The tax system applicable to individuals

This Chapter deals with the special provisions and further considerations applicable to the taxation of individuals in addition to the general rules discussed in Chapters 13 and 14.

Basis of taxation of individuals

An individual who is ordinarily resident and domiciled in Malta is subject to tax on his world-wide chargeable income (including certain capital gains).

An individual who is not ordinarily resident or not domiciled in Malta, is subject to tax in Malta on chargeable income and certain capital gains arising in Malta and on chargeable income arising outside Malta only if it is received in Malta. Foreign capital gains are not taxable in Malta, even if received in Malta. This is not applicable to individuals who are married to persons who are resident and domiciled in Malta.

Non-residents / temporary residents are only subject to tax in Malta on chargeable income and certain capital gains arising in Malta.

A temporary resident is any person who is in Malta for some temporary purpose only and not with any intent to establish his residence in Malta and who has not actually resided in Malta for a period equal to six months in a calendar year.

A person is ordinarily resident in Malta if he is regularly resident over a number of years. An ordinary resident ceases to be resident in Malta if he is absent from Malta in circumstances that, in the opinion of the Commissioner for Revenue, are inconsistent with the status of resident. The factors that would be taken into account for this purpose are the duration of the absence and the connections that the individual may have retained with Malta.

Domicile is a term of private international law. An individual usually acquires the domicile of his parents on his birth but he may acquire a domicile of choice in another country if he is present in that country with the intention of remaining there permanently.

Rates of tax

Individuals are, as a rule, subject to tax at progressive rates. There are different scales of rates for different categories of individuals, as shown in Appendix IV. The maximum rate is 35%.

Taxable income

Taxable capital gains, which were not subject to final tax, must be reported together with the taxable income and tax is levied on the total amount. Individuals may qualify for certain exemptions, including an exemption from tax on capital gains derived from the sale of immovable property that had been owned and used as the taxpayer’s sole ordinary residence for at least three years.

Employment income includes the value of any fringe benefits, determined in accordance with the Fringe Benefits Rules. Any benefit provided by reason of employment by an employer or a related company to an employee or to a member of his family is deemed to constitute a fringe benefit. The use of a company car or a car allowance, the use of company property, the provision of free or subsidised lodging and free non-business travel are among the fringe benefits specifically regulated by the Rules.

When a company grants an option to its employees to acquire shares, such share options become taxable only when the option is exercised. In this respect, the value of the said share option would be 42.85% of the excess of the price which the shares would fetch in the open market on the date of the exercise of the option over the option price of the same shares, subject to the conditions contained in the said Rules. Any gain realised from the transfer of shares acquired through the exercise of a share option constitutes a capital gain and should be taxable.

A number of specified benefits are exempt under certain conditions, such as health insurance and the use of a computer and related equipment. Employment income (including the value of fringe benefits) is subject to tax deduction at source under the Final Settlement System.

Individuals are not required to report dividends received from companies resident in Malta. Individuals who opt to report dividends that fall below the relevant thresholds will be taxed on the amount of the distributed profits gross of any tax and will qualify for a credit of the tax paid by the company in respect of such distributed profits. This credit may result in a refund to the shareholder. Dividends paid out of profits allocated to the Final Tax Account shall not be charged to further tax and shall not form part of the chargeable income of any person. The tax withheld on profits allocated to the Final Tax Account cannot be subject to a credit/refund to the shareholder.

Individuals have the option to receive investment income without withholding tax, in which case they will be required to report the income in their tax return and be taxed at their personal rates. Investment income that has been subject to final withholding tax will not be subject to further tax and should not be reported in the tax return.

Individuals may qualify for certain deductions including deductions in respect of alimony paid to an estranged spouse, private school fees, childcare fees, homes for the elderly fees, sports fees and cultural activities fees. There are no personal allowances, but the tax rates of resident individuals include a tax-free portion in an amount that varies according to whether the individual is taxed as a married, parent or single person.

A specimen tax computation for individuals is provided in Appendix V.
**Married, parent or single tax rates**

The income of a married couple living together (which includes two partners who have registered their partnership as a civil union) is treated as the income of one taxpayer but for the purpose of calculating the tax payable the spouses may opt for a separate computation. In a separate computation, the earned income of each spouse is taxed as if it were derived by a single person. The unearned income of both spouses is treated as the income of the spouse with the higher amount of earned income. Under a separate computation, the income of each spouse qualifies for the tax free portion applicable to single taxpayers and is taxed at the single or parents rates. However, the spouses are still required to file one tax return. It is up to the married couple to decide who is the responsible spouse for tax purposes but the spouses are jointly and severally liable for their tax obligations and liabilities.

Parent rates can be claimed by individuals who maintain under their custody a child, or pay maintenance in respect of their child, where such child is less than 18 years old (or between 18 and 23 years of age if receiving full-time instruction at any university, college or other educational establishment) and is not gainfully occupied, or if gainfully occupied, does not earn more than €2,400 per annum.

Individuals who are widowed, separated or divorced should file a separate tax return and be taxed at single or parent rates (or at married rates if they are single parents and satisfy certain conditions).

**Global Residence Programme (GRP) / Residence Programme Rules (RP) Rules**

The GRP Rules are applicable to third country nationals (i.e. non EU, EEA or Swiss nationals) while the RP Rules are applicable to EU, EEA and Swiss Nationals. Individuals who are granted the GRP / RP status and their dependents are taxable on income and certain capital gains arising in Malta and foreign income received in Malta. Foreign income received in Malta by the beneficiary and certain dependents is subject to tax in Malta at a flat rate of 15%, subject to a minimum tax of €15,000 per annum, after double tax relief (if any). Other taxable income that is not covered by these Rules is charged separately at the rate of 35%.

Persons applying for this scheme must satisfy a number of conditions, as listed in the Rules, including amongst others the requirement to purchase or rent immovable property in Malta (subject to certain minimum thresholds as to acquisition or annual rental cost of such property), to be in possession of health insurance, and not to reside in any other jurisdiction for more than 183 days.

A non-refundable one-off registration fee, must be paid upon submission of the application amounting to €6,000 or €5,500 depending on where the property is located. An application for the special tax status must be made through the service of a person that qualifies as an “Authorised Registered Mandatory”.

The above arrangement replaces the tax rules otherwise applicable to Resident Scheme Certificate holders and High Net Worth Individuals Certificate holders. However, persons already qualifying under those arrangements may continue to qualify under the old Rules subject to certain conditions being satisfied.
**Malta Retirement Programme (MRP)**

Retirees who are EU, EEA and Swiss nationals who are not in an employment relationship and who receive a pension as their regular source of income may apply to benefit under the MRP.

To qualify for the MRP, the retiree must satisfy a number of conditions as laid down in the rules, including that the pension income of the retiree must be wholly remitted to Malta and must constitute at least 75% of the individual income chargeable to tax in Malta; the individual must own or rent immovable property exceeding certain amounts as specified in the rules and such property must be occupied by him as his principle place of residence world-wide; the retiree must reside in Malta for at least 90 days averaged over a five year period and should not reside more than 183 days in any other jurisdiction. Furthermore, the retiree would not be able to apply for this scheme if he is benefitting from another tax scheme or if he is domiciled or intends to establish his domicile in Malta within 5 years from the date of the application.

An individual who is granted a special tax status under the MRP will be subject to tax in Malta at 15% on any foreign income received in Malta, subject to a minimum tax of €7,500 annually and a further €500 in respect of every dependent and special carer. This special tax rate is extended to the dependents of the beneficiary. Any other chargeable income will be taxed at 35%.

Any capital sum received by way of commutation of pension (up to a maximum of 30% of the total pension) is exempt from Maltese income tax even if remitted to Malta.

**United Nations Pensions Programme Rules (‘UNPP’)**

Individuals who are not Maltese nationals and are in receipt of a UN pension or a widow’s / widower’s benefit, of which at least 40% is received in Malta may benefit under the UNPP.

In order to qualify for this special status, the applicant must satisfy a number of conditions including, own or rent immovable property in Malta; be in possession of health insurance, which covers himself and his dependants; can adequately communicate in either Maltese or English.

An individual who has been granted the special tax status must comply with continuing obligations on a yearly basis, including not residing in another jurisdiction for more than 183 days in a calendar year and not benefit from any other scheme.

Once the special tax status has been acquired, the person is taxable in Malta on income and certain capital gains arising in Malta and foreign income remitted to or received in Malta. The UN pension income or Widow’s or Widower’s benefit, as the case may be, received in Malta is exempt from Maltese tax. All other income arising outside Malta which is received in Malta by the beneficiary and certain dependents is taxable at the rate of 15%, with the possibility of claiming double tax relief on such income and subject to the minimum annual tax liability of €10,000 per annum. An additional €5,000 per annum must be paid if both spouses are in receipt of a UN pension. Income of the beneficiary and certain dependents that do not fall within the purport of these rules is charged as separate income at the rate of 35%.

A non-refundable one-off registration fee of €3,500 must be paid.
**Returned migrants**

Persons born in Malta who return to take up residence in Malta may opt for a special tax regime. The option is open to persons who have been absent from Malta for an aggregate period of not less than 20 years during the last 25 years prior to returning to Malta; or to persons who are not Maltese nationals and who satisfy certain minimum capital/income levels and remittance conditions.

An individual who takes the option is taxed on income and capital gains arising in Malta and on foreign source income which is remitted to Malta even though such individual may be domiciled in Malta. No tax is charged on capital gains arising outside Malta even if remitted to Malta.

A returned migrant availing himself of this option, will be taxed on foreign income received in Malta at a flat rate of 15% (with a tax free portion), subject to a minimum annual tax liability of €2,325, after double taxation relief. Other income derived by the returned migrant would be taxed separately, taking the foreign income received in Malta as the first part of the income with any residual income being taxed at the applicable standard rates up to a maximum of 35%.

One of the conditions that should be satisfied to elect for the returned migrant scheme is that the returned migrant should receive in Malta at one or more times during the year immediately preceding the year of assessment an amount of income of not less than €14,000 arising outside Malta, such minimum remittance is increased by €2,400 for every dependant). Such income shall be deemed to constitute the last part of the individual’s total income for the relative year.

**Highly Qualified Persons / Qualifying Employment in Aviation**

‘Beneficiaries’ in terms of the Rules, engaged in an employment activity constituting an ‘eligible office’ and deriving income payable from a ‘qualifying contract of employment’, who did not benefit from the exemptions available to the investment services and insurance expatriates, may opt to be subject to tax on such income at a flat rate of 15% without the possibility to claim any relief, deduction, reduction, credit or set-off of any kind. Other chargeable income of the beneficiary is charged to tax separately at the rates applicable to resident individuals but taking the said income as the last part of the total income of the individual. Qualifying income in excess of €5,000,000 is exempt from tax in Malta.

Employment with companies licensed and/or recognised by the Malta Financial Services Authority (MFSA), the Lotteries and Gaming Authority (LGA) and Transport Malta with respect to undertakings holding an air operators’ certificate and consisting of specified senior positions is considered as an ‘eligible office’. Income, excluding any fringe benefits, arising from such office must be of a minimum of €75,000 p.a. (€45,000 for aviation) adjusted annually in line with the Retail Price Index.

This arrangement applies for a consecutive period of five years for EU/EEA/Swiss nationals with the option for a one-time extension of five years to their qualifying period, and for a consecutive period of four years in the case of third country nationals. Furthermore, third country nationals, who have a qualifying employment in aviation, may also apply for a one-time extension of four years (subject to conditions). The standard tax rates will apply after the lapse of such periods.
Qualifying employment in Innovation and Creativity Rules

The applicant must be engaged in an employment activity constituting an ‘eligible office’ and is directly engaged in industrial research, experimental development, product development, product design, product or process innovation or senior management; and must have obtained Malta Enterprise Corporation approval.

In order to qualify for this special status, the applicant must be an individual who is not domiciled in Malta; derives employment income in respect of work or duties carried out in Malta; is protected as an employee under Maltese law; is in possession of the required specific competent professional qualification; is in receipt of stable and regular resources which are sufficient to maintain himself and the members of his family without recourse to Malta’s Social Assistance System; resides in accommodation regarded as normal for a comparable family in Malta; is in possession of valid travel documentation; and is in possession of sickness insurance covering applicant and his/her family.

Employment income should be of not less than €45,000 (excluding the annual value of fringe benefits) in respect of a year of assessment, adjusted annually in line with the Retail Price Index. Such income is taxed at a flat rate of 15% and income in excess of €5,000,000 is exempt from tax in Malta.

This option is available for a period of 3 consecutive years for EEA, EU, Swiss Nationals and third-country nationals. However, third country nationals must not physically stay in Malta in the aggregate, for more than 1,460 days. This option commences in the year in which the recipient is first liable to income tax in Malta. These rules shall cease to have effect on 31 December 2017.

Repatriation of Maltese Persons established in a Field of Excellence Rules

An individual who is established in a field of excellence and returns as an ordinary resident in Malta may opt to have his income from employment exercised in Malta charged to tax at the rate of 15%, provided that he has been ordinarily resident in Malta for at least twenty years but has not been ordinarily resident in Malta for the ten consecutive years prior to his return, and subject to terms and conditions.

Employment income of the eligible individual should be of not less than €75,000 (excluding the annual value of fringe benefits) in respect of a year of assessment.

This option shall apply for a consecutive period of 5 years commencing from the year preceding the first year of assessment in which that person is first liable to tax under the provisions of the Act after returning to reside in Malta.

Taxation of income derived from a sports activity

Income derived by a full-time or a part-time “registered player or athlete” or “licensed coach” from a sports activity (i.e. a sports recognized by the Kunsill Malti ghall-Isport and which is practiced wholly or mainly in Malta), may opt to be taxable on such chargeable income at a flat rate of 7.5%.

Payments to non-resident entertainers

Income derived by a non-resident from the provision of entertainment activities in Malta, where entertainment activities are carried out in Malta for a period not exceeding 15 days, is taxed at a flat rate of 10%.

Individuals employed outside Malta

Individuals who are subject to tax on their world-wide income may qualify for a special tax rate of 15% on income derived from employment outside Malta. In calculating the tax due, the overseas employment is to be treated as the first part of the income with any residual income being taxed at the applicable standard rates up to a maximum of 35%. This rate applies if the assignment requires the performance of duties wholly or mainly outside Malta and such terms are reflected in the relative contract of employment.