L.N. 247 of 2022

INCOME TAX ACT
(CAP. 123)

Tax Credit (Malta International Airport plc) (COVID-19 Damage Compensation) Rules, 2022

IN EXERCISE of the powers conferred by article 96 of the Income Tax Act, the Minister responsible for finance has made the following rules:-

Citation.

1. The title of these rules is Tax Credit (Malta International Airport plc) (COVID-19 Damage Compensation) Rules, 2022.

Interpretation.

2. In these rules, unless the context otherwise requires:

Cap. 123.

"Act" means the Income Tax Act;

"Commissioner" shall have the same meaning as assigned to it in the Act;

"eligible costs for damage compensation" means the total net amount suffered by the company as a direct consequence of the COVID-19 pandemic during the period 21st March 2020 and 30th June 2020 and recognized as eligible costs for damage compensation in the decision of the European Commission communicated to the Government by means of a letter dated 27 June 2022 with the subject "State Aid SA.102240 (2022/N) – Malta COVID-19 Damage compensation to Malta International Airport plc".

"the company" means Malta International Airport plc, whose company registration number is C12663.

Allowable tax credit.

3. A tax credit shall be allowed to the company in accordance with these rules in an amount that shall not exceed the lower of the following two amounts:

(a) the eligible costs for damage compensation net that do not include:

(i) any amount recovered by the company by insurance, litigation, arbitration or other source for the same damages, including any amount that is so recovered at any time after these rules come into force;

(ii) any damages for which the company was responsible or which was attributable to the failure on the part of the company to conduct its activities with due diligence and in compliance of applicable legislation or to its failure to take measures to mitigate it;

(iii) any grant, compensation, relief or other form of aid paid to the company by or on behalf of the Government or a government agency in consideration of the said damage to the extent that it is not already compensated in the calculation of the eligible costs for damage compensation; and

(b) twelve million euro (€12,000,000).

Claim for the tax credit.

4. (1) The tax credit that the company may claim for a year of assessment in accordance with these rules shall not exceed the tax on its chargeable income for that year after taking into account any other tax credit, tax exemption and any other form of tax relief that may be allowed to the company for that year.

(2) Subject to the limitation provided for in sub-rule (1), the company may claim the tax credit allowable in accordance with these rules for the year of assessment 2023.

(3) Any balance of the tax credit that is not availed of in the year of assessment 2023 on account of the limitation provided for in sub-rule (1) shall be carried forward and made available as a tax credit for subsequent years of assessment, subject to the same limitation, until it is fully availed of.

Repayment of excess tax credit.

5. (1) Where it results that the tax credit granted to the company exceeds the tax credit allowable in accordance with these rules, the company shall repay such excess to the Commissioner.

(2) A repayment of the excess tax credit shall be payable with interest calculated at rates stipulated in article 44(2A) of the Income Tax Management Act and for the purposes of that article, the said repayment shall be deemed to have become payable by the company on the tax settlement date for the year of assessment or years of assessment for which the excess was claimed.

Cap. 372.

(3) The liability of the company to make a repayment arises also if the excess tax credit results from the recovery by the company of an amount by insurance, litigation, arbitration or other source on a date that is later than the date on which the excess was claimed, but in such a case the repayment shall be deemed to have become due and payable to the Commissioner on such later date.

Allocation of profits to the final tax account.

6. The said amount out of the company's chargeable income for the respective year of assessment on which no tax is payable as a result of a tax credit under these rules shall be allocated to the company's final tax account.

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