

SUBSIDIARY LEGISLATION 123.210**NOMAD RESIDENCE PERMITS
(INCOME TAX) RULES**

7th December, 2023

LEGAL NOTICE 277 of 2023.

1. The title of these rules is the Nomad Residence Permits (Income Tax) Rules. Citation.
2. For the purposes of these rules, unless the context otherwise requires:
 - "the Act" means the Income Tax Act; Cap. 123.
 - "authorised work" means services provided by an eligible main applicant in accordance with a contract of employment with an employer who is not resident in Malta and who does not carry on business in Malta through a fixed place of business, or services performed by an eligible main applicant in a self-employed capacity for clients who do not reside in Malta and who do not carry on business in Malta through a fixed place of business, which services, in either case, are provided remotely by means of telecommunications technology as may be approved by Residency Malta Agency;
 - "eligible main applicant" means an individual who is in possession of a valid nomad residence permit;
 - "nomad residence permit" means a residence permit issued in terms of the Immigration Act, that grants a third country national a licence to perform work in Malta consisting exclusively of authorised work; Cap. 217.
 - "Residency Malta Agency" means the agency established in accordance with article 3 of the Residency Malta Agency (Establishment) Order. S.L. 595.40.
3. (1) An eligible main applicant shall be chargeable to income tax at the rate of ten percent (10%) on his chargeable income derived from authorised work, subject to any relief of double taxation as provided in Part X of the Act. Income tax liability.
- (2) The income referred to in sub-rule (1) for any year of assessment shall be deemed to constitute the first part of the person's total chargeable income for that year of assessment.
- (3) Notwithstanding the foregoing provisions, an eligible main applicant shall not be liable to tax on income derived from

authorised work before the end of twelve (12) months from:

(a) the date on which the nomad residence permit is issued, or

(b) the 1st January 2024, whichever is the later;

unless he files with Residency Malta Agency a written declaration that his residence in Malta, even during the said period of twelve (12) months, is not merely of a casual nature.

(4) Income of the eligible main applicant, other than income derived from authorised work, that is chargeable to tax in Malta in accordance with the Act, shall be governed by the applicable provisions of the Act.

(5) Any income which is chargeable to tax in Malta derived by any family member of the eligible main applicant who is authorized as such by Residency Malta Agency by being included in the nomad residence permit shall not be regulated by these rules, but shall continue to be governed exclusively by the provisions of the Act.

S.L. 372.14.

(6) Income earned by the eligible main applicant from authorised work in accordance with a contract of employment shall not be subject to the provisions of the Final Settlement System (FSS) Rules.

(7) If an eligible main applicant, for any reason, does not remain in possession of a nomad residence permit, but:

(a) is subsequently granted a new nomad residence permit within a period of two (2) years from when the said person ceases to hold the original nomad residence permit, he shall be entitled to benefit from the provisions of this rule, except for those of sub-rule (3); or

(b) is subsequently granted a new nomad residence permit after a period exceeding two (2) years from when the said person ceases to hold the original nomad residence permit, he shall be entitled to benefit from the provisions of this rule, including those of sub-rule (3).

Income tax
registration and tax
return.

4. (1) Subject to the other provisions of this rule, an eligible main applicant having income chargeable to tax in Malta shall be required to be registered for income tax purposes and to file a return of income accordingly.

(2) An eligible main applicant shall:

(a) be required to be registered for income tax purposes even in respect of the activities carried out before the

end of the period of twelve (12) months referred to in rule 3(3);

(b) not be required to report for income tax purposes the income earned by him from authorised work up to the end of the said twelve (12) month period unless he has filed with Residency Malta Agency the written declaration referred to in rule 3(3); and

(c) unless otherwise directed by the Commissioner, he shall not be required to file a return of income if he does not derive any chargeable income other than:

(i) income from authorised work; and

(ii) other income that does not require to be reported in a return of income,

and the period comprised in the particular basis year does not extend beyond the end of the said twelve (12) months.

(3) In respect of any year or part thereof in which an eligible main applicant is subject to tax in respect of income arising from authorised work, if he provides official written documentation proving to the satisfaction of Residency Malta Agency acting on behalf of the Commissioner, that he has paid tax in a country outside Malta at a rate of at least ten percent (10%) on the said income, he shall not be required to report such income for Maltese income tax purposes on the basis of the fact that the tax due on such income shall be deemed to have been settled by the application of the relief of double taxation provisions of the Act.

(4) Residency Malta Agency shall forward to the Commissioner the official documentary proof as provided by the eligible main applicant in accordance with sub-rule (3), as may be applicable.

5. For the purposes of ascertaining an eligible main applicant's entitlement to rights applicable in accordance with these rules and ensuring the proper application of these rules and of the Income Tax Acts, Residency Malta Agency shall provide to the Commissioner such further information and documentation as the Commissioner may consider necessary.

Residency Malta shall provide further information and documentation.

6. (1) Without prejudice to the provisions of article 51 of the Act and of any other anti-tax avoidance provisions under the Income Tax Acts, where any eligible main applicant is in a position to obtain an undue advantage which has the effect of reducing his liability to tax in a manner which is not reconcilable with the objective and purpose of these rules, the Commissioner shall determine the

Anti-abuse provisions.

relevant liability to tax in such manner and in such amount as may be necessary so as to nullify any such benefit or advantage.

(2) The provisions of sub-rule (1) shall apply without prejudice to any other provisions in any other law as well as any administrative action thereunder, penalizing situations involving tax abuse practices.

Non-resident
employers and
non-resident
clients.

7. (1) The presence in Malta of an eligible main applicant performing authorised work in accordance with a contract of employment shall not of itself result in his employer being deemed to derive income arising in Malta.

(2) The presence in Malta of an eligible main applicant performing authorised work in a self-employed capacity shall not of itself result in his clients being deemed to derive income arising in Malta.
