L.N. 112 of 2006

INCOME TAX ACT
(CAP. 123)

Tax on Property Transfers Rules, 2006

IN exercise of the powers conferred by articles 5, 5A, 14 and 96 of the Income Tax Act, hereinafter referred to as "the Act", the Prime Minister and Minister of Finance has made the following rules:-

Title.

1. The title of these rules is the Tax on Property Transfers Rules, 2006.

Definitions.

2. In these rules, unless the context otherwise requires –

"acquisition value" and "transfer value" mean the acquisition value and the transfer value that are required to be determined for the purposes of article 5A of the Act;

"project" and "property" have the meaning assigned to them in article 5A of the Act;

"market value", in relation to any property, means the average price which that property would fetch if sold in the open market;

"notice of the transfer" means the notice in respect of a transfer of property that is required to be delivered to the Commissioner in accordance with rule 22(9).

Deduction for brokerage fees.

3. (1) In determining the amount on which tax is payable in terms of article 5A of the Act, there shall be allowed as a deduction from the transfer value brokerage fees, if any, paid by the transferor in connection with the transfer in question.

(2) Brokerage fees shall not be allowable as a deduction unless –

(a) the transferor produces to the notary a signed receipt that shows the date of the payment, the name, identity card number and address of the broker and the amount of brokerage fees paid;

(b) the notary records in the deed of the transfer the fees paid and the name and particulars of the broker; and

(c) the notary produces a certified copy of the said receipt to the Commissioner together with the notice of the transfer.

(3) When brokerage fees are paid in respect of more than one transfer the deduction in respect of each transfer shall be such proportion of the total deduction as is equal to the proportion which the value of the respective transfer bears to the total transfer value of those transfers.

Acquisition value of property acquired *causa mortis* or by donation.

4. (1) The acquisition value of property acquired *causa mortis* before the 25th November, 2003 shall be the value declared in the relative deed of the transfer *causa mortis*, as adjusted by any deed of adjustment, if notice of the said deed of transfer *causa mortis* and, where applicable, of the said deed of adjustment, have been given to the Commissioner, for the purpose of and in accordance with the provisions of the Duty on Documents and Transfers Act, not later than the 30th June, 2005.

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(2) The acquisition value of property acquired *causa mortis* on or after the 25th November, 2003 shall be the value declared for the purpose of and in accordance with the provisions of the Duty on Documents and Transfers Act if the deed of the transfer *causa mortis* was made within six months from the relative succession or donation and if notice thereof was given to the Commissioner in accordance with that Act by not later than either fifteen working days after the date of the publication of the deed or the expiration of the said period of six months, whichever is the later.

(3) In cases not covered by the foregoing provisions of this rule, the acquisition value of property acquired *causa mortis* or by donation shall be its market value at the time of the acquisition.

(4) Notwithstanding the foregoing provisions of this rule, where the value of property acquired *causa mortis* or by donation was the subject of an assessment made under the Duty on Documents and Transfers Act and, before the date of the transfer in question, that assessment has –

(a) become final and conclusive, or

(b) has been confirmed or amended by a final decision of an appellate tribunal or court, or

(c) has been withdrawn following an agreement in writing with the Commissioner

the acquisition value of that property shall be the value determined in the said final and conclusive assessment, decision or agreement.

Transfer and acquisition value of partitioned property.

5. (1) In a partition of property, an owelty shall be deemed to be due to a partitioner if and to the extent that the value of that partitioner's share of the total assets that are partitioned is less than the value of the partitioned assets that are assigned to him.

(2) The value of the transfer that is deemed to be made by a partitioner to whom an owelty is due shall be the lower of the following two amounts:

(a) the owelty deemed to be due to that partitioner as provided in sub-rule (1); and

(b) the excess, if any, as at the time of the partition, of the value of that partitioner's share of the property over the value of the property assigned to him.

(3) The acquisition value of property transferred in the circumstances referred to in sub-rule (1) shall be a proportion of the transfer value and shall be determined according to the following formula:

TV x VP1 / VP2

where:

TV means the transfer value determined in accordance with sub-rule (2);

VP1 means the original value of the partitioned property;

VP2 means the value of the partitioned property as at the date of the partition.

(4) When a person transfers property that was assigned to him on a partition, the acquisition value of that property shall be an amount equal to the lower of –

A the original value of that particular property; and

B the original value of that person's undivided share of the partitioned property.

(5) For the purpose of sub-rule (4), where the property transferred by a person is only a part of the property that had been assigned to him on the partition, the original value of that person's undivided share of the partitioned property shall be deemed to be such

proportion of the total original value of his undivided share of the property that was partitioned as is equal to the proportion which the original value of the property that is transferred bears to the total original value of all the property that were assigned to that person.

(6) In this rule, "the original acquisition" means the acquisition by means of which the partitioners had acquired their undivided shares of the partitioned property and "the original value" means the value as on the date of the original acquisition.

Transfer value of property transferred to the Government.

6. In any transfer of property to the Government of Malta, the transfer value shall be deemed to be equal to the consideration paid or payable for that transfer.

Emphyteutical concessions and concessions of other rights over property.

7. (1) The transfer value of an emphyteutical concession and of a concession of any other right over property shall be the higher of:

(a) the premium or any other capital sum, if any, payable for the concession; and

(b) the market value of the property reduced by the capitalised value of the ground rent or any other income payable for the concession.

(2) In determining the acquisition value for the purpose of article 5A(5)(b) of the Act, a concession of perpetual emphyteusis or of emphyteusis for a period of more than fifty years shall be treated as if it were a transfer of the property over which the emphyteusis is granted.

(3) An emphyteutical concession for a period that does not exceed fifty years and a concession of any other right over property shall in all cases be deemed to be a transfer to which paragraph 5A(5)(a) of the Act applies.

(4) When ground rent is redeemed in full or in part, the transfer value shall be the consideration payable for the redemption.

(5) When ground rent is redeemed and, at the time of the redemption, the owner of the *directum dominium* is not the person who had made the emphyteutical concession in question, the acquisition value of the right transferred on the redemption shall be the acquisition value of the *directum dominium* determined in accordance with rule 4: provided that where the ground rent is redeemed in part, the said acquisition value shall be reduced proportionately.

(6) Except as provided in sub-rule (5), the redemption of the ground rent or any other right over property shall in all cases be deemed to be a transfer to which paragraph 5A(5)(a) of the Act applies.

(7) When ground rent is redeemed by means of a schedule of redemption, the Registrar of Courts shall deduct from the deposit an amount equivalent to 12% of the sum payable for the redemption, and shall remit that amount to the Commissioner. The Commissioner shall keep the amount so remitted in a suspense account until the final payment of the tax is made in accordance with sub-rule (8) or (9).

(8) Subject to sub-rule (9), when a person withdraws money deposited in court for the redemption of the ground rent, he may make a declaration to the Commissioner of the tax due on the redemption in accordance with article 5A of the Act and these rules on such form and in such manner as the Commissioner may accept. Upon the receipt of any such declaration, and after making any ascertainment that he may consider necessary, the Commissioner shall withdraw from the suspense account referred to in sub-rule (7) an amount equivalent to the tax due on the said redemption in settlement of that tax. Any balance in the suspense account shall be remitted to the person who makes the declaration upon proof being submitted that he was the person entitled to make the withdrawal.

(9) If a declaration as is referred to in sub-rule (8) is not made within 30 days from the date of the withdrawal, the amount remitted in accordance with sub-rule (7) shall be deemed to represent the final tax due on the redemption and the Commissioner may withdraw that amount from the suspense account in settlement of that tax.

(10) The Registrar of Courts shall make the remittance as required by sub-rule (7) together with a notice on the form prescribed in Schedule H within fifteen working days from the date when the schedule of redemption is filed. The Registrar of Courts shall attach a copy of the schedule of redemption to the notice. The Registrar of Courts shall, moreover, notify the Commissioner of any withdrawal referred to in sub-rule (8) by means of the delivery of the form prescribed in Schedule I within fifteen working days from the date of the withdrawal.

(11) The Commissioner and the Registrar of Courts shall be indemnified against any person whatsoever for any amount deducted, remitted, withdrawn or received in accordance with this rule.

(12) The provisions of this rule in respect of an emphyteutical grant and the redemption of ground rent shall apply

mutatis mutandis to a concession of sub-emphyteusis and the redemption of sub-ground rent.

(13) This rule shall be without prejudice to the tax chargeable under article 4 of the Act on any ground rent or other income arising pursuant to any concession of a right over property.

Parties to declare transfer value of each item of property transferred.

8. (1) When more than one item of property is transferred on the same deed the parties shall declare a separate transfer value for each item.

(2) When the acquisition value of an item of property that is allowable as a deduction in terms of article 5A(5)(b) of the Act and any other deductions that may be allowable in terms of these rules in respect of that item, exceed the transfer value of that item, the excess shall not be set off against the transfer value of any other item of property or otherwise allowed as a deduction for any purpose of the Income Tax Acts.

Apportionment of transfer value in proportion to undivided shares.

9. When a person transfers property which he had acquired by means of separate acquisitions and any of those acquisitions was an acquisition of an undivided share of the property transferred, that undivided part shall be deemed to be transferred separately, and its transfer value shall be a proportionate part of the whole transfer value.

Apportionment of transfer value in proportion to area.

10. When a person transfers undeveloped land which he had acquired by means of acquisitions of separate parts, and the area of any of those parts is defined in the deed of transfer, that part shall be deemed to be transferred separately and its transfer value shall be such proportion of the whole transfer value as is equivalent to the proportion which the area of that part bears to the whole area of the property that is transferred.

Apportionment of transfer value on the basis of an architect's report.

11. (1) When a person transfers property which he had acquired by means of separate acquisitions and the transfer value that is to be allocated to each part cannot be determined in accordance with rules 9 and 10, he may produce to the notary receiving the deed a report drawn up by an architect as provided in sub-rule (2).

(2) The architect's report shall state the area of each part and the proportions of the transfer value to be allocated to each part as provided in sub-rule (4).

(3) For the purpose of sub-rule (2), when the part of the property in question consisted, at the time of the acquisition, of a construction of more than one level, and it has not been demolished, its

area shall be the sum total of the surface area of each level. In other cases, the area shall be the surface area of the underlying land.

(4) In the circumstances referred to in this rule, each part of the property shall be deemed to be transferred separately and the value of each deemed separate transfer shall be such proportion of the whole transfer value as is equivalent to the proportion which the area of each part bears to the total area of all the parts.

Cases where the transfer value is not apportioned.

12. When a person transfers property which he had acquired by means of separate acquisitions and the transfer value of property is not apportioned in accordance with rules 9, 10 and 11, the following provisions shall apply:

(a) any acquisitions *causa mortis* shall be deemed to be acquisitions *causa mortis* that took place after the 24th November 1992: provided that this paragraph shall not apply if all the acquisitions were acquisitions *causa mortis* that took place on or before that date;

(b) any onerous acquisitions *inter vivos* shall be deemed to have taken place more than five years before the transfer: provided that this paragraph shall not apply if all the acquisitions were onerous acquisitions *inter vivos* that took place not more than five years before the transfer.

Apportionment of the acquisition value in proportion to undivided share.

13. When a person acquires property and he subsequently transfers an undivided part of that property, the acquisition value of that part shall be a proportionate part of the acquisition value of the whole property.

Apportionment of acquisition value in proportion to defined areas.

14. When a person acquires undeveloped land and he subsequently transfers:

(a) a divided part of that land, or

(b) property developed over a divided part of that land, consisting of the whole development over that part as well as the underlying land and the airspace,

and the areas of that part and of the whole land are defined in the deed, the acquisition value shall be such proportion of the acquisition value of the land that was acquired as is equal to the proportion which the area of the part that is transferred bears to the whole area of the land that was acquired.

Apportionment of the acquisition value in proportion to calculated areas.

15. (1) When a person acquires property and he subsequently transfers part of that property, and the acquisition value of that part cannot be determined in accordance with rules 13 and 14, he may make a calculation of the apportionment of the acquisition value in accordance with this rule.

(2) The calculation referred to in sub-rule (1) shall show the area of the whole property and the surface area of the part that is being transferred. The area of the whole property shall be the sum total of the surface area of each of the levels comprised therein or, in the case of property that is under construction or that has yet to be constructed, of each of the levels comprised in the latest plans of the project. For the purpose of this rule –

(a) the airspace shall be deemed to constitute a separate level;

(b) the area of the common parts shall be apportioned to the respective units;

(c) there shall be excluded from the area of a unit any part over which the transferor retains rights of ownership.

(3) In the circumstances mentioned in this rule, the acquisition value shall be such proportion of the acquisition value of the property that was acquired as is equal to the proportion which the area of the property transferred bears to the area of the property that was acquired.

(4) The provisions of this rule shall be applied in a manner that ensures that the total of the acquisition values of the various parts of an item of property shall never exceed the acquisition value of that item.

Cases where no value is deemed to represent the acquisition value.

16. No value shall be deemed to represent the acquisition value of part of a property unless it is determined in the manner provided in rules 13, 14 and 15 or in such other manner as may be approved in writing by the Commissioner.

Saving provision.

17. (1) Rules 9 to 16 shall be without prejudice to the provisions relating to the determination of the transfer value and of the acquisition value in the case of transfers mentioned in rule 5.

(2) The provisions of these rules relating to the determination of the acquisition value of property shall be applicable to

the extent that they are relevant for the purpose of article 5A(5)(b) of the Act.

Evidence of the market value.

18. In any appeal relating to an order made under article 5A(10) of the Act, an architect's estimate that has been confirmed on oath shall be admissible as evidence of the market value of property. When different estimates are produced in proceedings in the Board of Special Commissioners, the Board shall, unless the parties otherwise agree, appoint another architect to report on the value after examining the estimates that have been produced and inspecting the property, and the Board shall decide the matter after taking into account the said report and any other consideration that it may consider appropriate.

Reduction of additional tax.

19. When an order is made under article 5A(12) of the Act and the payment of the tax and additional tax as provided in this rule is made within the time from the date of the order as stated in the first column hereunder, the additional tax chargeable shall be reduced to the percentage amount corresponding thereto in the second column hereunder, and no further tax, additional tax or interest shall be chargeable with respect to the amount of tax and corresponding additional tax so paid, and no objection shall be entertained with respect thereto:

First Column:	Second Column:
within 90 days	10
within 120 days	20
within 150 days	30
within 180 days	40
within 210 days	50
within 240 days	60
within 270 days	70
within 300 days	80
within 330 days	90
after 330 days	100

20. (1) Every person who carries on a trade, business, profession or vocation and who owns property shall keep such records and documents relating to the acquisition, development and transfer thereof as are necessary for ascertaining the tax chargeable on the transfer of that property or part thereof. Accounts and records.

(2) Without prejudice to the generality of the sub-rule (1), the records shall show an account of the costs and turnover related to any project and shall include -

(a) a general account of the project;

(b) an account in respect of each transferable unit within the project.

(3) The account in respect of a transferable unit within a project shall include:

(a) the consideration for the transfer of that unit;

(b) the transfer value of that unit determined in accordance with these rules;

(c) the acquisition value of that unit determined in accordance with these rules;

(d) the accounting costs related directly to the development of that unit;

(e) a portion of the general development costs that cannot be allocated specifically to that transferable unit. Except when the Commissioner otherwise directs in writing , this portion shall be such proportion of the said general development costs as is equal to the proportion which the area of that unit bears to the total area of the project.

(4) In calculating the area of a transferable unit and of a project for the purpose of paragraph (3)(e) the following provisions shall apply:

(a) the area of each unit shall be the sum total of the surface area of each level comprised in that unit;

(b) the area of the project shall be the sum total of the areas of each transferable unit within that project, as well as the common

parts and all parts over which the owner retains or intends to retain rights of ownership;

(c) the areas referred to in this sub-rule shall correspond to the areas resulting from the latest plans in respect of the project.

(5) Without prejudice to the generality of sub-rule (1), the documents required to be kept by this rule shall include:

(a) copies of the deeds of acquisition and deeds of transfer of the property in question;

(b) the plans in respect of the project, including the plans and any alterations as approved by the competent authorities and all plans and drawings on the basis of which any works have been or are planned to be carried out and by reference to which any part of the project is or is planned to be transferred;

(c) copies of all applications and permits filed with or obtained from the competent authorities in connection with the property;

(d) fiscal receipts or tax invoices of all costs that comply with all the relevant provisions of the Value Added Tax Act.

(6) The records and documents that are required to be kept in accordance with this rule shall be kept in addition to the records and documents required in terms of any other provision under the Income Tax Acts.

(7) In this rule, "a transferable unit" means any unit that is included in the plans referred to in sub-rule (5)(b) as a separate transferable unit: provided that the airspace shall, unless it is specifically transferable as part of a unit, be deemed to represent a separate unit.

Determination of profits.

21. (1) Except as is otherwise provided in the Act or in other rules under the Act, when the tax chargeable in respect of a transfer of property is determined by reference to the profits derived from that transfer, these rules shall apply for the purpose of determining the respective chargeable income.

(2) When the tax in respect of a transfer of property is chargeable under article 5A of the Act, the profits that a company is required to allocate to the property transfer reserve in the Maltese Taxed Account shall be the consideration for that transfer after deducting –

(a) the acquisition value and brokerage fees, if any, determined in accordance with these rules; and

(b) the other development costs determined in accordance with rule 19(3)(d) and (e).

Information to be given and forms to be submitted.

22. (1) The transferor in any deed of transfer of property shall make a full and correct declaration of the particulars of the transfer and of the tax chargeable on the form prescribed in Schedule A and shall fully and correctly complete any other form that may be relevant to the particular transfer as provided in sub-rules (2) to (6).

(2) In the case of a transfer that is deemed to take place in a partition where an owelty is due in accordance with rule 5(1), the transferor shall prepare a calculation of the transfer value and of the acquisition value on the form prescribed in Schedule B.

(3) In the case of a transfer of property that had been assigned to the transferor on a partition as is referred to in rule 5(4), the transferor shall prepare a calculation of the acquisition value on the form prescribed in Schedule C.

(4) In the case of a transfer of property that had been acquired by means of separate acquisitions as is referred to in rules 9, 10, 11 and 12, the transferor shall prepare a calculation of the transfer value on the form prescribed in Schedule D.

(5) An architect's report for the purposes of rule 11 shall be drawn up on the form prescribed in Schedule E.

(6) In the case of a transfer of property in part as is referred to in rules 13, 14 and 15, the transferor shall prepare a calculation of the acquisition value on the form prescribed in Schedule F.

(7) Nothing in the foregoing provisions of this rule shall be construed as imposing an obligation on any person to prepare a calculation of the acquisition value of property when that value is not relevant for the purpose of article 5A(5)(b) of the Act.

(8) The transferor shall produce the form or forms that he is required to complete in accordance with this rule to the notary who publishes the deed of the transfer. The notary shall deliver the forms to the Commissioner together with the notice of the transfer.

(9) The notary publishing a deed of transfer of property shall give notice thereof by means of the delivery to the Commissioner of

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the form prescribed in the First Schedule to the Duty on Documents and Transfers Act by not later than fifteen working days from the date of the transfer together with the payment due in terms of article 5A of the Act, as well any other payment of tax that may be payable on the deed in connection with that transfer under the Income Tax Acts and the Duty on Documents and Transfers Act. The notary shall deliver the said form in triplicate to the Commissioner (Capital Duty Branch). The Commissioner shall stamp one copy and deliver it to the notary in acknowledgement of the receipt of the form and of the payment accompanying it. The notary shall annex the stamped copy to the relative deed of transfer.

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(10) The provisions of these rules shall be subject to anything that may be prescribed in terms of article 58(b) of the Income Tax Management Act for the use of electronic communications and the making of payments by electronic means.

Deed of correction.

23. When the parties to a deed of transfer of property correct or otherwise change that deed by means of a subsequent deed, and the tax payable under article 5A of the Act in respect of that transfer as corrected or changed is higher than the amount stated to be payable under the original deed, the correction or change shall be deemed to constitute a transfer of property and the provisions of article 5A of the Act and of these rules including, without limitation, the provisions relating to the payment of the tax and the notice of the transfer, shall apply to that deed accordingly: provided that the tax payable under article 5A of the Act on that correction or change shall be the balance remaining from the full amount payable in respect of the deed of the transfer as corrected or changed after deducting the amount already paid in connection with the original deed.

Assignment of rights and promise of an assignment.

24. (1) The provisions of the Capital Gains Rules relating to assignments of rights acquired under a promise of sale (*konvenju*), including the provisions laying down the conditions for the validity thereof, the deductions allowable for the purpose of computing the gains or profits derived therefrom and the payment of provisional tax, shall apply to assignments of rights that fall within the scope of article 4(1)(a) as provided in article 5A(2)(d) of the Act.

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(2) An agreement purporting to be a promise of an assignment of a right acquired under a promise of sale (*konvenju*) shall not be valid for the purposes of any law unless it satisfies all the following conditions –

(a) it is done in writing and signed by the parties thereto;

(b) the signatures of the parties are witnessed by a notary or an advocate;

(c) it states the consideration for the assignment;

(d) a word-processed copy thereof is delivered by the notary or advocate who witnessed the signatures of the parties to the Commissioner in the form prescribed in Schedule G within 30 days from the date on which it is concluded.

SCHEDULE A

Rule 22(1)

Income Tax Act
Tax on Property Transfers Rules, 2006

Form TPT 1
Declaration to be made by persons who transfer immovable property situated in Malta

When property is transferred by more than one transferor, this form may be completed jointly by them if and to the extent that the shares of the property transferred by each of them are categorised in the same manner for the purpose of the calculation of the tax in this Form. Separate forms are to be used where transfers of property by different persons are categorised in a different manner.

Continuation sheets are to be added as necessary.

Names and addresses of the Transferors		**I.D./Income Tax No.**	**Telephone No.**
1			
2			
3			
4			
5			
6			

Date of the transfer	**Name of the notary publishing the deed of the transfer**

Address or other description of property being transferred	
1	
2	
3	
4	
5	
6	
7	
8	

Calculation of the tax chargeable under article 5A of Act

Read the following notes carefully. Where necessary. obtain assistance and advice.

1 *In this calculation, transfers are to be categorised as follows:*

Category I	*Transfer to which article 5A of the Act does not apply*
Category II	*Transfers that are exempt from tax under the Income Tax Act*
Category III	*Transfers of property that had been acquired* causa mortis *before 25-11-92*
Category IV	*Transfers of property that had been acquired* causa mortis *after 24-11-92 or by donation more than 5 years before the transfer*
Category V	*Other*

2 *The item number that must be given is the number of the relative item of property given in the list of items of properties described above .*

3 *When an item of property being transferred was acquired under more than one acquisition, and the transfer of that property falls under more than one category, the transfer value for each category that is to be shown in the respective column is that resulting from an apportionment that is to be calculated on Form TPT3. In such cases, Form TPT3 is to be attached to this Form.*

4 *When any item of property that is being transferred is part of the property that had been acquired, and the transfer falls under Category III, the acquisition value to be shown is that resulting from an apportionment that is to be calculated on Form TPT4. In such cases, Form TPT4 is to be attached to this Form.*

5 *In the case of a transfer that is deemed to take place on a partition where an owelty is due, the transfer value is to be calculated on Form TPT1. If the transfer falls under Category III, Form TPT1 is to be used also for calculating the acquisition value. In such cases, Form TPT1 is to be attached to this Form.*

6 *In the case of a transfer of property that had been assigned to the transferor on a partition where an owelty was due, the transfer value is to be calculated on Form TPT2. If the transfer falls under Category III, Form TPT2 is to be used also for calculating the acquisition value. In such cases, Form TPT2 is to be attached to this Form.*

7 *When more than one Form TPT 1 is used in respect of property transferred on the same deed, the transfer values and, where applicable, the acquisition values and brokerage fees should be apportioned to the separate forms according to the shares of the transfers covered by each form respectively.*

Category of transfer	I	II	III	IV	V	Total
Transfer Value	Item No.					
	1					
	2					
	3					
	4					
Corresponding amount of brokerage fees, if any						
Net amount						
Acquisition value	Item No.					
	1					
	2					
	3					
	4					
Total acquisition value						
Amount subject to tax under article 5A						
Tax at 7% on Category III transfers						
Tax at 12% on transfers of Categories IV and V						
Total tax chargeable						

Apportionment of the tax to the transferors

Transferor	**Tax**
Total	

Transfers to which article 5A of Act does not apply

This part of the form is to be completed in those cases where any transfer or part of a transfer is shown in the above calculation as a Category I transfer.

State why article 5A does not apply to the transfer by inserting the number of the item of property to which the transfer refers in the relative box

Cases where article 5A does not apply in virtue of a mandatory provision of the law:	Item no.
Art.5A(3)(b) proviso (ii) The property forms part of a project and was acquired not more than 5 years before the transfer, and the transferor has transferred other property that formed part of that project on or after the 1 March 2006 and has exercised the option under art. 5A(3)(b) in respect of that transfer	
Art. 5A(3)(c) proviso (ii) The property is situated within a Special Designated Area, and the transferor has transferred other property situated within that area on or after the 1 March 2006 and has exercised the option under art. 5A(3)(b) in respect of that transfer	
Art. 5A(3)(f) The transfer is being made in the course of a winding up by the court	
Art. 5A(3)(g) proviso (ii) The property is business property that had been acquired to replace another business property, and the transferor had qualified for roll-over relief under art. 5(8) ITA in respect of the transfer of that other property	

Cases where article 5A does not apply pursuant to an option exercised on the deed	
Art. 5A(3)(b) The property was acquired not more than 5 years from the date of the transfer *If the transferor is a company and had acquired the property under a transfer that qualified for the intra-group exemption or relief provided for in article 5A(4)(f) or 5(9) ITA, the 5-year period is to be reckoned from the date on which the property had last been transferred under a transfer that did not qualify for that exemption or relief*	
Art. 5A(3)(c) The property is situated within a Special Designated Area and the transferor was the owner of the property at the time that it was first designated as such	
Art. 5A(3)(d) An undivided share of the property is being transferred from one co-owner to the other. The property had been acquired to be used as residence and the parties had made a declaration in this sense for the purposes of art. 32(4)(a) DDTA in the deed of acquisition	
Art. 5A(3)(e) The property is being transferred to the Government. The Government had taken possession of that property, or a Presidential Order had been issued in respect thereof, prior to 1 November 2005. A letter from the Commissioner of Land confirming the relevant circumstances is attached.	

Art. 5A(3)(g) The property has been used in the business for at least 3 years and has been or will be replaced within 12 months by property used solely for the same purpose.	
Art. 5A(3)(h) The transferor is not resident in Malta and is attaching a statement signed by the tax authorities of the country of his residence confirming that he is resident in that country and that he is subject to tax in that country on profits derived from the transfer of immovable property situated in Malta.	

Exempt transfers

This part of the form is to be completed in those cases where any transfer or part of a transfer is shown in the calculation of the tax above as a Category II transfer.

In the appropriate box insert the item number of the property to which the transfer in question applies

For a full description of the conditions applicable to the exemption, refer to the corresponding provisions of article 5A of the Income Tax Act

A donation that is exempt under art. 5A(4)(a) or (b)	
A transfer of the transferor's own residence that is exempt under art. 5A(4)(c)	
An assignment that is exempt under art. 5A(4)(d) or (e)	
A transfer from one company to another that qualifies for the intra-group exemption under art. 5A(4)(f)	
A transfer if property upon the incorporation of a business or a partnership *en nom collectif* as a going concern into a limited liability company that is exempt under art. 5A(4)(g)	
A settlement of property on trust or a distribution or reversion of trust property that is exempt under article 5A(3)(h). *In addition to the item number, give also the reference of the relevant provision of article 5 (art. 5(18) to (25)*)	
A transfer that is exempt under art. 5A(4)(i) ITA by reference to article 12(1) ITA or an exemption order under art. 12(2) ITA or any other provision of any law *In addition to the item number, explain briefly the basis of the exemption*	

Declaration to be signed by all the transferors indicated in the first page

I / We declare that the information given above is true and correct. In particular, I / we confirm that:

- ▫ the transfer values declared above represent the higher of the consideration for the transfer and what, in my / our opinion, is the market value of the property in question
- ▫ all values have been properly calculated
- ▫ all the transfers are shown under the correct category

Name/s of transferor/s	Signature	Date

SCHEDULE B

Rule 22(2)

INCOME TAX ACT
(CAP. 123)
Tax on Property Transfers Rules, 2006
Transfers that take place on a partition where an owelty is due
FORM TPT 2
Calculation of transfer value and acquisition value in terms of Rule 5(1)
This Form is to be attached to Form TPT 1

List of the partitioners

1		4	
2		5	
3		6	

Date of the partition

Particulars of the original acquisition

Date of acquisition	
Type (causa mortis /donation)	
Name of notary who published the deed of transmission *causa mortis* or the deed of donation	

Notes:
Property means immovable property situated in Malta
Lines 1, 3, and 13 are to be filled in only if the property was acquired causa mortis after 24th November 1992 or by means of a donation that took place more than 5 years before the partition

Line no.		Property	Other common assets	TOTAL
1	Value of property at time of original acquisition			
2	Value of partitioned assets at the time of the partition as shown in the deed			
3	Original value of property as a proportion of value of property at time of partition (divide line 1 by line 2)			

4	Partitioners (give number corresponding to each partitioner listed above)						
5	Shares due to each partitioner (to be shown as a fraction)						
6	Value of share of total assets due to each partitioner (multiply TOTAL in line 2 by fraction shown in line 5)						
7	Value of common assets assigned to each partitioner						
8	Owelty due (line 6 less line 7)						
9	Value of share of property due to each partitioner (multiply the value of property in line 2 by the fraction shown in line 5)						
10	Value of property assigned to each partitioner						
11	Shortfall in value of property (line 9 less line 10)						
12	**Transfer value** (the higher of lines 8 and 11)						
13	**Acquisition value** (multiply line12 by the proportion shown in line 3)						

I / We confirm that the above information is true and correct

Persons to whom an owelty is due

Name and surname	Address	I.D No	Signature
Date			

SCHEDULE C

Rule 22(3)

INCOME TAX ACT
(CAP. 123)
Tax on Property Transfers Rules, 2006
Transfer of property that had been assigned to the transferor under a deed of partition where an owelty was due

FORM TPT 3
Calculation of acquisition value in terms of Rule 5(4)
This Form is to be attached to Form TPT 1

Notes:
Property means immovable property situated in Malta
Original acquisition means the acquisition by means of which the partitioners had acquired their undivided shares of the common property
Original value means the value as at the time of the original acquisition

1	Date pf the transfer	
2	Date of the original acquisition	
3	Nature of the original acquisition (acquisition *causa mortis* or donation)	
4	Name of the notary who published the deed of transfer *causa mortis* or of the donation	
5	Date of the partition	
6	Name of the notary who published the deed of the partition	

7 Description and original value of the property assigned to the transferor (as given in the deed of the original acquisition)

	Description	Value
i)		
ii)		
iii)		
iv)		
v)		
vi)		
vii)		
viii)		

8	Total original value of the property assigned to the transferor	

9	Original value of property transferred (as reported in line 7: give also the relative number where it is described in line 7)	
10	The original value of the property transferred as a fraction of the total original value of the property assigned to the transferor (divide line 9 by line 8)	
11	Total original value of transferor's s undivided share of the common property	
12	Proportionate part of the original value of the transferor's undivided share (multiply line 11 by the fraction shown in line 10)	
13	Acquisition value of the property transferred (the smaller of the values shown In lines 9 and 12)	

I confirm that the above information is true and correct

Name and surname of the transferor	Address	I.D No	Signature
Date			

SCHEDULE D

Rule 22(4)

INCOME TAX ACT
(CAP. 123)
Tax on Property Transfers Rules, 2006
Property acquired under more than one acquisition

FORM TPT 4
Apportionment of the Transfer Value
This Form is to be attached to Form TPT 1

Notes *Property means immovable property situated in Malta*

In Sections B, C and D, the category of each transfer in column (b) is to be indicated as "I, "III", "IV or "V", according to the categorisation shown below.

Category I refers to transfers to which article 5A does not apply

Category III refers to transfers of property that was acquired causa mortis *before 25 November 1992*

Category IV refers to transfers of property that was acquired causa mortis *after 24 November 1992 or by donation that took place more than 5 years before the transfer*

Category V refers to other transfers

In Section E

- all transfers are to be deemed to be transfers to which article 5A applies and no transfers are to be categorised under Category I

- all transfers of property that was acquired causa mortis *at any time are to be indicated as Category IV transfers together with transfers of property acquired by donation more than 5 years before the transfer, while all other transfers are to be categorised under Category V*

The acquisition value in column (f) is to be given only in the case of Category IV transfers

In the case of an apportionment covered by Section D, the architect's report should be attached to this Form

Section A
Property being transferred

1	Description of property being transferred	
2	The whole transfer value	
3	Date of the transfer	

Section B
Apportionment in accordance with rule 9
(by reference to the undivided shares of the property acquired)

		a	b		d	e	f
	Description of property acquired	Date of acquisition	Category of transfer		Undivided share of the property being transferred	Portion of transfer value (multiply value in Section A-2 by column d)	Acquisition value
1							
2							
3							
4							
	Total						

Section C
Apportionment in accordance with rule 10 (by reference to areas defined in the deed of transfer - applicable only in the case of a transfer of undeveloped land)

Area of the property being transferred

		a	b	c	d	e	f
	Description of property acquired	Date of acquisition	Category of transfer	Area as defined in deed	Fraction of the area of the property being transferred	Portion of transfer value (multiply value in Section A-2 by column d)	Acquisition value
1							
2							
3							
4							
	Total						

Section D
Apportionment in accordance with rule 11
(by reference to area based on architect's report - applicable only in cases not covered by Sections B and C)

Area of the property being transferred as calculated in the architect's report

		a	b	c	d	e	f
	Description of property acquired	Date of acquisition	Category of transfer	As per architect's report		Portion of transfer value (multiply the value in Section A-2 by column d)	Acquisition value
				Area	Fraction of the total area of the property being transferred		
1							
2							
3							
4							
	Total						

Section E
Apportionment in accordance with rule 12
(transfers to which the apportionments in sections B, C and D do not apply)

		a	b				f
	Description of property acquired	Date of acquisition	Category of transfer				Acquisition value
1							
2							
3							
4							
	Total						

I confirm that the above information is true and correct

Name and surname of the transferor	Address	I.D No	Signature
Date			

SCHEDULE E

Rule 22(5)

INCOME TAX ACT
(CAP. 123)
Tax on Property Transfers Rules, 2006
Property acquired under more than one acquisition
FORM TPT 5
Architect's Report on the Apportionment of the Transfer Value
This report is to be attached to Form TPT 4

Note: When an item of property acquired was a construction of more than one level, the report is to state whether it has been demolished or not. If it has not been demolished the area to be established is the sum total of the surface areas of each level, including any sub-ground levels. If it has been demolished the area to be established is that of the underlying land.

I have been informed by _____ of _____ _____ that he / she intends to transfer the property described below and that he / she had acquired the property by means of more than one acquisition. I have therefore been requested to make a report for the purposes of Rule 11 of the Tax on Property Transfers Rules, 2006.

The property being transferred is (description of property):
_____
_____
_____

The property being transferred was acquired by means of acquisitions of different items of property as described below. I have made the necessary inspections and verifications and I am now in a position to report as follows:

1	Description of property acquired	
	Date of acquisition	
	Area of this item of property (see notes)	
	Remarks	
2	Description of property acquired	
	Date of acquisition	

	Area of this item of property (see notes)	
	Remarks	
3	Description of property acquired	
	Date of acquisition	
	Area of this item of property (see notes)	
	Remarks	
4	Description of property acquired	
	Date of acquisition	
	Area of this item of property (see notes)	
	Remarks	

Total area of the properties described above		
Fraction of total area represented by each item	Item 1	
	Item 2	
	Item 3	
	Item 4	

Name of architect:
Address

Signature

Date

SCHEDULE F

Rule 22(6)

INCOME TAX ACT
(CAP. 123)
Tax on Property Transfers Rules, 2006
Transfer of Property in Part
FORM TPT 6
Apportionment of the Acquisition Value
This Form is to be attached to Form TPT 1

Note: Property means immovable property situated in Malta

Property being transferred		
1	Description of property being transferred	
2	Transfer value	
3	Date of the transfer	

Particulars of the acquisition		
4	Description of property acquired as appearing in the deed	
5	Date of the acquisition	
6	Type of acquisition (*causa mortis*, donation, purchase, other onerous acquisition)	
7	Name of the notary who published the deed of the acquisition	
8	The full acquisition value	

Apportionment according to Rule 13 (by reference to the undivided share)		
9	Undivided share that is being transferred	
10	Proportionate part of acquisition value (multiply the value shown in line 8 by the fraction shown in line 9)	

Apportionment according to Rule 14 (by reference to defined area: applicable only in the case of a transfer of a divided part of land or of property developed over a divided part of land)		
11	Area of divided part of land that is being transferred	
12	Area of land of land that was acquired	
13	Fraction represented by transferred part (divide line 11 by line 12)	
14	Proportionate part of acquisition value (multiply the value shown in line 8 by the fraction shown in line 13)	

Apportionment according to Rule 15 (by reference to area calculated by the transferor - applicable only to transfers not mentioned above)		
15	Area of property transferred calculated as provided in rule 21(4)	
16	Area of property acquired calculated as provided in rule 21(4)	
17	Fraction represented by transferred part (divide line 15 by line 16)	
18	Proportionate part of acquisition value (multiply the value shown in line 8 by the fraction shown in line 17)	

I confirm that the above information is true and correct

Further declaration to be made only in the case of a transfer mentioned in lines 15 to 18 (delete if not applicable)

I further confirm that the areas declared above have been calculated as required by the Property Transfer Rules, 2006 and correspond to the latest plans of the property transferred and of the property of which it forms part.

Name and surname of the transferor	Address	I.D No	Signature
Date			

SCHEDULE G

Rule 24(2)

INCOME TAX ACT
(CAP. 123)

NOTICE (WORD PROCESSED) TO BE FILED ON A PROMISE OF AN ASSIGNMENT OF RIGHTS ACQUIRED UNDER A PROMISE OF TRANSFER (*KONVENJU*) OF IMMOVABLE PROPERTY SITUATED IN MALTA FOR THE PURPOSES OF THE PROPERTY TRANSFERS RULES, 2006

FORM TPT 7

Assignor's particulars	
Name	
Address	
Telephone number	
ID or passport number	

Assignee's particulars	
Name	
Address	
Telephone number	
ID or passport number	

Information about the assignment	
Date of promise of assignment	
Validity period of the promise	
Consideration for the assignment	
Date of the relative promise of transfer of property (*konvenju*)	

Signatures of the parties	
Signature of the assignor	
Date	
Name and address of witness (who must be an advocate or a notary)	
Signature of witness	
Signature of assignee	
Date	
Name and address of witness (who must be an advocate or a notary)	
Signature of witness	

For official use	
Date received by the Commissioner	

SCHEDULE H

Rule 7(10)

INCOME TAX ACT
(CAP. 123)
TAX ON PROPERTY TRANSFERS RULES, 2006

Notice to be given by the Registrar of Courts of the redemption of ground rent made by means of a schedule of redemption and remittance of the tax due on the redemption

A copy of the schedule of redemption is to be attached to this notice

Particulars of the person in whose name the redemption is made	
Name	
Address	
Other particulars shown on the schedule of redemption	

Particulars of the person/s against whom the schedule of redemption is filed

1	Name	
	Address	
	Other particulars shown in the schedule of redemption	

2	Name	
	Address	
	Other particulars shown in the schedule of redemption	

3	Name	
	Address	
	Other particulars shown in the schedule of redemption	

Description of the property in question as given in the schedule of redemption

Date when the schedule of redemption was filed	
Amount deposited	Lm
Amount remitted with this Notice *(12% of the amount deposited)*	Lm

Signature of the Registrar of Courts	
Date	

For official use

Date of delivery of notice: _____ Amount paid: Lm _____

Bank draft / cheque:	Bank .	No	Date

Receiving officer

SCHEDULE I

Rule 7(10)

INCOME TAX ACT
(CAP. 123)
TAX ON PROPERTY TRANSFERS RULES, 2006

Notice to be given by the Registrar of Courts of the withdrawal of money deposited for the redemption of ground rent

Particulars of the person who made the withdrawal	
Name	
Address	
I.D. number	

Particulars of the withdrawal	
Name of the person who had made the deposit	
Date of the deposit	
Amount deducted from the deposit and remitted to the Commissioner	
Date when the remittance was made	
Date of the withdrawal	

Signature of the Registrar of Courts	
Date	

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