



## Legislative Update 2: February 2022

The purpose of this update is to give a brief overview of recent legislation issued under the Income Tax Acts.

LN 461/21	Relief from Income Tax and from Duty on Documents and Transfers on Certain Property Transfers Rules, 2021
LN 490/21	Assignments of Rights Acquired under a Promise of Sale Agreement (Amendment) Rules, 2021
LN 11/22	Relief from Income Tax and from Duty on Documents and Transfers on Certain Property Transfers (Amendment) Rules, 2022
LN 27/22	Tax Rebate (Pensioners) (Amendment) Rules, 2022
LN 28/22	Deduction (Income from Employment) (Amendment) Rules, 2022
LN 41/22	Double Taxation Relief (Taxes on Income) (The Republic of Armenia) Order, 2022 – Commencement Notice
LN 50/22	Cooperation with Other Jurisdictions on Tax Matters (Amendment) Regulations, 2022
LN 66/22	Final Settlement System (FSS) (Amendment) Rules, 2022
LN 67/22	Part-time Work (Amendment) Rules, 2022
LN 68/22	Tax on Overtime (Amendment) Rules, 2022



## Relief from Income Tax and from Duty on Documents and Transfers on Certain Property Transfers Rules, 2021

This Legal Notice prescribes the rules that grant final withholding tax and stamp duty exemptions on certain property transfers. These new tax benefits apply to transfers that are made on or after 12 October 2021 but not later than 31 December 2024. The benefits are granted under the following three schemes:

### 1. Old, vacant property

The first scheme applies to buildings that were constructed at least 20 years before the transfer, as confirmed by an architect's report, and that have been vacant for at least 7 years and still vacant at the time of the transfer, as confirmed by a certificate from ARMS. The CfR may require further or alternative evidence. The benefit under this scheme is an exemption from final withholding tax and an exemption from stamp duty on the first €750,000. When the transfer value is higher than €750,000, the excess is taxed at the normal rates.

### 2. Property situated within an urban conservation area

The second scheme applies to property situated within an urban conservation area, as confirmed by a certificate from the Planning Authority and by any further evidence that the CfR may request. Again, the benefit is an exemption from final withholding tax and from stamp duty on the first €750,000. When the transfer value is higher than €750,000, the excess is taxed at the normal rates.

### 3. Property developed in accordance with approved criteria

The third scheme applies to transfers of property that is subsequently developed in accordance with approved criteria. The criteria were described in the budget speech as requiring the development to include Maltese traditional features. A board will be established to lay down these criteria and to monitor and approve property developments in those cases where the owner applies for the duty benefit under this scheme. Under this scheme, the benefit consists of an exemption from stamp duty on the first €750,000. The exemption is granted by way of a refund: final withholding tax and stamp duty must be paid on the contract at the normal rates, but the purchaser can then apply for a refund of the stamp duty, which will be given once the property is developed, and the development is approved by the board.

## Loss of benefits

The benefits are subject to the condition that the property will not be demolished and that it is not divided into more transferable units than the units comprising it at the time that it was acquired or, in the case of the third scheme, at the time that the development was approved. Breach of this condition will result in a loss of the



benefit and the amount of the benefit (the total amount of exempt final withholding tax and stamp duty under the first two schemes and the amount of the exempt stamp duty under the third scheme) will have to be paid to the CfR.

When a transfer that qualifies under these schemes qualifies also for the stamp duty benefit available on donations to descendants of a residence or of property to be developed as a residence, the parties have the option to choose whether to claim that benefit or the benefit under these new schemes.

### **Assignments of Rights Acquired under a Promise of Sale Agreement (Amendment) Rules, 2021**

In terms of this Legal Notice, the income derived from an assignment of rights acquired under a POS that is made after the 31st December 2020 but not later than the 31st December 2022, shall be subject to tax at the rate of 15%, regardless of the amount of the consideration for that assignment.

### **Relief from Income Tax and from Duty on Documents and Transfers on Certain Property Transfers (Amendment) Rules, 2022**

In terms of this Legal Notice some amendments were done mainly to clarify certain uncertainties encountered in the original Legal Notice (already mentioned above).

The main amendment refers to the situation occurring if the conditions for the exemption are breached and clarifies that the liability will only be incurred by the purchaser making such a breach.

### **Tax Rebate (Pensioners) (Amendment) Rules, 2022**

This Legal Notice increases the tax rebate on pension income for 2022 and is meant to ensure that the pension increases for the year are covered by the tax rebate.

The tax rebates are as follows:

- 1) In the case of an individual who is chargeable to tax at the single rates:

Tax rebate = (Pensions income less €9,100) multiplied by 15% (with a rebate capping of €783).



2) In the case of an individual who is chargeable to tax at the parent rates:

Tax rebate = (Pensions income less €10,500) multiplied by 15% (with a rebate capping of €573).

3) In the case of an individual who is chargeable to tax at the married rates:

Tax rebate = (Pensions income less €12,700) multiplied by 15% (with a rebate capping of €243). In this case, the further rebate capped at €540 also remains available.

### **Deduction (Income from Employment) (Amendment) Rules, 2022**

In terms of this Legal Notice, the deduction available under the main rules has been increased from €9,930 to €10,020. This is to ensure that the COLA increase to the minimum wage (together with statutory bonuses) remains below the taxable threshold.

This applies from year of assessment 2023.

### **Double Taxation Relief (Taxes on Income) (The Republic of Armenia) Order, 2022**

This Legal Notice is a commencement notice determining the date of entry into force of the Armenia – Malta Double Tax Treaty as 25 November 2021.

### **Cooperation with Other Jurisdictions on Tax Matters (Amendment) Regulations, 2022**

Further to previous regulations giving the CfR the power to request information from persons within the scope of the regulations in order to verify whether such persons are in compliant with their obligations, these amendments enhance this power in a more practicable manner for the CfR to monitor compliance.

These amendments provide for the possibility of on-site visits for the purposes of monitoring compliance as well as a provision for deemed notification where notification is not possible due to reasons attributable to the person concerned.

Furthermore, the penalty contemplated in regulation 6(1)(a) has been reworded to make the provision more practicable, but its amount remains unchanged.



### **Part-time Work (Amendment) Rules, 2022**

This Legal Notice has removed schedules TA22 and TA23 of the Part-time Work Rules from being prescribed. The references to the forms have been replaced by “such form as the Commissioner may approve”. In practice the same forms will remain in use and any amendments can be made by updating them on the CfR website. The reference to the tax rate in the forms is now amended to 10%, in line with the amendment to the Income Tax Act regarding the part-time rate.

### **Final Settlement System (FSS) (Amendment) Rules, 2022**

As a consequential amendment to the change in the part-time rate, Schedule A of the FSS Rules (FS4) has been substituted to reflect this change.

### **Tax on Overtime (Amendment) Rules, 2022**

This Legal Notice amends the Tax on Overtime Rules which were originally published by means of Legal Notice 245 of 2020.

The original rules provided for a reduced rate of tax of 15% on qualifying overtime income where the maximum number of hours which could be subject to the reduced rate was limited to 100 hours per annum while the rate per hour at which remuneration was paid for overtime work could not exceed twice the hourly equivalent of the basic weekly wage.

The new amendment provides that with effect from year of assessment 2023, the 15% tax rate shall be applicable to qualifying overtime income up to a maximum of €10,000 per annum, instead of the previous 100 hours per annum.