



PARLAMENT TA' MALTA

IT-TLETTAX-IL LEGIŻLATURA

P.L. 7267

Dokument imqiegħed fuq il-Mejda tal-Kamra tad-Deputati fis-Seduta Numru 514 tat-8 ta' Novembru 2021 mill-Ministru fl-Uffiċċju tal-Prim Ministru, f'isem il-Ministru għall-Finanzi u x-Xogħol.

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Skrivan tal-Kamra

A.L. 419 tal-2021**ATT DWAR IT-TAXXA FUQ L-INCOME
(KAP. 123)****Regoli tal-2021 dwar Eżenzjoni mit-Taxxa fuq Trasferimenti ta'
Proprjetà (Tpaċija ta' Arretrati ta' Taxxa)**

BIS-SAIHA tas-setgħat mogħtija bl-artikoli 12(2) u 96 tal-Att dwar it-Taxxa fuq l-Income, il-Ministru għall-Finanzi u x-Xogħol għamel dawn ir-regoli li ġejjin:-

1. It-titolu ta' dawn ir-regoli hu Regoli tal-2021 dwar Eżenzjoni mit-Taxxa fuq Trasferimenti ta' Proprjetà (Tpaċija ta' Arretrati ta' Taxxa). Titolu.

2. F'dawn ir-regoli, sakemm ir-rabta tal-kliem ma tkunx teħtieġ xort'oħra – Tifsir.

"ammont gross tat-taxxa" tfisser it-taxxa li għandha tiffhallas fuq trasferiment skont l-artikolu 5A tal-Att dwar it-Taxxa fuq l-Income qabel l-eżenzjoni li tingħata taħt dawn ir-regoli; Kap. 123.

"arretrati ta' taxxa rilevanti" tfisser kull ammont mhux imħallas ta':

(a) taxxa fuq l-income u taxxa fuq il-qliegħ kapitali dovuta u pagabbli skont l-artikoli 4 u 5 tal-Att dwar it-Taxxa fuq l-Income għas-sena ta' stima 2020 jew xi sena ta' stima ta' qabel; Kap. 123.

(b) taxxa mnaqqsa minn ras il-ġħajn jew li kellha titnaqqas minn ras il-ġħajn skont l-artikolu 23 tal-Att dwar l-Amministrazzjoni tat-Taxxa li kellha tintbagħat lill-Kummissarju fil-31 ta' Jannar 2021 jew qabel; Kap. 372.

(ċ) kontribuzzjonijiet tas-sgurtà soċjali dovuti u pagabbli minn prinċipal dwar persuni impjegati skont l-artikolu 9 tal-Att dwar is-Sigurtà Soċjali li kellu jintbagħat lill-Kummissarju fil-31 ta' Jannar 2021 jew qabel; Kap. 318.

(d) taxxa fuq il-valur miżjud dovuta u pagabbli skont l-artikolu 21(1) tal-Att dwar it-Taxxa fuq il-Valur Miżjud dwar xi perijodu ta' taxxa, kif imfisser f'dak l-Att, li għalaq fil-31 ta' Diċembru 2020 jew qabel u taxxa fuq il-valur miżjud dovuta u pagabbli skont l-artikolu 21(2) jew (3) ta' dak l-Att li saret soġġetta għall-ħlas fid-data msemmija jew qabel; Kap. 406.

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Kap. 318.
Kap. 406.

(e) imġax, taxxa addizzjonali u penalitajiet amministrattivi dovuti u pagabbli skont id-dispożizzjonijiet tal-Atti dwar it-Taxxa, l-Att dwar is-Sigurtà Soċjali u l-Att dwar it-Taxxa fuq il-Valur Miżjud dwar xi arretrati msemmija fil-paragrafi preċedenti;

"ħlas kwalifikanti" tfisser ħlas li jissodisfa l-kondizzjonijiet tas-subregola (1) tar-regola 5 iżda li ma jkunx iktar mill-ammont li għandu jittiehed kont tiegħu għall-fini ta' dawn ir-regoli skont is-subregoli (2) u (3) ta' dik ir-regola;

Kap. 123.

"valur gross tat-trasferiment" tfisser il-valur tat-trasferiment stabbilit skont l-artikolu 5A tal-Att dwar it-Taxxa fuq l-Income; u meta persuna tagħmel iktar minn trasferiment wieċed ta' proprjetà li japplikaw għalih dawn ir-regoli, tfisser il-valur totali tat-trasferiment, stabbilit kif ingħad qabel, ta' dawk it-trasferimenti;

"valur nett tat-trasferiment" tfisser il-valur gross tat-trasferiment imnaqqas bl-ammont gross tat-taxxa.

Applikabilità.
Kap. 123.

3. Dawn ir-regoli japplikaw għal kull trasferiment li tkun dovuta fuqu taxxa skont l-artikolu 5A tal-Att dwar it-Taxxa fuq l-Income li jsir permezz ta' att pubbliku mhux aktar tard mill-31 ta' Diċembru 2022 minn persuna li kienet akkwistat dik il-proprjetà fil-31 ta' Marzu 2021 jew qabel u li jkollha tagħti arretrati ta' taxxa rilevanti.

L-arretrati ta'
taxxa rilevanti
ta' persuna li
tagħmel
trasferiment.

4. (1) L-arretrati ta' taxxa rilevanti ta' persuna li tagħmel trasferiment li japplikaw għalih dawn ir-regoli huma dawk l-arretrati rilevanti ta' taxxa li jkunu murija fir-records tal-Kummissarju għall-finijiet ta' dik il-liġi li bis-saħħa tagħha jkunu ġew dovuti bħala debitu li tkun inkorriet dik il-persuna direttament u li jkun dovut fid-data li jsir il-ħlas kwalifikanti u ma għandux jinkludi xi ammont ta' arretrati ta' taxxa ta' persuna oħra, l-anqas jekk il-persuna msemmija qabel tkun responsabbli għall-ħlas ta' dak l-ammont għar-raġuni li tkun direttur, manager jew uffiċjal prinċipali ieħor, jew soċju, imsieheb, membru, aġent jew rappreżentant fi kwalunkwe kapaċità ta' dik il-persuna l-oħra.

(2) Minkejja d-dispożizzjonijiet tas-subregola (1), arretrati ta' taxxa rilevanti li tkun inkorriet persuna mejta għandhom jitqiesu bħala arretrati ta' taxxa tal-eredi in proporzjon għas-sehem rispettiv tagħhom mill-eredtà.

Eligibilità għal
eżenzjoni mit-
taxxa.

5. (1) Bla ħsara għad-dispożizzjonijiet l-oħra ta' dawn ir-regoli, persuna li tagħmel trasferiment li japplikaw għalih dawn ir-regoli għandha tkun intitolata għal eżenzjoni mit-taxxa skont dawn ir-regoli jekk isir ħlas kontra l-arretrati ta' taxxa rilevanti tagħha meta

dawn il-kondizzjonijiet kollha li ġejjin ikun sodisfatti:

(a) dik il-persuna tkun bagħtet il-prospetti kollha li hija kienet meħtieġa li tibgħat skont l-artikolu 10 tal-Att dwar l-Amministrazzjoni tat-Taxxa, ir-regoli 20, 21 u 22 tar-Regoli dwar Final Settlement System (FSS) u l-artikoli 27 u 30 tal-Att dwar it-Taxxa fuq il-Valur Miżjud; Kap. 372.
L.S. 372.14.
Kap. 406.

(b) l-ammont gross tat-taxxa u t-taxxa fuq dokumenti u trasferimenti li jkunu jridu jithallsu dwar dak it-trasferiment ikunu intbagħtu lill-Kummissarju kif rikjest mill-Att dwar it-Taxxa fuq l-Income u l-Att dwar it-Taxxa fuq Dokumenti u Trasferimenti; Kap. 123.
Kap. 364.

(ċ) dik il-persuna tagħti avviż lill-Kummissarju tat-talba tagħha għal eżenzjoni taħt dawn ir-regoli, liema avviż:

(i) għandu jingħata lill-Kummissarju mhux iktar tard minn tliet xhur wara d-data ta' dak it-trasferiment;

(ii) għandu jingħata fuq dik il-formola u b'dak il-mod kif il-Kummissarju jista' japprova u jkollu l-informazzjoni u l-partikolaritajiet kollha li jkunu meħtieġa minn dik il-formola;

(d) dik il-persuna tipprovdi dik l-informazzjoni ulterjuri u tipproduci dawk id-dokumenti u evidenza kif il-Kummissarju jista' jqis meħtieġa għall-applikazzjoni kif imiss ta' dawn ir-regoli;

(e) il-ħlas kontra l-arretrati rilevanti tat-taxxa isir dak in-nhar tat-trasferiment jew wara u, meta l-Kummissarju joħroġ talba għall-ħlas għall-fini ta' dawn ir-regoli, mhux iktar tard miż-żmien mogħti f'dik it-talba:

Iżda ż-żmien għall-ħlas li jista' jingħata f'talba bħal dik ma għandux ikun inqas minn tletin jum.

(2) Il-ħlas li għandu jittiehed kont tiegħu għall-fini ta' dawn ir-regoli ma għandux ikun aktar mill-valur nett tat-trasferiment.

(3) Meta l-valur gross tat-trasferiment jeċċedi l-arretrati ta' taxxa rilevanti tal-persuna li tagħmel it-trasferiment, il-ħlas li għandu jittiehed kont tiegħu għall-fini ta' dawn ir-regoli ma għandux jeċċedi dik il-parti tal-valur nett tat-trasferiment li, meta tingħadd mal-ammont tal-eżenzjoni mogħtija b'dawn ir-regoli, tkun daqs l-arretrati tat-taxxa rilevanti, liema parti għandha tiġi kkalkulata kif ġej:

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**valur nett tat-trasferiment x arretrati ta' taxxa
relevanti/valur gross tat-trasferiment**

Kalkolazzjoni
tal-eżenzjoni
mit-taxxa.

6. L-eżenzjoni mit-taxxa fuq l-income li tinghata taht dawn ir-regoli għandha tkun eżenzjoni mill-ammont gross tat-taxxa, jew parti minnu, f'ammont li jikkorrispondi għall-ħlas kwalifikanti u għandu jiġi kkalkulat kif ġej:

**ammont gross tat-taxxa x ħlas
kwalifikanti/valur nett tat-trasferiment**

Tpaċija kontra l-
arretrati.

7. (1) It-total ta' ħlas kwalifikanti u tal-ammont tal-eżenzjoni rispettiva li tinghata taht dawn ir-regoli għandu jikkostitwixxi ħlas mill-peruna li tagħmel it-trasferiment in kwistjoni li għandu jinqata' kontra l-arretrati ta' taxxa relevanti ta' dik il-persuna.

Kap. 318.
Kap. 406.

(2) Meta l-ammont li għandu jinqata' skont is-subregola (1) ikun inqas mill-arretrati ta' taxxa relevanti, għandu jinqata' kontra dawk il-kategoriji ta' arretrati ta' taxxa relevanti kif il-Kummissarju jista', fid-diskrezzjoni tiegħu, jiddeċidi, u t-tpaċija għandha tkun mingħajr preġudizzju għall-poteri tal-Kummissarju li jieħu azzjoni skont id-dispożizzjonijiet relevanti tal-Atti dwar it-Taxxa, l-Att dwar is-Sigurtà Soċjali u l-Att dwar it-Taxxa fuq il-Valur Miżjud għall-ġbir tal-bilanċ tal-arretrati ta' taxxa relevanti li jkun għadu dovut fiż-żmien li ssir it-tpaċija msemmija.

(3) Eżenzjoni li tinghata taht dawn ir-regoli ma għandhiex tagħti lok għal xi rifużjoni, kreditu jew jedd ieħor ħlief għat-tpaċija msemmija f'din ir-regola.

Kap. 318.
Kap. 406.

(4) Minkejja kull haġa għall-kuntrarju li tinsab fl-Atti dwar it-Taxxa, l-Att dwar is-Sigurtà Soċjali u l-Att dwar it-Taxxa fuq il-Valur Miżjud, ħlas permezz ta' tpaċija skont din ir-regola għandu jittermina kull kwistjoni li tista' tkun għadha miftuħa dwar l-ammont tal-arretrati li jiġihallas b'dak il-mod, u ma għandha tkun ammissibbli ebda oġġezzjoni jew sfida oħra dwar dak l-ammont wara li tkun saret it-tpaċija.

Evitar tat-taxxa.
Kap. 123.
L.S. 123.187.

8. Dawn ir-regoli huma mingħajr preġudizzju għad-dispożizzjonijiet tal-artikolu 51 tal-Att dwar it-Taxxa fuq l-Income u tar-regola 6 tar-Regolamenti li Jimplimentaw id-Direttivi tal-Unjoni Ewropeja dwar l-Evitar tat-Taxxa.

L.N. 419 of 2021

**INCOME TAX ACT
(CAP. 123)**

**Exemption from Tax on Property Transfers
(Set-off of Tax Arrears) Rules, 2021**

IN EXERCISE of the powers conferred by articles 12(2) and 96 of the Income Tax Act, the Minister for Finance and Employment has made the following rules: -

1. The title of these rules is Exemption from Tax on Property Transfers (Set-off of Tax Arrears) Rules, 2021. Citation.

2. In these rules, unless the context otherwise requires – Interpretation.

"gross tax" means the tax chargeable on a transfer in accordance with article 5A of the Income Tax Act before the exemption allowed under these rules;

"gross transfer value" means the transfer value determined in accordance with article 5A of the Income Tax Act; and when a person, by means of the same deed, makes more than one transfer of property to which these rules apply, it means the total transfer value, determined as aforesaid, of those transfers; Cap. 123.

"net transfer value" means the gross transfer value reduced by the gross tax;

"qualifying payment" means a payment that satisfies the conditions of sub-rule (1) of rule 5 but not exceeding the amount that is to be taken into account for the purpose of these rules in accordance with sub-rules (2) and (3) of that rule;

"relevant tax arrears" means any unpaid amount of:

(a) income tax and tax on capital gains due and payable in terms of articles 4 and 5 of the Income Tax Act for the year of assessment 2020 or any previous year of assessment; Cap. 123.

(b) tax deducted at source or that should have been deducted at source in accordance with article 23 of the Income Tax Management Act that was due to be remitted to the Commissioner on or before 31 January 2021; Cap. 372.

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Cap. 318. (c) social security contributions due and payable by an employer in respect of employed persons in accordance with article 9 of the Social Security Act that was due to be remitted to the Commissioner on or before 31 January 2021;

Cap. 406. (d) value added tax due and payable in terms of article 21(1) of the Value Added Tax Act in respect of any tax period, as defined in that Act, that ended on or before the 31 December 2020 and value added tax due and payable in terms of article 21(2) or (3) of that Act that became chargeable on or before the said date;

Cap. 318.
Cap. 406. (e) interest, additional tax and administrative penalties due and payable in terms of the provisions of the Income Tax Acts, the Social Security Act and the Value Added Tax Act in respect of any arrears mentioned in the preceding paragraphs.

Applicability.
Cap. 123. **3.** These rules apply to any transfer on which tax is chargeable in terms of article 5A of the Income Tax Act that is made by means of a public deed not later than 31 December 2022 by a person who had acquired that property on or before the 31 March 2021 and who owes relevant tax arrears.

The relevant tax arrears of the person who makes a transfer. **4.** (1) The relevant tax arrears of a person who makes a transfer to which these rules apply are those relevant tax arrears that are shown in the records of the Commissioner for the purposes of the law in terms of which they became due as a liability incurred directly by that person and outstanding as on the date on which a qualifying payment is made and shall not include any amount of tax arrears of another person even though the first-mentioned person may be liable for the payment of that amount by reason of his being a director, manager or other principal officer, or a shareholder, partner, member, agent or a representative in whatever capacity of that other person.

(2) Notwithstanding the provisions of sub-rule (1), relevant tax arrears incurred by a deceased person shall be treated as relevant tax arrears of the heirs in proportion to their respective share of the inheritance.

Eligibility to tax exemption. **5.** (1) Subject to the other provisions of these rules, a person who makes a transfer to which these rules apply shall be entitled to an exemption from tax in accordance with these rules if a payment is made against his relevant tax arrears when all the following conditions are satisfied:

Cap. 372.
S.L. 372.14.
Cap. 406. (a) that person has submitted all returns that he was required to submit in terms of article 10 of the Income Tax Management Act, rules 20, 21 and 22 of the Final Settlement

System (FSS) Rules and articles 27 and 30 of the Value Added Tax Act;

(b) the gross tax and the duty on documents and transfers chargeable in respect of that transfer have been remitted to the Commissioner as required by the Income Tax Act and the Duty on Documents and Transfers Act;

Cap. 123.
Cap. 364.

(c) that person gives notice to the Commissioner of his claim for an exemption under these rules, which notice:

(i) shall be given to the Commissioner by not later than three months after the date of that transfer;

(ii) shall be given on such form and in such manner as the Commissioner may approve and contain all the information and particulars required by that form;

(d) that person provides such further information and produces such documents and evidence as the Commissioner may consider necessary for the proper application of these rules;

(e) the payment against relevant tax arrears is made on or after the date of that transfer and, when the Commissioner issues a request for payment for the purpose of these rules, not later than the time allowed in that request:

Provided that the time for payment that may be allowed in such a request shall not be less than thirty days.

(2) The payment that shall be taken into account for the purpose of these rules shall not exceed the net transfer value.

(3) When the gross transfer value exceeds the relevant tax arrears of the transferor, the payment that shall be taken into account for the purpose of these rules shall not exceed that part of the net transfer value which, when added to the amount of the exemption allowed under these rules, is equivalent to the relevant tax arrears, which part shall be calculated as follows:

net transfer value x relevant tax arrears/gross transfer value.

6. The exemption from income tax allowed under these rules shall be an exemption from the gross tax, or part thereof, in an amount corresponding to the qualifying payment and shall be calculated as follows:

Calculation of
tax exemption.

gross tax x qualifying payment/net transfer value.

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Set off against
arrears.

7. (1) The total of a qualifying payment and of the amount of the respective exemption allowed under these rules shall constitute a payment by the person who makes the transfer in question which shall be set off against the relevant tax arrears of that person.

Cap. 318.
Cap. 406.

(2) When the amount to be set off in accordance with sub-rule (1) is less than the relevant tax arrears, it shall be set off against such categories of the relevant tax arrears as the Commissioner may, in his discretion, decide, and the set-off shall be without prejudice to the powers of the Commissioner to take action in accordance with the relevant provisions of the Income Tax Acts, the Social Security Act and the Value Added Tax Act for the collection of the balance of the relevant tax arrears still outstanding after the said set-off.

(3) An exemption allowed under these rules shall not give rise to any refund, credit or other right except for the set-off mentioned in this rule.

Cap. 318.
Cap. 406.

(4) Notwithstanding anything to the contrary contained in the Income Tax Acts, the Social Security Act and the Value Added Tax Act, a payment by means of a set-off in accordance with this rule shall extinguish any dispute that may be outstanding in respect of the amount of the arrears that is so paid, and no objection or other challenge shall be admissible in respect of that amount after the set-off has been made.

Tax avoidance.
Cap. 123.
S.L. 123.187.

8. These rules are without prejudice to the provisions of article 51 of the Income Tax Act and of regulation 6 of the European Union Anti-Tax Avoidance Directives Implementation Regulations.