



## GES NewsFlash

# Malta — Residence Scheme for High Net-Worth Individuals (HNWIs) from the European Union (EU)/European Economic Area (EEA)/Swiss Nationals

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### Introduction

In terms of Legal Notice 400 of 2011 and Article 56(23) of the (Malta) Income Tax Act, Chapter 123 of the Laws of Malta (“ITA”), a HNWI Malta Residence Scheme (“the Scheme”) for individuals from the EU/EEA/Swiss nationals was introduced and is effective from 1 January 2011. The Scheme confers on the successful applicant a special tax status.

### Conditions for application

An individual who is eligible to apply under the Scheme must prove, to the satisfaction of the Commissioner of Inland Revenue (“the Commissioner”), that they satisfy all of the conditions set out below:

- The applicant holds a ‘Qualifying Property Holding,’ which is defined as immovable property situated in Malta, which was either (i) purchased after 14th September 2011, for a consideration of not less than €400,000 or (ii) rented for not less than €20,000 per annum. In all cases, the applicant and his/her family members have their habitual residence in such property as their principal place of residence;
- The applicant does not benefit under the Residence Scheme regulations or the Highly Qualified Persons rules;
- The applicant is not a Maltese national and is a citizen of an EU Member State (other than Malta), Iceland, Norway, Liechtenstein, or Switzerland;
- The applicant receives stable and regular resources, which are sufficient to maintain himself/herself and his/her dependents without recourse to the social assistance system in Malta;
- The applicant is in possession of a valid travel document;
- The applicant is in possession of sickness insurance, which covers himself/herself and his/her dependents in respect to all risks associated with the EU, normally covered for Maltese nationals;
- The applicant is not domiciled in Malta and does not intend to establish his/her domicile in Malta within five years from the date of the application;

- The applicant is not a long-term resident;
- The applicant is a fit and proper person.

The application by the individual may also cover the dependents of the individual.

### Procedure for application

An application for special tax status in terms of the Scheme, together with a 'fit and proper person' questionnaire, may only be submitted to the Commissioner through the services of a person that qualifies as an Authorised Registered Mandatory (Deloitte Services Limited is an Authorised Registered Mandatory in terms of the Scheme) and on the prescribed application form.

A non-refundable fee of €6,000 is payable to the Commissioner on application and by bank draft payable to the 'Commissioner of Inland Revenue' and attached to the application form.

The Commissioner will notify the Authorised Registered Mandatory, in writing, whenever the Commissioner agrees that the individual qualifies for special tax status in terms of the Scheme. In the event that the applicant would not have, at the time of application, acquired a 'Qualifying Property Holding,' as referred to above, the Commissioner shall provide the applicant with a letter of intent and will issue a certificate of special tax status upon receiving evidence that the applicant holds a 'Qualifying Property Holding.'

### Minimum residence period

An individual who possesses a relevant special tax status certificate is required to reside in Malta for **not** less than 90 days in a calendar year. Furthermore, the individual must prove to the Commissioner that he/she has not been a resident for more than 183 days in any other jurisdiction.

### Tax treatment

An individual in possession of the relevant special tax status certificate would be subject to the following tax treatment in Malta:

- Income remitted to Malta from foreign sources would be chargeable to Malta income tax at a flat rate of 15%. Relief for double taxation, in terms of double tax treaty relief and unilateral relief, is available.
- Any other realised income that is not charged at the 15% income tax rate and including realised capital gains arising in Malta on the transfer of a capital asset (other than immovable property situated in Malta) would be chargeable to Malta income tax at the rate of 35%.
- Any realised capital gain arising in Malta on the transfer of immovable property situated in Malta would be subject to a final withholding tax of 12% of the transfer value (an exemption applies in special circumstances, including the disposal of immovable property occupied as an individual's "own residence" for a period of three years). An individual may opt for the 35% tax rate on the capital gain, subject to the Capital Gains Rules of the ITA, if the property being transferred was acquired less than seven years prior to the sale.
- Any realised capital gain arising outside of Malta would be exempt from Malta tax in view of the non-Malta domicile of the individual (a non-Malta domicile is, in fact, a condition for eligibility in terms of the Scheme).

A minimum annual Malta income tax payment payable by the individual amounting to €20,000 with a further €2,500 for every dependent of the individual applies in terms of the Scheme.

It is important to note that under The Scheme, the individual and his/her spouse cannot opt for separate tax computation.

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## People to contact

If you have any questions concerning the issues in this GES NewsFlash, please contact one of the tax professionals at our Deloitte offices as follows:

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