

Guideline on Article 42(1)(a) of the Duty on Documents and Transfers Act

This guideline is issued under Article 22A (2) of the Duty on Documents and Transfers Act ([Cap. 364](#)). The purpose of this guideline is to provide a clarification of Article 42(1)(a) of the Duty on Documents and Transfers Act (hereinafter referred to as the 'DDTA').

According to Article 42(1)(a) of the DDTA, a duty of €2.00 for every €100.00 or part thereof of the amount or value of the consideration or the real value, whichever is the higher, of the marketable security is charged:

- (i) on every transfer *inter vivos*, whether executed in Malta or outside Malta, of foreign marketable securities held in a property company, made to or by any person resident in Malta;

No duty is chargeable on such transfers where such duty has been paid outside Malta in the country where the transfer is executed or where the company is registered.

- (ii) on every transfer *inter vivos*, whether executed in Malta or outside Malta, of foreign marketable securities held in a company having, directly or indirectly, more than 50% of its business interests in Malta, made to, or by any individual who is ordinarily resident and domiciled in Malta or by any other person (other than in article 47(3)) who is owned or controlled, directly or indirectly or acts on behalf of, an individual who is ordinarily resident and domiciled in Malta;
- (iii) on every document whereby any other foreign marketable security is transferred *inter vivos* to, or by any person resident in Malta.

Where the marketable securities in question are not held in a property company nor in a company having, directly or indirectly, more than 50% of its business interests in Malta, no duty shall be chargeable where such transfer is effected through a local bank or through a person holding an investment services licence under the Investment Services Act ([Cap. 370](#)). It is hereby being clarified that where the transfer is effected through a local bank, such bank must hold an investment services licence in order for the transfer to be exempt from duty.

Furthermore, the term 'foreign marketable securities' refers to share capital in a foreign incorporated company, irrespective of whether this company is tax resident in Malta or not.

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