



UPDATE TO HIGHLY QUALIFIED PERSONS RULES

Expatriates in receipt of income payable in terms of a “qualifying contract of employment” in respect of activities carried out in Malta, may opt to be subject to tax on such income at a flat rate of 15%.

The Highly Qualified Persons Rules, 2011 enacted by virtue of Legal Notice 106 of 2011 (“the Rules”) provide for the application of this incentive.

A Taxalert was issued in March 2011 setting out brief comments in respect of the Rules including the conditions required to qualify for the said 15% tax rate. This Taxalert may be accessed on www.pwc.com/mt/en/publications/tax-legal/assets/tax_alert_march_2011.pdf.

The Rules have recently been amended by Legal Notice 428 of 2011.

This Taxalert sets out the amendments made to the Rules by such Legal Notice.

Eligible office

The Rules set out that in order for a beneficiary to qualify for the reduced rate of tax of 15% such beneficiary must be engaged in an employment activity which constitutes an eligible office.

Prior to the coming into force of Legal Notice 428 of 2011 (“the Legal Notice”), the term “eligible office” referred merely to employment with companies licensed and/or recognised by the competent authority defined as the Malta Financial Services Authority.

An eligible office consisted of specified senior positions. Such positions included among others: Chief Executive Officer, Chief Financial Officer, Chief Operations Officer, Chief Investment Officer, Portfolio Manager, Senior Analyst, Actuarial Professional and Chief Underwriting Officer.

Legal Notice 428 of 2011 amends the definition of the term “competent authority” to include the Lotteries and Gaming Authority apart from the Malta Financial Services Authority. Furthermore, the reduced rate of 15% will now also apply to income from employments with companies licensed and/or recognised by the Lotteries and Gaming Authority.

As a result of the amendment referred to above the senior positions which will be considered an eligible office now also include the following:

- Fraud and Investigations Officer;
- Chief Commercial Officer;
- Odds Compiler Specialist;
- Head of Research and Development (including Search Engine Optimisation and Systems Architecture); and
- Head of Distribution Channels.

The above amendments to the Rules shall be deemed to have come into force retrospectively as from 1st January 2010.

The notes are designed to keep readers abreast with financial and tax developments. They are not intended to be a definitive or comprehensive analysis of the subject and should not be acted upon without prior consultation with the Partners and/or Senior Consultants of the firm. For further details please do not hesitate to contact:

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