

The RESIDENCE PROGRAMME, 2014

These Guidance Notes outline the new provisions which affect individuals who wish to apply for special tax status under the Residence Programme Rules, 2014 (TRP).

TRP is a programme designed to attract individuals who are nationals of the EU, EEA or Switzerland and who are not permanent residents of Malta. Beneficiaries may also have household staff providing a service in their qualifying property, as long as all the requisite procedures are satisfied.

Note:

This guidance outlines the Inland Revenue Department's application and interpretation of the Rules. The material provided hereunder is solely for your guidance. It sets out the main factors that are taken into account by an individual considering this programme. Any practices described in this guidance note are subject to periodic review and may subsequently be altered or withdrawn. If practices were to be changed or revoked this would not normally be done so retrospectively.

You are responsible for your own tax affairs in Malta. It is advisable to keep supporting documentation at all times. The Commissioner for Revenue (hereinafter referred to as 'the Commissioner') reserves the right to ask about your tax affairs in accordance with the provisions of the *Income Tax Acts*.

I. Who may apply?

Applicants meeting **all** of the following criteria are eligible to submit an application in terms of *The Residence Programme*:

- 1) an individual who is:
 - a. an EU national (excluding a Maltese national); or
 - b. a national of Iceland, Norway or Liechtenstein; or
 - c. a national of Switzerland.

- 2) an individual who is not a beneficiary in terms of any of the below tax programmes:
 - a. *Residents Scheme Regulations*;
 - b. *High Net Worth Individuals Rules*;
 - c. *Malta Retirement Programme Rules*;
 - d. *Global Residence Programme Rules*;
 - e. *Qualifying Employment in Innovation and Creativity Rules*; or
 - f. *Highly Qualified Persons Rules*.

However an individual may renounce the right to the benefits provided under any of the above-mentioned Rules prior to submitting an application in terms of *The Residence Programme*.

A declaration to this effect needs to be made by the authorised registered mandatary in Part 6 of the application form.

- 3) Owns or rents a qualifying owned property or qualifying rented property which the individual occupies as his principal place of residence worldwide. The values of the property need to be as follows:
 - a. Owned:
 - i. Immovable property situated in Malta other than in the south of Malta (see below): €275,000
 - ii. Immovable property situated in the south of Malta (see below): € 220,000
 - iii. Gozo: €220,000

In the case that the immovable property was purchased before the date of publication of LN 270 of 2014 (i.e. 1st July 2013) for a consideration which is less than the amounts indicated above, such immovable property may also satisfy this requirement if the individual declares in his application that the property's value on the date of application is not less than the amounts indicated above. This declaration needs to be supported by the following documentation which is to be submitted together with the application:

- A separate and independent architect valuation of the property; and
- An architect's plan of the property.

The Commissioner may authorise an officer, architect or surveyor in writing to have full and free access to the immovable property in order to ascertain the declared value of the property.

- b. Rented:
 - i. Immovable property situated in Malta other than in the south of Malta (see below): €9,600 *per annum*

- ii. Immovable property situated in the south of Malta (see below): € 8,750 *per annum*
- iii. Gozo: € 8,750 *per annum*

The lease needs to be taken out for not less than a twelve month period and is evidenced by a certified lease agreement.

Localities that are considered to be in the south of Malta, for the purposes of *The Residence Programme* are:

- Birżebbuġia
- Cospicua
- Fgura
- Għaxaq
- Gudja
- Kalkara
- Kirkop
- Luqa
- Marsascalea
- Marsaxlokk
- Mqabba
- Paola
- Qrendi
- Safi
- Santa Luċija
- Senglea
- Siggiewi
- Tarxien
- Vittoriosa
- Xgħajra
- Żabbar
- Żejtun
- Żurrieq

The lease agreement needs to indicate details of whether the property is being rented as furnished or otherwise. Any separate agreement relating to furnishings etc needs to be attached and the relative amounts indicated in the application form.

The final deed of purchase as well as the lease agreement, as the case may be, needs to provide full details of the vendor or lessor, as the case may be. This includes:

- in the case of an individual: the full name and surname, passport or identity card number and residential address;
- in the case of vendors / lessors that are not individuals: the details that need to be indicated include the name, relevant registration number, income tax registration number as well as the registered address.

In both cases whether the immovable property is owned or rented, the applicant would need to declare that s/he occupies such property as his/her principal place of residence worldwide.

It is important to note that:

- no person other than the beneficiary and his/her dependants¹ may reside in the qualifying property at any time; and
- the qualifying property may not be let or sub-let.

Where the applicant would have already acquired or rented a qualifying property by the application date, an authenticated copy of the contract providing evidence of such acquisition and title or lease, as the case may be, needs to be attached to the application. Where the applicant would not have acquired or rented a qualifying property by the application date, refer to II.C below.

- 4) the applicant is in receipt of stable and regular resources that are sufficient to maintain himself / herself and his/her dependants without recourse to the social assistance system in Malta.

The authorised registered mandatary needs to make a declaration to this effect in Part 6 of the application form in relation to this requirement.

- 5) is in possession of a valid travel document, certified proof of which is submitted together with the application.
- 6) is in possession of sickness insurance which covers himself and his dependants in respect of all risks across the whole of the EU normally covered for Maltese nationals. The health insurance cover must be procured by a company licensed in Malta or by an international reputable health insurance company.

A certified copy of the insurance policy needs to be submitted together with the application documentation.

- 7) the applicant can adequately communicate in Maltese or English. The authorized registered mandatary needs to make a declaration to this effect in Part 6 of the application form.

Where available, certified true copies of any certifications proving that this requirement is satisfied should be attached and submitted together with the application documentation. Furthermore, the Commissioner retains the right to request to have an informal meeting with the applicant so as to ensure *inter alia* that this requirement is satisfied.

- 8) is a fit and proper person.

The applicant is required to submit a police conduct certificate (accompanied with the Apostille Certificate), issued not earlier than six months prior to the date of submission of the application, together with a sworn declaration taken before a Commissioner for Oaths in Malta confirming that s/he is not subject to any ongoing civil or criminal proceedings. If the individual is subject to such ongoing proceedings, details need to be provided in a separate declaration signed in original by the individual. The Commissioner reserves the right to make further questions for the purposes of this requirement.

This requirement needs to be satisfied in relation to all individuals that are dependants over the age of 18 as well as household staff mentioned in the application form.

Furthermore, where the authorised registered mandatary is aware of any circumstances that affect this condition, the authorised registered mandatary needs to identify such

¹ See explanation in Section III. below

circumstances in Part 7 of the application form. This obligation stays with the authorised registered mandatary for as long as the applicant remains a beneficiary.

In determining whether the applicant is a fit and proper person, the Commissioner shall take into consideration a number of assessment criteria including matters such as the following:

- whether the individual is of good conduct and good morals;
- the individual's reputation and character amongst which whether the individual has a criminal record, convictions for fraud or other dishonesty;
- disqualification or censorship by professional or regulatory bodies, such as being barred from entry to any profession or occupation;
- being adjudged bankrupt by a competent court or authority;
- offences connected to terrorism, money laundering, crimes against humanity and child abuse;
- whether in the past, the individual has been candid and truthful in all his dealings with the Maltese public administration.

Note:

➤ Any public documents executed in the territory of a country other than Malta which will be produced in Malta together with an application for special tax status under *The Residence Programme* needs to be accompanied by an Apostille Certificate in terms of the *Hague Convention of 5th October 1961 Abolishing the requirement of Legalisation for Foreign Public Documents*. The following are deemed to be public documents:

- a) documents emanating from an authority or an official connected with the courts or tribunals of the State;
- b) administrative documents;
- c) notarial acts;
- d) official certificates which are placed on documents signed by persons in their private capacity, such as official certificates recording the registration of a document or the fact that it was in existence on a certain date and official and notarial authentications of signatures.

Where the jurisdiction executing the relevant public document is not a signatory to the above-mentioned Convention, the document should be legalised by a Notary or Lawyer (who should also cite in the legalisation declaration, whenever possible, the professional institute or association to which s/he belongs).

- All documents that are not in English need to be accompanied with a certified English translation.
- An application for special tax status will only be valid if signed and submitted by the authorised registered mandatary.

An Authorised Registered Mandatary is a person that:

- holds a warrant to practice as an advocate under the *Code of Organisation and Civil Procedure*;
or
- holds a warrant to practice as a legal procurator under the *Code of Organisation and Civil Procedure*; or
- has been appointed notary public in accordance with the provisions of the *Notarial Profession and Notarial Archives Act*; or
- holds a warrant to practice as an accountant under the *Accountancy Profession Act*; or
- is a member of the Institute of Financial Services Practitioners; or
- is a member of the Malta Institute of Taxation;

- is a member of the Malta Institute of Accountants; or
- is a member of the Malta Institute of Management;

or is at least 75% (directly or indirectly) owned by persons in possession of the above-mentioned criteria, and who is registered as such with the Commissioner under the TRP.

NOTES:

Authorised mandataries that are registered with the Commissioner for the purposes of the *High Net Worth Individuals Rules*, the *Malta Retirement Programme Rules* and the *Global Residence Programme* will be deemed authorised for the purposes of *The Residence Programme*. A list of such Authorised Registered Mandataries may be found at the Inland Revenue Department's website.

Where an Authorised mandatary repeatedly fails to carry out a function under these rules he shall cease to be an Authorised registered mandatary. 'Repeatedly' means more than two failures of carrying out such functions.

II. Procedure for application

An application for special tax status under *The Residence Programme* may only be submitted to the Commissioner through the services of an authorised registered mandatary (ARM). The applicant needs to authorise such services by completing and signing in original Part 1 of the application form.

A. Where to apply

Applications and the necessary supporting documentation are to be submitted to the International Tax Unit at the following address:

Commissioner for Revenue
International Tax Unit
MFS Building
Notabile Road
Attard
BKR 3000

The envelope should clearly be marked as "**Application: The Residence Programme**".

B. Administrative Fee

A non-refundable administrative fee needs to be paid in respect of any application for special tax status in terms of *The Residence Programme* by means of a bank draft payable to the 'Director General (Inland Revenue)'. The administrative fee is that of six thousand euro (€6,000) except where the qualifying owned property is situated in the south of Malta, in which case the administrative fee is that of five thousand five hundred euro (€5,500). In the latter case the qualifying owned property needs to have been purchased at the time of submission of application.

On the basis of an extra-statutory concession, the above-mentioned applicable application fee in cases where beneficiaries of special tax status in terms of the *High Net Worth Individuals – EU / EEA*

/ Swiss Nationals Rules request to have their special tax status regulated in terms of *The Residence Programme Rules* as provided in Rule 3(3) of the *High Net Worth Individuals – EU / EEA / Swiss Nationals Rules* will not be charged again since the non-refundable fee had already been charged.

C. Step-by-step procedure of the application process

Once an application together with all the required documentation, including the Questionnaire (and its requisite documents) as well as the bank draft in relation to the administrative fee is submitted to the Commissioner, it is checked for completeness and vetted accordingly. An acknowledgement letter is sent to the ARM indicating the progress of the application. In the case of missing information or documents, these are indicated as this would prevent the application from being processed any further until such omission is rectified.

An applicant need not be the owner or lessee of a qualifying property at time of application and may submit the certified final deed or lease agreement, as the case may be, at a later stage. However:

- in order for an applicant to benefit from the reduced administrative fee, in the case of an owned immovable property situated in the south of Malta, the certified final deed of purchase needs to be submitted at application stage;
- special tax status will not be confirmed unless and until the certified final deed or lease agreement, as the case may be, is submitted.

A valid application will then be forwarded for the due diligence process. Once this process has been completed, the ARM will be notified of the outcome. If the outcome is positive, a face-to-face meeting with the applicant and the ARM will be scheduled, following which, a letter of intent is issued and sent to the ARM once the application may continue to be processed. This will be accompanied by a notice of primary residence which would need to be completed and signed by the applicant. This declaration needs to be submitted in original.

The letter of intent is valid for twelve months from the date of issue of the said letter, within which time the certified lease agreement or final deed, as the case may be, will need to be submitted in order for the confirmation letter to be issued.

If the due diligence outcome is negative, the ARM is notified of the main issues of concern, further to which the ARM together with the applicant may provide an explanation. It is in the Commissioner's discretion whether to refuse or proceed with the application process.

It is important that full and accurate information is provided in the application form and accompanying documents. In cases of doubt as to how much detail is to be provided, more is preferable. Any omissions or incorrect details may cause a delay in the processing of the application. Giving misleading information, omitting or concealing information is viewed very seriously and would be seen as evidence of untrustworthiness.

D. Applicants / beneficiaries requesting to have their special tax status regulated by The Residence Programme Rules

In the case of:

- Individuals who have applied for special tax status in terms of the *High Net Worth Individuals – EU / EEA / Swiss Nationals Rules*; and
- Beneficiaries of special tax status granted in terms of the *High Net Worth Individuals – EU / EEA / Swiss Nationals Rules*, and who request the Commissioner to have their special tax status to be regulated under *The Residence Programme Rules*

will not need to submit documentation that is required in relation to the application for special tax status under *The Residence Programme* if such documentation had already been submitted together with the application for special tax status in terms of the *High Net Worth Individuals – EU / EEA / Swiss Nationals Rules* and as long as the relevant documentation is still valid and has not been superseded.

In the case of individuals who have applied for special tax status in terms of the *High Net Worth Individuals – EU / EEA / Swiss Nationals Rules* but were not yet confirmed as beneficiaries as at 30th June 2013, such individual may request the Commissioner to consider their application as having been made in terms of *The Residence Programme Rules* and be regulated as such. Such a request needs to be made through the services of the applicant's ARM and will need to make reference to Rule 3(3) of the *High Net Worth Individuals – EU / EEA / Swiss Nationals Rules*.

In the case of beneficiaries of special tax status granted in terms of the *High Net Worth Individuals – EU / EEA / Swiss Nationals Rules*, and who request the Commissioner to have their special tax status to be regulated under *The Residence Programme Rules*, once the request is made to the Commissioner through the services of an ARM, the Commissioner will issue a determination in writing stating that such beneficiary's special tax status will be regulated by *The Residence Programme Rules*. The request needs to make reference to Rule 3(3) of the *High Net Worth Individuals – EU / EEA / Swiss Nationals Rules* (introduced by means of LN 268 of 2014).

III. Tax Treatment

An individual who has been granted special tax status in accordance with the TRP, hereinafter referred to as "beneficiary", will be subject to tax at a rate of fifteen cents (0.15) on every euro thereof on any income that is received in Malta from foreign sources by the beneficiary and his/her dependants indicated below. This rate of tax will apply from the year of confirmation of the special tax status up to year of cessation of status, both years included.

Dependants who will be able to benefit from the rate of fifteen cents (0.15) on every euro are:

- The beneficiary's spouse;
- Minor children including minor children and children who are in the care and custody of the beneficiary or the beneficiary's spouse;
- Children including adopted children and children who are in the care and custody of the beneficiary or the beneficiary's spouse, who are not minors but who because of circumstances of illness or disability of a serious gravity, are unable to maintain themselves.

None of the above individuals may be beneficiaries under the *Residents Scheme Regulations*, *High Net Worth Individuals - EU / EEA / Swiss Nationals Rules*, the *High Net Worth Individuals Rules - Non-EU / EEA / Swiss Nationals Rules*, the *Malta Retirement Programme Rules*, the *Global Residence*

Programme, the Qualifying Employment in Innovation and Creativity Rules or the Highly Qualified Persons Rules.

Other income that is chargeable to tax in Malta in accordance with the Income Tax Acts of the beneficiary and the dependants indicated above, that is not charged to tax as separate income at the rate mentioned above, will be charged to tax at the rate of thirty-five cents (0.35) on every euro. This may include *inter alia* bank interest received from a local source or dividends received from a company registered in Malta.

Income that is chargeable to tax in Malta in accordance with the Income Tax Acts of the below mentioned dependants will be charged to tax separately at the applicable rates found in Article 56 of the Income Tax Act. Such dependants need to be registered for income tax purposes with the Inland Revenue Department under a separate procedure. These dependants are:

- The person with whom the beneficiary is in a stable and durable relationship;
- Children who are over the age of eighteen but under the age of twenty-five, including adopted children and children who are in the care and custody of the beneficiary, the beneficiary's spouse or the person with whom the beneficiary is in a stable and durable relationship, who are not economically active; and
- Brothers, sisters and direct relatives in the ascending line of the beneficiary, the beneficiary's spouse or the person with whom the beneficiary is in a stable and durable relationship.

A. Minimum Tax

Beneficiaries of special tax status granted in terms of *The Residence Programme* will need to pay a minimum tax of fifteen thousand euro (€15,000) annually. This minimum tax covers income of the beneficiary and his / her dependants mentioned below that arises outside Malta and is received in Malta and does not include income that arises in Malta. The dependants that are referred to above are:

- The beneficiary's spouse;
- Minor children including minor children and children who are in the care and custody of the beneficiary or the beneficiary's spouse;
- Children including adopted children and children who are in the care and custody of the beneficiary or the beneficiary's spouse, who are not minors but who because of circumstances of illness or disability of a serious gravity, are unable to maintain themselves.

Such beneficiary retains the right to request a claim for relief of double taxation under Article 74 (a) and (b), *Income Tax Act*, provided that the minimum amount of tax payable by the beneficiary is as provided above. If the tax payable according to the tax computation (including any credit for relief of double taxation) is such that it is less than the minimum tax required to be paid as aforesaid, the amount to be paid will be the said minimum.

In the year when the special tax status is confirmed or cancelled, the minimum tax will be paid in full.

In the year of application, the minimum tax for the first year shall be paid at the Inland Revenue Department, Floriana before the special tax status is confirmed. A receipt of such payment will need to be presented to the International Tax Unit, following which a letter of confirmation will be issued.

B. Provisional Tax

A beneficiary is subject to payment of provisional tax payments in accordance with the *Payment of Provisional Tax (P.T.) Rules*.

Note that in the first year the beneficiary will not be subject to Provisional Tax.

C. Where the beneficiary becomes a permanent resident

Where an individual who was granted special tax status in terms of *The Residence Programme*:

- a. is a person who has right of permanent residence and is in possession of a permanent residence certificate issued in terms of the Free Movement of European Union nationals and their Family Members Order; or
- b. is a person who has applied for right of permanent residence in terms of the Free Movement of European Union Nationals and their Family Members Order

may not / no longer benefit from the tax treatment as explained in III. above and will be taxable on a worldwide basis i.e. on any income accruing in or derived from Malta or elsewhere, and whether received in Malta or not in respect of income mentioned in Article 4 of the Income Tax. This income will be subject to tax at the applicable rates set out in Article 56 of the Income Tax Act.

IV. Household Staff

A. Who may be a household staff?

Household staff is an individual who has been providing services to the beneficiary in a systematic manner for at least two years prior to an application for special tax status in terms of *The Residence Programme*. A beneficiary may have more than one household staff at any time.

A household staff may reside with the beneficiary in the qualifying property but the services need to be provided in whole or in part in the qualifying property.

In certain exceptional cases and subject to providing sufficient proof to the satisfaction of the Commissioner, the Commissioner may deem this requirement to be satisfied, despite the service not being rendered for a minimum period of two years. Example: where a previous household staff passed away and, new household staff has been recently engaged or a household staff has been required due to a recent illness.

It is important that the rendering of such service is regulated by a contract of service.

B. Tax Treatment

A household staff would be subject to tax in Malta at the rates set out in Article 56(1) and is precluded from benefitting from the 15% tax rate.

In all cases household staff needs to register with the relevant tax authorities in Malta. The applicant as well as the ARM needs to inform the household staff of this obligation.

V. Working in Malta

Where the beneficiary would like to work in Malta or where the household staff is a third country national and therefore requires a work permit issued by the Employment and Training Corporation (ETC) to be able to work in Malta, the requisite procedures need to be followed in order for a work permit to be issued. Beneficiaries and ARMs should refer to the relevant guidelines issued by the ETC, which guidelines may be accessed through the following link: <http://etc.gov.mt/etc-portal/page/3/ELU-Guidelines.aspx>.

Further to the above, the application for special tax status in terms of TRP would need to be accompanied by a letter addressed to the Department Manager (Employers Services), which letter must be received not later than fifteen days from the date of the same letter. The letter must include details of the applicant for special tax status in terms of TRP, as well as details of the individual/s who is / are requesting a work permit to be issued. A separate letter needs to be submitted in respect of each individual who requires a work permit. Each letter will need to be endorsed by the International Tax Unit and submitted to the ETC by the ARM. A template of this letter may be found in Annex 1 to these Guidelines.

This procedure will need to be followed where employment is sought after the application has been processed and special tax status has been granted in terms of *The Residence Programme*.

In all cases the minimum tax as explained in III.A above needs to have been paid and a receipt of such payment is presented together with the letter to be endorsed to the International Tax Unit.

VI. Changes in circumstances that have an effect on the minimum tax payable

The beneficiary, through the services of his ARM must notify the Commissioner whenever there is a change in the number of dependants or household staff of such beneficiary. Such changes need to be notified to the Commissioner within four weeks from when the beneficiary became aware of the change. The same applies where the ARM is knowledgeable of such changes, even if such ARM is not informed by the beneficiary of such.

VII. Annual Tax Return

An individual who benefits from special tax status must submit the Annual Tax Return which includes an annual declaration, by means of which any material changes that affect the beneficiary's special tax status need to be indicated.

In order to ensure that an individual may properly benefit from this tax treatment, the Commissioner may require the individual benefiting from a special tax status to produce information and documents including certifications and declarations within a time specified by the Commissioner in the request itself.

Further to the above, any person who knowingly makes a false declaration or statement in any documentation submitted to the Commissioner will be subject to the generic penal provisions in the *Income Tax Management Act* as well as the *Criminal Code*.

VIII. Cessation of Special Tax Status

A. By choice of the beneficiary:

A beneficiary may opt to cease to possess the special tax status by notifying the Commissioner of his / her intention not to remain in possession of the special tax status from a particular date in the future. Cessation will take effect from the date indicated in the notification, which date cannot be in excess of three months from the date of receipt of such notification by the Commissioner. If no date is indicated in the notification, cessation will have immediate effect i.e. from the date the Commissioner receives such notification

B. By death of the beneficiary:

Following the death of the beneficiary who was granted special tax status in terms of *The Residence Programme*, such status shall devolve onto the dependant of the deceased beneficiary who has either:

- inherited the qualifying property which was the primary residence of the deceased beneficiary; or
- rented a qualifying property immediately after the death of the deceased beneficiary

In both cases such dependant needs to satisfy all the other requirements set out in I. above in his / her own right in that special tax status will only devolve to the dependant once documentary proof of such is submitted to the satisfaction of the Commissioner.

Note – special tax status will devolve to only one individual. Such individual shall be the dependant that is indicated in the deceased beneficiary's will for that purpose. Where there is no such indication, such person shall be the first individual that submits all the complete and correct set of the above-mentioned documentation. The required documentation needs to be submitted together with the death certificate of the deceased beneficiary and in any case has to be delivered to the Commissioner within 183 days from the death of the deceased beneficiary. The Commissioner will not confirm that the special tax status has so devolved after the said 6 month period has passed.

C. By default of the Income Tax Acts:

A beneficiary will cease to possess special tax status with immediate effect, if the same beneficiary is in breach of any provisions of the Income Tax Acts. Examples of such defaults include:

- where routine compliance obligations are not abided with, and in cases of tax evasion and misrepresentation;
- where requests for information by the Commissioner are not replied to in time.

Where, for any reason, the beneficiary is no longer represented by an ARM, the said beneficiary should authorise another Mandatary and inform the Commissioner of this change as soon as possible as otherwise the obligations under the Income Tax Acts will not be able to be fulfilled.

D. Where there is a failure in connection with the conditions that need to be satisfied throughout the special tax status:

Where any of the conditions mentioned below are no longer satisfied, the relevant individual ceases to possess the special tax status with retrospective effect as from the date on which the Commissioner had determined in writing that such individual qualifies for a special tax status under TRP. The special tax status will be terminated if the beneficiary:

- a) becomes a national of Malta or third country national; or
- b) does not hold a qualifying property at any time after the appointed day; or
- c) becomes a permanent resident at any time after the appointed day; or

In this case, Authorised mandataries are obliged to enquire and obtain information from the beneficiary as to whether the same beneficiary or any of his dependents is considered as permanent resident as at 31st December of each year from the year of the appointed day onwards. In such a case, the Authorised mandatary shall notify the Commissioner of such individual by not later than 30th April of the following year on such form as the Commissioner may determine. Where the Authorised mandatary is not able to obtain such information, he is to notify the Commissioner by the said 30th April of this state of affairs and provide documented proof that at least two enquires were made. Where such notifications are not made within the time specified the Authorised mandatary shall be charged an administrative penalty of €10,000; or

- d) is not in possession of sickness insurance in respect of all risks normally covered for Maltese nationals for himself or his dependants after the appointed day; or
- e) The beneficiary's stay is deemed not to be in the public interest by the Minister of Justice. This includes instances where the beneficiary's stay affects the:
 - a. interests of public safety;
 - b. the protection of public order;
 - c. national security;
 - d. territorial integrity;
 - e. public health or morals.
- f) Stays in any other jurisdiction for more than 183 days in a calendar year. The beneficiary needs to make a declaration to this effect in the Annual Tax Return.

The beneficiary needs to notify the Commissioner, through the services of his / her ARM, within four weeks of becoming aware of any such event. Where it is found that the beneficiary failed to make such notification to the Commissioner within the specified timeframe an administrative penalty of €5,000 applies.

The Minister responsible for Finance and the Minister responsible for the Economy, Investment and Small Business have the power to condone a failure in relation to any one of the conditions mentioned above. The Ministers may excuse such a failure where the individual notifies the said Ministers within four weeks of such failure and in this form the individual provides:

- sufficient explanation that the failure was due to unforeseen circumstances; and
- sufficient proof that the best efforts were exercised to remedy the indicated failure.

It is important to note that reliance placed by the beneficiary or the ARM on any other person to perform the task cannot be cited as being the reason for a failure due to unforeseen circumstances or sufficient proof that best efforts to remedy the relevant failure.

IX. Power to request information:

For the purpose of ascertaining an individual's entitlement to the right to pay tax at the reduced rate indicated in III. above, the Commissioner may require the individual applying for special tax status to produce information and documents, including certifications and declarations. The indicated documents must be produced within a time indicated by the Commissioner in the request itself.

Furthermore, the Commissioner and the competent authority in relation to the Free Movement of European Union Nationals and Their Family Members Order may exchange information that is in their possession for the purposes of the above-mentioned Regulations. Such information concerns individuals who:

- a) Make an application for special tax status under *The Residence Programme*; or
- b) Is a beneficiary of special tax status under *The Residence Programme*; or
- c) Has permanent residence status in terms of the Free Movement of European Union Nationals and Their Family Members Order.

X. Abuse of Rights:

The Commissioner retains the right to issue an assessment in terms of Article 31 of the *Income Tax Management Act*, if an individual benefits from the right to pay tax at the reduced rate of tax indicated above but was not entitled to do so.

Annex 1

Letter addressed to the Employment and Training Corporation to be endorsed by the International Tax Unit

ARM name
ARM address 1
ARM number

Date

Department Manager (Employers Services)
Employment and Training Corporation
Hal Far Road
Hal Far
BBG 3000

Dear Sir,

(Title) (full name and surname of individual requiring work permit), details of whom may be found below and who is:

- is a dependant falling under (a) or (e) of the definition of “dependant” in Rule 2 of *The Residence Programme, 2013* of the applicant seeking to be approved as a beneficiary in terms of *The Residence Programme, 2013*;
- is a household staff as defined in Rule 2 of *The Residence Programme, 2013* of the applicant seeking to be approved as a beneficiary in terms of *The Residence Programme, 2013*.

(Identification details of applicant seeking to be approved as a beneficiary in terms of the TRP)

(identification details of individual requiring work permit)

(original signature, name of ARM and ARM number)

For office use only:

- due diligence has been carried out
- due diligence has not been carried out

Signature, stamp and date