



## Taking up residence in Malta – Non-EU/EEA and Swiss Nationals (Third Country Nationals)

*Malta is a country that has a lot to offer – besides the azure of the Mediterranean Sea, the mellow honey coloured limestone and the clear blue skies, the Maltese Islands offer some of the most ancient historic places to visit, a safe environment to live in, an English-speaking community and a relatively low cost of living. Coupled with all this is the fact that Malta offers various advantageous tax regimes.*

*In order to reside in Malta for more than 3 consecutive months, an individual needs to apply for a residence permit from the Maltese Immigration Authorities. The permit is granted on specific grounds.*

### ORDINARY RESIDENCE

Applicants for ordinary residence are required to purchase or rent immovable property in Malta.

The grounds on which third country nationals may acquire ordinary residence are the following:

#### ► Employment

In order for a third country national to work in Malta, he/she needs to have an employment licence which is only granted if certain criteria are satisfied.

Individuals whose profession is in demand, such as persons qualified in financial services and in the information technology sector are more likely to have their application for a work permit in Malta favourably considered.

#### ► Self-Employment

In order for a third country national to be granted a permit to work in Malta on a self-employment basis, he/she would need to either:

- a) Make a capital investment of at least €500,000 within 6 months from the date of acquiring the employment licence. The capital investment must only consist of fixed assets that will be used to carry out the business as reported in the business plan that needs to be submitted together with the application. For this purpose, fixed assets include immovable property, plant and machinery but do not include payments such as rent, salaries and legal fees; or
- b) Be a highly-skilled innovator with a sound business plan (to be submitted with the application), who commits to employ at least three EEA/Swiss/Maltese nationals within eighteen months of setting up; or

- c) Be a person leading a project that has been formally approved by Malta Enterprise and formally notified by the latter to the Employment and Training Corporation; or
- d) Be the sole representative of an overseas company (with a sound reputation and established for at least three years abroad) opening a branch in Malta.

#### ► Shareholders / Ultimate Beneficial Owners of a Malta Resident Company

Third country nationals may become ordinary residents in Malta if they are shareholders of a Malta company, provided that any one of the following conditions apply:

- (a) The third country national must be the holder of a fully paid up share capital of at least €500,000 which may not be redeemed, reduced or transferred to a third party during the first two years following the issue of the employment licence; or
- (b) He/she must invest in a capital expenditure of at least €500,000 to be used by the company in the carrying out of its activities. Capital expenditure has the same meaning as explained above; or
- (c) The company in question is leading a project that has been formally approved by Malta Enterprise and formally notified by the latter to the Employment and Training Corporation.

#### ► Long-Term Residence for Third Country Nationals

The long term residence status for third country nationals is very similar to that pertaining to EU/EEA and Swiss nationals. In fact in order for third country nationals to acquire long-term residence status, they must legally reside in Malta for a continuous period of five years. During these five years they must reside in Malta for at least 6 months during a calendar year and must not be absent from Malta for more than a total of 10 months throughout the five-year period.

A third country national who is granted a long-term residence status in Malta shall enjoy equal treatment as any other Maltese national in terms of access to employment and education amongst others.

It is interesting to note that a third country national who has been

granted long-term residence status by a Member State other than Malta may reside in Malta for more than three months to carry out an economic activity in either an employed or a self-employed capacity, provided that he/she is in possession of an employment licence, is pursuing studies or vocational training, or is engaged in other such activities.

#### Education

Foreign students, who visit Malta for educational purposes in any Private School, College or at the University of Malta, are granted a temporary residence permit to reside in Malta during their period of studies in Malta.

The temporary residence permit is also granted to parents and to persons who act as legal guardians of minor students. Such guardians must prove that they are in receipt of regular and stable income and that they have a suitable place to live in.

#### Family Members

A third country national who has been legally residing in Malta for at least 2 years, can make a request for family members to reside in Malta. Family members mainly include spouses (21 years or more) and minor unmarried children.

This can only be done if the third country national's intention is to permanently reside in Malta and that he/she can provide satisfactory accommodation to family members. He/she must have regular and stable means of resources being equivalent to the average wage in Malta plus another 20% of the average wage for each family member.

The reunited family members have the right to work and study like the applicant and once the latter would have resided in Malta for five years, family members will be entitled to an autonomous residence permit.

In the circumstance where third country nationals do not satisfy the above-mentioned conditions and are legally residing in Malta, they may still submit an application for a residence permit for their family members. Cases are considered on a case by case basis.

Partners of Maltese citizens are granted residence in Malta if the two have been in a relationship during the previous twenty four months and they receive a stable income of at least €8,885. In those cases where their relationship has lasted for at least 5 years, a residence permit for 3 years is issued.

#### Temporary Residence

In exceptional circumstances, third country nationals may be granted a permit to reside in Malta for more than 3 months. This permit is granted on a case by case basis.

Individuals staying in Malta for some temporary purpose only with no intention of establishing their residence in Malta and who have not resided in Malta for a period longer than six months in a calendar year shall not be taxed in Malta on their foreign income and gains, whether these are remitted to Malta or otherwise. Such persons are liable to tax in Malta solely on Maltese sourced income and capital gains.

#### Personal Income Tax for Ordinary Residents

Individuals who are ordinarily residents but not domiciled in Malta, are subject to income tax in Malta on any income and capital gains arising in Malta and on income arising outside Malta which is received in Malta. They are not subject to tax on foreign capital gains even if such gains are remitted to Malta.

Income derived by resident individuals is subject to tax at the following progressive rates:

#### SINGLE RATES

Taxable Income €	Rate %	Deduct €
0-9,100	0	0
9,101-14,500	15	1,365
14,501-19,500	25	2,815
19,501-60,000	25	2,725
60,001 & over	35	8,725

#### MARRIED RATES

Taxable Income €	Rate %	Deduct €
0-12,700	0	0
12,701-21,200	15	1,905
21,201-28,700	25	4,025
28,701-60,000	25	3,905
60,001 & over	35	9,905

#### PARENT RATES

Taxable Income €	Rate %	Deduct €
0-10,500	0	0
10,501-15,800	15	1,575
15,801-21,200	25	3,155
21,201-60,000	25	3,050
60,001 & over	35	9,050

In order to qualify for the parent rates, the following conditions need to be satisfied:

- The parent must maintain under his/her custody a child or pay maintenance (established or authorised by courts) in respect of his/ her child;
- The child is not more than 18 years of age, or not over 23 years if receiving full-time instruction at a tertiary education establishment;
- The child is not earning an annual income of more than €2,400 from gainful occupation.

The above mentioned rates have been extended to EU/EEA nationals who have at least 90% of their worldwide income derived from Malta. Such individuals, even if they are not residents of Malta, can opt to be taxed at the above mentioned rates applicable for resident individuals.

Individuals who are neither residents nor domiciled in Malta are only subject to tax in Malta on any income and capital gains arising in Malta.

The following are the rates applicable to non-residents, regardless of whether they are married or single:

#### NON- RESIDENT TAX RATES

Taxable Income €	Rate %	Deduct €
0-700	0	0
701-3,100	20	140
3,101-7,800	30	450
7,801 & over	35	840

#### THE GLOBAL RESIDENCE PROGRAMME (GRP) RULES

The Global Residence Programme rules were introduced in July 2013 to provide a special tax status to Third Country Nationals wishing to acquire residence in Malta.

The following are the conditions for eligibility:

#### ◀ **Immovable Property**

Individuals applying for the GRP scheme must either purchase or rent immovable property in Malta as their principal place of abode worldwide.

The property purchased must be valued at €220,000 if it is situated in the South of Malta or in Gozo and at least €275,000 if it is situated in any other location in Malta.

If the applicant opts to rent immovable property, the minimum annual rent payable should amount to €8,750 with respect to properties situated in the South of Malta or in Gozo and €9,600 for a property situated in any other location in Malta.

The property purchased or rented must be solely occupied by the applicant, any family members and any household staff. The property cannot be let or sublet.

#### ◀ **Special Tax Status**

For non EU nationals to benefit from this special tax status, they cannot be beneficiaries of any other residency scheme currently in place in Malta.

#### ◀ **Financial Resources**

Applicants must be in receipt of stable and regular financial resources.

#### ◀ **Special Carers**

Where the beneficiary needs a special carer to accompany him/her to Malta, such carer must be an individual who has been working with the beneficiary for at least two years.

#### ◀ **Minimum Stay Requirements**

There is no requirement for a beneficiary to spend a minimum number of days in Malta, however beneficiaries cannot spend more than 183 days in a calendar year in any other foreign jurisdiction.

#### ◀ **Fit and Proper Test**

Applicants must satisfy a fit and proper test as set out by the Maltese Authorities.

#### ◀ **Submission of Applications**

Applications for the GRP scheme must be submitted through an ARM. ACT is a licensed ARM and can assist you with the preparation and submission of the said application.

Together with the application, the applicant must pay an administrative fee to the Maltese authorities amounting to €5,500 where the beneficiary acquires or rents immovable property in Gozo or in the South of Malta and €6,000 in all other cases.

#### **Income Tax**

Beneficiaries of the scheme are subject to a reduced rate of tax of 15% on all foreign income remitted to Malta subject to a minimum tax liability of €15,000 per year after claiming any double taxation relief. The minimum tax for the first year is paid before the special tax status is granted.

Any income arising in Malta is subject to tax at 35%.

#### ◀ **Inheritance of the Special Tax Status**

In the circumstances where the permit holder passes away, the tax status can be transferred to one of the dependents. Such dependents should satisfy all the conditions under the GRP scheme and must either have inherited the qualifying immovable property or rented the immovable property immediately after the beneficiary's demise.

## **THE MALTA RESIDENCE & VISA PROGRAMME REGULATIONS**

By virtue of a Legal Notice, issued in August 2015, the Government of Malta has issued new regulations in terms of The Malta Residence & Visa Programme Regulations. These regulations will apply solely to third country nationals, who will be entitled to a Certificate conferring them the right to reside, settle and stay indefinitely in Malta, provided that certain conditions are satisfied.

### **BENEFICIARIES**

A beneficiary under these regulations is an individual who proves to the satisfaction of the Maltese authorities that:

- he is a third country national and is not a Maltese, EEA or Swiss national;
- he is not a person who benefits under the Residents Scheme Regulations, the High Net Worth Individuals – EU / EEA / Swiss Nationals Rules, the High Net Worth Individuals – Non-EU / EEA / Swiss Nationals Rules, the Malta Retirement Programme Rules, the Residence Programme Rules, the Qualifying Employment in Innovation and Creativity Rules or the Highly Qualified Persons Rules;
- he holds a qualifying property for a minimum five (5) year period from the date of issuing of the certificate;
- he holds a qualifying investment, in a form determined from time to time by the Maltese authorities, for a minimum period of (5) years from the date of issuing of the certificate. The said investment must have an initial value of €250,000;
- he and his dependants are in possession of a valid travel document;
- he is in possession of a sickness insurance policy in respect of all risks across the whole of the European Union normally covered for Maltese nationals for himself and his dependants;
- he provides an affidavit stating that as from the date of application he was in receipt of either an annual income of not less than €100,000 arising outside Malta or has in his possession a capital of not less than €500,000; and
- he is a fit and proper person.

Beneficiaries of the Global Residence Programme (GRP) are allowed to apply for a Certificate in terms of these rules, provided they satisfy all the additional eligibility requirements of these regulations.

### **DEPENDANTS**

The rules establish that dependants shall comprise:

- the main applicant's spouse in a monogamous marriage or in another relationship having the same or a similar status to marriage;
- a child, including an adopted child, of the main applicant or of his spouse who is less than 18 years of age;
- a child of the main applicant or of his spouse who is not married and not economically active;
- a parent or grandparent of the main applicant or of his spouse who proves that he is not economically active;
- a child of the main applicant or of the spouse of the main applicant who is at least 18 years of age, and who has been certified by a recognised medical professional as having a disability in terms of the Equal Opportunities (Persons with Disability) Act and who is living with, and is fully supported by the main applicant.
- Children, born or adopted after the approval date, of a previously approved dependant child of the main applicant and/or the spouse, or of the previously approved dependant child's spouse; and
- Children, born or adopted after the approval date, of the main applicant or of his spouse.

**IMMOVABLE PROPERTY**

If the beneficiary opts to acquire immovable property, the minimum value must be of at least €320,000. However, when the property is in the south of Malta or in Gozo, the minimum value can be of €270,000.

A beneficiary under the programme has the option to rent instead of buying immovable property. The minimum annual rental payment has to be at least €12,000 if the immovable property is situated in Malta or €10,000 if in Gozo or in the south of Malta.

**RIGHTS CONFERRED BY THE CERTIFICATE TO THE BENEFICIARY**

As mentioned above, the Certificate issued by the Maltese authorities in terms of these rules would entitle the holder to reside, settle and live in Malta for an indefinite period of time. This certificate is subject to an annual monitoring exercise for the first five years from its issue, and every five years thereafter.

A holder of such Certificate will not be automatically entitled to any other rights mentioned in the Immigration Regulations.

**SUBMISSION OF APPLICATIONS**

An individual, who wishes to submit an application in terms of the Malta Residence & Visas Programme Regulations, must be represented by a registered approved agent or an accredited person. A non-refundable administrative fee of €5,500 has to be paid upon application.

Upon receipt of the application, the Maltese authorities would review it and determine whether the applicant qualifies as a beneficiary. If the Maltese authorities decide that he does qualify, a letter of approval in principle is issued, following which the applicant is requested to pay a contribution of €30,000 less the non refundable administrative fee of €5,500 referred to above.

The contribution of €30,000 covers the main applicant, spouse and the children of the main applicant and/or the spouse at application stage.

Children of the main applicant and/or his/her spouse, who would have qualified as dependants at application stage, will now not lose residency rights on their 27th birthday, or if they become economically active or get married. If they marry, or enter into a similar relationship they may also be able to add their spouse/partner and their direct dependants for an additional contribution fee of €5,000 each and subject to successful due diligence checks.

Parents or grandparents of the main applicant or of their spouse will each be subject to an additional €5,000 non-refundable contribution at application stage.

Once the Maltese authorities are satisfied that the contribution has been paid in full and that all the necessary supporting documentation is presented, the Certificate would be issued to the applicant accordingly.

ACT Advisory Services Limited is a registered approved agent with the Maltese authorities in question and can advise and assist you in the preparation and submission of the application and the pertinent documentation. At ACT, we will advise our clients with any tax planning opportunities which may be applicable as well as ensure (together with your foreign tax advisors) that there will be no negative tax implications in the departing country. Through our in-house tax specialists we will also be able to advise and assist our clients with their annual income tax compliance requirements.

**DOUBLE TAXATION RELIEF**

Resident individuals are entitled to claim one of the various forms of relief from double taxation, namely, treaty relief, unilateral relief and the Commonwealth income tax relief. These types of relief ensure that the same income will not be subject to tax twice in two different jurisdictions.

The most common type of relief is the treaty relief, given that Malta has concluded double tax treaties with more than 65 countries. Malta's treaties are mainly based on the OECD Model Convention and relief is granted by means of the credit method, meaning that the foreign tax suffered on the income is granted as a credit against the Maltese tax liability on such income.

In the absence of a treaty, the unilateral relief can be availed of. This type of relief works similarly to treaty relief. The Commonwealth income tax relief applies to tax suffered in Commonwealth countries.

**BUYING PROPERTY IN MALTA**

Non-EU citizens must obtain an AIP permit in order to acquire immovable property in Malta.

Both EU and non-EU citizens may freely purchase immovable property situated in certain areas known as Special Designated Areas.

**IMPORTATION OF HOUSEHOLD GOODS**

Individuals who become resident in Malta may import their household goods and furniture into Malta without incurring any VAT and import duties. Third country nationals may be asked by the customs authorities to pay a deposit or provide a bank guarantee for the VAT/duty in question. The deposit will be refunded upon providing an evidence of stay in Malta for a cumulative period of 200 days within a period of 365 days.

**INHERITANCE TAX**

Malta does not have any inheritance tax. Nonetheless, the heirs of the deceased person are liable to pay stamp duty upon the inheritance of shares in Malta companies and immovable property situated in Malta. Stamp duty payable amounts to 5% in the case of immovable property situated in Malta and shares in property companies, while a duty of 2% is payable on the acquisition of shares in Maltese companies which are not property companies. Various exemptions and exceptions apply.

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