

Amendments to the Residents Scheme Regulations

The schemes available in terms of the High Net Worth Individuals – EU/EEA/Swiss Nationals Rules, 2011 and the High Net Worth Individuals – Non-EU/Non-EEA/Non-Swiss Nationals Rules, 2011 (hereinafter collectively referred to as “the HNWI Rules”) are replacing the Permanent Resident Scheme (hereinafter referred to as “the PR Scheme”) under the Residents Scheme Regulations (hereinafter referred to as “the PRS Regulations”). Consequently the PRS Regulations have been amended and certain provisions have been repealed.

One of the results of these amendments is that no certificates in terms of the PRS Regulations will be issued with a date subsequent to 31 December 2010.

Current Holders of a PR Scheme Certificate

An individual who had acquired rights under the PRS Regulations before 1 January 2011 shall continue to benefit from such rights, as long as the conditions of the scheme are adhered to. Such individuals, therefore, shall still be entitled to pay the minimum tax required by the PRS Regulations, rather than that required by the HNWI Rules. The following conditions for eligibility have been added by the amendments to the PRS Regulations:

- the holder of the certificate must be 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;
- the holder of the certificate must be in possession of sickness insurance in respect of all risks normally covered for Maltese nationals for himself and the members of his family;
- the property being declared as the holder’s place of residence cannot be occupied by any person other than the holder of the certificate and his family members.

If such individual sells his dwelling house or terminates his current lease agreement he must acquire a Qualifying Property Holding in order to maintain his eligibility for the Scheme.

A Qualifying Property is a property acquired for a consideration of not less than €400,000 or a property leased for a consideration of not less than €20,000 per annum.

In those cases where a holder of a PR Scheme certificate sold his dwelling house or terminated his lease agreement before 14 September 2011, the property will still qualify as a Qualifying Property Holding if he:

- purchased another property before 14 September 2011 for a consideration of not less than €116,000; or
- entered into a promise of sale agreement (*konvenju*) prior to 14 September 2011 to buy a property for a consideration of not less than €116,000 and actually purchases the property to which the promise of sale agreement refers by not later than 31 March 2012; or
- entered into a new lease agreement prior to 14 September 2011 for an amount of not less than €4,150 per annum, and deposits a copy of such agreement, attested by a notary or advocate, to the Expatriates Section, Block 1, Inland Revenue Department, Floriana by not later than 31 March 2012.

In all cases the property must be occupied by the individual as his primary residence worldwide. The only persons that may reside in the property other than the individual beneficiary are his family members.

The holder of the certificate is required to submit an annual declaration accompanied by documentary evidence and/or professional attestation as proof that he has satisfied all the conditions required by the PRS Regulations.

Pending Applications

Any individual who applied for the PR Scheme before 14 September 2011 but was not issued with a certificate in terms of the PRS Regulations before 1 January 2011 may apply for the scheme available under the HNWI Rules if such individual satisfies the eligibility criteria of such rules.

Such individual will be deemed to hold a Qualifying Property Holding for the purposes of the HNWI Rules if he:

- purchased property before 14 September 2011 for a consideration of not less than €116,000; or
- entered into a promise of sale agreement (*konvenju*) prior to 14 September 2011 to buy a property for a consideration of not less than €116,000. However, the certificate of special tax status will be granted to him when he submits evidence that he actually purchased the property to which the promise of sale agreement refers by not later than 31 March 2012; or
- entered into a lease agreement prior to 14 September 2011 for an amount of not less than €4,150 per annum, and deposits a copy of such agreement, attested by a notary or advocate, to the Expatriates Section, Block 1, Inland Revenue Department, Floriana by not later than 31 March 2012.

In all cases the property must be occupied by the individual as his primary residence worldwide. The only persons that may reside in the property other than the individual beneficiary are his family members.