

Letting of Residential Tenement (Forms) Rules, 2014

A. Flat tax rate of 15% for income derived from rental of residential properties

Legal Notice 393 of 2014 provides the rules prescribing the forms to be completed for the **payment of tax on income derived from the rental of residential properties at the flat rate of 15%** in terms of the regime provided in Article 31D of the Income Tax Act.



Under this recently introduced regime the tax payer has the option to declare such income (gross) and pay tax at 15% thereon subject to satisfying certain conditions. In such a way the tax payer would be opting out of the default regime whereby the rental income (net of the specific deductions prescribed in the income tax laws and regulations) is charged to tax at the normal rates of tax in order to benefit from the reduced flat rate of 15%.

Such tax is final and any income declared at the flat rate of 15% shall constitute separate income of the tax payer.

In general a person may qualify to pay tax under this regime if the following conditions are satisfied:

- **the tax payer is a person that rents out immovable property being a tenement leased as a residence or a garage to an individual or individuals;**
- once a taxpayer opts to pay the final tax at the rate of 15% on the gross rental income derived from the letting of a tenement as a residence or a garage, any other income derived by such person from the letting of other tenements as a residence or a garage is to be charged to tax at the same rate and subject to the same rules as the first tenement. **Hence all the income derived from the letting of such tenements as a residence or garage must follow the same treatment once such an option has been exercised for any one of such tenements;**
- for the purposes of exercising the option of the reduced income tax rate of 15% as aforesaid, the tenements being rented as a residence or a garage must consist of a **tenement, not being a commercial tenement** as defined in article 1525 of the Civil Code, which **consists of either a dwelling house or part thereof** which is to be occupied or is **occupied as a home or residence by the occupier or a garage, excluding a tenement** which, for the purpose of the said letting, **is required to be licensed by virtue of the Malta Travel and Tourism Services Act.**

L.N. 393 of 2014 provides Form TA24 which is to be completed by persons opting to declare their income derived from the rental of residential properties as outlined above.

B. Undeclared income derived from rental of residential properties

The recent enactment of Act No. XXXVII of 2014 also introduced an amendment to Article 31D of the Income Tax Act. Such amendments provide that any person that **failed to declare any rental income derived from the lease of tenements as a residence or a garage during the eight year period preceding the basis year 2013 may declare such income in terms of the rules prescribed.**

For such purpose the rules prescribe that when the person is to declare such amount of rental income for more than one year, the total amount of income to be so declared shall be equivalent to the two times average of the rental income derived per year in such period of eight years (or if such period of undeclared income is less than eight years, as applicable in such case).

In this respect, Legal Notice 393 of 2014 also provides Form TA24A - the specific form to be completed by persons exercising the option to declare any previously undeclared rental income as aforesaid.

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