

The Investment Registration Scheme 2014

By virtue of Legal Notice 256 of 2014 the Investment Registration Scheme Regulations 2014 (the “**Regulations**”) were published recently. The Regulations provide the framework of the Investment Registration Scheme 2014 (the “**Scheme**”) which enables residents of Malta owning eligible assets (as defined therein) to regularise their position and to benefit under the exemptions referred to in Article 9B of the Income Tax Act. **The Scheme shall run until 30 September 2014.**

Who is eligible to register for the Scheme?

Any resident of Malta who is subject to tax in Malta who owns eligible assets that were generated from income (including capital gains) that was never declared for the purposes of the relevant laws may register under the Scheme. The term ‘**relevant laws**’ is defined in the Income Tax Act as the Income Tax Acts, the Succession and Donation Duties Ordinance, the Death and Donation Duty Act, the Duty on Documents Act and the Duty on Documents and Transfers Act.

Eligible assets may only be registered under the Scheme by the person who beneficially owns such assets on the applicable date or by the person from whom the eligible assets originated when on the said date these are held by a fiduciary, or by the heir or legatee of such person, provided that the same eligible assets may only be registered by one such person.

What is an eligible asset?

The Regulations describe an **eligible asset** as any asset held on 4th November 2013 and that is still held on the date of registration provided that such asset comprises any of the following:

- **deposits** held with credit institutions licensed in Malta, or abroad irrespective of the currency of denomination;
- **securities** including:
 - (i) shares and stocks in the capital of a company registered or incorporated in a reputable jurisdiction or other instruments creating or acknowledging an ownership interest in such company;
 - (ii) debentures, certificates of deposit, bonds, notes and any other similar instruments creating or acknowledging indebtedness issued by a company registered in a reputable jurisdiction; and
 - (iii) securities issued by central, regional or local Governments, States or sub-divisions of any State or any supra-national organization (including Malta Government Securities – bonds and Treasury Bills);
- **units in a collective investment scheme,**

- **life and annuity long term insurance policies**, whether index-linked or not issued by a scheme or insurer licensed in Malta or abroad;
- **precious metal bullion**;
- **warrants, options, futures and other derivatives** as well as any other financial instruments entered into in Malta and, or abroad for investment purposes;
- **shareholder loans or other advances** extended to a company registered in a reputable jurisdiction;
- **immovable property situated in or outside Malta**

Any income arising from eligible assets which is received after 4 November 2013 and reinvested before the date of registration, shall be deemed to constitute eligible assets existing on 4 November 2013 and shall be eligible for registration under these regulations.

Registration may also apply to eligible assets held on 4 November 2013 but which have been switched or otherwise converted or exchanged by the applicant into other assets during the period between 4 November 2013 and the registration date subject to the provision of the documentary evidence that may be requested.

What are the benefits of registration under the Scheme?

Upon registration the beneficial owner of the eligible assets registered under the Scheme and in whose name or for whose benefit a Registration Certificate has been issued pursuant to the Regulations shall be entitled to the exemptions referred to in article 9B of the Income Tax Act.

Subject to the satisfaction of certain conditions Article 9B of the Income Tax Act **exempts from tax the following income which is otherwise chargeable under any provision of the relevant laws:**

- **Any income, including capital gains, derived from an eligible asset** that is registered in terms of the Scheme (a “**qualifying asset**”) at any time before the date on which that asset is registered as a qualifying asset;
- **Any income, including capital gains, to the extent that a qualifying asset represents such income or an undeclared part of such income or an accumulation thereof**, at any time before the date on which that asset is registered as a qualifying asset, derived by any person during the year immediately preceding any year of assessment in respect of which that person has furnished a return of his income to the Commissioner before the 4th November 2013, or during the year immediately preceding any year of assessment commencing on or before the 1st January, 2013, in respect of which that person was not required to furnish a return of his income;

- Any transfer *inter vivos* or transmission *causa mortis* of any asset, any document of transfer of such an asset and any assignment of an asset made or happening before the 4th November, 2013, or in respect of the undeclared part of the value or consideration of such transfer or transmission, to the extent that a qualifying asset represents such asset or the value in consideration of such transfer or transmission at any time before the date on which that asset is registered as a qualifying asset.

What is the Registration Fee payable upon the registration of eligible assets?

The issue of a Registration Certificate is subject to the payment by the applicant of a one-time registration fee payable to the Government equivalent to:

- **7.5%** of the **original cost** on the date of purchase in the case that the asset is **immovable property**;
- **7.5% of the current market** value of the asset in all other cases;
- **5% in the case of immovable property or any other eligible assets which were held abroad on 4 November 2013 and are still held abroad on date of registration** if the applicant makes an irrevocable commitment to **repatriate the relative proceeds within two weeks after date of registration and to invest such funds in locally listed securities or in deposits with domestic banks**, subject that the applicant shall provide to the registration agent within three weeks from date of registration documentary evidence of such repatriation and local investment, and that the repatriated assets will be retained locally for at least three years after date of registration.

How can an asset be registered in terms of the Scheme?

Registration of eligible assets shall be executed by an applicant through “appointed registration agents” subject to the provision of any documents that may be requested in this respect. The **appointed agents** shall include:

- credit institutions licensed in Malta under the Banking Act,
- financial institutions licensed in Malta under the Financial Institutions Act, stockbrokers licensed under the Investment Services Act, and
- persons holding a category 2 or category 3 Investment Services Licence granted under the Investment Services Act

and in each case appointed as registration agents by the Central Bank of Malta.

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