L.N. 196 of 2009

MOTOR VEHICLES REGISTRATION AND LICENSING ACT (CAP. 368)

Exemption from Motor Vehicles Registration Tax Rules, 2009

IN exercise of the powers conferred by articles 18, 19 and 20 of the Motor Vehicles Registration and Licensing Act, the Minister for Infrastructure, Transport and Communications has made the following rules:

Citation and commencement.

1. (1) The title of these rules is the Exemption from Motor Vehicles Registration Tax Rules, 2009.

(2) These rules shall be deemed to have come into force on the 1st January, 2009.

Interpretation.

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

"the Act" means the Motor Vehicles Registration and Licensing Act;

"authorised inspecting officer" means a Police officer, a local warden or an officer, employee or contractor of the Authority;

"the Authority" means the Malta Transport Authority as established by the Malta Transport Authority Act;

Cap. 332.

"brought into Malta" means the entry into Malta of a motor vehicle coming from a Member State and which was put into free circulation in such Member State prior to entry into Malta;

"cycle" means, for the purpose of these rules, a cycle fitted with an engine having a cylinder capacity of more than 50 cm^3 if of the internal combustion type and, or a maximum design speed of more than 45 km/h, and includes motor cycles, motor tricycles and quadricycles;

"circulation licence fee" means the circulation licence fee paid in terms of the Act;

"driver" means any person who drives a motor vehicle even for a short period;

"European Union" has the same meaning as is given to it in the European Union Act and includes Norway, Iceland and Liechtenstein; Cap. 460.

"exemption" means exemption from the payment of motor vehicle registration tax and, where applicable, from the payment of the circulation licence fee;

"habitual residence" means the place where the person concerned has established, and intends to maintain, the permanent or habitual centre of his or her interests. The renting of an apartment for a period of less then one year is not sufficient evidence of the actual transfer of the habitual residence;

"imported into Malta" means the entry into Malta of a motor vehicle from a third country;

"Member State" means a Member State of the European Union;

"motor cycle" means any two-wheeled vehicle, with or without a sidecar;

"motor tricycle" means a vehicle with three symmetrically arranged wheels fitted with an engine having a cylinder capacity of more than 50 cm^3 if of the internal combustion type or a maximum design speed of more than 45 km/h;

"motor vehicle" means any mechanically self-propelled vehicle intended for use on the road, other than a vehicle running on rails, having a maximum design speed of more than 45 km/h, and it includes a cycle;

"normal residence" has the same meaning as is assigned to it in article 18 of the Act;

"owner" means the person, whether as an individual or in representation of a company, partnership or cooperative society, in whose name a motor vehicle is registered and licensed;

"person established outside Malta" means an individual having his normal residence outside Malta or a person, other than an individual, having his only or principal place of business outside Malta;

"person residing in Malta" means:

(a) an individual having his normal residence in Malta, and is legally obliged to have an identity card issued under the Identity Card Act,

Cap. 258.

(b) a person, other than an individual, having his only or principal place of business in Malta;

"private motor vehicle" means any motor vehicle, including its trailer, if any, other than vehicles suitable and intended for transporting more than nine persons, including the driver, or goods. It shall also include a caravan;

"public highway" means any national arterial, distributor, access and local access road;

"quadricycle" means a vehicle with four wheels whose unladen mass is not more than 400 kg (550 kg for vehicles intended for carrying goods), not including the mass of batteries in the case of electric vehicles, and whose maximum net engine power does not exceed 15 kW;

"registration certificate" means the document which certifies that the vehicle is registered;

"registration plate" means a plate or other device displaying the registration mark of a motor vehicle;

"relief" means relief from motor vehicle registration tax;

"third country" means a country other than a Member State;

"transfer of residence" means the actual transfer of a person's habitual residence to the new place indicated as being that of resettlement. The fact that a person comes to work in Malta on a specific task for a definite duration shall not imply that such a person has transferred his residence to Malta.

Motor vehicle brought over for demonstration purposes.

3. (1) Where a motor which is imported or brought into Malta by a licensed motor vehicle trader as a representative sample of a particular vehicle, to be displayed or used for demonstration with a view to obtaining orders for similar vehicles, shall be exempted from the provisions of articles 2A and 3 of the Act:

Provided the vehicle –

(a) is owned by or registered in the name of a person established outside Malta,

(b) while in Malta is not put to normal use, except for the purpose of demonstration,

(c) is not used for hire or reward,

(d) whilst in Malta remains the property of a person established outside Malta,

(e) is intended to be taken out of Malta on fulfillment of such purpose.

(2) The exemption under sub-rule (1) hereof shall be granted by the Authority, upon application, for a period not exceeding six months from the date of the vehicle's arrival in Malta or for such longer period as the Authority in its discretion may allow.

(3) A vehicle exempted under this rule may only be used on the public highway if that vehicle carries a "Trial Run" plate in accordance with the Registration and Licensing of Motor Vehicles Regulations, 2009.

Transfer of residence.

4. (1) The exemption under sub-article (3) (i) of article 19 of the Act shall be granted to a motor vehicle which is the personal property of a private individual and is being brought or imported permanently into Malta by the individual when he is transferring his residence from a place outside Malta to a place in Malta:

Provided that –

(a) that person has been residing outside Malta for a continuous period of more than twenty-four months before his transfer of residence to Malta;

(b) the motor vehicle has been in his possession and used by him outside Malta for at least twenty-four months before the date on which he ceased to have his residence outside Malta;

(c) the vehicle is registered in his name or in the name of his or her spouse where applicable;

(d) that person holds a valid driving licence;

(e) the vehicle shall be imported or brought into Malta within twelve months of the individual's transfer of residence;

(f) the motor vehicle shall not be sold, given away, disposed of, hired out or lent following its importation or its bringing into Malta unless the vehicle registration tax to which the exemption aforesaid relates is paid thereon in accordance with the provisions of the First or Second Schedule to the Act.

(2) The said exemption shall apply to no more than one motor vehicle owned by the person transferring his residence.

(3) No such exemption shall be given where a person had gone to live outside Malta primarily for the purpose of pursuing a course of studies of a duration of less than five years;

(4) An application for an exemption shall be made by the individual transferring his residence on such form as specified by the Authority at least within seven days from the vehicle's arrival in Malta.

(5) The applicant shall produce sufficient evidence showing –

(a) that he has been residing outside Malta for at least twenty-four months before the date of his transfer of residence to Malta and that he will be taking up residence in Malta. Such evidence may include documents relating to transactions carried out in the course of day-to-day living, utility bills, tax returns, social insurance records, employment abroad, the acquisition and disposal of property abroad and acquisition of property in Malta;

(b) evidence that he has had possession of and actually used the vehicle abroad for at least twenty-four months prior

to transfer to Malta. Such evidence may include the vehicle registration certificate, vehicle insurance certificates, the sales invoice and the receipt of purchase; and

(c) evidence of the date of the vehicle's arrival in Malta.

(6) Where an application for an exemption under this rule is rejected, the applicant may appeal to the Administrative Review Tribunal established by the Administrative Justice Act within twenty-one days from the date that decision is communicated to the person concerned. Cap. 490.

(7) Where an application for an exemption under this rule is upheld, the person transferring his residence shall have the motor vehicle undergo a roadworthiness test in accordance with the Motor Vehicle Roadworthiness Test Regulations and have it registered and licensed in accordance with the Registration and Licensing of Motor Vehicles Regulations. L.N. 126 of 1998.

(8) Where an application for an exemption is upheld, the applicant shall pay an exemption application processing fee of €300 to the Authority, which fee shall be on account of the Government.

(9) A vehicle shall not qualify for an exemption under this regulation where its owner had already availed himself of such exemption within the previous five years.

5. (1) This rule and rules 6 and 7 shall apply only to a motor vehicle which has been acquired under the general conditions of taxation in force on the domestic market of the country of normal residence of the user of the motor vehicle and which is not subject by reason of its exportation to any exemption from or refund of turnover tax, excise duty or any other consumption tax. Motor vehicles temporarily brought in.

(2) Where a motor vehicle is exempted under paragraphs (a) and (b) of sub-article (1) of article 18 of the Act, the person importing or bringing into Malta the said vehicle shall be obliged to ensure that the vehicle –

(a) is not sold, given away or hired out in Malta or lent to a person residing in Malta;

(b) is not used for the transport of goods for industrial or commercial purposes, whether for reward or not;

(c) is not used for the carriage of persons for hire or reward;

(d) is not driven by a person who has his normal residence in Malta;

(e) is covered by an insurance policy; and

(f) displays a valid registration mark of the country of registration and any mark which may be issued by the Authority:

Provided that where in a country the issue of standard registration plates is not conditional upon compliance with the general conditions of taxation in force on the domestic market, the user of the vehicle shall produce appropriate evidence as proof of payment of consumption taxes.

(3) Notwithstanding proviso (a) to sub-rule (2) hereof a private vehicle belonging to a car-hire firm established in another country other than Malta may –

(a) be re-hired to a person whose normal residence is outside Malta with a view to being re-exported, if the vehicle is in Malta as a result of a hire contract which ended in Malta;

(b) be returned by an employee of the car-hire firm to the country where it was originally hired, even if the employee resides in Malta.

(4) The documents relating to the registration, insurance and bringing into Malta of a vehicle temporarily brought in under this rule shall be kept with the vehicle when it is in use and shall be produced at the request of an authorised inspecting officer.

(5) Nothing in this rule shall be construed as exempting a person temporarily importing or bringing a motor vehicle into Malta from compliance with any legal requirement, obligation, restriction or prohibition.

Motor vehicles brought over by a person under an employment contract.

6. (1) An exemption under sub-article (1) (a) of article 18 of the Act, for a period not exceeding twelve months shall be given to a motor vehicle brought in or imported by a person whose normal residence is outside Malta and who comes to Malta under a work contract.

(2) The said exemption shall be granted on application made to the Authority on the prescribed form which shall be presented within fifteen days from the vehicle's arrival in Malta together with –

(a) a copy of the contract of employment,

(b) evidence of the vehicle's arrival in Malta,

(c) a copy of the vehicle's registration certificate,

(d) a valid vehicle insurance certificate, and

(e) an administrative fee of €35.

(3) Where an exemption is granted under this rule, the Authority shall provisionally license that motor vehicle for use on the road for a period which expires upon the expiration of the exemption and a circulation licence fee shall be payable to the Authority in respect of twelve months where the vehicle is not covered by a valid road licence issued in the country of registration and, where it is covered by such licence in respect of the remaining months or part thereof immediately following the expiry of that licence, at the rates applicable in the Fourth Schedule to the Act to motor vehicles registered before the 1st January, 2009.

(4) Upon the payment of the licence fee by the owner of the vehicle, the Authority shall issue to that person a licence disc to be fixed on the windscreen of the vehicle in terms of the Registration and Licensing of Motor Vehicles Regulations, 2009.

(5) The documents relating to the registration and insurance of the vehicle and to the exemption granted shall be kept with the vehicle when it is in use and shall be produced at the request of an authorised inspecting officer.

(6) An exemption granted under this rule shall cease to have effect upon the expiration of the period fixed by this rule or before the expiration of that period if the vehicle is found to being used in breach of the conditions under which the exemption was granted.

(7) The motor vehicle shall not be sold, given away, disposed of, hired out or lent unless the vehicle registration tax is paid thereon in accordance with the provisions of the First or Second Schedule to the Act.

Vehicle imported or brought over by a student.

7. (1) An exemption under sub-article (1) (a) of article 18 of the Act shall also be granted to a private motor vehicle which is temporarily imported or brought into Malta by a student for his own use where such student, although having his normal residence outside Malta, is residing in Malta for the sole purpose of pursuing his studies in an educational institution authorized as such by the education authorities:

Provided the vehicle satisfies the conditions in sub-rule (2) of rule 5.

(2) The request for the exemption under sub-rule (1) shall only be made if the vehicle is to remain in Malta for more than seven months from the date of its arrival. It shall be made to the Authority on the prescribed form which shall be presented together with evidence of the vehicle's arrival in Malta, a copy of the vehicle's registration certificate, a copy of a valid insurance certificate, a confirmation from the institution concerned and an administrative fee of €15 before the expiry of the seven-month period from the date of its arrival in Malta.

(3) The exemption shall be issued for a period of twelve months, and shall be renewed on application by the student every year thereafter, provided that a copy of a valid insurance policy and confirmation from the educational institution concerned is submitted to the Authority, together with the relevant circulation licence fee for that year.

(4) Where an exemption is granted, the Authority shall provisionally license that motor vehicle for use on the road and a circulation licence fee shall be payable to the Authority at the rates applicable in the Fourth Schedule to the Act to motor vehicles registered before the 1st January, 2009.

Vehicles supplied under diplomatic arrangements, etc.

8. (1) An exemption under sub-paragraphs (iv), (v), (vi) and (vii) of paragraph (d) of sub-article (2) of article 19 of the Act shall be granted upon application to the Ministry responsible for foreign affairs.

(2) When an exemption is given under this rule, a vehicle, unless imported or brought in by an official or member of the staff of a diplomatic mission or of an institution of the European Communities or of an international organization whose normal residence was outside Malta prior to taking up his post in Malta, shall be registered and licensed by the Authority in accordance with the Registration and Licensing of Motor Vehicles Regulations, 2009, provided that the original approval issued by the Ministry responsible for foreign affairs is submitted to the Authority.

Reliefs applicable under the persons with disability scheme.

9. (1) An application for relief under the Exemptions/ Subsidies Related to Motor Vehicles for Persons with Disability Scheme, established by an Order of the Minister of Finance, the Economy and Investment on the 2nd January, 2009, shall be made to the National Commission Persons with Disability on the prescribed form.

(2) The said application shall be accompanied by a certificate of disability issued by a doctor or therapist of the National Commission Persons with Disability.

(3) Where an exemption or a relief is granted under this rule, the vehicle shall be registered and licensed with the Authority in accordance with the Registration and Licensing of Motor Vehicles Regulations, 2009.

Approval.

10. Exemptions or reliefs granted under rules 4 and 9 shall be considered by a Board appointed by the Minister responsible for finance.

Payment of registration tax.

11. A vehicle which has been exempted from the payment of registration tax or which has been granted a relief under these rules may only be sold in Malta if the motor vehicle registration tax to which the exemption or relief relates is paid thereon in accordance with the provisions of the First or Second Schedules to the Act.

Revocation of G.N. 349 of 1938.

12. The Temporary Admission of Motor Vehicles Regulations of 1938 are hereby revoked.