



Reduced rate of tax for “Qualifying Expatriates” in the development of digital products in Malta

With effect from 1 January 2012, another scheme has been introduced for expatriates working in Malta to benefit from a reduced rate of tax of 15%. This scheme is similar to that for “Highly Qualified Persons” which was introduced in 2011, and is for individuals who fulfil a role directly engaged in the development of innovative and creative digital products. In order to benefit from this scheme, the individual must submit an application to the Malta Enterprise Corporation and satisfy the competent authority that he holds a qualifying contract of employment in an eligible office.

Legal Notice 106 of 2013 entitled ‘Qualifying Employment in Innovation and Creativity (Personal Tax) Rules, 2013’ requires the following conditions to be met for an individual to benefit from these rules:

Eligible office

The term ‘eligible office’ refers to specific eligible employments or offices in a role directly engaged in the development of innovative and creative digital products. These specific eligible employments or offices are as follows: Chief Executive Officer; Chief Technical Officer; Chief Creative Officer; Head of Writing; Lead in-World Writer; Lead Game Programmer; Software Engineering Director; Game Developer; Director of Online Community; Head of Art Design and Visualisation; Art Director; Digital Artist; Commercial Director (Digital Licensing); Head of Game Design; Game Director; Game Designer; Audio Director; Video Director; Producer; and Head of Marketing.

Qualifying contract of employment

A qualifying contract of employment consists of employment income falling under the definition of eligible office which is received by a beneficiary and consists of a minimum value of €45,000 per annum exclusive of any fringe benefits. This minimum income will be revised annually in line with the Retail Price Index published by the National Statistics Office.

The Corporation must be satisfied that the employer, or any related person to the employer, has not benefitted from any business incentive laws and/or any arrangement in terms of the business incentive laws and is not paid by a person who is related to the employer, and who has received a benefit or benefits under business incentive laws or arrangements.

The beneficiary

A beneficiary, in terms of the scheme is an individual who meets all the following conditions:

- a. He/she derives emoluments payable under a qualifying contract of employment received in respect of work or duties carried out in Malta, 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 duties;
- b. He/she is protected as an employee under Maltese law for the purpose of exercising genuine and effective work, for or under, the direction of someone else and has the required adequate and specific competence as approved by the Malta Enterprise Corporation;
- c. He/she is in possession of the requisite qualifications and experience for the eligible office;
- d. He/she proves to the satisfaction of the Corporation that he/she performs the activities of an eligible office;
- e. He/she declares the emoluments received from the qualifying contract of employment and all income received from a person related to his/her employer for income tax purposes in Malta;
- f. He/she proves to the satisfaction of the Corporation that he/she is in receipt of stable and regular resources which are sufficient to maintain himself/herself and his/her family, is in possession of sickness insurance in respect of all risks covering himself/herself and his/her family in Malta, resides in suitable accommodation, and is in possession of a valid travel document; and
- g. He/she is not domiciled in Malta.

Malta tax treatment

Income derived from a qualifying contract of employment in terms of this scheme will be deemed to constitute the first part of the individual's total income and subject to tax at a flat rate of 15% without the facility to claim any deductions or relief from double taxation. Any income from a qualifying contract of employment exceeding €5 million will not be charged to tax in Malta.

Duration

The scheme applies for a consecutive period of up to three years for EEA and Swiss nationals as well as third country nationals, after the expiry of which the employment income would be chargeable to tax at normal rates of tax applicable to individuals.

It should be noted that any rights acquired under this law by a third country national will be deemed to have been withdrawn, with retrospective effect, if he/she physically stays in Malta for more than 1,460 days in the aggregate or directly or indirectly acquires real rights over immovable property situated in Malta.

The option shall not be available to any person who has previously benefited from this reduced rate of tax through any other rules or regulations.

Tax factsheet

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