



Residence scheme for foreign retirees for EU/EEA/Swiss nationals

Introduction

In terms of Legal Notice 317 of 2012, as amended by Legal Notice 269 of 2014 and Article 56(23) of the Malta Income Tax Act, Chapter 123 of the Laws of Malta (ITA), a residence scheme for foreign retiree individuals (the "Scheme") who are European Union (EU), European Economic Area (EEA), and Swiss nationals was announced. The Scheme confers a special tax status on the successful applicant.

Conditions for application

An individual who is eligible to apply under the Scheme must prove to the satisfaction of the Commissioner for Revenue (the "Commissioner") that such individual satisfies all of the conditions set out below:

- a. The applicant holds a "Qualifying Property Holding," which is defined as immovable property situated in Malta or Gozo, which was either:
 - i. Purchased after 1 January 2011 up to 30 June 2013, for a consideration of not less than €275,000, if the property is situated in Malta; or €250,000, if the property is situated in Gozo; or
 - ii. Purchased after 1 July 2013, for a consideration of not less than €275,000, if the property is situated in Malta; or €220,000, if the property is situated in Gozo; or
 - iii. Rented for not less than €9,600 per annum, if the property is situated in Malta; or €8,750, if the property is situated in Gozo.

In all cases, the applicant and his/her dependents and special carer(s) (of, at least, three years' continuous service prior to the application) are required to have their habitual residence in such property as their principal place of residence;

- b. The applicant is not a person who benefits under the "Residents Scheme Regulations," the "Highly Qualified Persons Rules," or the "High Net Worth Individuals - EU/EEA/Swiss Nationals Rules";

- c. The applicant is not a Maltese national and is a citizen of an EU member state (other than Malta), Iceland, Norway, Liechtenstein, or Switzerland;
- d. The applicant is in receipt of a pension (excluding a lump-sum payment without periodic pension payment or commutation of pension, which are exempt from Maltese income tax in terms of the ITA), all of which is received in Malta. The pension income should constitute at least 75% of the income brought to charge for tax purposes in Malta;
- e. The applicant is not in an employment relationship in Malta;
- f. The applicant is in possession of a valid travel document;
- g. The applicant is in possession of sickness insurance which covers himself/herself and his/her dependents in respect of all risks across the whole of the EU;
- h. The applicant is not domiciled in Malta and does not intend to establish his/her domicile in Malta within five years from the date of the application; and
- i. The applicant is a "fit and proper person."

The application by the individual may also cover the dependents and special carer(s) of the individual.

Procedure for application

An application for special tax status in terms of the Scheme, together with a fit and proper person questionnaire, may only be submitted to the Commissioner through the services of a person who qualifies as an Authorised Registered Mandatory (Deloitte Malta is an Authorised Registered Mandatory in terms of the Scheme). A nonrefundable fee of €2,500 is payable to the Commissioner on application and by bank draft payable to the "Director General (Inland Revenue)" and attached to the application form.

When the Commissioner confirms that the individual qualifies for special tax status in terms of the Scheme, the Commissioner will notify the Authorised Registered Mandatory in writing. Where the applicant would not have, at the time of application, acquired a Qualifying Property Holding as referred to above, the Commissioner shall provide the applicant with a letter of intent and will issue a certificate of special tax status upon receipt of evidence that the applicant holds a Qualifying Property Holding.

Minimum residence period

An individual in possession of the relevant special tax status certificate is required to reside in Malta for not less than 90 days in any calendar year averaged over a five-year period, and to have not resided for more than 183 days in any calendar year in any other jurisdiction.

Tax treatment

An individual in possession of the relevant special tax status certificate would be subject to the following tax treatment in Malta:

- Income remitted to Malta from foreign sources (including pension income) would be chargeable to Maltese income tax at a flat rate of 15%. Relief for double taxation in terms of double tax treaty relief and unilateral relief is available. A minimum annual Maltese income tax payment payable by the individual in respect of foreign-sourced income and amounting to €7,500, with a further €500 for every dependent and special carer of the individual, applies in terms of the Scheme;
- Any other realised income that is not charged at the 15% income tax rate above and including realised capital gains arising in Malta on the transfer of a capital asset (other than immovable property situated in Malta) would be charged separately to Maltese income tax at the rate of 35%;
- Any realised capital gain arising in Malta on the transfer of immovable property situated in Malta would be subject to a final withholding tax of 12% of the transfer value (an exemption applies in special circumstances, including the disposal of immovable property occupied as an individual's "own residence" for a period of three years). An individual may opt for the 35% tax rate on the capital gain, subject to the "Capital Gains Rules" of the ITA, if the property being transferred was acquired less than seven years prior to the sale;

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- Any realised capital gain arising outside of Malta would be exempt from Maltese tax in view of the non-Maltese domicile of the individual (a non- Maltese domicile is, in fact, a condition for eligibility in terms of the Scheme); and
- In terms of the Scheme, the applicant and his/her spouse cannot opt for separate tax computation in respect of their income.

Employment in Malta

An applicant under the Scheme is restricted from having an employment relationship in Malta; however, this does not restrict an applicant from holding a non-executive post on the board of a company resident in Malta or partake in activities related to any institution, trust, or foundation of a public character and of any other similar organisation or body of persons, also of a public character, which is engaged in philanthropic, educational, or research and development work in Malta.

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