L.N. 282 of 2019

INCOME TAX ACT
(CAP. 123)

Qualifying Employment in Innovation and Creativity (Personal Tax) (Amendment) Rules, 2019

IN EXERCISE of the powers conferred by articles 14(2), 56(21) and 96 of the Income Tax Act, the Minister for Finance, has made the following rules:-

Citation and commencement.

1. (1) The title of these rules is the Qualifying Employment in Innovation and Creativity (Personal Tax) (Amendment) Rules 2019, and these rules shall be read and construed as one with the Qualifying Employment in Innovation and Creativity (Personal Tax) Rules, hereinafter referred to as the "principal rules". S.L. 123.141.

(2) These rules shall be deemed to have come into force on 1st January 2019.

Amends rule 2 of the principal rules.

2. (1) Rule 2 of the principal rules shall be amended as follows:

(a) the definition "Commissioner" shall be substituted by the following:

" "Commissioner" means the Commissioner for Revenue;";

(b) the definition "eligible office" shall be substituted by the following:

" "eligible office" means an employment in a role directly engaged in carrying out or management of research, development, design, analytical or innovation activities as may be further specified in the Guidelines published by the Corporation;";

(c) the definition "qualification" shall be deleted and immediately after the definition "relevant experience" there shall

be added the following new definition:

" "relevant qualification" means any diploma, certificate, degree or other formal educational achievement in a subject area relevant to an eligible office, attained through an educational establishment attesting the successful completion of a post-secondary education programme at graduate level as recognized by the Malta Qualifications Recognition Information Centre as established by article 6 of the Mutual Recognition of Qualifications Act;"; and

Cap. 451.

(d) the definition "these rules" shall be substituted by the following:

" "these rules" includes the provisions of these rules and of article 56 (21) of the Act;".

Amends rule 3 of the principal rules.

3. The words "forty-five thousand euro (€45,000)" in sub-rule (1) of rule 3 shall be substituted by the words "fifty-two thousand euro (€52,000)".

Amends rule 4 of the principal rules.

4. (1) Rule 4 of the principal rules shall be amended as follows:

(a) paragraph (a) thereof, shall be substituted by the following:

"(a) he is an individual who derives income subject to tax under article 4(1)(b) of the Act, being emoluments payable under a qualifying contract of employment, and received in respect of work or duties carried out in Malta in fulfilling the role required by the eligible office, or in respect of any period spent outside Malta in connection with such work or duties, or on leave during the carrying out of such work or duties;";

(b) paragraph (c) thereof, shall be substituted by the following:

"(c) he proves to the satisfaction of the Corporation that he is in possession of a relevant qualification or relevant experience;";

(c) paragraphs (d), (e) and (f) thereof, shall be renumbered as paragraphs (e), (f) and (g) respectively; and

(d) immediately after paragraph (c) thereof, there shall be

added the following new paragraph:

"(d) he is not an individual who has benefited under article 6 of the Act;".

Amends rule 5 of the principal rules.

5. (1) Rule 5 of the principal rules shall be amended as follows:

(a) the first proviso to sub-rule (1) thereof, shall be deleted;

(b) in the second proviso to sub-rule (1) thereof, the word "further" shall be deleted;

(c) in sub-rule (2) thereof, the words "year of assessment 2013:" shall be substituted by the words "year of assessment 2013."; and

(d) the proviso to sub-rule (2) thereof, shall be deleted.

Amends rule 6 of the principal rules.

6. Rule 6 of the principal rules shall be amended as follows:

(a) sub-rule (1) thereof, including its proviso, shall be substituted by the following:

"(1) The option available under article 56(21) of the Act shall apply for:

(a) a consecutive period of up to four (4) years commencing from the year immediately preceding the year of assessment in which the individual is first liable to tax under the provisions of the Act;

(b) by application, to any additional periods of up to five (5) consecutive years.";

(b) sub-rule (2) thereof, shall be renumbered as sub-rule (3) and the words "under this law" therein shall be substituted by the words "under these rules";

(c) immediately after sub-rule (1) thereof, as substituted, there shall be added the following new sub-rule:

"(2) Subject to the continued adherence to these rules the rights acquired shall continue to apply if the individual enters into a new contract of employment which is also considered to be an eligible office and there is no more than thirty (30) days between the termination of one

contract of employment and the commencement of the other contract of employment."; and

(d) immediately after sub-rule (3) thereof, as renumbered, there shall be added the following new sub-rule:

"(4) Rights acquired under these rules shall be withdrawn if a beneficiary directly or indirectly acquires immovable property situated in Malta or any real rights thereon.".

Deletes rule 7 of the principal rules.

7. Rule 7 of the principal rules, shall be deleted.

Substitutes rule 11 of the principal rules.

8. Rule 11 of the principal rules, shall be substituted by the following:

"11. (1) An application for a formal determination relating to eligibility under these rules shall be made on such form or in such manner as the Corporation may require and shall contain the information and documents therein requested.

(2) The Corporation shall issue a formal determination that an individual has proven to its satisfaction, compliance with these rules and shall in such formal determination specify also the number of years in which the option available under article 56(21) of the Act can be availed of in accordance to these rules.

(3) The Corporation shall forward a copy of any determination issued to the Commissioner.

(4) After consultation with the Corporation, the Minister responsible for Justice shall determine whether a beneficiary's permanent stay in Malta is not in the public interest.".

Deletes rule 12 of the principal rules.

9. Rule 12 of the principal rules, shall be deleted.

Substitutes rule 14 of the principal rules.

10. Rule 14 of the principal rules shall be substituted by the following:

"14. No determination shall be issued by the Corporation after the 31st December 2025 and no further benefit may be availed after year of assessment 2030.".

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