L.N. 69 of 2020

INCOME TAX ACT
(CAP. 123)

Malta Retirement Programme, Global Residence Programme, Residence Programme and the United Nations ("UN") Pensions Programme (Amendment) Rules, 2020

IN EXERCISE of the powers conferred by articles 56(23) and 96 of the Income Tax Act, the Minister for Finance and Financial Services has made the following rules:

Title and commencement.

1. (1) The title of these rules is the Malta Retirement Programme, Global Residence Programme, Residence Programme and the United Nations ("UN") Pensions Programme (Amendment) Rules, 2020.

(2) These rules shall come into force on the 1st January, 2020.

PART II
Amendments to the Malta Retirement Programme Rules

Amendments to the Malta Retirement Programme Rules. S.L. 123.134.

2. This Part amends the Malta Retirement Programme Rules, and it shall be read and construed as one with the Malta Retirement Programme Rules, hereinafter referred to as "the principal rules".

Amends rule 2 of the principal rules.

3. Rule 2 of the principal rules shall be amended as follows:

(a) in the definition "beneficiary", the words "EU, EEA or Swiss national" shall be substituted by the word "individual";

(b) paragraph (b)(i) of the definition "dependent" shall be substituted with the following:

S.L. 123.148. S.L. 123.129. S.L. 123.130. S.L. 123.126. S.L. 123.168. S.L. 123.141. S.L. 123.182. S.L. 123.160. S.L. 123.79. S.L. 123.165.

"(i) is not a beneficiary under the Global Residence Programme Rules; the High Net Worth Individuals – EU/EEA/Swiss Nationals Rules; the High Net Worth Individuals Rules – Non-EU/EEA/Swiss Nationals Rules; the Highly Qualified Persons Rules; the Qualifying Employment in Aviation (Personal Tax) Rules; the Qualifying Employment in Innovation and Creativity (Personal Tax) Rules; the Qualifying Employment in Maritime Activities and the Servicing of Offshore Oil and Gas Industry Activities (Personal Tax) Rules; the Residence Programme Rules; the Residents Scheme Regulations or the United Nations ("UN") Pensions

Programme Rules; and";

(c) the definition "EEA" shall be deleted;

(d) the definition "household staff" shall substituted by the following:

" "household staff" means an individual who is in an employment relationship, as evidenced by a contract of service, with the beneficiary and who satisfies such conditions as the Commissioner may determine by guidelines;";

(e) immediately after the definition "lease" there shall be added the following new definition:

" "long-term resident" means:

(a) a person who has long-term resident status in terms of the Status of Long-term Residents (Third Country Nationals) Regulations; or S.L. 217.05.

(b) a person who applies for long-term resident status under the Status of Long-term Residents (Third Country Nationals) Regulations;"; S.L. 217.05.

(f) immediately after the definition "pension" there shall be added the following new definition:

" "permanent resident of Malta" means:

(a) a person who has right of permanent residence in terms of article 6 and is in possession of a permanent residence certificate issued in terms of article 7 of the Free Movement of European Union Nationals and their Family Members Order; or S.L. 460.17.

(b) a person who applies for right of permanent residence in terms of article 6 of the Free Movement of European Union Nationals and their Family Members Order;"; and S.L. 460.17.

(g) the definition "third country national" shall be deleted.

4. Immediately after sub-rule (2) of rule 3 of the principal rules there shall be added a new sub-rule: Amends rule 3 of the principal rules.

"(3) Following the death of a beneficiary, the special tax status granted in terms of sub-rule (2) shall be granted to a dependent of that deceased beneficiary who has inherited the property that was the primary residence of such beneficiary, or who rents a qualifying rented property immediately after the death of the said beneficiary and satisfies all the other requirements set out in rule 4. Such status shall only be transferred once the said dependent provides proof to the Commissioner that all the requirements of rule 4 are satisfied in such manner as the Minister for Finance may determine further to consultation with the Commissioner.".

Amends rule 4 of the principal rules.

5. Rule 4 of the principal rules shall be amended as follows:

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

S.L. 123.148.
S.L. 123.129.
S.L. 123.130.
S.L. 123.126.
S.L. 123.168.
S.L. 123.141.
S.L. 123.182.
S.L. 123.160.
S.L. 123.79.
S.L. 123.165.

"(b) he is not a person who benefits under the Global Residence Programme Rules; the High Net Worth Individuals – EU / EEA / Swiss Nationals Rules; the High Net Worth Individuals Rules – Non-EU / EEA / Swiss Nationals Rules; the Highly Qualified Persons Rules; the Qualifying Employment in Aviation (Personal Tax) Rules; the Qualifying Employment in Innovation and Creativity (Personal Tax) Rules; the Qualifying Employment in Maritime Activities and the Servicing of Offshore Oil and Gas Industry Activities (Personal Tax) Rules; the Residence Programme Rules; the Residents Scheme Regulations or the United Nations ("UN") Pensions Programme Rules;"; and

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

"(c) he is not a Maltese national;".

Amends rule 5 of the principal rules.

6. Rule 5 of the principal rules shall be amended as follows:

(a) in sub-rule (1) thereof, the words "the beneficiary or dependent," shall be substituted by the words "the beneficiary, the beneficiary’s spouse and children referred to in paragraph (b) of the definition "dependant" in rule 2,"; and

(b) sub-rule (4) thereof shall be substituted by the following:

"(4) (a) Notwithstanding any provision in the Act, an individual who falls under the definition "long-term resident" or "permanent resident of Malta" in rule 2 shall be taxable on any income accruing in or derived from Malta or elsewhere, and whether received in Malta or not in respect of income mentioned in article 4 of the Act and subject to tax at the rates mentioned in article 56 of the Act;

(b) In the case where the individual referred to in paragraph (a) is a beneficiary or dependent, the relevant authorised registered mandatary shall –

(i) enquire and obtain information from the relevant beneficiary as to whether the beneficiary or any of his dependants fall under the definition "long-term resident" or "permanent resident of Malta" as at the 31st December of each year from the year of the appointed date onwards; and

(ii) notify the Commissioner of any individual that is beneficiary or dependent that falls under the said definition "long-term resident" or "permanent resident of Malta" by not later than the 30th April following the 31st December referred to in sub-paragraph (i) on such form as the Commissioner may determine.

Where the authorised registered mandatary is not able to obtain such information, he is to notify the Commissioner by the said 30th April of this state of affairs and provide proof that at least two attempts at enquiry were made. Where such notifications are not made within the time specified, the authorised registered mandatary shall be charged an administrative penalty of ten thousand euro (€10,000).".

7. Paragraph (f) of rule 6 of the principal rules shall be substituted with the following:

Amends rule 6 of the principal rules.

"(f) if at any time, after the appointed day, such individual becomes a permanent resident or long-term resident of Malta;".

8. Rule 7 of the principal rules shall be amended as follows:

Amends rule 7 of the principal rules.

(a) rule 7 shall be renumbered as rule 7(1); and

(b) immediately after sub-rule (1) as renumbered there shall be added the following new sub-rules:

S.L. 217.05.
S.L. 460.17.

"(2) Notwithstanding any other provision in any law, the Commissioner and the competent authority in relation to the Status of Long-term Residents (Third Country Nationals) Regulations or in relation to the Free Movement of European Union Nationals and their Family Members Order, as the case may be, may exchange information that is in their possession concerning an individual –

(a) making an application in terms of rule 3;

(b) that is a beneficiary; or

S.L. 217.05.
S.L. 460.17.

(c) that has long-term residence status in terms of the Status of Long-term Residents (Third Country Nationals) Regulations or that has right of permanent residence in terms of the Free Movement of European Union Nationals and their Family Members Order as the case may be.

S.L. 217.05.
S.L. 460.17.

(3) The information referred to in sub-rule (2) may be exchanged for the purposes of these rules and for the purposes of the long-term residence status in terms of the status of Long-term Residents (Third Country Nationals) Regulations or for the purposes of the right of permanent residence in terms of the Free Movement of European Union Nationals and their Family Members Order, as the case may be.".

PART II
Amendments to the Global Residence Programme Rules

Amendments to the Global Residence Programme Rules.
S.L. 123. 148.

9. This Part amends the Global Residence Programme Rules, and it shall be read and construed as one with the Global Residence Programme Rules, hereinafter referred to as "the principal rules".

Amends rule 3 of the principal rules.

10. In sub-rule (3) of rule 3, the words "Such status shall only be transferred once the said dependant provides proof to the Commission that all the requirements of rule 4 are satisfied in such manner as the Commissioner may determine." shall be substituted by the words "Such status shall only be transferred once the said dependent provides proof to the Commissioner that all the requirements of rule 4 are satisfied in such manner as the Minister for Finance may determine further to consultation with the Commissioner.".

PART III
Amendments to the Residence Programme Rules

11. This Part amends the Residence Programme Rules, and it shall be read and construed as one with the Residence Programme Rules, hereinafter referred to as "the principal rules".

Amendments to the Residence Programme Rules. S.L. 123.160.

12. In sub-rule (3) of rule 3, the words "Such status shall only be transferred once the said dependant provides proof to the Commission that all the requirements of rule 4 are satisfied in such manner as the Commissioner may determine." shall be substituted by the words "Such status shall only be transferred once the said dependent provides proof to the Commissioner that all the requirements of rule 4 are satisfied in such manner as the Minister for Finance may determine further to consultation with the Commissioner.".

Amends rule 3 of the principal rules.

PART IV
Amendments to the United Nations ("UN") Pensions Programme Rules

13. This Part amends the United Nations ("UN") Pensions Programme Rules, and it shall be read and construed as one with the United Nations ("UN") Pensions Programme Rules, hereinafter referred to as "the principal rules".

Amendments to the United Nations ("UN) Pensions Programme Rules. S.L. 123.165.

14. In sub-rule (3) of rule 3, the words "Such status shall only be transferred once the said dependant provides proof to the Commission that all the requirements of rule 4 are satisfied in such manner as the Commissioner may determine." shall be substituted by the words "Such status shall only be transferred once the said dependent provides proof to the Commissioner that all the requirements of rule 4 are satisfied in such manner as the Minister for Finance may determine further to consultation with the Commissioner.".

Amends rules 3 to the principal rules.

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