VERŻJONI ELETTRONIKA

L.N. 256 of 2014

EXTERNAL TRANSACTIONS ACT
(CAP. 233)

Investment Registration Scheme Regulations, 2014

IN exercise of the powers conferred by articles 11(2) of the External Transactions Act (hereinafter referred to as "the Act"), the Minister for Finance has, after consultation with the Central Bank of Malta, made the following regulations:-

Citation and purpose.

1. (1) The title of these regulations is the Investment Registration Scheme Regulations, 2014.

(2) The purpose of these regulations is to provide for the establishment of a registration scheme to be known as the Investment Registration Scheme, 2014, hereinafter referred to as the Scheme, whereby residents of Malta subject to tax in Malta who hold eligible assets without declaring the relevant income (including capital gains) for the purposes of the Income Tax Act, may regularise their position under the relevant laws. Cap. 123.

Interpretation.

2. (1) In these regulations, unless the context otherwise requires:

"applicable date" means any date between 4 November 2013 and 30 September 2014;

"applicant" means a person who registers under the Scheme under regulation 3;

"appointed registration agent" means a person appointed by the Central Bank of Malta under regulation 5;

"eligible assets" shall, save for the provisions of sub-regulation (2), have the same meaning assigned to it by the Act and regulations made thereunder;

"fiduciary" means any private foundation or any person who is engaged to hold in his name or owns any eligible assets for another person under a mandate or a trust;

"relevant laws" has the same meaning assigned to it in article 9B of the Income Tax Act; Cap. 123.

VERŻJONI ELETTRONIKA

"reputable jurisdiction" has the same meaning assigned to it by regulation 2 of the Prevention of Money Laundering and Funding of Terrorism Regulations. S.L. 373.01

(2) By virtue of the powers vested in the Minister under the Act, the Minister has determined that the eligible assets set out hereunder shall, by virtue and for the purposes of this regulation, are the following assets:

(a) deposits as defined in the Banking Act held with credit institutions licensed in Malta, or abroad irrespective of the currency of denomination; Cap. 371.

(b) securities including (i) shares and stock in the capital of a company registered or incorporated in a reputable jurisdiction or other instruments creating or acknowledging an ownership interest in such company (ii) debentures, certificates of deposit, bonds, notes and any other similar instrument creating or acknowledging indebtedness issued by a company registered in a reputable jurisdiction; and (iii) securities issued by central, regional or local governments, states or sub-divisions of any state or any supra-national organization;

(c) units in a collective investment scheme, life and annuity long term insurance policies, whether index-linked or not issued by a scheme or insurer licensed in Malta or abroad;

(d) precious metal bullion;

(e) warrants, options, futures and other derivatives as well as any other financial instruments entered into in Malta and, or abroad for investment purposes;

(f) shareholder loans or other advances extended to a company registered in a reputable jurisdiction; and

(g) immovable property situated in or outside Malta.

(3) Words and expressions used in these regulations which are also used in the Act or the Income Tax Act shall, unless the context otherwise requires, have the same meaning as assigned to them in the said Acts. Cap. 123.

(4) For the purposes of these regulations, any income arising from eligible assets which is received after 4 November 2013 and reinvested before the date of registration, shall be deemed to constitute eligible assets existing on 4 November 2013 and shall be eligible for registration under these regulations.

VERŻJONI ELETTRONIKA

Regularization of position under the Income Tax Act. Cap. 123.

3. (1) Residents of Malta subject to tax in Malta who own eligible assets without declaring the relevant income for the purposes of the relevant laws, may regularise their position under the relevant laws, by registering such assets under the Scheme on the prescribed form as set out in the Schedule.

(2) Eligible assets may only be registered under the Scheme by the person who beneficially owns such assets on the applicable date or by the person from whom the eligible assets originated when on the said date these are held by a fiduciary, or by the heir or legatee of such person, provided that the same eligible assets may only be registered by one such person.

Operative period of the Scheme.

4. The Scheme shall run until 30 September 2014.

Registration under the Scheme.

Cap. 371.

Cap. 376.

Cap. 370.

5. Registration of eligible assets for the purposes of regulation 3 shall be executed by an applicant through appointed registration agents which shall be credit institutions licensed in Malta under the Banking Act, financial institutions licensed in Malta under the Financial Institutions Act, stockbrokers licensed under the Investment Services Act, and persons holding a category 2 or category 3 Investment Services Licence granted under the Investment Services Act and in each case appointed as registration agents by the Central Bank of Malta.

Assets which may be registered under the Scheme.

6. Registration of eligible assets under this Scheme shall be open to eligible assets referred to in regulation 2 (2) held in or outside Malta on 4 November 2013 and still belonging to the applicant or to a fiduciary on behalf of or at the request of the applicant on date of registration.

Evidence to support registration.

7. (1) The appointed registration agent shall only register assets under the Scheme against the submission by the applicant of original documentary evidence confirming that such assets are eligible under the Scheme and were held by the applicant on the applicable date, or else have originated from him if held by a fiduciary on such date.

(2) The documentary evidence referred to in sub-regulation (1) shall be:

(a) in the case of precious metal bullion, a confirmation from the institution with which the precious metal bullion is held;

(b) in the case of immovable property, a duly authenticated copy of the original contract by virtue of which

VERŻJONI ELETTRONIKA

the property was acquired and a confirmation from a duly qualified person that the said property was owned by the applicant on the applicable date;

(c) in the case of shareholder loans or other advances to a company in a reputable jurisdiction, a duly authenticated copy of the agreement by virtue of which funds were advanced by the applicant to such company together with such other documentary evidence that such loans or advances were duly received by the borrower, as well as an auditor's certificate confirming title and existence of such loans or advances. In all cases, the said loans or advances must be evidenced in the audited financial statements submitted to the Inland Revenue Department or the Registrar of Companies in Malta (or to their equivalent counterparts, in the case of other jurisdictions) by 4 November 2013;

(d) in the case of all other eligible securities, deposits, insurance policies or units in collective investment schemes, a contract note or other written confirmation from the relevant licensed financial intermediary;

(e) such other documentary evidence which may be declared sufficient or satisfactory by the Central Bank of Malta in writing on a case by case basis;

(f) where eligible assets are held by a third party in a fiduciary capacity, the applicant shall also submit to the appointed registration agent:

(i) where the fiduciary is regulated and licensed in Malta or in a foreign jurisdiction, evidence that such fiduciary is in fact so regulated or licensed, and confirmation evidencing that such fiduciary held the eligible assets on behalf of or at the request of the applicant; or

(ii) where the fiduciary is not licensed or regulated, a confirmation, bearing the fiduciary's original signature and witnessed by a Notary Public, a Commissioner of Oaths, or an Advocate, evidencing that such fiduciary held the eligible assets on behalf of or at the request of the applicant.

(3) Where eligible assets which may be registered under the Scheme have been switched or otherwise converted or exchanged by the applicant into other assets during the period between 4 November

VERŻJONI ELETTRONIKA

2013 and the registration date, the applicant is to provide documentary evidence of such conversions or exchanges as may be required by the appointed registration agent. This rule shall also apply if the assets are held by a fiduciary.

(4) Copies of the original documentary evidence provided by the applicant in terms of these regulations are to be retained by the appointed registration agent, in printed or electronic form, for record purposes for a period of ten years.

Statutory declaration.

8. (1) A person who registers eligible assets under the Scheme shall sign a declaration which is to be provided on the prescribed form set out in the Schedule wherein the applicant represents to the Central Bank of Malta that:

(a) such person is the beneficial owner of the assets being registered or that such assets being held in the name or under the control of a fiduciary originated from him;

(b) such person accepts full responsibility for the accuracy and authenticity of the information and documentary evidence provided to the appointed registration agent;

(c) such person undertakes to make available to the appointed registration agent any further information that may be required by the agent for the proper exercise of its functions in this regard;

(d) the documentary evidence being submitted to the appointed registration agent hereof is the true original;

(e) the registered eligible assets do not represent proceeds from:

(i) a crime of money laundering under the Prevention of Money Laundering Act, or Cap. 373.

(ii) any of the crimes listed in the Second Schedule to the Prevention of Money Laundering Act other than a crime against the relevant laws; Cap. 373.

(f) the registered assets were held in or outside Malta on 4 November 2013;

(g) the registered assets have only been registered once under the Scheme and have not already been registered under this Scheme or previous Investment Registration Schemes;

VERŻJONI ELETTRONIKA

(h) the declaration is being given in good faith.

(2) The declaration shall also include:

(a) a detailed description of the eligible assets being registered and such other information that would enable, where applicable, the proper identification of the eligible assets, including such unique references or codes as may apply to the eligible assets;

(b) details of the beneficial owners or of the persons from whom the eligible assets originated, including full name, identity card number, address and signature; and details of the fiduciary where eligible assets are held by a third party;

(c) details of the appointed registration agent.

Certification.

9. (1) The appointed registration agent, after having duly completed the declaration modalities and being satisfied of their accuracy and completeness, shall issue a Registration Certificate. The Certificate shall be sequentially and uniquely numbered and on controlled stationery, the use of which has to be restricted to duly authorised staff of the appointed registration agent and of the Appointed Central Registration Certificate Depository only.

(2) The Registration Certificate shall be issued to the applicant against the payment of a registration fee as specified in regulation 13.

(3) The Registration Certificate shall be issued by the appointed registration agent in triplicate: one copy shall be provided to the applicant; one copy is to be retained by the appointed registration agent; and one copy is to be provided to the Appointed Central Registration Certificate Depository.

(4) The Central Bank of Malta is, by means of these regulations, being appointed the Central Registration Certificate Depository.

(5) The triplicate copies of all the Registration Certificates issued by the appointed registration agent during each calendar month shall be sent to the Central Registration Certificate Depository within seven (7) days after the end of that month.

(6) The Registration Certificate is strictly non-transferable.

(7) In the event that a Registration Certificate is lost, defaced or destroyed, the applicant may make a request in writing to the Central Registration Certificate Depository for the issue of a copy of

VERŻJONI ELETTRONIKA

the lost, defaced or destroyed certificate.

(8) Other than by order of a Court, every person, including past and present officers or agents of an appointed registration agent or of the Appointed Central Registration Certificate Depository, shall be bound by the duty of professional secrecy in the exercise of his functions under these regulations and shall not disclose any information contained in the Registration Certificate which may come in his possession in the exercise of his functions under these regulations.

Anti Money-Laundering obligations. Cap. 373.

10. (1) The appointed registration agent shall ensure full compliance with the provisions of these regulations, the Prevention of Money Laundering Act, regulations issued thereunder and implementing procedures issued by the Financial Intelligence Analysis Unit when registering any asset/s under this Scheme and shall therefore be bound to comply with all the obligations imposed on a subject person, including customer due diligence and the collection of information on the source of funds.

(2) Nothing in these regulations shall be construed as exempting the applicant or any other person from liability for the commission of any crime or from prosecution for any crime other than a crime under the relevant laws.

Consent to furnish copies of Registration Certificate.

11. In completing the registration, the applicant confirms his consent to authorise the appointed registration agent to furnish a copy of the Registration Certificate to the Central Registration Certificate Depository.

Effects of registration - exemption.

12. (1) Upon registration, the beneficial owner of the eligible assets registered under this Scheme and in whose name or for whose benefit a Registration Certificate has been issued pursuant to these regulations shall be entitled to the exemptions referred to in article 9B of the Income Tax Act. Cap. 123.

(2) The submission by the applicant of false statements and/or documents required under these regulations shall:

(a) nullify the Registration Certificate as if that Registration Certificate had never been issued; and

(b) render the applicant ineligible to the benefits and exemptions granted under the Scheme.

Registration fee.

13. (1) The issue of a Registration Certificate is subject to the payment by the applicant of a registration fee payable to the Government.

VERŻJONI ELETTRONIKA

(2) Such registration fee is equivalent to:

(a) in the case of immovable property, seven and one half per centum of the original cost on date of purchase of the registered asset;

(b) in the case of all other eligible assets, seven and one half per centum of the current market value of the registered eligible assets:

Provided that in the event that the applicant can provide documentary evidence that the acquisition cost exceeded the current market price, the applicable registration fee shall be charged on such acquisition cost:

Provided further that in respect of eligible assets referred to in paragraphs (a) and (b) which were held abroad on 4 November 2013 and are still held abroad on date of registration, a rate of five per centum shall be charged where the applicant makes an irrevocable commitment to repatriate the relative proceeds within two weeks after date of registration and to invest such funds in locally listed securities or in deposits with domestic banks, subject that the applicant shall provide to the registration agent within three weeks from date of registration documentary evidence of such repatriation and local investment, and that the repatriated assets will be retained locally for at least three years after date of registration.

(3) The current market value is calculated on the basis of a valuation by a duly qualified person made within three months preceding the date of registration and presented to the appointed registration agent.

(4) The registration fees paid by registered applicants are to be remitted by the appointed registration agent to the Government at a designated account at the Central Bank of Malta by not later than seven days after the end of the month during which the fees are collected.

(5) The appointed registration agent shall issue a receipt, which is an integral part of the Registration form, to the applicant in respect of the registration fee paid.

Fees to appointed registration agents.

14. The appointed registration agent is entitled to recover a fee for services rendered to effect registration. Such fee shall be deducted from the Registration fee paid in respect of the issue of the Registration Certificate. Such fee shall be equivalent to five per centum of the Registration fee, provided that it shall not be less than €30 or more than €380 per application registered.

VERŻJONI ELETTRONIKA

Retention of documentary evidence.

15. Holders of a Registration Certificate who convert their registered eligible assets into other assets shall, after registration, retain the documentary evidence regarding such conversions or if no such documentary evidence is available such other evidence in such readable medium as may be available.

Notice of Tax Enquiry.

Cap. 372.

16. (1) Where the holder of a Registration Certificate is served with a notice of enquiry by the Inland Revenue Department in terms of article 13(7) of the Income Tax Management Act, such person is required to produce the Registration Certificate to the Inland Revenue Department within thirty days from the date of such notification.

(2) In the event that the Registration Certificate is not submitted to the Commissioner of Inland Revenue within thirty days from the date of such notification without a justifiable reason, the exemptions referred to in regulation 12(1) shall not apply.

(3) Where the Commissioner of Inland Revenue is satisfied that such person was prevented from submitting the Registration Certificate owing to a reasonable cause, he may extend the period for submission of the said Certificate as may be reasonable in the circumstances.

SCHEDULE

(Regulation 3)

STRICTLY NOT TRANSFERABLE

Registration Certificate

Issued for the purposes of the Investment Registration Scheme 2014

This Certificate is issued in respect of the registration of the eligible assets specified below in terms of the Investment Registration Scheme Regulations 2014. It entitles the registered beneficial owner of the said assets to the exemptions referred to in article 9B of the Income Tax Act.

Section 1: To be completed by appointed registration agent (please use additional prescribed forms if space is not sufficient) **(Block Letters)**

	Type of Asset	Currency	Registered Assets			Amount held in Malta or retained abroad (7.5% fee)**	Amount repatriated on or after registration (5% fee)#
			Amount in nominal terms	At original cost or current market value * (foreign currency)	At original cost or current market value * (in euro)		
	A	B	C	D	E	F	G
1							
2							
3							
4							
5							
6							
7							
8							
9							
10							
11							
12	**Total Value of the Assets listed above**						
13	**Please indicate the Certificate Number(s) of the additional form(s) used if any**						
14	**Total Value of Assets listed in additional forms if any**						
15	**Total Value of All Assets being hereby registered (Sum of Rows 12 and 14)**						

* Immovable property is to be registered at original cost on date of purchase. Other eligible assets are to be registered at the original cost or current market value, whichever is the higher.

** Amount at original cost or current market value of assets held in Malta on 4 November 2013 or held abroad on 4 November 2013 which will continue to be retained abroad after registration.

\# Amount at original cost or current market value of assets held abroad on 4 November 2013 which will be repatriated within two weeks after registration and invested locally.

VERŻJONI ELETTRONIKA

Section 2: To be completed by Applicant as Beneficial Owner or the person from whom the eligible assets originated (Block Letters)

I have read and understood the declaration in Section 4 overleaf. I confirm that on the applicable date I was the owner of these assets/heir or legatee of the owner of these assets (please tick as applicable)

Title (Mr/Mrs/Ms) Full name and surname ID Card No * 1.	Address	Owner ☐ Heir/legatee ☐ Signature Date
Title (Mr/Mrs/Ms)** Full name and surname ** ID Card No * 2. **	Address	Owner ☐ Heir/legatee ☐ Signature Date
Name of fiduciary (where applicable) # ID Card No * 3. #	Address	Signature Date

* **if the beneficial owner or the person from whom the eligible assets originated or fiduciary is a body corporate, please insert company name and company registration number.**

** **to be filled in only when the eligible assets being hereby registered are jointly owned by more than one person.**

to be filled in only when the eligible assets being hereby registered are held by the fiduciary on behalf of or at the request of the applicant.

Section 3: To be completed by Appointed Registration Agent (See Declaration in Section 5 overleaf)

Name of Appointed Registration Agent * Official Stamp Authorised Signature:	Market value / original cost of Registered Assets (euro) Registration Fee at 5% / 7.5% Commission (euro) **I confirm having received the Registration Fee detailed above.** Authorised Signature: Date:

* **Complete details when not included on the official stamp**

VERŻJONI ELETTRONIKA

VERŻJONI ELETTRONIKA

Section 4: Applicant's Declaration

In completing Section 2, I/ we declare:

1. to be the owner/joint beneficial owner(s) or the originator(s) of the registered assets or the heir or legatee of such person(s);

2. that the registered assets were owned by me/us on 4 November 2013 and are still owned by me/us on date of registration;

3. that these assets are being registered only once under this Investment Registration Scheme and that these assets have not already been registered in any form under the Investment Registration Schemes established by virtue of Legal Notice 315 of 2001, Legal Notice 59 of 2002, Legal Notice 209 of 2003, Legal Notice 226 of 2003, Legal Notice 121 of 2005, Legal Notice 112 of 2007 and Legal Notice 256 of 2014;

4. that the registered assets do not represent proceeds from a crime of money laundering in terms of the Prevention of Money Laundering Act, or from a crime that would result due to an infringement of any law other than the Income Tax Act;

5. that the documentary evidence being hereby submitted to the Appointed Registration Agent in support of the registered assets is true and original;

6. that I/we accept full responsibility for the accuracy and authenticity of the information and of the documentary evidence submitted to the Appointed Registration Agent under the Scheme;

7. that I/we will make available to the Appointed Registration Agent any further information, statements or documents that it may require for the proper exercise of its functions in terms of the Investment Registration Scheme;

8. that I/we hereby authorise the Appointed Registration Agent to provide a copy of the Registration Certificate to the Central Bank of Malta as Central Registration Certificate Depository;

9. that the declaration is being made in good faith;

10. that in return for my/our making this declaration and obtaining the relevant exemptions arising from law upon registration, I/we hereby pay the applicable registration fee based on (a) in the case of immovable property, the original cost on date of purchase, and (b) in the case of all other eligible assets, the market value of the eligible assets or the original cost whichever is the higher;

11. I/we understand that the submission of false statements and documents

VERŻJONI ELETTRONIKA

will nullify this Certificate and render me/us liable to legal prosecution;

12. I/we also understand that in the event that I/we am/are receiving any benefit, exemption or other advantage under the Social Security Act or under any other scheme made by the Government or any public entity or under any other law, as a result of not having declared the eligible assets being hereby registered (or income therefrom), I/we shall not be required to refund that benefit, exemption or other advantage acquired before this declaration. However, if after this registration, I/we continue to take that benefit, exemption or advantage without being entitled thereto, I/we shall be considered as never having enjoyed exemptions referred to in article 9B of the Income Tax Act, and shall forfeit the right not to refund any benefit, exemption or advantage acquired before the Registration;

13. I/We undertake that any losses referred to in article 5(10)(a) and article 14(1)(g) of the Income Tax Act declared in the return for year of assessment 2013 and for any preceding year of assessment, whenever submitted, shall not be carried forward and set off against my/our total income for the year preceding the year of assessment 2014 or in any subsequent year;

14. I/We understand that in the event that I am/we are served with a notice of enquiry by the Inland Revenue Department, I am/we are obliged to submit this Registration Certificate to the said Department within thirty days from the date of such notification. I/We also understand that if I/we fail to submit the Certificate within thirty days without a reasonable cause, the exemptions referred to in article 9B of the Income Tax Act will not apply;

15. I/We undertake that in the event that I/we opt for the 5% registration fee, I/we will repatriate the relative registered assets within two weeks after registration date and invest such funds in locally listed securities or in deposits with local banks. I/we undertake to retain such funds locally for at least three years after date of registration.

VERŻJONI ELETTRONIKA

Section 5: Appointed Registration Agent's Declaration

In completing Section 3, we declare:

1. that we have obtained the necessary information, statements and documents required for the proper exercise of our function under the Scheme;

2 that we have retained copies of supporting documentary evidence as necessary and undertake to continue retaining such documentation for 10 years;

3. that we are bound by the duty of professional secrecy in terms of the Professional Secrecy Act and will not disclose any information contained in the Registration Certificate other than to the Central Registration Certificate Depository or by order of a Court;

4. that we ensure full compliance with the provisions of the Prevention of Money Laundering Act and related regulations and the implementing procedures issued by the Financial Intelligence Analysis Unit.

Ippubblikat mid-Dipartiment tal-Informazzjoni (doi.gov.mt) — Valletta — *Published by the Department of Information (doi.gov.mt) — Valletta*
Mitbugħ fl-Istamperija tal-Gvern fuq karta riċiklata — *Printed at the Government Printing Press on recycled paper*

Prezz/*Price*
€1.26