The Ministry of Finance has recently issued a number of guidance notes for the application of a High Net Worth Individuals Rules (HNWIR). These Rules, apply as from the 14 September 2011, and can be broadly divided into two (2) tranches:

- HNWIR – EU/EEA/Swiss Nationals; and
- HNWIR – Non-EU / non-EEA / non-Swiss Nationals Rules

HNWIR - EU/EEA/ Swiss Nationals

These rules apply to all EU Nationals (except Maltese nationals), Nationals of Iceland, Norway and Liechtenstein and Nationals of Switzerland. In order to the eligible, the applicant must prove, that ones owns, at of 1 Janaury 2011, immovable property for a value of not less than €400,000; or rents an immovable property in Malta for not less than EUR 20,000 annually as lessee. This tenement must be occupied by the applicant and his family members or persons with which the applicant is in in a stable and durable relationship defined as including persons in a situation of permanent cohabitation, tied by bonds of mutual affection and mutual dependency. Such relationships need to be long-term, committed affiliations. Furthermore, persons claiming to be in a "stable and durable relationship" with the applicant must have come to Malta at the same time as the applicant or just before or very recently after. The property referred to here may not be sub-leased.

An applicant will also considered to hold a qualifying property if an application under the Residents Scheme Regulations was filed before 14 September 2011, and either :

a) the applicant entered into a lease agreement prior to the 14 September 2011 for an amount of not less than €4,150 per annum and deposits a copy of such agreement, attested by a notary or advocate to the Inland Revenue by the 31 March 2012, or
b) the promise of sale agreement in respect of the property must have been registered with the Commissioner of Inland Revenue by 14 September 2011 and the applicant must submit an authenticated copy of the final deed of purchase proving that the final deed of purchase was published by 31 March 2012.

The applicant shall be assessed in accordance to the "fit and proper" suitability criteria to ascertain that he is a person of good character and good morals, never been adjudged bankrupt, has a clean police record, nor debarred from entry to a profession or occupation.

The applicant must not stay in any other jurisdiction for more than 183 days in a calendar year.

The applicant must prove that he is in receipt of a stable and regular source of income to sufficiently maintain himself / herself and his dependants without recourse to the social assistance system in Malta. Furthermore, the applicant must also be in possession of a valid travel document, and a valid sickness insurance which covers himself and his dependants (key-plan insurance cover).

HNWIR – Non-EU / non-EEA / non-Swiss Nationals Rules

Non-EU / non-EEA / non-Swiss Nationals must adhere to the same criteria as EU /EEA and Swiss nationals. However, they must also, on application, commit to a financial bond of €500,000 and €150,000 per dependent. This bond shall take the form of a qualifying contract, which the Government of Malta shall hold by title of gratuitous voluntary deposit. This bond shall be restored to the applicant, upon sufficient evidence being provided that the applicant has renounced to the special tax status, within four (4) years from the date of the qualifying contract.

Likewise Non-EU / non-EEA / non-Swiss Nationals must adhere to the minimum stay requirements of ninety (90) days in Malta, per year, and renew their visa permits periodically.

In the case of Non-EU / non-EEA / non-Swiss Nationals , an applicant must state at the very beginning whether s/he will be applying as a longterm resident or not. In the event that the applicant's intention is not to be a long-term resident, then such person cannot stay in Malta for more than 9 months in a calendar year. A person who stays in Malta for more than 9 months in a calendar year shall be considered a long-term resident and is required to enter into a 'Qualifying Contract' with the Government of Malta. Iin the case of long-term residents, the requirement to contribute an amount to the Government of Malta of €500,000 and €150,000 for each dependant in terms of the guidelines has been removed.

Tax Treatment

Upon a successful application of the application, the beneficiary shall be entitled to the following rate of income tax:

- HNWIR – EU/EEA/Swiss Nationals – at a rate of 15% on foreign income remitted to Malta, together with the possibility of claiming double tax relief on such income subject to the minimum annual tax liability of €20,000 per annum for the applicant and €2,500 per dependant;
- HNWIR – Non-EU / non-EEA / non-Swiss Nationals Rules – at a rate of 15% on income remitted to Malta, subject to a minimum tax rate of EUR 25,000 per annum for the applicant and EUR 5,000 per dependan
- In the year when the HNWI status is obtained or lost, the minimum tax will be calculated on a pro-rata basis. However, any income arising in Malta from any trade, business, profession or vocation will be subject to a flat rate of tax of 35%. The minimum tax for the first year is payable by not later than the tax return date and will not be subject to provisional tax. In subsequent years, the beneficiary is subject to payment of provisional tax in accordance with the normal Payment of Provisional Tax Rules.

An application for the aforesaid favourable tax treatment may only be entertained by Authorised Registered Mandatories.

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