VERŻJONI ELETTRONIKA

L.N. 39 of 2018

DUTY ON DOCUMENTS AND TRANSFERS ACT (CAP. 364)

Duty on the Acquisition of the Second Immovable Property to be used as Sole Residence (Exemption) Order, 2018

IN EXERCISE of the powers conferred by article 23 of the Duty on Documents and Transfers Act, the Minister responsible for Finance has made the following order:-

Citation.

1. The title of this order is the Duty on the Acquisition of the Second Immovable Property to be used as Sole Residence (Exemption) Order, 2018.

Refundable Duty.

2. Notwithstanding any other provision in the Duty on Documents and Transfers Act, where an individual transfers his residential immovable property (hereinafter referred to as the "replaced property"), and acquires another residential immovable property (hereinafter referred to as the "replacement property") within twelve (12) months from the date of transfer of the replaced property, the duty paid on the first eighty-six thousand euro (€86,000) of the value of the replacement property shall be refunded:

Provided that this article shall only apply where all the following conditions have been satisfied:

Cap. 123.

(a) the transfer of the replaced property must qualify for tax relief under article 5A(4)(c) of the Income Tax Act;

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(b) the replaced property must have been acquired by way of a transfer that qualified for relief under article 32(4)(a) of the Duty on Documents and Transfers Act;

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(c) the acquisition of the replacement property must qualify for duty relief under article 32(4)(a) of the Duty on Documents and Transfers Act. Acquisitions made through a gratuitous title in accordance with rule 3(2) of the Duty on Documents and Transfers Rules are excluded;

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(d) if the replaced property had qualified for an exemption under article 3 of the Exemption of Duty in Terms of Article 23 Order or under article 32C of the Duty on Documents and Transfers Act, five (5) years must have elapsed on the date of acquisition of the replacement property;

(e) the individual must not have owned any other

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residential immovable property acquired through a transfer *inter vivos* before the acquisition of the replacement property, other than the replaced property, in the case where the replacement property is acquired before transferring the replaced property. For the purpose of articles 3 and 4, the individual must not own any other residential immovable property at the time of acquisition of the replacement property, other than the replaced property in the case where the replacement property is acquired before transferring the replaced property. For the purpose of this sub-article "residential immovable property" includes also a plot of land or airspace;

(f) the transfer of the replaced property must be made within twelve (12) months from the acquisition of the replacement property.

Duty refundable to persons with disability. Cap. 413.

3. For the purpose of article 2, in the case of persons who are on the Register of Persons with Disability kept by the Commission for the Rights of Persons with Disability set up in terms of the Equal Opportunities (Persons with Disability) Act, and who are in possession of an identity card issued by the said Commission, and who benefit from any Disability Assistance according to article 27 of the Social Security Act, the duty paid on the first one hundred and fifty thousand euro (€150,000) of the value of the replacement property will be refunded.

Cap. 318.

Duty refundable to guardians of persons with disability. Cap. 413.

4. For the purpose of article 2, in the case of guardians of persons who are on the Register of Persons with Disability kept by the Commission for the Rights of Persons with Disability set up in terms of the Equal Opportunities (Persons with Disability) Act, who reside in the same household and who are in possession of an identity card issued by the said Commission, and who benefit from any Disability Assistance according to article 27 of the Social Security Act, or from Disabled Child Allowance according to article 77 of the same Act, the duty paid on the first one hundred and fifty thousand euro (€150,000) of the value of the replacement property shall be refunded.

Cap. 318.

Benefit to apply *pro-rata*.

5. The benefit would apply on a *pro-rata* basis according to the share of the property being acquired.

Applicability of order.

6. This order shall apply to acquisitions affected from 10th October 2017 up to 31st December 2018, and the form contained in the First Schedule of the Duty on Documents and Transfers Rules has been delivered to the Commissioner for Revenue on or before 28th February 2019:

S.L. 364.06.

Provided that for the purpose of articles 3 and 4, the benefit would apply to acquisitions taking place from 1st January 2017.

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Manner in which claims for refund must be made.

7. Claims for refund of duty under this order shall be made in writing and shall not be considered by the Commissioner if made after two (2) months from the date of the last contract. The Commissioner will check eligibility and the person who acquires the property must submit to the Commissioner for Revenue any information, forms and documentation that the Commissioner for Revenue may require by means of a notice in writing, within the period specified in the notice which may not be of less than thirty (30) days.

Submission of report.

8. For the purpose of articles 3 and 4, upon request for refund there should be submitted a report by an occupational therapist establishing that the replaced property is not adequate for the person with disability. The Commissioner for Revenue reserves the right to confirm such report through an occupational therapist engaged by him.

Forfeiture of relief.

9. The relief granted under this order shall be forfeited and the provisions of article 10 shall apply if any of the provisions of this order are not satisfied.

Consequences of forfeiture of relief.

10. When the relief from duty under this order is forfeited as provided in article 9, the provisions of article 2 shall not apply and the duty chargeable on the transfer referred to in that article shall be the duty that would have been chargeable in accordance with the provisions of the Duty on Documents and Transfers Act had the relief under this order not been claimed and availed of.

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L.N. 35 of 2018.

11. Legal Notice 35 of 2018 is hereby repealed.

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