation of registration.

8. (1) The Commissioner may, at any time and for any reason which he may deem fit, cancel the registration referred to in regulation 5 or the facility referred to in regulation 7 of these regulations.

(2) The Commissioner shall serve a notice on any person or firm whose registration has been cancelled in terms of paragraph (1) of this regulation indicating the date on which the registration or the facility has been cancelled.

Information delivered by electronic means deemed delivered as required by Income Tax Acts.

9. (1) Returns, forms and other documents to which these regulations apply and which are delivered by means of electronic communications shall be treated as having been delivered, in the manner or form required by any provision of the Income Tax Act or the Income Tax Management Act as the case may be, or by regulations made thereunder provided that all the conditions imposed by these regulations and other applicable provisions are satisfied.

(2) Where a company has had its return of income delivered by electronic communication it shall, within forty-eight hours of a request to that effect by the Commissioner, deliver to the Commissioner a paper copy of the said return and of any documents which are required to be attached thereto under any provision of or rules made under the Income Tax Act or the Income Tax Management Act.

(3) A return of income, form or other document delivered to the Commissioner and received on the official computer system in accordance with these regulations shall not be required to bear the physical signature of the person obliged to file such return, form or other document.

Proof of identity of sender or recipient of information.

10. For the purpose of these regulations –

(a) the sender of any return, document, or form referred to in regulation 3 of these regulations, delivered by means of electronic communications to the official computer system, shall be presumed, unless the contrary is proved, to be the person recorded as such on the official computer system;

(b) the recipient of any information referred to in regulation 7 of these regulations, delivered by means of electronic communications from an official computer system, shall be presumed, unless the contrary is proved, to be the person recorded as such on the official computer system.

Proof of delivery of information.

11. (1) If it is necessary to prove, for any purpose, that the use of electronic communications has resulted in the delivery of any information, it shall be conclusively presumed -

(a) that it has been delivered to the Commissioner, if the delivery of the information has been recorded on the official computer system;

(b) that it has been delivered by the Commissioner, if the despatch of that information has been recorded on the official computer system;

(c) that neither one nor the other of the events of paragraph (a) or (b) has occurred, if the delivery has not been so recorded.

(2) If it is necessary to prove, for any purpose, when any information sent by means of electronic communications has been received, the time of receipt shall be presumed, unless the contrary is proved, to be that recorded by the official computer system.

(3) In the case of proved technical difficulties with the official computer system the Commissioner may direct that any return, form or other document delivered by electronic communications shall be deemed to have been delivered on a different date than that recorded on the official computer system.

Proof of content of information.

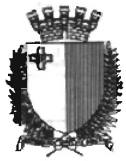
12. If it is necesssary to prove, for any purpose, the content of any information sent by means of electronic communications, the content shall be presumed, unless the contrary is proved, to be that recorded on the official computer system.

Saving.

13. Nothing in these regulations shall relieve any person from any obligation or responsibility imposed by article 7 of the Act.

SCHEDULE A

(Regulation 5(1))



Registration as a Tax Practitioner

Tax Reference Number

Inland Revenue

VAT Number

This registration applies to a person or a firm qualifying as a tax practioner under regulation 2 of the Electronic Communications (Income Tax) Regulations 2002.

I _____ *(enter name)*

on behalf of _____ (*enter name of firm, where applicable*)

hereby apply to register with the Commissioner of Inland Revenue as a tax practitioner in connection with the provision of electronic services over the Internet.

I shall abide by all the terms and conditions related to these services which the Commissioner of Inland Revenue may from time to time determine.

Registration details

Name of Firm (where applicable) _____

Business address _____

_____

Telephone number _____

FAX number _____

Email address _____

Partnership number as per Companies Act (where applicable) _____

Signature _____ Date _____

Name in full _____ ID Number _____

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SCHEDULE B

(Regulation 6(2))



Inland Revenue

Authorisation of tax representative

Company Tax Reference Number

ROC Number

This authorisation applies to a company appointing a tax practitioner as its tax representative with respect to the electronic services or facilities provided by the Commissioner of Inland Revenue. This authorisation supersedes any earlier authorisation, delivered by the company to the Commissioner of Inland Revenue.

I, _____ *(enter name)*

as legal representative of _____ *(enter company name)*

authorise _____ *(tax representative name)*

identified by the Commissioner of Inland Revenue as practitioner number _____ *(tax representative PRN)*

to act on my behalf in connection with the electronic services or facilities provided by the Commissioner of Inland Revenue as indicated below. I acknowledge full responsibility for the information submitted.

Tick (√) where applicable	**Service**
☐	Filing of income tax return and financial statements
☐	Filing of PT Reduction Form

Tick (√) where applicable	**Facility**
☐	Access (view only) to company's payments and tax statements
☐	Access (view only) to company's tax return submission status

Count of services or facilities authorised in this form ☐

(Where company wishes to receive electronic confirmation of the authority and similar correspondence, an electronic mail address is to be indicated.)

Email address: _____

Signature _____ Date _____

Name in full _____ ID No. _____

SCHEDULE C

(Regulation 5(2))



Registration of users by a firm

Tax Reference Number

ROC Number

Inland Revenue

This registration applies to tax practitioners who wish to have more than one member of their firm using the Internet services provided by the Commissioner of Inland Revenue.

I _____ *(enter name)*

on behalf of _____ *(enter name of firm)*

hereby appoint

_____ *(enter name and ID No.)*

to act as manager of access to the electronic services and facilities provided by the Commissioner of Inland Revenue by other users within the firm.

I indicate the following as further users *(maximum four)*

	User full name	Reference Number (ID)
1		
2		
3		
4		

Signature _____ Date _____

Full Name _____ ID No. _____

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SCHEDULE E

(Regulation 7)

List of facilities to which a tax representative may be granted electronic access by the Commissioner

1. Access (view only) to company's payments and tax statements.
2. Access (view only) to company's tax return submission status.