

Guidelines on the Duty/Final tax treatment of the acquisition/transfer of UCA Property

These guidelines are issued under Article 22A (2) of the Duty on Documents and Transfers Act (Cap. 364) and Article 96(2) of the Income Tax Act (Cap. 123). The purpose of these guidelines is to provide an explanation of the duty and final withholding tax treatment of transfers of UCA and scheduled property.

A. DUTY ON DOCUMENTS AND TRANSFERS ACT

Duty on Transfers (Exemption No. 2) Order (SL 364.16)

Link: <https://legislation.mt/eli/sl/364.16/eng/pdf>
<https://legislation.mt/eli/sl/364.16/mlt/pdf>

In the case of a transfer *inter vivos* of immovable property situated within an Urban Conservation Area (hereinafter referred to as 'UCA') or scheduled by the Planning Authority (hereinafter referred to as 'PA') in terms of article 57 of the Development Planning Act or any Act which may be substituted therefor, the duty otherwise chargeable in terms of the Duty on Documents and Transfers Act (hereinafter referred to as 'DDTA') shall be chargeable at the rate of two euro and fifty cents (€2.50) on every one hundred euro (€100) or part thereof of the amount or value of the consideration for the transfer of the property or of the value of the property, whichever is the greater.

General Terms and Conditions to qualify for the benefit:

1. The reduced rate of duty applies to a transfer *inter vivos* of immovable property when:
 - a) the transfer is made on or after the 10th October 2017 but before the 1st January 2022 to a person who does not require a permit by the Minister for the purposes of the Immovable Property (Acquisition by Non-Residents) Act;
 - b) the property is situated within a UCA or is scheduled by the PA;
 - c) together with the notice referred to in article 51 of the DDTA, there shall be submitted to the Commissioner for Revenue a certificate issued by the PA certifying that the property falls within a UCA, or is a scheduled property in accordance with article 57 of the Development Planning Act or any Act which may be substituted therefor;
 - d) the notice referred to in article 51 of the DDTA shall be submitted to the Commissioner for Revenue on or before the 28th February 2022;

- e) no relief has been claimed under this scheme in respect of any previous transfer of the said property. In this regard, it is clarified that this condition will only be considered to be satisfied if no relief in terms of LN 371 of 2017 and/or LN 59 of 2016, as amended, would have been claimed in respect of a previous transfer of the property in question;
 - f) no relief is claimed under article 32C of the DDTA.
2. The person who acquires the property must submit to the Commissioner for Revenue any information, forms and documentation that the Commissioner for Revenue may require by means of a notice in writing within the period, not being less than thirty (30) days, specified in the notice.
 3. The relief granted under this scheme shall be forfeited in the case of a breach of the condition referred to in paragraph 2 or if at any time during the period of ownership the PA notifies the Commissioner for Revenue that illegal development has taken place on any part of the property and / or the property is not regenerated according to the characteristics of the area or restoration of the said property.
 4. When the relief from duty under this scheme is forfeited as provided in paragraph 3, the reduced rate of duty shall not apply and the duty chargeable on the transfer shall be the duty that would have been chargeable in accordance with the provisions of the DDTA had the relief under this scheme not been claimed and availed of. The duty so chargeable shall not be less than the duty already paid when the property was acquired.
 5. In the event that duty on a transfer becomes chargeable in accordance with paragraph 4, the excess, if any, of the amount of the duty so chargeable over the amount of duty that was paid on the deed of that transfer shall become payable to the Commissioner by the person to whom the transfer was made:
 - (a) if the person who acquires the property fails, without reasonable excuse, to submit to the Commissioner for Revenue any information, forms or documentation requested in a notice in writing within the period, not being less than thirty (30) days, specified in that notice, immediately upon the expiration of that period;
 - (b) if the PA notifies the Commissioner for Revenue that illegal development has taken place on any part of the property and the property is not regenerated according to the characteristics of the area or restoration of the said property, on the date the PA issues such notification.

6. The PA will not issue certificates in the following cases:
- (a) Yet undeveloped sites;
 - (b) Properties where there is an increase in the number of units.

B. INCOME TAX ACT

Link: <https://legislation.mt/eli/cap/123/eng/pdf>
<https://legislation.mt/eli/cap/123/mlt/pdf>

The tax on a transfer of property situated in an urban conservation area (UCA) or scheduled by the Planning Authority in terms of article 57 of the Development Planning Act or any Act which may be substituted therefor, which has been restored and/or rehabilitated after the date of acquisition by the owner in accordance with a planning permit issued by the Planning Authority on or after 1st January 2015 after providing for the restoration and/or rehabilitation of such property, shall be chargeable at the rate of 5% of the transfer value.

General terms and conditions to qualify for the benefit:

- (i) The transfer is made on or after the 1st January 2016.
- (ii) This benefit was not applied in respect of any previous transfer of the same property;
- (iii) The restoration and/or rehabilitation works have been certified by the Planning Authority as satisfactory;
- (iv) The certificate referred to in subparagraph (iii) is produced to the notary who receives the deed of the transfer and the notary produces a certified copy of the certificate to the Commissioner for Revenue together with the notice required by article 51 of the Duty on Documents and Transfers Act;
- (v) The person who transfers the property must submit to the Commissioner for Revenue any information, forms and documentation that the Commissioner for Revenue may require by means of a notice in writing within the period, not being less than thirty days, as specified in the notice.

Last updated: 21st October 2020