



MALTA TAX LAW UPDATE

Update 26

EDITOR'S NOTE

This quarter has been particularly busy. Around seven Legal Notices, at least five important judgments from the European Court, the Budget Speech, a Budget Bill and important communications from the European Commission and OECD confirm that change is happening fast.

Legal Notices published this quarter are very important bringing into being new tax deductions and credits (in the form of NID and VOPS) as well as material changes to the Fringe Benefit Rules.

Those of us who advise on leasing structures should closely monitor the implications of the CJEU's judgment in HMRC v Mercedes-Benz Financial Services UK Ltd. The judgment in Egiom SAS and Enka SA creates hope in a fairer tax system. National tax legislation subjecting the grant of a tax advantage due in terms of the P/S Directive to a principal purpose test was found to be incompatible with EU law. Two interesting judgments relating to Trusts have been delivered too.

The technical importance of the Budget Speech has been eclipsed by the Budget Bill. Arguably, the most important technical announcement in the Budget Speech is its reference to the introduction of VAT Grouping. The Budget Bill proposes changes to the remittance basis of taxation and (indirectly) an enhancement of the Participation Exemption. In addition, new rules regulating the tax treatment of Intellectual Property are expected too.

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INDEX

1.	LEGISLATIVE CHANGES	PAGE 3
1.1	ACTS OF PARLIAMENT	PAGE 3
1.2	LEGAL NOTICES	PAGE 3
2	BILLS	PAGE 6
3	JUDICIAL DECISIONS	PAGE 7
3.1	JUDGMENTS OF THE ART	PAGE 7
3.2	JUDGMENTS OF THE FIRST HALL CIVIL COURT	PAGE 7
3.3	JUDGMENTS OF THE CONSTITUTIONAL COURT	PAGE 7
3.4	JUDGMENTS OF THE COURT OF APPEAL	PAGE 7
3.5	JUDGMENTS OF THE CJEU	PAGE 7
4	OTHER	PAGE 10
4.1	THE BUDGET SPEECH	PAGE 10
4.1.1	INCOME TAX	PAGE 10
4.1.2	VAT	PAGE 10
4.1.3	DUTY ON DOCUMENTS AND TRANSFERS	PAGE 10
4.2	NEW FRINGE BENEFIT GUIDELINES	PAGE 11
5	MISCELLANEOUS DEVELOPMENTS	PAGE 11

1 LEGISLATIVE CHANGES

1.1 Acts of Parliament

None.

1.2 Legal Notices

L.N. 175 of 2017 INCOME TAX ACT (CAP. 123) Deductions and Tax Credits (Relevant Qualifications for Industry) Rules, 2017

This LN prescribes that an individual who is a *student* is entitled to a special tax credit when, after following a *relevant course*, he successfully completes that course.

With effect from the 1st January 2017, the tax credit is an amount as may be determined by the Ministry that shall not exceed seventy per cent (70%) of the *study costs* paid by the student for the period commencing on the date of the commencement of the relevant course till the end of the relevant course or on a date specified by the Ministry.

"Relevant course" is defined as meaning a course of studies leading to a *relevant qualification*.

"Relevant qualification" is defined as meaning a certification, degree or post-graduate degree approved by the Ministry for the purposes of these rules, awarded on the successful completion of a relevant course and undertaken through a university, institution or another entity recognised by the Ministry.

"Student" is defined as meaning an individual following a relevant course.

"Study costs" is defined as meaning such fees paid by an individual to the university, institution or other entity recognised by the Ministry for the admission and attendance to the relevant course and for sitting for the examinations required to achieve the relevant qualification or as specified in the guidelines.

The tax credit is due as a deduction from the tax payable by the student on his chargeable income for the year of assessment commencing on the 1st January of the year immediately following that in which the relevant qualification is obtained, and any amount not absorbed by the tax payable for that year of assessment may be carried forward to be allowed as a tax credit for the subsequent ten years of assessment. The beneficiary of the tax credit may be the student or his/her parents, as the case may be. Compliance obligations apply.

L.N. 205 of 2017 INCOME TAX ACT (CAP. 123) Fringe Benefits (Amendment) Rules, 2017

The LN introduces an important rule; Rule 3A prescribing that Fringe benefits are deemed to arise in the country where services are wholly or principally performed. In the case of directors, Fringe Benefits arise in the country where there is management and control.

Rule 9 (3) confirming that use of vehicles by messengers and drivers does not constitute a fringe benefit has been clarified. Rules 8,10 and 16 provide that 'vans' have been specifically included in the list of non-taxable vehicles. Rule 14 (2) which previously used to provide that annual value of vehicles worth <EUR16k used for point to point services was 20% has been changed. Henceforth, the annual value has been reduced to 0%. In Rule 19 the cost of immovable property is no longer to be increased by 5 times of annual ground rent.

Rule 23 (c) dealing with the conditions relating to treatment of accommodation not consisting in a Fringe Benefit have been rendered less stringent (henceforth an exemption applies when employer company has a secured liability to a shareholder and the creditor is a bank which is a debtor of the associated company but the debt is not for a long term loan and is not connected with the financing of the property).

Rule 24 as amended dealing with the annual value of property subject to emphyteusis has been enhanced with more detailed valuation rules (value is higher of 5% of market value/ 5% of cost and ground-rent. The exemptions in Rule 39 have been widened. Exempt Cost of travel is to include relocation costs and costs of journeys between shifts. The health insurance exemption will apply to officers too (when the scheme is generally available). A new exemption for health related costs (costs of medical exams, preventive medical care for work-related risks, work related counselling) has been introduced.

In Rule 26 the benchmark interest rate has been changed (the benchmark interest rate will be the rate of main refinancing operations instead of the central intervention rate). The rate of interest has been decreased from 8.5% to 6.5%. In Rule 27 the value of beneficial loan arrangements to person holding >25% shareholding is to be valued at 0.

Even Rule 33 has been changed. Special rules for transfers of motor vehicles have been introduced. The value of the in-house property benefit is to be reduced by the in-house benefit reduction. In-house goods and services consumed or availed of on employer premises is to be taken at 0. Rule 37 has been amended too. The value of share-option schemes is no longer to be taken at 42.85% of excess but is to be taken on the full excess but taxed at 15%.

L.N. 207 of 2017 INCOME TAX ACT (CAP. 123) Deductions and Tax Credits (Relevant Qualifications for Industry) (Amendment) Rules, 2017

The administration and processing of applications, whether pending or otherwise, submitted by or after the 31st December 2016, has been assigned to the Ministry for Education and Employment. More importantly, the LN provides that the Ministry shall not issue the tax credit certificate in respect of a course of studies that commences after the commences after the 31st December, 2016 (previously the law used to refer to a 2020 cut-off date).

L.N. 209 of 2017 VALUE ADDED TAX ACT (CAP. 406) Remission of Interest and Administrative Penalties (Amendment) Rules, 2017

This LN grants the Commissioner the power to remit wholly or in part, any interest incurred and any administrative penalty incurred under any of the provisions of the Value Added Tax Act, the Customs and Excise Tax Act and the Value Added Tax Act, 1994.

L.N. 228 of 2017 INCOME TAX ACT (CAP. 123) Voluntary Occupational Pension Scheme Rules, 2017 ('VOPS')

VOPS provides for a special tax credit (deduction from the amount of income tax).

Rule 5 of VOPS prescribes that a *qualifying employer* making *qualifying contributions* to a *qualifying scheme* for the benefit of one or more *qualifying employees* shall, in respect of each such qualifying employee and subject to the rules, be entitled to a tax credit amounting to the lower of 15% of the amount of qualifying contribution paid during a year and one hundred and fifty euro (€150) or such other amount as may be prescribed by the Minister from time to time. The tax credit may be carried forward. Any contributions or payments referred to above made by a qualifying employer for the benefit of a qualifying employee shall not be deemed to be a benefit provided by the qualifying employer to the qualifying employee by reason of employment or office for the purposes of the Fringe Benefits Rules.

Rule 4 establishes that VOPS apply only in respect of qualifying contributions made to a qualifying scheme by or on behalf of any individual who:

- (i) derives chargeable income in terms of article 4(1)(b) of the Act and who is duly registered for Maltese income tax purposes;
- (ii) is employed by the qualifying employer; and
- (iii) does not benefit under the Highly Qualified S.L. 123.126 Persons Rules.

A qualifying employee who also makes qualifying contributions into the qualifying scheme is eligible for a tax credit amounting to 15% of the aggregate amount of the qualifying contributions made during a year, up to a maximum of €150 or such other amount as may be prescribed by the Minister from time to time. Qualifying contributions eligible to the credit shall be disclosed in the Payee Statement of Earnings (FS3) that the payer is required to prepare in terms of rule 21 of the Final Settlement System (FSS) Rules.

A qualifying contribution made to a qualifying scheme which is reported to the Commissioner in accordance with the rules is considered as approved by the Commissioner for the purposes of article 14(1) (e) of the Act but the total deductions that can be claimed by the qualifying employer in terms of the provisions of article 14(1)(e) of the Act in respect of qualifying contributions, shall in respect of each qualifying employee amount to the lower of the qualifying contribution actually paid and two thousand euro (€2,000).

The term "qualifying employer" is defined as meaning any person, whether corporate or unincorporate, and whether vested with legal personality or not, which employs individuals to carry out the economic activity for which it is established and which is registered as a payer for the purposes of the Final Settlement System (FSS) Rules. A qualifying employer includes a self-occupied person;

"Qualifying contribution" is defined as a contribution or payment made to a qualifying scheme in respect of which the provisions of the rules apply.

"Qualifying employer" is defined as meaning any person, whether corporate or unincorporate, and whether vested with legal personality or not, which employs individuals to carry out the economic activity for which it is established and which is registered as a payer for the purposes of the Final Settlement System (FSS) Rules.

"Qualifying employee" is defined as an individual on whose behalf or by whom contributions or payments to a qualifying scheme are made who fulfils the requirements of rule 4;

"Qualifying scheme" is defined as meaning a retirement scheme or a long term contract of insurance that fulfils the following requirements and which is approved by the Commissioner:

Compliance obligations apply and apply to beneficiaries of VOPS as well as to licence holders..

L.N. 262 of 2017 INCOME TAX ACT (CAP. 123) NOTIONAL INTEREST DEDUCTION RULES

NID is a special tax deduction available to 'undertakings' (companies or partnerships resident in Malta or permanent establishments of non-resident companies or partnerships) which is calculated as follows:

$$\text{NID} = 'A' \times 'B'$$

Where:

'A' is the 'reference rate'. The reference rate is the risk free rate plus a premium of 5%. The NID Rules provide that, for the purposes of computing the NID, the risk free rate is to be determined by reference to the current yield to maturity on Malta Government Stocks with a remaining term of approximately 20 years.

'B' is 'risk capital' of the undertaking for the accounting period ending in the year preceding the year of assessment. For undertakings being a company or partnership resident in Malta, risk capital consists of the share or partnership capital, any share premium, positive retained earnings, loans or other debt borrowed by the undertaking which do not bear interest, and any other reserves resulting from a contribution to the undertaking, as well as any other item shown as equity in the undertaking's financial statements. The risk capital of permanent establishments of non-resident companies or partnerships, is the capital of the non-resident undertaking which is attributable to the permanent establishment.

2 BILLS

NID is optional and an undertaking may waive its right to NID. The NID may not exceed 90% of the undertaking's chargeable income for the year. When, in any particular tax year, NID exceeds 90% of chargeable income the excess is carried forward to subsequent years.

When an undertaking claims a NID, the shareholder/partner of the undertaking claiming NID is deemed to have received in that year an amount of interest income equal to the NID claimed by the undertaking for the relevant year of assessment. The investment income provisions do not apply to imputed income under the NID Rules. When NID is availed of an amount corresponding to 110% of profits relieved by NID is allocated to the Final Tax Account.

L.N. 274 of 2017 INCOME TAX ACT (CAP. 123) Deduction (Embellishment Project) Rules, 2017

Legal Notice 274 introduces a new deduction. Rule 3 of the LN prescribes that where a *qualifying person* incurs expenditure in an undertaking a *qualifying project*, a deduction equivalent to 120% of the cost incurred on such expenditure in any year may be claimed in the relative year of assessment against the said person's income from trade or business chargeable to tax. The deduction claimed under the rules may not exceed €90,000 in any year.

'Qualifying person' is defined as meaning a person carrying on a trade or business who undertakes a qualifying project. 'Qualifying project' is defined as meaning an embellishment or other project useful to the local community that has been approved as such in writing by the Local Council and the Directorate on or after 1st January 2017, following an application made in this respect on such form as the Directorate may require. Such project must be wholly a community asset on which the qualifying person retains no proprietary rights and for which the said qualifying person is not remunerated in any way.

When a deduction is claimed under the rules, no other deduction may be claimed in respect of the same expenditure and when the qualifying person benefits from any form of assistance in relation to the said expenditure by the Government or from any other entity, the amount of such benefit or assistance shall be subtracted from the expenditure on which the deduction under these rules may be claimed. A qualifying person may not claim a deduction under the rules for more than one qualifying project in any year. Compliance obligations apply.

2 Bills

A Budget Bill published a few days after the Budget Speech includes proposals for important changes to the Income Tax Act.

One of the proposed changes refers to the definition of the term 'participating holding'. In the Bill, the 10% threshold will be brought down to 5%. New rules relating to the classification of interests in EEIG's and partnerships are contemplated too.

Some of the changes proposed by the Bill refer to the remittance basis of taxation. An amendment to article 4 dealing with the non-applicability of the remittance basis of taxation to long-term residents and holders of permanent residence certificates reflects the content of subsidiary legislation but the proposed introduction of a new Article, Article 56 (27) will have much more far-reaching consequences. Non-domiciled persons not falling under any structured tax scheme who derive income arising outside Malta of not less than EUR35,000 which is not received in Malta will become subject to a minimum tax of EUR5,000.

Other proposed changes include changes in the definition of the term 'project' relevant to property transfers tax and rules dealing with partitions. A proposed amendment to Article 12 (1) ITA will exempt MCAST from tax. Financial assistance received by a parent in respect of the maintenance of a child paid in terms of a public deed regulating the obligations of the parent could become tax exempt too.

Rules on the deductibility of capital expenditure on intellectual property could be improved. The Bill provides that expenditure will be spread equally over a number of years (and not over the life of the asset) which shall not be less than 3 years. It would appear that the rule incorporated in the third proviso to 14 (1) (m) ITA providing that any sums receivable from any sales of Intellectual Property shall be included as total income for the year receivable will be removed.

3 JUDICIAL DECISIONS

The Bill provides for a new tax deduction on a not exceeding a percentage of qualifying income from qualifying intellectual property incurred in a trading context or otherwise. The new deduction would be backed by a Legal Notice.

A proposed amendment to Article 31D ITA reflects the contents of the IRD's guideline dealing with the tax treatment of rents. Rural tenements are covered by 31D too. A new measure provides for reduced rates of tax for the underprivileged.

3.1 Judgments of the ART

Rikors Nru. 121/13VG XXX Vs Direttur Generali (Taxxa fuq il-Valur Mizjud)

In this VAT ('reference') Appeal taxpayer petitioned the Tribunal to waive interest on late payment of tax. The numbers involved were highly material and the facts of the case were quite complex (long drawn litigation with respect to the correct VAT classification of fuel). The tax payer based his claim on the argument that he had not acted in bad faith. The Tribunal agreed that taxpayer had not acted in bad faith conceding that interest on late payment had to be reduced. Nonetheless, the Tribunal held that there was a period of time when taxpayer could have been more prudent. The Tribunal was critical of the fact that the VAT Department had not provided taxpayer with the necessary guidance. The Tribunal observed that the VAT Department has a duty to guide taxpayers with respect to the correct interpretation of the law, more so in complex cases such as the case in point. Consequently, the Tribunal ordered an abatement of interest (and consequently the payment of a refund) with respect to the period of time when taxpayer had not received the necessary guidance from the Department.

Rikors Nru. 192/12VG XXX Vs Kummissarju tat-Taxxa fuq il-Valur Mizjud

This VAT Appeal involved a disagreement between a taxpayer and the VAT Department with respect to Exports, Output Tax, Input Tax and Mark-up. The Tribunal held that evidence produced was defective and the appeal was rejected. In delivering judgment the Tribunal corrected some numerical errors in the computations submitted to it (increasing deemed tax and decreasing rate of additional tax).

3.2 Judgments of the First Hall Civil Court

No important judgments.

3.3 Judgments of the Constitutional Court

No important judgments.

3.4 Judgments of the Court of Appeal

No important judgments.

3.5 Judgments of the CJEU

Case C-132/16, Direktor na Direktsia 'Obzhalvane i danachno-osiguritelna praktika' — Sofia v 'Iberdrola Inmobiliaria Real Estate Investments' EOOD

The CJEU held that Article 168(a) of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax must be interpreted as meaning that a taxable person has the right to deduct input value added tax in respect of a supply of services consisting of the construction or improvement of a property owned by a third party when that third party enjoys the results of those services free of charge and when those services are used both by the taxable person and by the third party in the context of their economic activity, in so far as those services do not exceed that which is necessary to allow that taxable person to carry out the taxable output transactions and where their cost is included in the price of those transactions.

3 JUDICIAL DECISIONS

Case C-628/15 The Trustees of the BT Pension Scheme v Commissioners for Her Majesty's Revenue and Customs

The Court held that:

1. Article 63 TFEU must be interpreted as conferring, in circumstances such as those at issue in the main proceedings, rights on a shareholder receiving dividends treated as 'foreign income dividends'.
2. EU law requires that the domestic law of a Member State provide remedies to shareholders who, in a situation such as that at issue in the main proceedings, have received dividends treated as 'foreign income dividends' but have not, however, obtained a tax credit in respect of those dividends, in order to enable those shareholders to enforce the rights that Article 63 TFEU confers on them. In that regard, the national court with jurisdiction must ensure that shareholders not subject to income tax in respect of dividends who have received dividends that have their origin in foreign-sourced dividends treated as 'foreign income dividends', such as the Trustees of the BT Pension Scheme, have a remedy which, first, ensures payment of such a tax credit — of which the beneficiaries have been unduly deprived — under rules which are not less favourable than those relating to an action seeking payment of a tax credit, or of a comparable tax advantage, in a situation where the tax authorities have unduly deprived the beneficiaries of that tax credit or of that tax advantage on a distribution of dividends which have their origin in the dividends received from a UK-resident company and, second, allows the protection of the rights conferred on such shareholders by Article 63 TFEU to be guaranteed in an effective manner.
3. Neither the fact that the Trustees of the BT Pension Scheme are not subject to income tax in respect of the dividends they receive, the fact that the infringement of EU law at issue is not, in the referring court's view, sufficiently serious so as to give rise to the non-contractual liability of the Member State concerned in favour of the company distributing dividends treated as 'foreign income dividends', under the principles established in the judgment of 5 March 1996, *Brasserie du pêcheur and Factortame* (C-46/93 and C-48/93, EU:C:1996:79) nor the fact that a UK-resident company has distributed an increased amount of dividends treated as 'foreign income dividends' in order to make up for the fact that the recipient shareholder was not entitled to a tax credit are such as to alter the answers given to the other questions asked by the referring court.

Case C-646/15 Trustees of the P Panayi Accumulation & Maintenance Settlements v Commissioners for Her Majesty's Revenue and Customs

The Court ruled that the provisions of the Treaty relating to freedom of establishment preclude, in circumstances, such as those in the main proceedings, where the trustees, under national law, are treated as a single and continuing body of persons, distinct from the persons who may from time to time be the trustees, legislation of a Member State, such as that at issue in the main proceedings, which provides for the taxation of unrealised gains in value of assets held in trust when the majority of the trustees transfer their residence to another Member State, but fails to permit payment of the tax payable to be deferred.

Case C-6/16 Egiom SAS, formerly Holcim France SAS, Enka SA v Ministre des Finances et des Comptes publics

The Court ruled that Article 1(2) of Council Directive 90/435/EEC of 23 July 1990 on the common system of taxation applicable in the case of parent companies and subsidiaries of different Member States, as amended by Council Directive 2003/123/EC of 22 December 2003, first, and Article 49 TFEU, secondly, must be interpreted as precluding national tax legislation, such as that at issue in the main proceedings, which subjects the grant of the tax advantage provided for by Article 5(1) of that directive — namely, the exemption from withholding tax of profits distributed by a resident subsidiary to a non-resident parent company, where that parent company is directly or indirectly controlled by one or more residents of third States — to the condition that that parent company establish that the principal purpose or one of the principal purposes of the chain of interests is not to take advantage of that exemption.

3 JUDICIAL DECISIONS

Case C-164/16 Commissioners for Her Majesty's Revenue & Customs v Mercedes-Benz Financial Services UK Ltd*

The Court of Justice held that the words 'contract for hire which provides that in the normal course of events ownership is to pass at the latest upon payment of the final instalment', used in Article 14(2)(b) of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax, must be interpreted as applying to a leasing contract with an option to purchase if it can be inferred from the financial terms of the contract that exercising the option appears to be the only economically rational choice that the lessee will be able to make at the appropriate time if the contract is performed for its full term, which it is for the national court to ascertain.

Case C-101/16 SC Paper Consult SRL v Direcția Regională a Finanțelor Publice Cluj-Napoca, Administrația Județeană a Finanțelor Publice Bistrița-Năsăud.

The Court held that Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax must be interpreted as precluding national rules, such as those at issue in the main proceedings, under which the right to deduct value added tax is refused to a taxable person on the ground that the trader which supplied a service to that taxable person and issued a corresponding invoice, on which the expenditure and the value added tax are indicated separately, has been declared inactive by the tax authorities of a Member State, that declaration of inactivity being public and accessible on the internet to any taxable person in that State, in the case where that refusal of the right to deduct is systematic and final, making it impossible to adduce evidence that there was no tax evasion or loss of tax revenue.

Case C-404/16 Lombard Ingatlan Lízing Zrt. V Nemzeti Adó- és Vámhivatal Fellebbviteli Igazgatóság

The Court held that the concepts of 'cancellation' and 'refusal' in Article 90(1) of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax must be interpreted as including a situation in which, under a financial leasing agreement with definite transfer of ownership, the lessor may no longer claim payment of the leasing instalment from the lessee because the lessor has terminated the agreement owing to breach of contract by the lessee.

Where a financial leasing agreement has been definitively terminated because of non-payment of the lease instalments payable by the lessee, the lessor may rely on Article 90(1) of Directive 2006/112 against a Member State with a view to obtaining a reduction of the taxable amount for value added tax, even if the applicable national law considers that situation to be a case of 'non-payment' within the meaning of Article 90(2) of the directive and does not allow the taxable amount to be reduced in the case of non-payment.

Case C-273/16 Agenzia delle Entrate v Federal Express Europe Inc

The Court held that Article 144 in conjunction with Article 86(1)(b) of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax must be interpreted as precluding national legislation such as that at issue in the main proceedings which requires, for the application of an exemption from value added tax for ancillary services, including transport services, not only that their value is included in the taxable amount, but also that value added tax has in fact been charged on those services at the customs stage at the time of importation.

Case C-326/15 'DNB BANKA' AS v Valsts ienemumu dienests

The Court held that Article 132(1)(f) of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax must be interpreted to the effect that the exemption provided for in that provision relates only to independent groups of persons whose members carry on an activity in the public interest referred to in Article 132 of that directive and that, therefore, the services supplied by a group whose members carry on an economic activity in the area of financial services, which does not constitute such an activity, in the public interest are not entitled to that exemption.

Case C-132/16, Direktor na Direktsia 'Obzhalvane i danachno-osiguritelna praktika' v 'Iberdrola Inmobiliaria Real Estate Investments' EOOD

The Court ruled that Article 168(a) of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax must be interpreted as meaning that a taxable person has the right to deduct input value added tax in respect of a supply of services consisting of the construction or improvement of a property owned by a third party when that third party enjoys the results of those services free of charge and when those services are used both by the taxable person and by the third party in the context of their economic activity, in so far as those services do not exceed that which is necessary to allow that taxable person to carry out the taxable output transactions and where their cost is included in the price of those transactions.

4. Other

4.1 The Budget Speech

In his Budget Speech the Minister announced a number of tax measures.

4.1.1 Income Tax

Individuals whose income is less than €60,000 per annum will benefit from a reduction in tax. The reduction in tax shall be in the form of a cheque payment. Individuals whose pension income does not exceed €13,200 will not be subject to tax.

4.1.2 VAT

The Article 11, Small undertakings, services registration threshold will be increased from €14,000 to €20,000.

The VAT rate for hiring of bicycles is to be reduced from the standard rate of 18% to the reduced rate of 7%.

The VAT refund scheme associated with the acquisition of Bicycles and Pedelec Bicycles will be extended for another year and will also be open for companies which offer such bicycles for hire.

Entities having an independent legal personality and a Maltese fixed establishment with common financial, economic and organisation relationship and regulated to operate in the financial and gaming sectors will have the opportunity to register as a single taxable person for the purposes of VAT. This will ensure that intragroup supplies will fall outside the scope of VAT.

4.1.3 Duty on Documents and Transfers

The tax scheme for First-Time Buyers originally introduced in 2014 will be extended for another year. Individuals, termed "Second-Time Buyers", who sell their residential home, being their sole owned immovable property, and acquire another ("second home") shall receive a refund of a maximum of €3,000 of the duty on documents paid on the acquisition of the second home.

Where the individual is a disabled person, the maximum refund is increased to €5,000. The Second-Time Buyers refund will also, subject to a number of conditions, apply to the parents of a disabled person when the disabled person resides therewith.

The reduced rate of duty 2.5% applicable on the acquisition of immovable property situated in an Urban Conservation Area will be extended for another year.

The reduced rate of duty of 2% applicable on the acquisition of immovable property in Gozo will be extended for another year.

5 MISCELLANEOUS DEVELOPMENTS

4.2 New Fringe Benefit Guidelines

In summer, the Inland Revenue Department published a new Tax Guide on Fringe Benefits. The Guide supersedes the 2001 guide. The new tax guide reflects recent amendments and incorporates worked examples.

5. Miscellaneous Developments

- The Double Tax Treaty between Malta and the Ukraine has been brought into force.
- The Double Tax Treaty between Malta and Andorra has been brought into force.
- An arrangement between the competent authority of the USA and the competent authority of Malta on the exchange of country-by-country reports was entered into.
- The OECD released updated Guidance on the Implementation of Country-by-Country Reporting: BEPS Action 13.
- The OECD released the draft contents of the 2017 update to the OECD Model Tax Convention.
- The European Commission launched a new EU agenda to ensure that the digital economy is taxed in a fair and growth-friendly way. Developments are expected in December.
- COUNCIL DIRECTIVE on Tax Dispute Resolution Mechanisms in the European Union was published in the Official Journal on 2 October 2017. The Directive provides for mechanisms in the Union that ensure the effective resolution of disputes concerning the interpretation and application of bilateral tax treaties and the Union Arbitration Convention, in particular disputes leading to double taxation.
- Malta signed a double Tax Treaty with Botswana.

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