

L.N. 147 of 2015

**DUTY ON DOCUMENTS AND TRANSFERS ACT
(CAP. 364)**

Duty on Documents and Transfers (Amendment) Rules, 2015

IN exercise of the powers conferred by article 22 of the Duty on Documents and Transfers Act, the Minister for Finance has made the following rules:-

1. (1) The title of these rules is the Duty on Documents and Transfers (Amendment) Rules, 2015, and these rules shall be read and construed as one with the Duty on Documents and Transfers Rules, hereinafter referred to as "the principal rules".

Citation and commencement.
S.L.364.06

(2) These rules shall be deemed to have come into force on 1st January, 2015.

2. Immediately after sub-rule (3) of rule 8 of the principal rules, there shall be added the following new sub-rule::

Amends rule 8 of the principal rules.

"Information to be given by transferee on transfer of residential property.

(4) The transferee in any transfer of residential property shall submit to the Commissioner the information required on the form prescribed in the Eighth Schedule attached to these rules, to be attached to the notice mentioned in article 51 of the Act and to which the First Schedule refers."

3. Sub-rule (1) of rule 11 of the principal rules shall be substituted by the following:

Amends rule 11 of the principal rules.

S.L. 123.27

"(1) Subject to the provisions of article 42(2)(c) of the Act, the provisions of sub-rules (5), (6) and (7) of rule 5 of the Capital Gains Rules shall apply *mutatis mutandis* for the purpose of determining the real value of a company and the real value of shares in a company and references in the said sub-rules to "market value" shall be construed as references to "real value".

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Substitutes the First Schedule to the principal rules.

4. The First Schedule to the principal rules shall be substituted by the First Schedule appearing in Part I of the Schedule to these rules.

Substitutes the Sixth Schedule to the principal rules.

5. The Sixth Schedule to the principal rules shall be substituted by the Sixth Schedule appearing in Part II of the Schedule to these rules.

Adds a new Schedule to the principal rules.

6. Immediately after the Seventh Schedule to the principal rules, there shall be added the Eighth Schedule appearing in Part III of the Schedule to these rules.

SCHEDULE
PART I

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UFFIĊĊJU TAT-TAXXI INTERNI
Dipartiment tal-Capital Transfer Duty
46, Triq il-Merkanti, Valletta



OFFICE OF INLAND REVENUE
Capital Transfer Duty Department
46, Merchants Street, Valletta

Rule 2

INTER VIVOS

FIRST
SCHEDULE

**NOTICE OF AN *INTER VIVOS* TRANSFER OF IMMOVABLE PROPERTY TO BE
GIVEN IN TERMS OF THE DUTY ON DOCUMENTS AND
TRANSFERS ACT AND THE INCOME TAX ACTS**

*This form must be completed by the Notary publishing the deed of
transfer and must be filed by the Notary in duplicate within 15 working
days from the date of the transfer.*

Continuation sheets are to be added as necessary.

SECTION A – PARTICULARS OF THE TRANSFER

Transferor/s				
Name	Surname	Address	I.D. / income tax registration number	Telephone or mobile number

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Transferee/s					
Name	Surname	Address	I.D. / income tax registration number	Telephone or mobile number	AIP No. (if applicable)

SECTION B – INFORMATION ABOUT THE TRANSFER									
Date of Deed									
Description of the property <i>A full description of the immovable property is to be given and a site plan on Land Registration Stationery duly signed by an Architect should be annexed.</i> <i>In the case of residential property, the information required on the form prescribed in the Eighth Schedule to S.L. 364.06 should also be annexed.</i>									
Type of Transfer <i>In the case of mixed transfers, mark all applicable boxes</i>									
<table border="1"> <tr> <td>Sale</td> <td></td> <td>Emphyteutical concession</td> <td></td> <td>Donation</td> <td></td> <td>Exchange</td> <td></td> </tr> </table>	Sale		Emphyteutical concession		Donation		Exchange		
Sale		Emphyteutical concession		Donation		Exchange			

Assignment on Partition		Datio in solutum		Other (<i>specify</i>)		
The manner in which the property was acquired <i>In the case of mixed acquisitions, mark all applicable boxes</i>						
Sale		Emphyteutical concession		Donation		Exchange
Assignment on Partition		<i>Datio in solutum</i>		<i>Other (specify)</i>		

Name of Broker	I.D / I.T. No.
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Name of Architect (<i>if applicable</i>)	I.D / I.T. No.
Dutiable value of property	
Amount of duty payable	
Promise of Sale Number	

SECTION C – DUTY ON DOCUMENTS AND OTHER TRANSFERS (DDTA)

Exemptions and relief	
An assignment that is exempt in terms of art. 32(3) DDTA	
A transfer that qualifies for relief from duty under art. 32(4) DDTA	
A partition of inherited property that is exempt in terms of art. 32(5) DDTA	
A transfer from one company to another that qualifies for the intra- group exemption in terms of art. 32(6) DDTA	
First time donation from parents in terms of art. 32C DDTA	
A transfer that is exempt from duty for reasons other than those mentioned above Specify grounds for exemption:-	

SECTION D – TAX PAYABLE UNDER THE INCOME TAX ACT

Name of Transferor	Final tax						Provi-sional Tax	Total
	2%	5%	7%	8%	10%	12%		
Total								

SECTION E – PARTICULARS OF BANK DRAFT / CHEQUE

Tax/Duty payable under:	BANK	BANK DRAFT / CHEQUE NUMBER
Duty on Documents and Transfers Act		
Income Tax Act		

NAME OF NOTARY

SIGNATURE OF NOTARY

FOR OFFICIAL USE			
Provisional C.G.T Paid:	€	Duty on Documents:	€
Final Withholding Tax:	€	Provisional Duty:	€
		Total:	€
Receipt No/s:		Receipt No/s:	
			
			
			
Date of Receipt/s:		Date of Receipt/s:	
Receiving Officer:		Receiving Officer:	

The Inland Revenue Department uses the information provided, to process this form in accordance with the Income Tax Acts and subsidiary legislation. We may check information provided by you, or information about you provided by a third party, with other information held by us. We will not disclose information about you to anyone outside the Inland Revenue Department unless permitted by law. The Inland Revenue Department treats your personal information in accordance with the Data Protection Act 2001 (Cap 440) to protect your privacy. Any queries may be addressed to The Data Controller, Inland Revenue Department, Floriana, CMR 03."

PART II
"SIXTH SCHEDULE
[Rule 11(3)]

Notice in terms of Rule 11(3) of the Duty on Documents and Transfers Rules, 1993																								
<i>Statement to be submitted by transferee in a transfer of company shares</i>																								
Part 1 - Details of Transferor and Transferee																								
Transferor:																								
Name																								
Address																								
ROC No (companies only)																								
Income Tax Registration No:																								
Transferee:																								
Name																								
Address																								
ROC No (companies only)																								
Income Tax Registration No:																								
Part 2 - Details of Company in which shares are being transferred																								
Company Name																								
Income Tax Registration No																								
Company year end																								
Date of incorporation																								
ROC No																								
Authorised share capital																								
Issued share capital																								
State whether: (Yes or No)																								
a	The Company holds shares directly or indirectly in other companies. (if Yes attach details)																							
b	The Company or any companies specified in (a) above own immovable property at the date of the share transfer. (if Yes attach details)																							
Part 3 - Details of share transfer																								
a	Date of share transfer																							
b	Number of shares transferred																							
c	Consideration for shares transferred																							
Give details of the shares transferred:																								
<table border="1" style="margin: auto; border-collapse: collapse;"> <thead> <tr> <th style="width: 15%;">Type</th> <th style="width: 15%;">Class</th> <th style="width: 15%;">Votes per share</th> <th style="width: 15%;">Nom Value per share</th> <th style="width: 15%;">Number</th> </tr> </thead> <tbody> <tr><td> </td><td> </td><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td><td> </td><td> </td></tr> </tbody> </table>					Type	Class	Votes per share	Nom Value per share	Number															
Type	Class	Votes per share	Nom Value per share	Number																				
Part 4 - Computation of the real value of the shares transferred																								
The real value of the shares being transferred is to be determined as follows:																								
<u>Real value of shares transferred</u>																								
Sec I : Determination of the % of the real value of the company as represented by such shares																								
'A' is the percentage of the issued share capital represented by the nominal value of those share:																								
'B' is the percentage of the total voting rights in the company represented by the total voting right attached to those shares																								
'C' is the percentage of the profits available for distribution to the ordinary shareholders represented by the profits available for distribution to the holder of those shares																								
'Y' represents the percentage to be determined. $Y = (0.4 \times A) + (0.2 \times B) + (0.4 \times C)$																								

Sec II : Computation of real value of company in accordance with rule 5(6) and (7) of the Capital Gains Rules, 1993:										
a	Total Net Asset Value of the company:									
b	Real Value of shares held in another company representing at least 10% of the nominal value of the issued share capital of that other company, determined in accordance with rule 5 of the Capital Gains Rules, 1993:									
	<table border="1" style="width: 100%; border-collapse: collapse; margin-bottom: 5px;"> <thead> <tr> <th style="width: 35%;">Company</th> <th style="width: 35%;">Income Tax no.</th> <th style="width: 30%;">Real Value</th> </tr> </thead> <tbody> <tr> <td style="height: 30px;"></td> <td></td> <td></td> </tr> </tbody> </table>	Company	Income Tax no.	Real Value						
Company	Income Tax no.	Real Value								
	Deduct book value of shares held in the company (as stated in the financial statements)									
c	Total real value of immovable property as stated in the Architect's Valuation (as per Part 6)									
	less Total book value of immovable property									
	Adjustment to the value of immovable property:									
d	Value of goodwill: (as calculated in Sec IV below)									
e	Deduct the book value of shares referred to in rule 5(6)(d) of the Capital Gains Rules, 1993:									
f	Add Liabilities in excess of the value of all assets as determined in accordance with article 42(2)(c) of the Act:									
g	Total adjusted real value of the company:									
Sec III : Real value of shares transferred:										
a	Adjusted real value of the company (Sec IIg)									
b	Percentage of real value as represented by shares transferred (higher of C/A, D/B in Sec I)									
c	Real value of shares transferred (a X b)									
d	Amount or value of the consideration for the shares transferred									
e	Amount chargeable to duty (Higher of c and d)									
f	Rate of duty (€ 5 or € 2 for every one hundred euro or part thereof)									
g	Amount of duty due (e X f)									
Sec IV : Calculation of the amount representing the value of goodwill:										
a	Where company was in existence for the five financial years immediately preceding the year in which the transfer is made:									
	Year ended _____									
	Profit before tax	Year 1	Year 2	Year 3	Year 4	Year 5	Total			
	Value of goodwill:									
Note: Where the transfer is made during the company's first or second financial year the value of goodwill above shall be zero.										

B 1106

b Where the company has acquired its business or part thereof from another person during the company's first three financial years:

State date when business was acquired:

State consideration paid for the acquisition of the goodwill of such business:

Profits of the company excluding profits attributable to business acquired;

Year ended _____

	Year 1	Year 2	Year 3	Total
Profit before tax				

Value of goodwill:

Profits attributable to business acquired from another person;

Year ended _____

	Year 1	Year 2	Year 3	Year 4	Year 5	Total
Profit before tax						

Value of goodwill attributable to business acquired A

Consideration paid for the acquisition of such goodwill B

Value of the goodwill of the business so acquired
(higher of A and B)

Total amount representing the value of goodwill:

Note: Where the assets of the company include shares in another company, and such shares represent at least ten percent of the nominal value of the issued share capital of the other company, the computations in Part 4 must be made for each such shareholding.

Part 5 - Architect's valuation

If the company owns immovable property at the date of the share transfer, attach an architect's valuation of the real value of the immovable property taken into account in determining the value of the said shares.

Part 6 – Declaration

I do hereby declare that the information submitted through this form is true and complete:

Transferee's signature _____ Transferee's name _____

This Schedule shall be accompanied by an auditor's signed report which shall form an integral part of the schedule, giving assurance as to whether the computation of the real value of the shares being transferred has been properly prepared in accordance with the Duty on Documents and Transfers Rules.

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PART III

"EIGHTH SCHEDULE

Physical Attributes of immovable property.

Locality		Address						
Footprint		sq. mt.						
Built Area		sq. mt.						
Type of Property	Villa Penthouse Terraced House	☐ ☐ ☐	Semi-Detached Mezzanine Groundfloor tenement	☐ ☐ ☐	Bungalow Maisonette	☐ ☐	Flat/Apartment Farmhouse	☐ ☐
Age of Premises	0-20 years	☐	Over 20 years	☐	Pre WW2	☐		
Surroundings	Sea view Quiet	☐ ☐	Country view Traffic	☐ ☐	Urban Entertainment	☐ ☐	Industrial	☐
Finishing	Good Shell	☐ ☐	Adequate Finished	☐ ☐	Poor	☐		
Amenities	With Garden No garage Ownership of Roof	☐ ☐ ☐	With Pool One car garage No Ownership of Roof	☐ ☐ ☐	With Lift Two car garage	☐ ☐	With Basement Multi car garage	☐ ☐
Property Value	€							
Date			Transferee Name & Signature _____					

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