

Guidelines in relation to the Consolidated Group (Income Tax) Rules

Consolidated Group (Income Tax) Rules ("the Rules")

Fiscal Unit registration process

It is hereby clarified that:

(i) Eligibility to form part of a fiscal unit

In order to join or form part of a fiscal unit, a company should neither have any outstanding balances due nor any outstanding filings required in terms of the Income Tax Acts, the Value Added Tax Act and the Final Settlement System Rules.

For the avoidance of doubt, the above does not include the income tax balance due by a company after the end of the period allocated by these guidelines to register a fiscal unit, i.e. such balance is not required to be settled prior to joining or forming part of a fiscal unit.

In addition to the above, it is also hereby clarified that in order for a company to join a previously established fiscal unit, the said fiscal unit would also need to have no overdue balances and/or penalties due to the CfR.

Moreover, when the principal taxpayer elects for a ninety-five percent (95%) subsidiary to join or form part of the fiscal unit, and such company has already filed an income tax return for that year of assessment, the election will enter into effect as from the following year of assessment.

In order to join or form part of a fiscal unit, a company must be a ninety-five (95%) subsidiary of its parent company at the end of the year preceding the year of assessment in which an election to form such fiscal unit is made. Furthermore, the said companies must have coterminous accounting periods. However, the provisions of article 18(2) of the Income Tax Act shall apply *mutatis mutandis*.

(ii) Timeline

The principal taxpayer shall be granted a 6-month period in order to register a fiscal unit, starting from the morrow of the financial period end, but not before 1 August of the calendar year of the financial period end.

For the following years of assessment, the principal taxpayer shall be granted a 6-month period in order to inform the CfR of any changes to the composition of the fiscal unit for the applicable year of assessment. Such period shall start from the morrow of the financial period end, but not before 1 August of the calendar year of the financial period end.

The above timeframes for the first year of assessment are outlined in Schedule A below and are subject to the discretion of the CfR (exceptionally, the first timeframe for registering a

fiscal unit shall run from the launch date of the application till 31 August 2020). The timeframes for the following years of assessment should be construed accordingly.

Following the lapse of the 6-month period, the principal taxpayer may not add or remove any subsidiary companies to the fiscal unit and may only remove existing transparent subsidiaries in instances where a change is effected in the structure.

In order to remove transparent subsidiaries from the fiscal unit post the 6-month period mentioned above where there is a change in the structure, a request in writing should be made to the CfR.

The obligation to notify the CfR of any changes rests with the principal taxpayer.

Schedule A

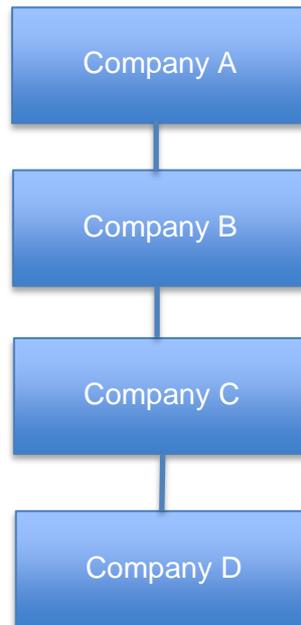
Basis year		Year of assessment	Income tax return statutory deadline	Time window for applying for fiscal unity	
Start:	End:			Start:	End:
01/01/2019	31/12/2019	2020	30/09/2020	Launch Date	31/08/2020
01/02/2019	31/01/2020	2021	31/03/2021	01/08/2020	31/01/2021
01/03/2019	28/02/2020	2021	31/03/2021	01/08/2020	31/01/2021
01/04/2019	31/03/2020	2021	31/03/2021	01/08/2020	31/01/2021
01/05/2019	30/04/2020	2021	31/03/2021	01/08/2020	31/01/2021
01/06/2019	31/05/2020	2021	31/03/2021	01/08/2020	31/01/2021
01/07/2019	30/06/2020	2021	31/03/2021	01/08/2020	31/01/2021
01/08/2019	31/07/2020	2021	30/04/2021	01/08/2020	31/01/2021
01/09/2019	31/08/2020	2021	31/05/2021	01/09/2020	28/02/2021
01/10/2019	30/09/2020	2021	30/06/2021	01/10/2020	31/03/2021
01/11/2019	31/10/2020	2021	31/07/2021	01/11/2020	30/04/2021
01/12/2019	30/11/2020	2021	31/08/2021	01/12/2020	31/05/2021
01/01/2020	31/12/2020	2021	30/09/2021	01/01/2021	30/06/2021

(iii) Registration process

Registration of the fiscal unit may only be done through the online profile of the principal taxpayer as accessed from the CfR income tax portal.

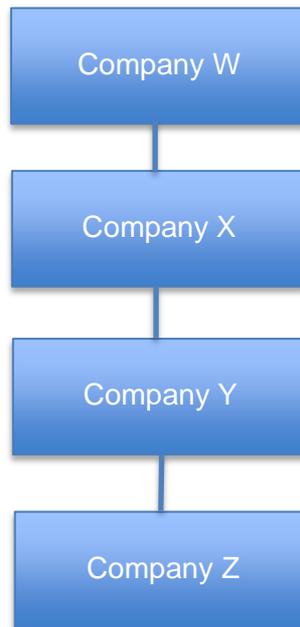
Upon the initial formation of the fiscal unit, the registered tax representative is required to enter the total number of transparent subsidiaries that will be forming part of the fiscal unit, in which the principal taxpayer has direct or indirect ownership.

In order for the registered tax representative to add a company to the fiscal unit, the majority shareholder of such company should already be included within the registration form of the fiscal unit. Therefore, by way of an example, in order to add Company D to the fiscal unit, one must first add Company B in the registration form, followed by Company C prior to adding Company D.



The registered tax representative may only remove a company from the fiscal unit once all subsidiaries of such company have already been removed from the registration form of the fiscal unit. This is done to ensure that parent companies are not removed prior to the removal of the subsidiary companies.

By way of an illustrative example, for Company X to leave the fiscal unit, Company Z must first be removed, followed by Company Y. Company X may then be removed from the fiscal unit.



The registered tax representative will have the possibility to save any changes made to the structure of the fiscal unit (both during and subsequent to the formation of the fiscal unit) as 'draft'. Upon saving as draft, a notification will be added to the online profile of the transparent subsidiaries, notifying the tax representative that the said company may form part of a fiscal unit.

(iv) Registered tax representative

In order for a company to join or form part of a fiscal unit, such company must be represented by the same registered tax representative as that of the principal taxpayer. The registered tax representative should have authorisation to submit the income tax returns of all companies which are to join or form part of the fiscal unit as at the date of the election as set out in Rule 3(1) of the Rules.

In the instance where the principal taxpayer changes its registered tax representative with respect to the submission of the income tax return, it is deemed that the new registered tax representative is the representative of all companies within the fiscal unit for the purpose of submitting an income tax return, even when a company exits the fiscal unit.

During the period in which a transparent subsidiary forms part of a fiscal unit, the option to alter its registered tax representative with respect to the submission of the income tax return will not be available.

(v) Approval of minority shareholder/(s)

In terms of Rule 3(1) and Rule 4(1) of the Rules, where the approval of the holders of the equity shares which are not owned, directly or indirectly, by the parent company is required, such approval is to be maintained by the principal taxpayer to be available in the event that this is requested by the CfR.

(vi) Non-resident company registration

In terms of the Rules, in order for a company that is not resident in Malta to form part of a fiscal unit and act as a Principal Taxpayer, that company should fall within the definition of “a company registered in Malta”.

In order to satisfy such a definition for the purposes of the Rules, a foreign principal taxpayer would need to appoint a fiscal representative in Malta. Such a fiscal representative may be a Maltese-resident transparent subsidiary forming part of the fiscal unit.

Furthermore, any company that is not resident in Malta that registers to form part of a fiscal unit, would be required to register with the CfR in order to be granted a Maltese income tax registration number prior to being registered as part of a fiscal unit.

(vii) Termination of a fiscal unit

Prior to terminating a fiscal unit, all transparent subsidiaries must be removed from the registration form of the fiscal unit.

Where the principal taxpayer is the exiting company in terms of Rule 5(1) of the Rules, the fiscal unit is deemed to cease existing with effect from the start of the basis year in which the principal taxpayer exits.