

# BDO MALTA

Malta: The New Rules for  
High Net Worth Individuals



## General overview

On 15 September 2011, the Maltese government introduced a new set of provisions focused on attracting more foreign investment from high net worth individuals. The so-called *High Net Worth Individuals Rules* will be running in tandem with the current *Residents Scheme Regulations*, which has now been suspended for new applications.

The new set of rules is split into two - the *High Net Worth Individuals - EU/EEA/Swiss Nationals Rules* and the *High Net Worth Individuals - Non-EU/Non-EEA/Non-Swiss Nationals Rules*. The former applies to EU nationals and nationals of Iceland, Norway, Liechtenstein and Switzerland, while the latter applies to other non-EU citizens. Applicants who satisfy the below conditions will be able to apply for special tax status as outlined below.

## The High Net Worth Individuals - EU/EEA/Swiss Nationals Rules

An individual who is eligible to apply for special tax status must prove to the satisfaction of the Commissioner of Inland Revenue that he or she fulfils all of the below criteria:

- a) The individual is in possession of a so-called *qualifying property holding*. This means that:
  - as at the date of application, the applicant owns immovable property purchased after 14 September 2011 for a value of not less than €400,000; or
  - the applicant rents immovable property in Malta for a value of €20,000 or more annually; or
  - the applicant had already filed an application under the old *Residents Scheme Regulations* and he or she currently owns immovable property which was purchased before 14 September 2011 for a value of not less than €116,000.

Moreover, in all the above cases, the applicant and his or her family members must hold the above property as their principal place of residence.

Other important conditions which must be satisfied are as follows:

- it is only the applicant and his or her family members who may reside in the qualifying property holding;
  - the applicant must already have taken up residence in the qualifying property holding at the time of application; and
  - the property may not be leased or sub-leased to third parties.
- b) The applicant does not benefit from the *Residents Scheme Regulations* or the *Highly Qualified Persons Rules*.
  - c) The applicant must be a citizen of any of the following:
    - The European Union (EU);
    - Iceland, Norway or Liechtenstein; or
    - Switzerland

This excludes citizens of Malta, who are ineligible to apply for a special tax status.

- d) The applicant is in receipt of enough stable and regular resources required to maintain himself or herself and his dependents without needing to resort to the social security system in Malta.
- e) The applicant is in possession of a valid travel document.

- f) The applicant possesses a health insurance policy covering himself or herself and any dependents, as the case may be, in respect of all risks across the entire EU as normally covered for Maltese nationals.
- g) The applicant is not domiciled in Malta and does not intend to establish his domicile in Malta within five years from the date of application for special tax status.
- h) The applicant is not a long-term resident. Long-term residents are:
  - Persons who possess or have applied for long-term residence status in terms of the *Status of Long-Term Residents (Third Country Nationals) Regulations, 2006*; or
  - Third country nationals who have resided legally and continuously in Malta for a period of five years.
- i) The applicant is a so-called *fit and proper person*. Among other criteria, this means that the individual is of good conduct and morals, has never been adjudged bankrupt by a competent Court or authority and has always been truthful and candid in all his dealings with the Maltese public administration.

Other conditions are that:

- a) The individual/s reside/s in Malta for at least 90 days in a calendar year; and
- b) They are not present in any other country for more than 183 days in a calendar year.

It is not clear what form of record would be required to prove the presence in Malta of at least 90 days and a presence in any other jurisdiction of less than 183 days. It is our recommendation that a detailed log of movements in any given year be maintained.

### **Tax treatment**

The income of an individual who has been granted a special tax status (also known as a *beneficiary*) that is received in Malta from foreign sources is taxed at the rate of 15 percent. The beneficiary is also entitled to claim double taxation relief on this income. This is subject to a minimum tax liability of €20,000 for any year of assessment and an additional €2,500 per annum for every dependent. Other chargeable income earned by the beneficiary and his or her spouse that is not liable to tax at 15 percent will be charged to tax at 35 percent. This applies mainly to local source income.

### **The High Net Worth Individuals - Non-EU/EEA/Swiss Nationals Rules**

An individual who is eligible to apply for special tax status must prove to the satisfaction of the Commissioner of Inland Revenue that he or she fulfils all of the below criteria:

- a) The individual is in possession of a so-called *qualifying property holding* (as described above).
- b) Where the applicant is or intends to become a long-term resident, he or she must be a party to a qualifying contract, i.e. an agreement that is entered into between the Government of Malta and the applicant wherein the applicant delivers to the Government of Malta a sum of €500,000 and €150,000 for every dependent (the “bond”) which the Government of Malta holds by title of gratuitous voluntary deposit. The bond will be refunded to the applicant if he or she renounces the special tax status prior to the expiration of four years from the date of the qualifying contract. If the applicant intends to become, or becomes, a long-term resident (as above) prior to the expiration of four years from the date of application, he or she will forfeit the rights over the bond.

- c) The applicant does not benefit from the *Residents Scheme Regulations* or the *Highly Qualified Persons Rules*.
- d) The applicant is in receipt of enough stable and regular resources required to maintain himself or herself and his dependents without needing to resort to the social security system in Malta.
- e) The applicant is in possession of a valid travel document.
- f) The applicant possesses a health insurance policy covering himself or herself and any dependents, as the case may be, in respect of all risks across the entire EU as normally covered for Maltese nationals.
- g) The applicant is not domiciled in Malta and does not intend to establish his domicile in Malta within five years from the date of application for special tax status.
- h) The applicant is a so-called *fit and proper person*. Among other criteria, this means that the individual is of good conduct and morals, has never been adjudged bankrupt by a competent Court or authority and has always been truthful and candid in all his dealings with the Maltese public administration.
- i) The applicant needs to be fluent in Maltese or English.
- j) The applicant must not be:
  - a. An EU national;
  - b. A national of Iceland, Norway or Liechtenstein; or
  - c. A national of Switzerland.

### Tax treatment

The income of a beneficiary that is received in Malta from foreign sources is taxed at the rate of 15 percent. The beneficiary is also entitled to claim double taxation relief on this income. This is subject to a minimum tax liability of €25,000 for any year of assessment and an additional €5,000 per annum for every dependent. Other chargeable income earned by the beneficiary and his or her spouse that is not liable to tax at 15 percent will be charged to tax at 35 percent. This applies mainly to local source income.

### CONTACT

#### BDO Malta

Tower Gate Place  
Tal-Qroqq Street  
Msida MSD 1703  
Malta

Tel no. (+356) 2131 3060  
Fax no. (+356) 2131 3064

[www.bdo.com.mt](http://www.bdo.com.mt)  
[info@bdo.com.mt](mailto:info@bdo.com.mt)

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