



OFFICE OF
THE COMMISSIONER
FOR REVENUE

**Malta Retirement Programme
Guidelines
Version 4.0 - 2020**

Please Read Carefully Before Completing an Application Form

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MALTA RETIREMENT PROGRAMME RULES

(LN 317 of 2012 as amended by LN 269 of 2014)

The Malta Retirement Programme Rules (MRP) contemplate the granting of “special tax status” to individuals who meet a number of conditions.

An individual may benefit under this system if he/she is in receipt of a pension as supported by documentary evidence, all of which is received in Malta and constitutes at least 75% of his/her chargeable income.

Pension includes periodic payments paid to a former employee in respect of past employment including where remunerations are paid in respect of services rendered to a State or a political subdivision or local authority thereof, remunerations paid as lifetime or temporary annuities, as well as regular income from an occupational retirement scheme, personal overseas retirement plan and insurance policies.

Pension does not include a pension in the form of a lump sum payment without periodic pension payments and any capital sum received by way of commutation of pension, retiring or death gratuity or received as consolidated compensation for death or injuries that are partly exempt under article 12(1)(h) of the Income Tax Act.

Such individual may hold 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 any other similar organisation or body of persons, which are also of a public character, that is engaged in philanthropic, educational or research and development work in Malta.

Beneficiaries may also have household staff providing a service in their qualifying property, as long as all the requisite procedures are satisfied.

Note:

This guidance outlines the Commissioner for Revenue’s application and interpretation of the Rules. The material provided hereunder is solely for your guidance. It sets out the main factors that are taken into account by an individual considering this programme. Any practices described in this guidance note are subject to periodic review and may subsequently be altered or withdrawn. If practices were to be changed or revoked this would not normally be done so retrospectively.

You are responsible for your own tax affairs in Malta. It is advisable to keep supporting documentation at all times. The Commissioner for Revenue reserves the right to ask about your tax affairs in accordance with the provisions of the *Income Tax Acts*.

I. Eligibility

An individual who meets **all** of the following criteria is eligible to submit an application in terms of the MRP:

1. he is in receipt of a pension, as supported by documentary evidence, all of which is received in Malta and constitutes at least 75% of his chargeable income;
2. he is not a person who benefits under the Global Residence Programme Rules; the High Net Worth Individuals – EU / EEA / Swiss Nationals Rules; the High Net Worth Individuals Rules – Non-EU / EEA / Swiss Nationals Rules; the Highly Qualified Persons Rules; the Qualifying Employment in Aviation (Personal Tax) Rules; the Qualifying Employment in Innovation and Creativity (Personal Tax) Rules; the Qualifying Employment in Maritime Activities and the Servicing of Offshore Oil and Gas Industry Activities (Personal Tax) Rules; the Residence Programme Rules; the Residents Scheme Regulations or the United Nations Pensions Rules;

However an individual may renounce the right to the benefits provided under any of the above-mentioned Rules prior to submitting an application in terms of the MRP.

A declaration to this effect needs to be made by the Authorised Registered Mandatary (ARM) in Part 6 of the application form.

3. he is not a Maltese national ;
4. he owns or rents a qualifying owned property or qualifying rented property which the individual occupies as his principal place of residence worldwide;

The value of the property needs to be as follows:

- a. Owned:
 - i. after 1 January 2011 up to 30 June 2013:
 1. Immovable property situated in Malta other than in the south of Malta (see below): €275,000;
 2. Immovable property situated in Gozo or in the south of Malta (see below): €250,000;
 - ii. on or after 1 July 2013:
 1. Immovable property situated in Malta other than in the south of Malta: €275,000;
 2. Immovable property situated in Gozo or in the south of Malta: €220,000.

In the case that the immovable property was purchased before 1 July 2013 for a consideration which is less than the amounts indicated above, such immovable property may also satisfy this requirement if the individual declares in his application that the property's value on the

date of application is not less than the amounts indicated above. This declaration needs to be supported by the following documentation which is to be submitted together with the application:

- A separate and independent architect valuation of the property; and
- An architect's plan of the property.

The Commissioner for Revenue may authorise an officer, architect or surveyor in writing to have full and free access to the immovable property in order to ascertain the declared value of the property.

b. Rented:

- i. Immovable property situated in Malta other than in the south of Malta (see below): €9,600 per annum;
- ii. Immovable property situated in Gozo or in the south of Malta (see below): €8,750 per annum.

The lease needs to be taken out for not less than a twelve month period and is evidenced by a certified lease agreement.

Localities that are considered to be in the south of Malta, for the purposes of the MRP are:

- Birżebbuġia
- Cospicua
- Fgura
- Għaxaq
- Gudja
- Kalkara
- Kirkop
- Luqa
- Marsascalea
- Marsaxlokk
- Mqabba
- Paola
- Qrendi
- Safi
- Santa Luċija
- Senglea
- Siġġiewi
- Tarxien
- Vittoriosa
- Xgħajra
- Żabbar
- Żejtun
- Żurrieq

The lease agreement needs to indicate details of whether the property is being rented as furnished or otherwise. Any separate agreement relating

to furnishings etc needs to be attached and the relative amounts indicated in the application form.

The final deed of purchase as well as the lease agreement, as the case may be, needs to provide full details of the vendor or lessor, as the case may be. This includes:

- in the case of an individual: the full name and surname, passport or identity card number and residential address;
- in the case of vendors / lessors that are not individuals: the details that need to be indicated include the name, relevant registration number, income tax registration number as well as the registered address.

Irrespective of whether the immovable property is owned or rented, the applicant would need to declare that he/she occupies such property as his/her principal place of residence worldwide.

It is important to note that:

- no person other than the beneficiary and his/her dependents¹ or household staff may reside in the qualifying property at any time; and
- the qualifying property may not be let or sub-let.

Where the applicant would have already acquired or rented a qualifying property by the application date, an authenticated copy of the contract providing evidence of such acquisition and title or lease, as the case may be, needs to be attached to the application. Where the applicant would not have acquired or rented a qualifying property by the application date, refer to II.C below.

Where two individuals are spouses or prove to the satisfaction of the Commissioner for Revenue that they are in a stable and durable relationship with one another, both individuals may hold jointly the same qualifying property holding.

5. he is in receipt of stable and regular resources which are sufficient to maintain himself and his dependents without recourse to the social assistance system in Malta;
6. he is in possession of a valid travel document, a certified true copy of which must be submitted with the application form;
7. he is in possession of sickness insurance which covers himself and his dependents in respect of all risks across the whole of the EU normally covered for Maltese nationals. In the eventuality that the applicant is not in a position to transpose EU health rights or rights under a Reciprocal Agreement that Malta is a signatory to, the health insurance cover must be procured by a company licensed in Malta or by an international reputable health insurance

¹ See explanation in Section III below

company. A certified true copy of the insurance policy must be submitted together with the application form;

8. he is not domiciled in Malta and he does not, within five years from the date of application, intend to establish his domicile in Malta;
9. he can adequately communicate in one of the official languages of Malta; and
10. he is a fit and proper person.

The applicant is required to submit a police conduct certificate (accompanied with the Apostille Certificate), issued not earlier than six months prior to the date of submission of the application, together with a sworn declaration taken before a Commissioner for Oaths in Malta confirming that he/she is not subject to any ongoing civil or criminal proceedings. If the individual is subject to such ongoing proceedings, details must be provided in a separate declaration signed in original by the said individual. The Commissioner for Revenue reserves the right to make further questions for the purposes of this requirement.

This requirement needs to be satisfied in relation to all individuals including dependents over the age of 18 as well as household staff mentioned in the application form.

Furthermore, where the ARM is aware of any circumstances that affect this condition, the ARM needs to identify such circumstances in Part 7 of the application form. This obligation stays with the ARM for as long as the applicant remains a beneficiary.

In determining whether the applicant is a fit and proper person, the Commissioner for Revenue shall take into consideration a number of assessment criteria including matters such as the following:

- whether the individual is of good conduct and good morals;
- the individual's reputation and character amongst which whether the individual has a criminal record, convictions for fraud or other dishonesty;
- disqualification or censorship by professional or regulatory bodies, such as being barred from entry to any profession or occupation;
- being adjudged bankrupt by a competent court or authority;
- offences connected to terrorism, money laundering, crimes against humanity and child abuse; and
- whether in the past, the individual has been candid and truthful in all his dealings with the Maltese public administration.

Note:

- Any public documents executed in the territory of a country other than Malta which will be produced in Malta together with an application for special tax status under the MRP needs to be accompanied by an Apostille Certificate in terms of the *Hague Convention of 5th October 1961 Abolishing the*

requirement of Legalisation for Foreign Public Documents. The following are considered to be public documents:

- (a) documents emanating from an authority or an official connected with the courts or tribunals of the State;
- (b) administrative documents;
- (c) notarial acts;
- (d) official certificates which are placed on documents signed by persons in their private capacity, such as official certificates recording the registration of a document or the fact that it was in existence on a certain date and official and notarial authentications of signatures.

Where the jurisdiction executing the relevant public document is not a signatory to the above-mentioned Convention, the document should be legalised by a Notary or Lawyer (who should also cite in the legalisation declaration, whenever possible, the professional institute or association to which she/she belongs).

Any document(s) that is/are not in the English language (including certifications or stamps) must be accompanied by an official certified translation into English.

- An application for special tax status will only be valid if signed and submitted by the ARM.

An ARM is a person that:

- holds a warrant to practice as an advocate under the *Code of Organisation and Civil Procedure*; or
- holds a warrant to practice as a legal procurator under the *Code of Organisation and Civil Procedure*; or
- has been appointed notary public in accordance with the provisions of the *Notarial Profession and Notarial Archives Act*; or
- holds a warrant to practice as an accountant under the *Accountancy Profession Act*; or
- is a member of the Institute of Financial Services Practitioners; or
- is a member of the Malta Institute of Taxation;
- is a member of the Malta Institute of Accountants; or
- is a member of the Malta Institute of Management;

or is at least 75% (directly or indirectly) owned by persons in possession of the above-mentioned criteria, and who is registered as such with the Commissioner for Revenue under the MRP.

NOTE: The ARMs that are registered with the Commissioner for Revenue for the purposes of the *High Net Worth Individuals Rules*, the *Global Residence Programme Rules*, the *Residence Programme Rules* and the *United Nations Pensions Programme* are considered to be authorised for the purposes of the MRP. A list of the ARMs can be found on the Commissioner for Revenue's website.

II. Procedure for application

An application for special tax status under the MRP may only be submitted to the Commissioner for Revenue through the services of an ARM. The applicant needs to authorise such services by completing and signing in original Part 1 of the application form.

A. Where to apply

Applications and the necessary supporting documentation are to be submitted to the International & Corporate Tax Unit at the following address:

International & Corporate Tax Unit
AM Business Centre,
Labour Road
Zejtun, ZTN 2401

The envelope should clearly be marked as “**Application: Malta Retirement Programme**”

B. Administrative Fee

A non-refundable administrative fee of two thousand five hundred euro (€2,500) needs to be paid upon application by means of a bank draft or cheque issued by the ARM payable to the Commissioner for Revenue.

C. Step-by-step procedure of the application process

Once an application (together with all the required documentation, including the payment of the non-refundable administrative fee) is submitted to the Commissioner for Revenue, it is checked for completeness and vetted accordingly.

An acknowledgement letter is sent to the ARM stating whether any of the necessary documents have not been submitted or do not satisfy the requirements in order to be able to proceed with the application process.

An applicant need not be the owner or lessee of a qualifying property at the time of application and may submit the certified final deed or lease agreement, as the case may be, at a later stage. However, special tax status will not be confirmed unless and until the certified final deed or lease agreement, as the case may be, is submitted.

A Letter of Intent expressing the intention of the Commissioner for Revenue to confirm the special tax status is issued and sent to the ARM. This Letter will be accompanied by a Notice of Primary Residence, which must be completed and signed by the applicant, and submitted to the Commissioner for Revenue in original.

The Letter of Intent is valid for twelve months from the date of issue of the said Letter. During this twelve month period, the applicant must submit the following documents in order for the Letter of Confirmation to be issued:

1. Completed Notice of Primary Residence duly signed by the applicant in original;
2. Certified true copy of the lease agreement or final deed, as the case may be; and
3. A copy of the receipt confirming that the minimum tax was paid at the Commissioner for Revenue, Floriana.

It is important that full and accurate information is provided in the application form and accompanying documents. In cases of doubt as to how much detail is to be provided, more is preferable. Any omissions or incorrect details may cause a delay in the processing of the application. Giving misleading information, omitting or concealing information is viewed very seriously and would be seen as evidence of untrustworthiness.

III. Tax Treatment

An individual who has been granted special tax status in accordance with the MRP, hereinafter referred to as “beneficiary”, shall be:

- Subject to tax at a rate of fifteen cents (**0.15**) on every euro thereof on any income **arising outside Malta that is received in Malta** by the beneficiary, the beneficiary’s spouse, minor children including adopted minor children and children who are in the care and custody of the beneficiary/spouse/person with whom the beneficiary is in a stable and durable relationship, and children who are not minors but who because of circumstances of illness or disability of a serious gravity, are unable to maintain themselves. This rate of tax will apply from the year of confirmation of the special tax status up to year of cessation of status, both years included;
- Subject to tax at the rate of thirty-five cents (**0.35**) on every euro on **any other income** of a beneficiary, the beneficiary’s spouse, minor children including adopted minor children and children who are in the care and custody of the beneficiary/spouse/person with whom the beneficiary is in a stable and durable relationship, and children who are not minors but who because of circumstances of illness or disability of a serious gravity, are unable to maintain themselves that is not chargeable to tax under these rules.

None of the above individuals may be beneficiaries under the Global Residence Programme Rules; the High Net Worth Individuals – EU / EEA / Swiss Nationals Rules; the High Net Worth Individuals Rules – Non-EU / EEA / Swiss Nationals Rules; the Highly Qualified Persons Rules; the Qualifying Employment in Aviation (Personal Tax) Rules; the Qualifying Employment in Innovation and Creativity (Personal Tax) Rules; the Qualifying Employment in Maritime Activities and the Servicing of Offshore Oil and Gas Industry Activities (Personal Tax) Rules; the

Residence Programme Rules; the Residents Scheme Regulations or the United Nations Pensions Rules.

Income that is chargeable to tax in Malta in accordance with the Income Tax Acts of the below mentioned dependents will be charged to tax separately at the applicable rates found in Article 56 of the Income Tax Act. Such dependents need to be registered for income tax purposes with the Commissioner for Revenue under a separate procedure. These dependents are:

- The person with whom the beneficiary is in a stable and durable relationship;
- Children who are over the age of eighteen but under the age of twenty-five, including adopted children and children who are in the care and custody of the beneficiary, the beneficiary's spouse or the person with whom the beneficiary is in a stable and durable relationship, who are not economically active; and
- Brothers, sisters and direct relatives in the ascending line of the beneficiary, the beneficiary's spouse or the person with whom the beneficiary is in a stable and durable relationship.

A. Minimum Tax

Beneficiaries of special tax status granted in terms of the MRP will need to pay a minimum tax in respect of the income arising outside Malta which is received in Malta of seven thousand and five hundred euro (€7,500) in respect of the beneficiary and five hundred euro (€500) per year of assessment for every dependent and every household staff.

The minimum tax shall be payable by not later than the 30th April of the year immediately preceding the relevant year of assessment.

In the case of the year in which the special tax status is granted, where it is evident that the special tax status will not be granted before the 30th April, the minimum tax is to be paid before the special tax status is granted;

Such beneficiary retains the right to request a claim for relief of double taxation under Article 74 (a) and (b), *Income Tax Act*, provided that the minimum amount of tax payable by the beneficiary is as provided above. If the tax payable according to the tax computation (including any credit for relief of double taxation) is such that it is less than the minimum tax required to be paid as aforesaid, the amount to be paid will be the said minimum.

In the year when the special tax status is confirmed or cancelled, the minimum tax will be paid in full.

B. Provisional Tax

A beneficiary is subject to payment of provisional tax payments in accordance with the *Payment of Provisional Tax (P.T.) Rules*.

IV. Household Staff

A. Who may be a household staff?

A household staff is an individual who has been providing services to the beneficiary in a systematic manner for at least two years prior to an application for special tax status in terms of the MRP. A beneficiary may have more than one household staff at any time.

A household staff may reside with the beneficiary in the qualifying property but the services need to be provided in whole or in part in the qualifying property.

In certain exceptional cases, the Commissioner for Revenue may deem this requirement to be satisfied provided that sufficient proof is produced to the satisfaction of the Commissioner for Revenue, despite the service not being rendered for a minimum period of two years. Example: where a previous household staff passed away and a new household staff has been recently engaged or a household staff has been required due to a recent illness.

It is important that the rendering of such service is regulated by a contract of service.

B. Tax Treatment

A household staff would be subject to tax in Malta at the rates set out in Article 56(1) and is precluded from benefitting from the 15% tax rate.

In all cases a household staff needs to register with the relevant tax authorities in Malta. The applicant as well as the ARM needs to inform the household staff of this obligation.

V. Working in Malta

Where a dependent or a household staff would like to work in Malta or where the household staff is a third country national and therefore they need to apply for a Single Permit with Identity Malta to be able to work in Malta, the requisite procedures need to be followed in order for a Single Permit to be issued. Beneficiaries and ARMs should refer to the relevant guidelines issued by the Identity Malta, which guidelines may be accessed through the following link: <https://www.identitymalta.com/unit/expatriates-unit/#procedure>

VI. Changes in circumstances that have an effect on the minimum tax payable

The beneficiary, through the services of his ARM must notify the Commissioner for Revenue whenever there is a change in the number of dependents or household

staff of such beneficiary. Such changes need to be notified to the Commissioner for Revenue within four weeks from when the beneficiary becomes aware of the change. The same applies where the ARM is knowledgeable of such changes, even if such ARM is not informed by the beneficiary of such.

VII. Annual Declaration

An individual who benefits from special tax status must submit the Annual Declaration together with the income tax return where any material changes that affect the beneficiary's special tax status are indicated.

In order to ensure that an individual benefits from this tax treatment in a legitimate manner, the Commissioner for Revenue may request the individual to produce information and documents including certifications and declarations within a time specified by the Commissioner for Revenue in the request itself.

Further to the above, any person who knowingly makes a false declaration or statement in any documentation submitted to the Commissioner for Revenue will be subject to the general penal provisions in the *Income Tax Management Act*.

VIII. Cessation of Special Tax Status

a. By choice of the beneficiary:

A beneficiary may opt to cease to possess the special tax status by notifying the Commissioner for Revenue of his / her intention not to remain in possession of the special tax status from a particular date in the future. Cessation will take effect from the date indicated in the notification, which date cannot be in excess of three months from the date of receipt of such notification by the Commissioner for Revenue. If no date is indicated in the notification, cessation will have immediate effect i.e. from the date the Commissioner for Revenue receives such notification.

b. By death of the beneficiary:

Following the death of the beneficiary who was granted special tax status in terms of the Global Residence Programme, such status shall devolve onto the dependant of the deceased beneficiary who has either:

- inherited the qualifying property which was the primary residence of the deceased beneficiary; or
- rented a qualifying property immediately after the death of the deceased beneficiary. In both cases such dependant needs to satisfy all the other requirements set out in I. above in his / her own right in that special tax status will only devolve to the dependant once documentary proof of such is submitted to the satisfaction of the Minister of Finance further to consultation with the Commissioner.

Note – special tax status will devolve to only one individual. Such individual shall be the dependant that is indicated in the deceased beneficiary's will for that purpose.

Where there is no such indication, such person shall be the first individual that submits all the complete and correct set of the above-mentioned documentation. The required documentation needs to be submitted together with the death certificate of the deceased beneficiary and in any case has to be delivered to the Commissioner within 183 days from the death of the deceased beneficiary. The Commissioner will not confirm that the special tax status has so devolved after the said 6 month period has passed.

c. By default of the Income Tax Acts:

A beneficiary will cease to possess special tax status with immediate effect, if the same beneficiary is in breach of any provisions of the Income Tax Acts. Examples of such defaults include:

- where routine compliance obligations are not abided with such as cases of tax evasion and misrepresentation;
- where requests for information by the Commissioner for Revenue are not replied to in time.

Where, for any reason, the beneficiary is no longer represented by an ARM, the said beneficiary should authorise another ARM and inform the Commissioner for Revenue of such change as soon as possible as otherwise the obligations under the Income Tax Acts will not be able to be fulfilled.

d. Where there is a failure in connection with the conditions that need to be satisfied throughout the special tax status

Where any of the conditions mentioned below are no longer satisfied, the individual ceases to possess the special tax status with retrospective effect as from the date on which the Commissioner for Revenue had determined in writing that such individual qualifies for a special tax status under the MRP. The special tax status will be terminated:

- (a) if, at any time, after the appointed day, such individual does not hold a qualifying property;
- (b) if the individual becomes a Maltese national;
- (c) if the individual fails to receive in Malta all the pension indicated in the documentary evidence submitted to the Commissioner;
- (d) if, after the appointed day, the individual is not in possession of sickness insurance in respect of all risks normally covered for Maltese nationals for himself and dependents;
- (e) if the individual establishes his domicile in Malta;
- (f) if the individual acquires a permanent residence certificate in terms of article 7 of the Free Movement of European Union Nationals and their Family Members Order or if the individual becomes a long-term resident at any time after the

appointed day. In this case, Authorised mandataries are obliged to enquire and obtain information from the beneficiary as to whether the same beneficiary or any of his dependents is considered as long-term resident as at 31st December of each year from the year of the appointed day onwards. In such a case, the Authorised mandatary shall notify the Commissioner of such individual by not later than 30th April of the following year on such form as the Commissioner may determine. Where the Authorised mandatary is not able to obtain such information, he is to notify the Commissioner by the said 30th April of this state of affairs and provide documented proof that at least two enquires were made. Where such notifications are not made within the time specified the Authorised mandatary shall be charged an administrative penalty of €10,000;

- (g) if the individual's stay is not in the public interest;
- (h) if the individual resides in Malta for less than ninety days a year averaged over any five year period; or
- (i) if the individual stays in any other jurisdiction for more than one hundred and eighty-three days in a calendar year.

The beneficiary needs to notify the Commissioner for Revenue, through the services of his / her ARM, within four weeks of becoming aware of any such event. Where it is found that the beneficiary failed to make such notification to the Commissioner for Revenue within the specified timeframe an administrative penalty of €5,000 applies.

The Minister for Finance has the power to condone a failure in relation to any one of the conditions mentioned above. The Minister may excuse such a failure where the individual notifies the said Minister within four weeks of such failure and in this form the individual provides:

- sufficient explanation that the failure was due to unforeseen circumstances; and
- sufficient proof that the best efforts were exercised to remedy the indicated failure.

It is important to note that reliance placed by the beneficiary on the ARM or on any other person to perform the task cannot be cited as being the reason for failure due to unforeseen circumstances.

IX. Power to request information

For the purpose of ascertaining an individual's entitlement to the right to pay tax at the reduced rate indicated in III above, the Commissioner for Revenue may require the individual applying for special tax status to produce information and documents, including certifications and declarations. The indicated documents must be produced within a time indicated by the Commissioner for Revenue in the request itself.

Furthermore, the Commissioner for Revenue and the competent authority in relation to the Free Movement of European Union Nationals and Their Family Members Order may exchange information that is in their possession for the purposes of the above-mentioned Regulations. Such information concerns individuals who:

- a) Make an application for special tax status under the MRP; or
- b) Is a beneficiary of special tax status under the MRP; or
- c) Has permanent residence status in terms of the Free Movement of European Union Nationals and Their Family Members Order.

X. Abuse of Rights

The Commissioner for Revenue retains the right to issue an assessment in terms of Article 31 of the Income Tax Management Act if an individual benefits from the right to pay tax at the reduced rate of tax indicated above but was not entitled to do so.