



MALTA  
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DUTY ON  
DOCUMENTS AND  
TRANSFERS  
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## AGENDA

- Introduction
- Transfers of immovable property
- Transfers of marketable securities
- Other applicable duty rates
- Duty schedules
- Case studies



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# INTRODUCTION

## DUTY ON DOCUMENTS AND TRANSFERS

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## THE DUTY ON DOCUMENTS AND TRANSFERS ACT INTRODUCTION

- The Duty on Documents and Transfers Act, chapter 364 of the laws of Malta ('DDTA'), provides for an indirect tax, or duty, which is levied on certain documents and transfers.
- It is a separate act from the Income Tax Act, chapter 123 of the laws of Malta ('ITA'), and has its specific rules which, although may be similar to the ones prescribed by the ITA, may vary in certain instances.



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## DOCUMENTS AND TRANSFERS SUBJECT TO DUTY INTRODUCTION

- Documents subject to duty in Malta are:
  - Transfers of immovable property or any real rights thereon, both *inter vivos* and *causa mortis*
  - Transfers of marketable securities, both *inter vivos* and *causa mortis*
  - Transfers of the beneficial interest in a trust
  - Insurance policies
  - Any of the above executed outside Malta but used in Malta



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## DOCUMENTS AND TRANSFERS SUBJECT TO DUTY

### INTRODUCTION

#### Article 4 DDTA

A document subject to duty under the DDTA shall become so subject either from its origin if it is executed in Malta or by reason of its use if it is executed outside Malta

#### Article 6(2) DDTA

A document executed outside Malta is deemed to be made use of in Malta where it is produced before a court, arbitrator or referee as evidence or is produced before any person or authority in Malta for its enforcement or registration



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## DEFINITION OF DOCUMENT

### INTRODUCTION

- Article 2 DDTA
- “document” includes:
  - a policy of insurance,
  - a bill of sale,
  - a notarial deed,
  - a schedule of redemption of ground rent filed in court, and
  - a judgement, decree or order of any court or other lawful authority whereby any immovable or real right over an immovable is transferred



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## DEFINITION OF TRANSFER

### INTRODUCTION

- Article 2 DDTA
- “transfer” includes any assignment, conveyance, sale, partition, donation, settlement of dowry, sale by instalments, redemption of ground rent and any acquisition under any other title, including a declaratory public deed as is referred to in the relevant provisions of the Companies Act, and any occurrence that is deemed to be a transfer in accordance with the provisions of article 42B DDTA and for the avoidance of doubt includes any transfer of an asset by a company to its shareholders, or by a partnership to its members, in the course of winding up the company or partnership or in the course of a distribution of assets to its shareholders or members pursuant to a scheme of distribution but, except where specifically provided in the DDTA, does not include any transfer *causa mortis*

Article 42B DDTA → reduction of real value of shares (i.e. value shifting)



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## BY WHOM DUTY ON TRANSFERS IS DUE

### INTRODUCTION

- Duty is typically paid by the person who is the acquirer for the purposes of the specific transaction.
- However, the transferor and the transferee are jointly and severally liable for the payment of duty.

#### Article 49(1) DDTA

The transferor in a transfer *inter vivos* and the transferee, and where the transfer is effected by public deed or in the case of a declaration of transfers *causa mortis* the notary publishing the relative deed, shall be jointly and severally liable to pay the duty chargeable on such transfer or deed



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## BY WHOM DUTY ON TRANSFERS IS DUE

### INTRODUCTION

- **Provisos to article 49(1) DDTA**
- The liability of the notary publishing such deed shall be limited to the duty chargeable on such transfer.
- The notary shall have a special privilege in respect of the duty payable and paid by him on any transfer effected or declaration made by a public deed, over the immovable transferred.
- The duty chargeable on a schedule of redemption of ground-rent shall be paid by the emphyteuta.
- Where duty is chargeable on the transfer of foreign marketable securities referred to in article 42(1)(a)(i) DDTA, the company that directly owns the immovable property situated in Malta or the real rights thereon shall be jointly and severally liable with the transferor and transferee for payment of the duty chargeable on such transfer of foreign marketable securities.



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## DUTY IN THE CASE OF THE VALUE SHIFTING PROVISIONS

### INTRODUCTION

- **Article 49(2) DDTA**
- Duty as provided in article 42B DDTA (Value Shifting Provisions) shall be paid to the Commissioner by the transferee acquiring value within 15 working days from the date of the change referred to in the said article.
- Such shareholder shall submit, together with the payment referred to above, any other documents, forms and details as may be prescribed.

**Article 42B DDTA → reduction of real value of shares (i.e. value shifting)**



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## DUTY RATES

### INTRODUCTION

- The DDTA uses the following wording:
- *'a duty of €5 for every €100 or part thereof of the amount or value of the consideration for the transfer of such thing or of the value of such thing, whichever is the higher'*
- Therefore, in order to calculate the value of the duty to be levied, one needs to round up to the nearest €100 and then calculate the duty at the applicable % rate accordingly.



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## TRANSFERS OF IMMOVABLE PROPERTY

### DUTY ON DOCUMENTS AND TRANSFERS

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## GENERAL RULE

### TRANSFERS OF IMMOVABLE PROPERTY

- Article 32(1) DDTA
- There shall be charged on every document and on every judgement, decree or order of any court or other lawful authority, whereby any immovable or any real right over an immovable is transferred to any person, and on every declaration of transfers *causa mortis* in respect of persons from whom the transfer *causa mortis* originates who died on or after 23 November 1999, a duty of €5 for every €100 or part thereof of the amount or value of the consideration for the transfer of such thing or of the value of such thing, whichever is the higher.
- There are instances whereby certain exemptions / reduced rates might potentially find application.



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## ACQUISITION OF RESIDENTIAL PROPERTY IN GOZO

### TRANSFERS OF IMMOVABLE PROPERTY

- Rule 4(1) S.L. 364.12
- In the case of a transfer *inter vivos* of residential property situated in Gozo, the duty otherwise chargeable in terms of the DDTA shall be chargeable at the rate of €2 for every €100 or part thereof of the amount or value of the consideration for the transfer of the property or the value of the property, whichever is the higher.
- This article shall only apply where all the following conditions have been satisfied:
  - The notice of the promise of sale agreement in relation to such transfer is given to the Commissioner for Revenue on or after the 18 October 2016;
  - The final deed relative to the said transfer shall be made by the 31 December 2023 and the notice of the final deed relative to the said transfer shall be given to the Commissioner for Revenue by the 28 February 2024;
  - No relief is claimed under article 32C of the DDTA.



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## EXEMPTIONS

### TRANSFERS OF IMMOVABLE PROPERTY

- Article 32(3) DDTA
- No duty shall be charged on the transfer of immovable property:
  - Between persons who are, or were formerly, married to each other, when such assets are assigned between them consequent to a consensual or judicial separation or to a divorce between such persons; or
  - Between persons who are, or were formerly, married to each other, on the dissolution of the community of acquests existing between them; or
  - Between persons who are married to each other, whether the community of acquests exists between them or otherwise, on any transfer *inter vivos* of the ordinary residence or part thereof, of any or both of the spouses; or
  - On the death of one spouse, on any partition of any property held in common between spouses, whether it is community property or otherwise, between the surviving spouse and the heirs of the deceased spouse; or
  - ...

The above exemptions apply to both transfers of **immovable property** and transfers of **marketable securities**



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## EXEMPTIONS

### TRANSFERS OF IMMOVABLE PROPERTY

- Article 32(3) DDTA
- No duty shall be charged on the transfer of immovable property:
  - Between cohabitants whose cohabitation is enrolled by means of a public deed under the Cohabitation Act, 2020, when such assets are assigned between them consequent to the dissolution of the cohabitation; or
  - Between cohabitants whose cohabitation is enrolled by means of a public deed under the Cohabitation Act, 2020, on the dissolution of the community between such cohabitants; or
  - Between cohabitants whose cohabitation is enrolled by means of a public deed under the Cohabitation Act, 2020, whether the community of acquests exists between them or otherwise, on any transfer *inter vivos* of the cohabitation home or part thereof, of any or both of the cohabitants; or
  - On the death of one of the cohabitants, whose cohabitation is enrolled by means of a public deed under the Cohabitation Act, 2020, on any partition of any property held in common between the cohabitants, whether it is the community property or otherwise, between the surviving cohabitants and the heirs of the deceased cohabitant.

The above exemptions apply to both transfers of **immovable property** and transfers of **marketable securities**



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## EXEMPTIONS – INTRA-GROUP EXEMPTION

### TRANSFERS OF IMMOVABLE PROPERTY

- Article 32(6)(a) DDTA
- Where the Commissioner issues a certificate attesting that any immovable or any real right over an immovable is transferred from one company to another company forming part of the same group of companies, and that he is satisfied that such requirements or conditions, if any, as may be prescribed by regulations under the DDTA are fulfilled, he shall, according to the case, either refund the duty or order that no duty shall be chargeable on such a transfer.



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## EXEMPTIONS – INTRA-GROUP EXEMPTION

### TRANSFERS OF IMMOVABLE PROPERTY

- The 'group of companies' definition referred to in article 42 of the DDTA is also applicable for the purposes of the intra-group exemption.

#### Article 42 DDTA

*'a group of companies' means:*

- A holding company and its subsidiaries; a company shall be deemed to be a subsidiary if more than 50% of its voting shares are beneficially owned by its holding company; and
- Companies which are controlled and beneficially owned directly or indirectly to the extent of more than 50% by the same shareholders



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## EXEMPTIONS – INTRA-GROUP EXEMPTION

### TRANSFERS OF IMMOVABLE PROPERTY

- Article 32(6)(b) DDTA
- The intra-group exemption shall only apply where the individual, direct or indirect, beneficial owners of the companies referred to in the exemption are the same and each such individual holds, directly or indirectly, substantially the same percentage interest in the nominal share capital and voting rights in each of the said companies.
- An individual is deemed to hold substantially the same percentage interest in the nominal share capital and voting rights in each of the said companies where the difference between the percentage interest held in each company does not exceed 20%.



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## EXEMPTIONS – INTRA-GROUP EXEMPTION

### TRANSFERS OF IMMOVABLE PROPERTY

- Article 32(6)(b) DDTA
- Where an individual holds, directly or indirectly, less than 20% of the nominal share capital and voting rights in only one of the companies referred to in the intra-group exemption, such individual shall not be taken into account in determining whether the individual direct or indirect beneficial owners of the companies referred to in the intra-group exemption are the same.
- If more than one individual holds, directly or indirectly, less than 20% of the nominal share capital and voting rights in one of the said companies, the above shall not apply where together such individuals hold, directly or indirectly, 20% or more of the nominal share capital and voting rights in that company.
- All of the above shall not apply where the companies referred to in the intra-group exemption are directly or indirectly owned as to 80% or more by a company whose securities are listed on a stock exchange recognised by the Commissioner for the purpose of this provision.



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## EXEMPTIONS – TRANSFER OF PROPERTY IN THE COURSE OF A WINDING UP

### TRANSFERS OF IMMOVABLE PROPERTY

- Article 32(6)(c) DDTA
- No duty shall be chargeable on a transfer of immovable property by a company to its shareholder in the course of winding up or in the course of a distribution of assets pursuant to a scheme of distribution, where the said shareholder is an individual or his spouse who owns or owns, directly or indirectly, not less than 95% of the share capital and voting rights of the said company transferring the property as aforesaid and the Commissioner issues a certificate attesting that he is satisfied that the requirements and conditions under this paragraph are fulfilled.



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## EXEMPTIONS – TRANSFER OF PROPERTY IN THE COURSE OF A WINDING UP

### TRANSFERS OF IMMOVABLE PROPERTY

- Article 32(6)(c) DDTA
- The above exemption shall only apply and the Commissioner shall only issue a certificate, where all the following conditions have been satisfied:
  - The said shareholder held, directly or indirectly, not less than 95% of the share capital and voting rights of the company transferring the said immovable property for a period exceeding 5 years immediately preceding the date of the transfer of the property as aforesaid;
  - The said property consists of any immovable property, including land;
  - The said immovable property is held as a capital asset by the company and has been so held for a period exceeding 5 years immediately preceding the date of the transfer of the property as aforesaid.



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## EXEMPTIONS

### TRANSFERS OF IMMOVABLE PROPERTY

- Article 32(7) DDTA
- Subject to certain conditions being satisfied, no duty shall be chargeable on a transfer of an undivided share of a dwelling house, where the dwelling house was immediately before the transfer, co-owned by two individuals and the transfer is made by one of the co-owners to the other.
- Where one of the co-owners dies, the exemption shall apply to the transfer of an undivided share of the dwelling house from the heirs of the deceased co-owner to the other co-owner where any duty chargeable in respect of the property transferred *causa mortis* has been paid, or no duty is payable on such transfer, and the notary declares on the relative deed that the property in question came to the heirs of the deceased co-owner through a transfer *causa mortis* and that a complete declaration has been duly made in the declaration of transfer *causa mortis*.



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## EXEMPTIONS

### TRANSFERS OF IMMOVABLE PROPERTY

- Article 32(8) DDTA
- No duty shall be charged on a deed of partition of immovable property which was acquired by the co-owners through a transfer *inter vivos*, or partly through a transfer *inter vivos* and partly through a transfer *causa mortis* and where the real value of the share of the property assigned under the said deed to each co-owner is equal to the real value of the undivided share held by each co-owner before the partition.
- Where the real value of the share of the property assigned to a co-owner exceeds the real value of the undivided share held by such co-owner before the partition, duty shall be paid on such excess.



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## SPECIAL RULES APPLICABLE TO TRANSFERS CAUSA MORTIS

### TRANSFERS OF IMMOVABLE PROPERTY

- Article 35(1)(a)(i) DDTA
- In assessing the duty chargeable on declarations in accordance with the DDTA, no account shall be taken of:
- The first €35,000 or such other greater amount as may be prescribed of the value of a dwelling house, being an ordinary residence of the person from whom the transfer *causa mortis* originates, in any transfer *causa mortis* of the ownership or usufruct or of any real right over the said dwelling house.

The benefit afforded in terms of this article is taken proportionately where such dwelling house is not fully owned by the person from whom the transfer *causa mortis* originates. Such a proportionate basis is also applied when the dwelling house is transferred to more than one transferee *causa mortis*.



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## SPECIAL RULES APPLICABLE TO TRANSFERS CAUSA MORTIS

### TRANSFERS OF IMMOVABLE PROPERTY

- Article 35(2)(i) DDTA
- Where such property consists of a dwelling house, being the ordinary residence of the person from whom the transfer originates, and where such dwelling house is also occupied at the time of such transfer *causa mortis* by any one or more of the transferees *causa mortis*, duty shall be charged at the rate of €3.50 for every €100 or part thereof of such share transferred to each transferee *causa mortis* occupying such dwelling house as his ordinary residence as represents that part of the value of such dwelling house which exceeds €35,000 but not €200,000, or such greater amounts as may be prescribed.

The benefit afforded in terms of this article is taken proportionately where such dwelling house was not fully owned by the person from whom the transfer *causa mortis* originates.



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## SPECIAL RULES APPLICABLE TO TRANSFERS CAUSA MORTIS

### TRANSFERS OF IMMOVABLE PROPERTY

- Article 35(2)(ii) DDTA
- Where such property consists of a dwelling house not being a dwelling house to which the previous paragraphs refer, but being the ordinary residence occupied by any one or more of the transferees *causa mortis* in a transfer *causa mortis* of the ownership or usufruct of any real right over the said dwelling house, duty shall be charged at the rate of €3.50 for every €100 or part thereof in respect of each share transferred to each transferee *causa mortis* occupying such dwelling house as his ordinary residence as represents the first €200,000 or such greater amount as may be prescribed as aforesaid, of the value of such dwelling house.

The benefit afforded in terms of this article is taken proportionately where such dwelling house was not fully owned by the person from whom the transfer *causa mortis* originates.



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## SPECIAL RULES APPLICABLE TO TRANSFERS CAUSA MORTIS

### TRANSFERS OF IMMOVABLE PROPERTY

- Article 35(2)(iii) DDTA
- Where such property consists of a dwelling house, being the ordinary residence of the person from whom the transfer originates, and the beneficiary of such residence is the surviving spouse or cohabitant, no duty shall be levied at the time of the transfer.



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## SPECIAL RULES APPLICABLE TO TRANSFERS CAUSA MORTIS

### TRANSFERS OF IMMOVABLE PROPERTY

- Article 35(2)(iv) DDTA
- Where all the following conditions are satisfied, that is –
  - The property transferred *causa mortis* consists of any immovable or any real right over an immovable;
  - The transferee *causa mortis* is a person who is on the Register of Persons with Disability kept by the National Commission Persons with Disability set up in terms of the Equal Opportunities (Persons with Disability) Act, and identifies himself as such on the declaration of the relative transfer *causa mortis* by means of an identity card issued by the said Commission;
  - The person from whom the transfer *causa mortis* originates is the parent or the legal guardian of the said transferee *causa mortis*;
- No duty shall be levied at the time of the transfer *causa mortis* of that property.



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## SPECIAL RULES APPLICABLE TO TRANSFERS CAUSA MORTIS

### TRANSFERS OF IMMOVABLE PROPERTY

- Article 35(2)(v) DDTA
- Where all the following conditions are satisfied, that is –
  - The property transferred *causa mortis* consists of a dwelling house or a part thereof, or of any real right over a dwelling house;
  - The property is transferred by the person from whom the transfer *causa mortis* originates to his descendants in the direct line;
  - The said dwelling house was the ordinary residence of the person from whom the transfer originates;
- No duty shall be levied at the time of the transfer *causa mortis* of that property.



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## EXCEPTIONS ON OTHER APPLICABLE RATES

### TRANSFERS OF IMMOVABLE PROPERTY

- Article 32(4)(a) DDTA
- In the case of a person who does not require a permit by the Minister for the purposes of the Immovable Property (Acquisition by Non-Residents) Act and who acquires *inter vivos*, any immovable property or any real right over such property for the purpose of establishing therein or constructing thereon his sole, ordinary residence, or who redeems any ground rent or other burthen imposed on any such property acquired by him by any title *inter vivos*, duty in respect of the first €200,000 or such greater amount as may be prescribed, of the aggregate value of the consideration paid for the acquisition or in the case of a transfer by a gratuitous title which does not qualify for duty relief under article 32C DDTA, of the value of such property and for the redemption of such property, shall be charged at the rate of €3.50 per €100 or part thereof.



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## ACQUISITION OF FIRST PROPERTY

### TRANSFERS OF IMMOVABLE PROPERTY

- Rule 3 S.L. 364.12
- In respect of transfers of property made on or after the 20 October 2020 but before the 1 January 2024, which qualify for relief of duty under article 34(4)(a) of the DDTA, no duty shall be chargeable on the first €200,000 of the aggregate value of the consideration paid for the acquisition of such property by a person, provided that this is the first immovable property acquired *inter vivos* by such person and provided that the notary who receives any deed of such a transfer shall record in the deed a written declaration by the person so acquiring that this is the first immovable property acquired *inter vivos* by him and the notary shall warn the said person of the importance of the truthfulness of such declaration.



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## ACQUISITION OF FIRST PROPERTY

### TRANSFERS OF IMMOVABLE PROPERTY

- Rule 3 S.L. 364.12
- In respect of transfers of property made on or after the 9 June 2020, for the purpose of determining whether the property is the first immovable property acquired *inter vivos* by such person, the previous acquisition by such person of an undivided share of immovable property representing less than 25% of the real value of the whole of such property, shall not be taken into account, so however that this proviso shall not apply if such person has been granted the relief provided under article 32(4)(a) of the DDTA or under this article.



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## ACQUISITION OF FIRST PROPERTY

### TRANSFERS OF IMMOVABLE PROPERTY

- Rule 3 S.L. 361.12
- In respect of transfers of property made on or after the 9 June 2020, for the purpose of determining whether the property is the first immovable property acquired *inter vivos* by such person, the previous acquisition by such person of a garage of not more than 30 square metres, shall not be taken into account, so however that this proviso shall not apply if such person has been granted the relief provided under article 32(4)(a) of the DDTA or under this article.
- The benefit would apply on a pro-rata basis according to the share of the property being acquired.



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## ACQUISITION OF SECOND IMMOVABLE PROPERTY TO BE USED AS SOLE RESIDENCE

### TRANSFERS OF IMMOVABLE PROPERTY

- Rule 2 S.L. 364.17
- Where an individual transfers his residential immovable property (hereinafter referred to as the "replaced property") and acquires another residential immovable property (hereinafter referred to as the "replacement property") within 12 months from the date of transfer of the replaced property, the duty paid on the first €86,000 of the value of the replacement property shall be refunded.
- This article shall only apply where the following conditions (amongst others) have been satisfied:
  - The individual must not have owned any other residential immovable property acquired through a transfer *inter vivos* before the acquisition of the replacement property, other than the replaced property.
  - The transfer of the replaced property must be made within 12 months from the acquisition of the replacement property.



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## ACQUISITION OF SECOND IMMOVABLE PROPERTY TO BE USED AS SOLE RESIDENCE

### TRANSFERS OF IMMOVABLE PROPERTY

#### Rule 5 S.L. 364.17

The benefit would apply on a pro-rata basis according to the share of the property being acquired.

#### Rule 6 S.L. 364.17

The order shall apply to acquisitions affected from the 10 October 2017 up to the 31 December 2023 where the notice required in terms of the DDTA and the Duty on Documents and Transfers Rules has been submitted to the Commissioner for Revenue on the form or other means provided by the Commissioner on or before the 28 February 2024.



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## TRANSFERS BY A GRATUITOUS TITLE

### TRANSFERS OF IMMOVABLE PROPERTY

- Article 32C DDTA
- In the case of transfers by a gratuitous title by a person to his descendants in the direct line who acquire immovable property for the purpose of establishing therein or constructing thereon their sole, ordinary residence, in assessing the duty otherwise chargeable in terms of the DDTA, no account shall be taken of the first €250,000 or such other greater amount as may be prescribed of the value of the property transferred as aforesaid and duty shall be charged on the remaining value thereof at the rate of €3.50 per €100 or part thereof, provided that this is the first transfer by such a person to such a descendant for this purpose and in this manner and provided that the notary who receives any deed of such a transfer shall record in the deed a written declaration by the person so transferring and the person so acquiring that the property is being acquired for the said purpose for the first time and the notary shall warn the said person and descendant of the importance of the truthfulness of such declaration.

The benefits afforded in terms of this article is taken proportionately where the immovable property is not fully owned / held by the person and / or where such immovable property is transferred to more than one descendant.



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## TRANSFERS BY A GRATUITOUS TITLE

### TRANSFERS OF IMMOVABLE PROPERTY

- Article 32C DDTA
- If such immovable property or part thereof is transferred *inter vivos* by the said descendant during the first 5 years from the date of the transfer by a gratuitous title, the duty which would have been payable on the transfer by a gratuitous title of the property or part thereof that is so transferred, but for the relief granted under this article shall be levied on the same amount not taken into account at the rate of €3.50 per €100 or part thereof at the time of the said transfer *inter vivos*.



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## TRANSFERS BY A GRATUITOUS TITLE

### TRANSFERS OF IMMOVABLE PROPERTY

- Article 32C DDTA
- Duty relief provided for in this article shall not be available where the descendant owns, at the time of acquisition of the said immovable property by a gratuitous title, any other property in respect of which duty relief has been claimed under article 32(4)(a) DDTA.
- The notary who receives any deed to which this article refers shall record in the deed a declaration by the person so acquiring the immovable that he does not own any other property in respect of which duty relief has been claimed under article 32(4)(a) DDTA and the said notary shall warn the descendant of the importance of the truthfulness of such declaration.



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## TRANSFER OF PROPERTY LEASED AT AFFORDABLE RATES

### TRANSFERS OF IMMOVABLE PROPERTY

- Article 32G DDTA
- Subject to certain other conditions being satisfied, when:
  - A transfer that is made on or after 1 January 2022 is a transfer of property that had been leased for a period of at least 10 years ending on the date of the transfer; and
  - During that whole period of 10 years the tenant was entitled to a benefit in respect of that lease under the Private Rent Housing Benefit Scheme administered by the Housing Authority; and
  - That transfer is made to the tenant of that property;
- No duty shall be chargeable on the first €200,000 of the value of the transferred property and the duty on the excess, if any, shall be chargeable at the normal rate.



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## TRANSFER OF PROPERTY LEASED AT AFFORDABLE RATES

### TRANSFERS OF IMMOVABLE PROPERTY

- Article 32G DDTA
- When a transfer satisfies the above conditions except only that it is not made to the tenant but to another person, the duty on the first €200,000 of the value of the property shall be chargeable at the rate of one half of the normal rate and the duty on the excess, if any, shall be chargeable at the normal rate.
- When a transfer satisfies the above conditions except only that the period of the lease and, or the period during which the tenant was entitled to the said benefit was less than 10 years but not less than 3 years, the duty on the first €200,000 of the value of the property shall be chargeable at the rate of one half of the normal rate and the duty on the excess, if any, shall be chargeable at the normal rate.



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## VALUE OF PROPERTY

### TRANSFERS OF IMMOVABLE PROPERTY

- Rule 3(1)(a) S.L. 364.06
- The value of any property subject to duty under the DDTA transferred *inter vivos* or transmitted *causa mortis*, shall be the value of such property on the date of the said transfer *inter vivos* or on the date of death of the person from whom the transfer *causa mortis* originates, as the case may be.



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## VALUE OF PROPERTY

### TRANSFERS OF IMMOVABLE PROPERTY

- Rule 3(2) S.L. 364.06
- The value of the full ownership of any property on the relevant date shall be the average price which such property would fetch if sold on the open market on that date, in the state it is in as on that date, including any improvements existing on that date, whether made or paid for by the transferor, the transferee or any other person.
- In the case of a transfer by a gratuitous title by a person to his spouse, descendants and ascendants in the direct line and their relative spouses, or in the absence of descendants to his brothers or sisters and their descendants, who acquire such property for the purpose of establishing therein or constructing thereon their sole, ordinary residence, the value thereof shall be deemed to be 80% of the market value of the property so transferred on the date of the transfer.



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## EXAMPLE 1

### TRANSFERS OF IMMOVABLE PROPERTY

- Mrs A and Mrs B, two sisters, shall be acquiring full ownership of a property.
- Mrs A shall be acquiring 40% of an undivided share of the property.
- Mrs B shall be acquiring 60% of an undivided share of the property.
- The property has a market value and consideration of €500,000.
- The duty cost on the acquisition is:  $€500,000 \times 5\% = €25,000$ .



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## EXAMPLE 2

### TRANSFERS OF IMMOVABLE PROPERTY

- Mr Z shall be acquiring full ownership of a property.
- The property has a market value of €300,000 and was purchased by Mr Z for a consideration of €310,650.
- The dutiable amount is the higher of the consideration or the market value, rounded up to the nearest 100.
- The dutiable amount is therefore €310,700.
- The duty cost on the acquisition is:  $€310,700 \times 5\% = €15,535$ .



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## EXAMPLE 3

### TRANSFERS OF IMMOVABLE PROPERTY

- Mr X and Mrs Y, an engaged couple, shall be acquiring full ownership of a property on the 31 March 2023, in order for both of them to establish their sole ordinary residence.
- They shall each be acquiring 50% of an undivided share of the property.
- This is the first immovable property being acquired by both Mr X and Mrs Y.
- The property has a market value and consideration of €250,000.
- No duty cost is incurred on the first €200,000.
- The remainder is subject to duty at the rate of 5%.
- The duty cost on the acquisition is  $€50,000 \times 5\% = €2,500$ .



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**EXAMPLE 4**  
TRANSFERS OF IMMOVABLE PROPERTY

- Mr X passed away on 28 February 2023.
- Mr X was the sole owner of a property and resided in such property as his sole ordinary residence.
- The property has a market value of €750,000.
- Mr A and Mr B are the nephews and heirs of Mr X and lived in the property as their sole ordinary residence at the time of Mr X's death.



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**EXAMPLE 4**  
TRANSFERS OF IMMOVABLE PROPERTY

- Mr A and Mr B have inherited the property, with a market value of €750,000.
- Since prior to his death, Mr X resided in the property as his sole ordinary residence, no account shall be taken of the first €35,000.
- Since Mr A and Mr B also resided in the property as their sole ordinary residence, the dutiable amount between €35,000 and €200,000 shall be subject to duty at the rate of 3.5%.
- The remainder shall be subject to duty at the rate of 5%.

| Dutiable amount                   | Duty rate | Duty cost      |
|-----------------------------------|-----------|----------------|
| €35,000                           | 0%        | -              |
| €165,000<br>(€200,000 - €35,000)  | 3.5%      | €5,775         |
| €550,000<br>(€750,000 - €200,000) | 5%        | €27,500        |
| <b>€750,000</b>                   |           | <b>€33,275</b> |



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## RELIEF FROM INCOME TAX AND FROM DUTY ON DOCUMENTS AND TRANSFERS ON CERTAIN PROPERTY TRANSFERS RULES (S.L. 364.19)

### TRANSFERS OF IMMOVABLE PROPERTY

- **Rule 3(1)**
- No duty on documents and transfers shall be payable on the first €750,000 of the transfer value of any transfer to which rule 4 or rule 5 applies that is made on or after 12 October 2021 but not later than 31 December 2024.
- **No relief from duty on documents and transfers** shall be allowed in terms of this rule where the transfer is made to a person who requires a permit by the Minister for the purposes of the Immovable Property (Acquisition by Non-Residents) Act or who would have required such permit had the property acquired not been situated in a special designated area.



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## RELIEF FROM INCOME TAX AND FROM DUTY ON DOCUMENTS AND TRANSFERS ON CERTAIN PROPERTY TRANSFERS RULES (S.L. 364.19)

### TRANSFERS OF IMMOVABLE PROPERTY

#### Rule 3(2)

The relief shall be allowed only as long as all the parties entitled to it declare that they wish to claim the relief and the notary who publishes the deed makes a record of that declaration in the deed, and as long as the notice of the transfer is delivered to the Commissioner by not later than 31 January 2025.

#### Rule 3(3)

When the transfer value of a transfer referred to above exceeds €750,000, the duty on documents and transfers on the excess shall be chargeable at the rates that apply in terms of the relevant provisions of the DDTA, and for the purpose of determining the said rates that portion of the transfer value that is relieved from duty on documents and transfers in terms of these rules shall be deemed to constitute the first part of the transfer value



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## RELIEF FROM INCOME TAX AND FROM DUTY ON DOCUMENTS AND TRANSFERS ON CERTAIN PROPERTY TRANSFERS RULES (S.L. 364.19)

### TRANSFERS OF IMMOVABLE PROPERTY

- **Rule 4**
- This rule applies to any transfer of property that satisfies all the following conditions (amongst others):
  - The property transferred is a building and its construction was completed at least 20 years before the date of the transfer;
  - The property transferred is vacant on the date of the transfer and has been vacant for a period of at least 7 continuous years immediately preceding that date.
- Where there is a transfer to which this rule applies and the owner subsequently transfers a divided part of the property in question, the latter transfer shall not be treated as a transfer to which this rule applies.



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## RELIEF FROM INCOME TAX AND FROM DUTY ON DOCUMENTS AND TRANSFERS ON CERTAIN PROPERTY TRANSFERS RULES (S.L. 364.19)

### TRANSFERS OF IMMOVABLE PROPERTY

- **Rule 5**
- This rule applies to any transfer of property that satisfies all the following conditions (amongst others):
  - The property transferred is situated, at the time of the transfer, within an urban conservation area.
- Where there is a transfer to which this rule applies and the owner subsequently transfers a divided part of the property in question, the latter transfer shall not be treated as a transfer to which this rule applies.



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## RELIEF FROM INCOME TAX AND FROM DUTY ON DOCUMENTS AND TRANSFERS ON CERTAIN PROPERTY TRANSFERS RULES (S.L. 364.19)

### TRANSFERS OF IMMOVABLE PROPERTY

- **Rule 6(1)**
- The relief from duty on documents and transfers mentioned in rule 3 shall be subject to the condition that, at any date after the transfer, but not after the date when the property is transferred again *inter vivos* or *causa mortis*:
  - The property is not demolished; and
  - The property is not subjected to structural alterations or additions as a result of which it is divided into more transferable units than the number of transferable units that comprised the property at the time of the transfer; and
  - No permit is issued by the Planning Authority, upon an application made by the owner who benefitted from the said relief, for the demolition of the property or for works described above; and
  - No transfer is made of any divided part of that property.



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## RELIEF FROM INCOME TAX AND FROM DUTY ON DOCUMENTS AND TRANSFERS ON CERTAIN PROPERTY TRANSFERS RULES (S.L. 364.19)

### TRANSFERS OF IMMOVABLE PROPERTY

#### Rule 6(2)

If the condition mentioned above is in any way breached, the relief from duty on documents and transfers granted by these rules on the said transfer shall be forfeited and the total of the amount of such duty that was so relieved shall become payable to the Commissioner forthwith.

#### Rule 6(3)

The person who acquired the property at the time that the relief from duty on documents and transfers was allowed shall be liable for the payment of the amount mentioned above.



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## RELIEF FROM INCOME TAX AND FROM DUTY ON DOCUMENTS AND TRANSFERS ON CERTAIN PROPERTY TRANSFERS RULES (S.L. 364.19)

### TRANSFERS OF IMMOVABLE PROPERTY

- Rule 12
- When a transfer to which this legal notice applies is also a transfer to which article 32C of the DDTA applies, the relief from duty on documents and transfers shall not be available under these rules in conjunction with the relief available under the said article 32C DDTA but shall be available only as provided in these rules or only as provided in the said article 32C DDTA depending on the election made by the transferee by means of a declaration to the notary who publishes the deed of the transfer and recorded in that deed.



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## RELIEF FROM INCOME TAX AND FROM DUTY ON DOCUMENTS AND TRANSFERS ON CERTAIN PROPERTY TRANSFERS RULES (S.L. 364.19)

### TRANSFERS OF IMMOVABLE PROPERTY

- Rule 14
- When a transfer of property to which rule 4, 5 or 8 applies is made to a company, and that company then transfers the property to another company by means of a transfer that is relieved from duty on documents and transfers in terms of the intra-group exemption, the conditions mentioned in the relevant anti-abuse rules of this legislation, as the case may be, shall continue to apply as if the latter transfer has not taken place, and in the event of a breach in any way of any applicable condition, the two companies shall be jointly and severally liable for the payment of the amount mentioned in the relevant anti-abuse rules of this legislation, as the case may be.



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# TRANSFERS OF MARKETABLE SECURITIES

## DUTY ON DOCUMENTS AND TRANSFERS

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## DEFINITION OF MARKETABLE SECURITIES

### TRANSFERS OF MARKETABLE SECURITIES

#### Article 2(1) DDTA

*“marketable security”* shall mean a holding of share capital in any company and any document representing the same

- This definition differs from the definition of a security in terms of the ITA, which was limited to *shares and stocks and such like instruments that participate in any way in the profits of the company and whose return is not limited to a fixed rate of return.*
- Therefore, in terms of the DDTA, even shares which do not classify as securities for the purposes of the ITA are subject to duty in Malta.



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## GENERAL RULE

### TRANSFERS OF MARKETABLE SECURITIES

- Article 42(1)(a) DDTA
- A duty of €2 for every €100 or part thereof of the amount or value of the consideration or the real value, whichever is the higher, of the marketable security shall be charged:
  - On every transfer *inter vivos*, whether executed in Malta or outside Malta, of foreign marketable securities held in a property company made to or by any person resident in Malta. No duty shall be chargeable on such transfers where such duty has been paid outside Malta in the country where the transfer is executed or where the company is registered.

“**property company**” shall mean a company which owns immovable property situated in Malta or any real rights thereon or a company which holds, directly or indirectly, shares or other interests in any entity or person, which owns immovable property situated in Malta or any real rights thereon where 5% or more of the total value of the said shares or other interests so held is attributable to such immovable property or rights ... *subject to proviso (as applicable)*



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## GENERAL RULE

### TRANSFERS OF MARKETABLE SECURITIES

- Article 42(1)(a) DDTA
- A duty of €2 for every €100 or part thereof of the amount or value of the consideration or the real value, whichever is the higher, of the marketable security shall be charged:
  - On every transfer *inter vivos*, whether executed in Malta or outside Malta, of foreign marketable securities held in a company having, directly or indirectly, more than 50% of its business interests in Malta made to, or by any individual who is ordinarily resident and domiciled in Malta or by any other person who is owned or controlled, directly or indirectly, or acts on behalf of, an individual who is ordinarily resident and domiciled in Malta.
  - On every document whereby any other foreign marketable security is transferred *inter vivos* to, or by any person resident in Malta. Where the marketable securities in question are not held in a property company nor in a company having, directly or indirectly, more than 50% of its business interests in Malta as set out above, no duty shall be chargeable where such transfer is effected through a local bank or through a person holding an investment services licence under the Investment Services Act.



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## TRANSFERS OF MARKETABLE SECURITIES IN COMPANIES INVOLVING IMMOVABLE PROPERTY

### TRANSFERS OF MARKETABLE SECURITIES

- Article 42(2)(a) DDTA
- Where it results that 75% or more of the assets, excluding all current assets other than immovable property, of the company referred to in article 42B DDTA or of the company whose marketable securities are transferred *inter vivos* or are transmitted *causa mortis* in respect of persons from whom the transfer *causa mortis* originates who died on or after the 1 January 2000, consists of any immovable property or any right over an immovable, the duty chargeable shall be increased by €3 for every €100 or part thereof of the amount or value of the consideration or the real value of the marketable security, whichever is the higher.



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## TRANSFERS OF MARKETABLE SECURITIES IN COMPANIES INVOLVING IMMOVABLE PROPERTY

### TRANSFERS OF MARKETABLE SECURITIES

- Article 42(2)(b) DDTA
- Where the company referred to in article 42B DDTA, or whose marketable securities are transferred holds, directly or indirectly, shares in a company having 75% or more of its assets, excluding all current assets other than immovable property, consisting of any immovable property or any right over an immovable, hereinafter referred to as the "property company", the duty chargeable shall be increased by €3 for every €100 or part thereof of the amount or value of the consideration or the real value of the marketable security, whichever is the higher.



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## TRANSFERS OF MARKETABLE SECURITIES IN COMPANIES INVOLVING IMMOVABLE PROPERTY

### TRANSFERS OF MARKETABLE SECURITIES

- Article 42(2)(b) DDTA
- The above shall only apply where the aggregate value of:
  - Immovable property or any right over an immovable property owned by a property company or companies (as represented by the percentage interest held in such company or companies), and
  - Immovable property or any right over an immovable owned by the company referred to in article 42B DDTA or whose marketable securities are transferred,
- Is equal to or exceeds 75% of the total non-current assets of the property company or companies (as represented by the percentage interest held in such company or companies) and of the company referred to in article 42B DDTA or whose marketable securities are transferred, disregarding the book value of shares held, directly or indirectly, in the property company or companies and taking into account total current assets consisting of immovable property.



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## TRANSFERS OF MARKETABLE SECURITIES IN COMPANIES INVOLVING IMMOVABLE PROPERTY

### TRANSFERS OF MARKETABLE SECURITIES

- Article 42(2)(b) DDTA
- The provisions of article 42(2)(b) DDTA shall not apply where the duty chargeable has been increased by €3 for every €100 or part thereof in accordance with article 42(2)(a) DDTA.



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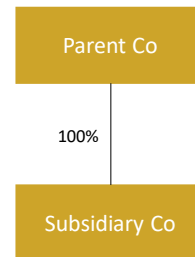
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## EXAMPLE 5

### TRANSFERS OF MARKETABLE SECURITIES

- The following practical examples consider a transfer of shares in Parent Co.
- Parent Co directly owns 100% of the share capital of Subsidiary Co.
- In each case, the rate of duty for the transfer of shares needs to be determined.



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## EXAMPLE 5 – PART A

### TRANSFERS OF MARKETABLE SECURITIES

- Step 1:**
  - First, consider Parent Co.
  - If the value of property assets (both current and non-current) directly owned by Parent Co is more than 75% of the values being considered, then the 5% rate will automatically apply.
  - In this case, 90% of all assets being considered are property assets, and therefore the 5% rate will automatically apply.

| Balance sheet extracts                                | Parent Co | Subsidiary Co |
|---|-----------|---------------|
| Non-current assets<br><i>Property – market value</i>  | €900,000  | €500,000      |
| Non-current assets<br><i>Non-property</i>             | -         | €500,000      |
| Non-current assets<br><i>Investment in subsidiary</i> | €100,000  | -             |
| Current assets<br><i>Property</i>                     | -         | -             |



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## EXAMPLE 5 – PART B

### TRANSFERS OF MARKETABLE SECURITIES

- **Step 1:**
  - Parent Co's property consists of 50% of all assets being considered.
  - Therefore, the 5% rate does not automatically apply.
- **Step 2:**
  - Consider the assets of Subsidiary Co.
  - In this case, the value of property assets is 90% (€4,500,000 / €5,000,000).
  - Therefore, this will surpass the 75% threshold.

| Balance sheet extracts                                | Parent Co | Subsidiary Co |
|---|-----------|---------------|
| Non-current assets<br><i>Property – market value</i>  | €900,000  | €4,250,000    |
| Non-current assets<br><i>Non-property</i>             | -         | €500,000      |
| Non-current assets<br><i>Investment in subsidiary</i> | €900,000  | -             |
| Current assets<br><i>Property</i>                     | -         | €250,000      |



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## EXAMPLE 5 – PART B

### TRANSFERS OF MARKETABLE SECURITIES

- **Step 3:**
  - Since Subsidiary Co will surpass the 75% threshold, the investment in subsidiary of Parent Co will need to be replaced with the assets of Subsidiary Co.
  - As a result of this substitution, the value of property is now 91.5% (€5,400,000 / €5,900,000).
  - Therefore, the 5% rate will apply.

| Balance sheet extracts                                | Parent Co                             | Subsidiary Co |
|---|---------------------------------------|---------------|
| Non-current assets<br><i>Property – market value</i>  | €900,000 + €4,250,000<br>= €5,150,000 | €4,250,000    |
| Non-current assets<br><i>Non-property</i>             | €0 + €500,000 =<br>€500,000           | €500,000      |
| Non-current assets<br><i>Investment in subsidiary</i> | <del>€900,000</del>                   | -             |
| Current assets<br><i>Property</i>                     | €0 + €250,000 =<br>€250,000           | €250,000      |



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## EXAMPLE 5 – PART C

### TRANSFERS OF MARKETABLE SECURITIES

- **Step 1:**
  - Property of Parent Co consists of 50% of all assets being considered.
  - Therefore, the 5% rate does not automatically apply.
- **Step 2:**
  - Consider the assets of Subsidiary Co.
  - In this case, the value of property assets of Subsidiary Co is 60% (€750,000 / €1,250,000).
  - Therefore, the subsidiary does not surpass the 75% threshold.
- **Step 3:**
  - Since Subsidiary Co does not surpass the 75% threshold, then the investment in Subsidiary Co is considered to be a non-property asset (and the investment in Subsidiary Co is not replaced with the assets of Subsidiary Co).
  - Therefore, the duty rate on the transfer of the shares in Parent Co would be 2%.

| Balance sheet extracts                                | Parent Co | Subsidiary Co |
|---|-----------|---------------|
| Non-current assets<br><i>Property – market value</i>  | €900,000  | €500,000      |
| Non-current assets<br><i>Non-property</i>             | -         | €500,000      |
| Non-current assets<br><i>Investment in subsidiary</i> | €900,000  | -             |
| Current assets<br><i>Property</i>                     | -         | €250,000      |



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## CALCULATING THE VALUE OF MARKETABLE SECURITIES

### TRANSFERS OF MARKETABLE SECURITIES

#### Rule 11(1) S.L. 364.06

The provisions of CGR Rules 5(5), 5(6) and 5(7) shall apply *mutatis mutandis* for the purpose of determining the real value of a company and the real value of shares in a company and references in the said rules to “market value” shall be construed as references to “real value”

#### Rule 11(2) S.L. 364.06

The real value of marketable securities consisting of shares which do not participate in any way in the profits of a company other than by way of a fixed rate of return, shall be the book value of such shares as resulting from the company’s financial statements or such other value as the Commissioner may determine



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## DISALLOWED LIABILITIES

### TRANSFERS OF MARKETABLE SECURITIES

- Article 42(2)(c) DDTA
- For the determining of the amount or value of the consideration or the real value of the marketable security or of the real value of the company referred to in article 42B DDTA, there shall not be deducted any liability in excess of the value of all assets excluding the value of any such immovable property or any real right thereon other than –
  - A bank loan relating to the cost of acquisition and improvements of the immovable property or real right thereon; and
  - A debt registered at the Public Registry relating to the acquisition cost of the aforesaid immovable, where such debt is registered within 3 months from the date of acquisition of the said immovable;
- Proved in each case by the production of such documents to the satisfaction of the Commissioner, as the Commissioner may require.



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## DISALLOWED LIABILITIES

### TRANSFERS OF MARKETABLE SECURITIES

- Article 42(2)(c) DDTA
- Where the aforesaid immovable has been acquired from a group company and such transfer qualified for duty relief under the intra-group exemption, the date of acquisition taken into account in determining whether the debt is registered within 3 months as aforesaid shall be the date when the immovable was acquired by the said group company.
- Where the company has in issue any marketable securities consisting of shares which do not participate in any way in the profits of the company other than by way of a fixed rate of return, which resulted from a conversion of debt, other than a debt registered at the Public Registry as noted above, such marketable securities shall be treated as a liability.



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## EXAMPLE 6

### TRANSFERS OF MARKETABLE SECURITIES

- XYZ Limited owns property with a book value of €100,000 and a market value of €200,000.
- The company has €80,000 in bank loans used to acquire the property.
- Other assets amount to €150,000 and other liabilities amount to €120,000.

|             | Property  | Non-Property | Total      |
|-------------|-----------|--------------|------------|
| Assets      | €100,000  | €150,000     | €250,000   |
| Liabilities | (€80,000) | (€120,000)   | (€200,000) |
|             | €20,000   | €30,000      | €50,000    |

As long as this figure is positive, then there should not be any disallowed liabilities

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## EXAMPLE 7

### TRANSFERS OF MARKETABLE SECURITIES

- XYZ Limited owns property with a book value of €100,000 and a market value of €200,000.
- The property acquisition was financed through a shareholder's loan (i.e. debt was not registered).
- Other assets amount to €150,000 and other liabilities amount to €200,000.

|             | Property | Non-Property | Total      |
|-------------|----------|--------------|------------|
| Assets      | €100,000 | €150,000     | €250,000   |
| Liabilities | -        | (€200,000)   | (€200,000) |
|             | €100,000 | (€50,000)    | €50,000    |

Disallowed liabilities in terms of article 42(2)(c) DDTA amount to €50,000

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## EXAMPLE 8

### TRANSFERS OF MARKETABLE SECURITIES

- XYZ Limited has assets of €50,000 and liabilities of €100,000 (i.e. a negative net asset value of €50,000).
- The company does not own any property.

|             | Property | Non-Property | Total      |
|-------------|----------|--------------|------------|
| Assets      | -        | €50,000      | €50,000    |
| Liabilities | -        | (€100,000)   | (€100,000) |
|             | -        | (€50,000)    | (€50,000)  |

Disallowed liabilities in terms of article 42(2)(c) DDTA amount to €50,000

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## EXEMPTIONS

### TRANSFERS OF MARKETABLE SECURITIES

- Article 42(1)(b) DDTA
- A duty of €2 for every €100 or part thereof of the amount or value of the consideration or the real value, whichever is the higher, of the marketable security shall be charged on every document whereby a marketable security is transferred to or by any person in Malta.
- Upon any restructuring of holdings through mergers, demergers, amalgamations and re-organisations within a group of companies, no duty shall be chargeable in the cases outlined on the following slide.



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## EXEMPTIONS

### TRANSFERS OF MARKETABLE SECURITIES

The transfer by an individual of any shares, held in his own name, forming part of a group of companies in exchange of shares in a company or companies forming part of the same group

The exchange of shares from one company to another where such shares are in companies forming part of the same group of companies, or the exchange of a partnership interest for shares from one company to another where the company receiving the shares and the company whose shares are being exchanged are companies forming part of the same group of companies

The transfer of shares for consideration from one company to another, where such companies form part of the same group of companies, or the transfer of a partnership interest for consideration from a company or partnership to another company or partnership, where the transferor and the transferee form part of the same group of companies, or where any or both of them are partnerships, would have been considered to form part of the same group if they had been a company or companies

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## EXEMPTIONS

### TRANSFERS OF MARKETABLE SECURITIES

- Article 42(1)(b) DDTA
- Where any company referred to in the previous slide is a "property company" (the proviso to the definition of "property company" is ignored for such purposes), the above exemptions shall only apply where the individual, direct or indirect, beneficial owners of the companies referred to above are the same and each such individual holds, directly or indirectly, substantially the same percentage interest in the nominal share capital and voting rights in each of the said companies both before and after the transfer or exchange, as the case may be.
- The provisions of the intra-group exemption shall apply *mutatis mutandis* for the purpose of making such determination.
- The above shall not apply where the said companies are, directly or indirectly, owned as to 80% or more by a company whose securities are listed on a stock exchange recognised by the Commissioner for the purpose of this provision.



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## EXEMPTIONS

### TRANSFERS OF MARKETABLE SECURITIES

- The conditions for a duty exemption for an exchange of shares are different from those in the ITA.
- For the purposes of the ITA, the exemption applies where there is no change in the direct / indirect beneficial ownership of the companies involved, whereas for duty purposes, the companies involved must be part of the same group.
- Therefore, for the transfer to be exempt from both tax and duty, there must be no change in the direct beneficial ownership of the companies involved and the companies involved must be part of the same group.



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## VALUE-SHIFTING

### TRANSFERS OF MARKETABLE SECURITIES

- The objective of the value shifting provisions in article 42B of the DDTA is to charge to duty any transactions which lead to changes in the ownership of a company without an outright share transfer, such as disproportionate:
  - Share allotments;
  - Share capital reductions;
  - Conversion of ordinary shares into preference shares;
  - Redemption of preference shares (if replaced by ordinary shares);
  - Change in voting rights.



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## VALUE-SHIFTING

### TRANSFERS OF MARKETABLE SECURITIES

- **Article 42B(1) DDTA**
- Where the real value of shares held by a person (hereinafter referred to as the “transferor”) in a company, has been reduced as a result of a change in the issued share capital of such company, or a change in voting rights attached to such shares, and such value so reduced passes into other shares in or rights over the company, held by any other person (hereinafter referred to as the “transferee”), the transferor shall be deemed to have made a transfer of such value so reduced to the transferee, calculated by taking into account the difference between the real value of the shares held immediately before and after the said change and duty shall be chargeable in accordance with article 42 DDTA.



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## VALUE-SHIFTING

### TRANSFERS OF MARKETABLE SECURITIES

- **Article 42B(1) DDTA**
- This article shall not apply where:
  - The change in the issued share capital or change in voting rights does not produce any change in the individual, direct or indirect, beneficial owners of the said company and in the proportion in the real value of the said company represented by the shares owned beneficially, directly or indirectly, by each such individual;
  - The change in the issued share capital consists of an allotment of shares in a company, as a result of an exchange of shares from one company to another exempt from duty under the provisions of article 42(1) DDTA;
  - The transfer of value is the result of a change in voting rights and such transfer is made by the transferor to a person referred to in article 5(2)(e)(i) ITA;
  - ...

#### Persons referred to in article 5(2)(e)(i) ITA

Spouse, descendants and ascendants in the direct line and their relative spouses, or in the absence of descendants to his brothers or sisters and their descendants



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## VALUE-SHIFTING

### TRANSFERS OF MARKETABLE SECURITIES

- Article 42B(1) DDTA
- This article shall not apply where:
  - ...
  - The said company is a company whose securities are listed on a stock exchange recognised by the Commissioner for the purpose of this provision;
  - The said company is not a "property company" (as defined on slide 72) and it can be shown to the satisfaction of the Commissioner that the said change is effected for bona fide commercial reasons and does not form part of a scheme or arrangement of which the main purpose, or one of the main purposes is avoidance of liability to duty.



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## CALCULATING THE VALUE-SHIFT

### TRANSFERS OF MARKETABLE SECURITIES

- Rule 12(1)(i) S.L. 364.06
- Where as a result of a change in the issued share capital of a company or a change in voting rights attached to such shares (hereinafter referred to as "the change"), a transfer of value as provided for in article 42B DDTA is deemed to have taken place, the value transferred to the transferee shall be determined in accordance with the following formula:
- $Y = (A - B) + C - D) \times -1$

'Y' represents the amount to be determined

'A' is the real value of the shares held by the transferee in the company immediately before the change

'B' is the real value of the shares held by the transferee in the company immediately after the change

'C' is the consideration paid by the transferee for the acquisition of shares or additional shares issued by the company, where the change consists of an issue of share capital for consideration

'D' is the amount paid by the company in respect of a cancellation of shares held by the transferee, where the change consists of a reduction of share capital



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## CALCULATING THE VALUE-SHIFT

### TRANSFERS OF MARKETABLE SECURITIES

- Rule 12(1)(i) S.L. 364.06
- Where the result of the formula is a negative amount the value of 'Y' shall be taken to be zero.
- Where the transferee does not hold any shares in the company immediately before or after the change, the value of 'A' or 'B' in the said formula, as the case may be, shall be taken as zero.
- Where the change in the issued share capital consists of a conversion of securities, the real value of shares, which do not participate in any way in the profits of a company other than by way of a fixed rate of return, shall be taken as zero.



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## OTHER APPLICABLE DUTY RATES

### DUTY ON DOCUMENTS AND TRANSFERS

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## DUTY ON DONATIONS OF MARKETABLE SECURITIES AND IMMOVABLE PROPERTY USED FOR BUSINESS (EXEMPTION) ORDER, S.L. 364.15

### OTHER APPLICABLE DUTY RATES

- Rule 2(1)
- Duty shall be chargeable at a rate (referred to hereinafter as "the reduced rate") of €1.50 on every €100 or part thereof of the real value of those marketable securities where those marketable securities are transferred by gratuitous title by the individual to persons referred to in article 5(2)(e)(i) of the ITA.

#### Persons referred to in article 5(2)(e)(i) ITA

Spouse, descendants and ascendants in the direct line and their relative spouses, or in the absence of descendants to his brothers or sisters and their descendants



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## DUTY ON DONATIONS OF MARKETABLE SECURITIES AND IMMOVABLE PROPERTY USED FOR BUSINESS (EXEMPTION) ORDER, S.L. 364.15

### OTHER APPLICABLE DUTY RATES

- Rule 2(1)
- Where an individual transfers by gratuitous title immovable property being a commercial tenement (hereinafter referred to as "business property"), that had been used in a family business as defined in the Family Business Act for a period of at least 3 years preceding the transfer, in assessing the duty chargeable in terms of the DDTA, if any such duty is chargeable, it shall be charged at the reduced rate where that business property is transferred by gratuitous title by the individual to persons referred to in article 5(2)(e)(i) of the ITA.

#### Persons referred to in article 5(2)(e)(i) ITA

Spouse, descendants and ascendants in the direct line and their relative spouses, or in the absence of descendants to his brothers or sisters and their descendants



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## DUTY ON DONATIONS OF MARKETABLE SECURITIES AND IMMOVABLE PROPERTY USED FOR BUSINESS (EXEMPTION) ORDER, S.L. 364.15

### OTHER APPLICABLE DUTY RATES

#### Rule 2(2)

When the reduced rate is applied on the transfer by gratuitous title of marketable securities or business property referred to in this rule, no other exemption or relief from duty shall apply to the said transfer.

#### Rule 3

This order applies to a transfer by gratuitous title that is made on or after the 1 April 2017 but prior to 1 January 2024.



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## DUTY ON DONATIONS OF MARKETABLE SECURITIES AND IMMOVABLE PROPERTY USED FOR BUSINESS (EXEMPTION) ORDER, S.L. 364.15

### OTHER APPLICABLE DUTY RATES

- Rule 5
- The relief granted under this order shall be forfeited and the provisions of rule 6 shall apply if the individual to whom the transfer by gratuitous title was made, transfers *inter vivos* the marketable securities or the business property, as the case may be, within a period of 3 years immediately following the date of the transfer by gratuitous title.
- In the case of a business property, the relief granted under this order shall also be forfeited and the provisions of rule 6 shall apply if the business property is not used within a business carried on by the said individual, for a period of 3 years immediately following the date of the transfer by gratuitous title.



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# DUTY SCHEDULES

## DUTY ON DOCUMENTS AND TRANSFERS

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### FIFTH SCHEDULE

#### DUTY SCHEDULES

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#### FIFTH SCHEDULE

(Rule 12(5))

Notice in terms of Rule 12(5) of the Duty on Documents and Transfers Rules, 1993

Computation of the value transferred referred to in article 42B of the Act

PART 1 - DETAILS OF CHANGE IN THE ISSUED SHARE CAPITAL OR VOTING RIGHTS (insert "Yes" or "No")

| Nature of change | Alteration of voting rights |  |
|------------------|-----------------------------|--|
|                  | Allotment of shares         |  |
|                  | Conversion of shares        |  |
|                  | Reduction in share capital  |  |
| Date of change   |                             |  |

GIVE DETAILS

|   |  |
|---|--|
|   |  |
| In case of an allotment of shares state the amount paid to the company per share:       |  |
| In case of a reduction of share capital state the amount paid by the company per share: |  |

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Note: Include only shares as referred to in rule 12(8).

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| PART 4 - DETAILS OF COMPANY IN WHICH CHANGE WAS AFFECTED |  |
|--|--|
| Company Name   |  |
| Income Tax Registration No                               |  |
| Company year end   |  |
| Date of incorporation                                    |  |
| ROC No   |  |

State whether: (Yes or No)

|   |   |  |
|---|---|--|
| a | The Company holds shares directly or indirectly in other companies.<br>(if Yes attach details)  |  |
| b | The Company or any companies referred to in (a) above own immovable property at the date of the change in the issued share capital or voting rights.<br>(if Yes attach details) |  |
| c | The company came into existence as a result of a restructuring.<br>(if Yes attach details)  |  |

| PART 5 - COMPUTATION OF THE VALUE TRANSFERRED   |
|---|
| <p>The value transferred is to be determined as follows:</p> <p><b>Sec I: Determination of the % of the real value of the company</b></p> |

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## FIFTH SCHEDULE

### DUTY SCHEDULES

| Sec II: Computation of Real value of company  |                |            | Pre change | Post change |
|---|----------------|------------|------------|-------------|
| a Total Net Asset Value of the company:   |                |            |            |             |
| b Real Value of shares held in another company representing at least 10% of the nominal value of the issued share capital of that other company, determined in accordance with rule 5 of the Capital Gains Rules. |                |            |            |             |
| Company   | Income Tax no. | Real Value |            |             |
|   |                |            |            |             |
|   |                |            |            |             |
|   |                |            |            |             |
|   |                |            |            |             |
|   |                |            |            |             |
|   |                |            |            |             |
|   |                |            |            |             |
|   |                |            |            |             |
| Deduct book value of shares held in the company (as stated in the financial statements)   |                |            |            |             |

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## FIFTH SCHEDULE

### DUTY SCHEDULES

|   |  |  |  |  |
|---|--|--|--|--|
| c | Total real value of immovable property as stated in the Architect's Valuation (as per Part 6)                      |  |  |  |
|   | less Total book value of immovable property  |  |  |  |
|   | Adjustment to the value of immovable property:   |  |  |  |
| d | Value of goodwill: (as calculated in Sec IV below)   |  |  |  |
| e | Deduct book value of the shares referred to in rule 5(6)(d) of the Capital Gains Rules, 1993:                      |  |  |  |
| f | Add liabilities in excess of the value of all assets as determined in accordance with article 42(2)(c) of the Act: |  |  |  |
| g | Total adjusted real value of the company:  |  |  |  |

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## FIFTH SCHEDULE

### DUTY SCHEDULES

|   |        |        |        |        |        |       |
|---|--------|--------|--------|--------|--------|-------|
| Profit before tax   |        |        |        |        |        |       |
|   | Year 1 | Year 2 | Year 3 | Total  |        |       |
|   |        |        |        |        |        |       |
| Value of goodwill:  |        |        |        |        |        |       |
|   |        |        |        |        |        |       |
| Profits attributable to business acquired from another person:  |        |        |        |        |        |       |
| Year ended <input type="text"/>   |        |        |        |        |        |       |
| Profit before tax   |        |        |        |        |        |       |
|   | Year 1 | Year 2 | Year 3 | Year 4 | Year 5 | Total |
|   |        |        |        |        |        |       |
| Value of goodwill attributable to business acquired   |        |        |        |        |        | A     |
| Consideration paid for the acquisition of such goodwill   |        |        |        |        |        | B     |
| Value of the goodwill of the business so acquired<br>(higher of A and B)  |        |        |        |        |        |       |
| Total amount representing the value of goodwill:  |        |        |        |        |        |       |
| <small>Where the assets of the company include shares in another company, and such shares represent at least ten percent of the nominal value of the issued share capital of the other company, the computations in Part 5 must be made for each such shareholding.</small> |        |        |        |        |        |       |

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## FIFTH SCHEDULE

### DUTY SCHEDULES

#### PART 6 - ARCHITECT'S VALUATION

If the company owns immovable property at the date of the share transfer, attach an architect's valuation of the real value of the immovable property taken into account in determining the value of the said shares.

#### PART 7 - ACCOUNTING STATEMENT

Attach accounting statement in accordance with rule 12 (3) prepared by a CPA holding a practicing certificate in auditing.

I do hereby declare that the information submitted through this form is true and complete:

Auditor's signature:

Auditor's name:

\_\_\_\_\_

\_\_\_\_\_

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## SIXTH SCHEDULE

### DUTY SCHEDULES



#### SIXTH SCHEDULE (Rule 11(3))

Notice in terms of Rule 11(3) of the Duty on Documents and Transfers Rules, 1993

Statement to be submitted by transferee in a transfer of company shares

##### PART 1 - DETAILS OF TRANSFEROR AND TRANSFEREE

| TRANSFEROR |         |                            |                               |
|------------|---------|----------------------------|-------------------------------|
| Name       | Address | ROC No<br>(companies only) | Income Tax<br>Registration No |
|            |         |                            |                               |

| TRANSFEREE |         |                            |                               |
|------------|---------|----------------------------|-------------------------------|
| Name       | Address | ROC No<br>(companies only) | Income Tax<br>Registration No |
|            |         |                            |                               |

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## SIXTH SCHEDULE

### DUTY SCHEDULES

##### PART 2 - DETAILS OF COMPANY IN WHICH SHARES ARE BEING TRANSFERRED

|                               |  |
|-------------------------------|--|
| Company Name                  |  |
| Income Tax<br>Registration No |  |
| Company year end              |  |
| Date of Incorporation         |  |
| ROC No                        |  |
| Authorised<br>share capital   |  |
| Issued share capital          |  |

State whether: (Yes or No)

|   |  |  |
|---|--|--|
| a | The Company holds shares directly or indirectly in other companies.<br>(if Yes attach details)   |  |
| b | The Company or any companies specified in (a) above own immovable property at the date of the share transfer.<br>(if Yes attach details) |  |

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## SIXTH SCHEDULE

### DUTY SCHEDULES

| PART 3 - DETAILS OF SHARE TRANSFER      |                                      |                 |                     |        |
|---|--------------------------------------|-----------------|---------------------|--------|
| a                                       | Date of share transfer               |                 |                     |        |
| b                                       | Number of shares transferred         |                 |                     |        |
| c                                       | Consideration for shares transferred |                 |                     |        |
| Give details of the shares transferred: |                                      |                 |                     |        |
| Type                                    | Class                                | Votes per share | Nom Value per share | Number |
|   |                                      |                 |                     |        |
|   |                                      |                 |                     |        |
|   |                                      |                 |                     |        |

| PART 4 - COMPUTATION OF THE REAL VALUE OF THE SHARES TRANSFERRED  |  |
|---|--|
| The real value of the shares being transferred is to be determined as follows:  |  |
| <b>REAL VALUE OF SHARES TRANSFERRED</b>   |  |
| Sec 1: Determination of the % of the real value of the company as represented by such shares  |  |
| 'A' is the percentage of the issued share capital represented by the nominal value of those shares.   |  |
| 'B' is the percentage of the total voting rights in the company represented by the total voting rights attached to those shares.  |  |
| 'C' is the percentage of the profits available for distribution to the ordinary shareholders represented by the profits available for distribution to the holder of those shares. |  |
| 'Y' represents the percentage to be determined.   | $Y = (0.4 \times A) + (0.2 \times B) + (0.4 \times C)$ |

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## SIXTH SCHEDULE

### DUTY SCHEDULES

| Sec II: Computation of real value of company in accordance with rule 5(6) and (7) of the Capital Gains Rules, 1993: |   |                           |
|---|---|---------------------------|
| a   | Total Net Asset Value of the company:   |                           |
| b   | Real Value of shares held in another company representing at least 10% of the nominal value of the issued share capital of that other company, determined in accordance with rule 5 of the Capital Gains Rules, 1993: |                           |
|   | Company   | Income Tax no. Real Value |
|   |   |                           |
|   |   |                           |
|   |   |                           |
|   | Deduct book value of shares held in the company (as stated in the financial statements)   |                           |
| c   | Total real value of immovable property as stated in the Architect's Valuation (as per Part 6) less Total book value of immovable property   |                           |
|   | Adjustment to the value of immovable property:  |                           |
| d   | Value of goodwill: (as calculated in Sec IV below)  |                           |
| e   | Deduct the book value of shares referred to in rule 5(6)(d) of the Capital Gains Rules, 1993:   |                           |
| f   | Add Liabilities in excess of the value of all assets as determined in accordance with article 42(2)(c) of the Act:  |                           |
| g   | Total Adjusted real value of the Company  |                           |

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## SIXTH SCHEDULE

### DUTY SCHEDULES

| Sec III: Real value of shares transferred: |  |
|--|--|
| a  | Adjusted real value of the company<br>(Sec IIg)  |
| b  | Percentage of real value as represented by shares transferred<br>(higher of C/A, D/B in Sec I) |
| c  | Real value of shares transferred<br>(a X b)  |
| d  | Amount or value of the consideration for the shares transferred                                |
| e  | Amount chargeable to duty<br>(higher of c and d)   |
| f  | Rate of duty<br>(€ 5 or € 2 for every one hundred euro or part thereof)                        |
| g  | Amount of duty due<br>(e X f)  |

| Sec IV: Calculation of the Amount Representing the Value of Goodwill:   |                      |                      |                      |                      |                      |
|---|----------------------|----------------------|----------------------|----------------------|----------------------|
| a Where company was in existence for the five financial years immediately preceding the year in which the transfer is made: |                      |                      |                      |                      |                      |
| Year ended <input type="text"/>   |                      |                      |                      |                      |                      |
| Profit before tax   |                      |                      |                      |                      |                      |
| Year 1  | Year 2               | Year 3               | Year 4               | Year 5               | Total                |
| <input type="text"/>  | <input type="text"/> | <input type="text"/> | <input type="text"/> | <input type="text"/> | <input type="text"/> |
| Value of goodwill:  |                      |                      |                      |                      | <input type="text"/> |

Note: Where the transfer is made during the company's first or second financial year the value of goodwill above shall be zero.

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## SIXTH SCHEDULE

### DUTY SCHEDULES

|   |                      |                      |                      |                      |                      |
|---|----------------------|----------------------|----------------------|----------------------|----------------------|
| b Where the company has acquired its business or part thereof from another person during the company's first three financial years: |                      |                      |                      |                      |                      |
| State date when business was acquired:  |                      |                      |                      |                      | <input type="text"/> |
| State consideration paid for the acquisition of the goodwill of such business:  |                      |                      |                      |                      | <input type="text"/> |
| Profits of the company excluding profits attributable to business acquired:   |                      |                      |                      |                      |                      |
| Year ended <input type="text"/>   |                      |                      |                      |                      |                      |
| Profit before tax   |                      |                      |                      |                      |                      |
|   | Year 1               | Year 2               | Year 3               | Total                |                      |
|   | <input type="text"/> | <input type="text"/> | <input type="text"/> | <input type="text"/> | <input type="text"/> |
| Value of goodwill:  |                      |                      |                      |                      | <input type="text"/> |

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## SIXTH SCHEDULE

### DUTY SCHEDULES

Profits attributable to business acquired from another person:

Year ended

Profit before tax

| Year 1 | Year 2 | Year 3 | Year 4 | Year 5 | Total |
|--------|--------|--------|--------|--------|-------|
|        |        |        |        |        |       |

Value of goodwill attributable to business acquired A

Consideration paid for the acquisition of such goodwill B

Value of the goodwill of the business so acquired  
(higher of A and B)

Total amount representing the value of goodwill:

Note: Where the assets of the company include shares in another company, and such shares represent at least ten percent of the nominal value of the issued share capital of the other company, the computations in Part 4 must be made for each such shareholding.

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## SIXTH SCHEDULE

### DUTY SCHEDULES

**PART 5 - ARCHITECT'S VALUATION**

If the company owns immovable property at the date of the share transfer, attach an architect's valuation of the real value of the immovable property taken into account in determining the value of the said shares.

**PART 6 - DECLARATION**

I do hereby declare that the information submitted through this form is true and complete:

Transferee's signature: \_\_\_\_\_ Transferee's name: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

This Schedule shall be accompanied by an auditor's signed report which shall form an integral part of the schedule, giving assurance as to whether the computation of the real value of the shares being transferred has been properly prepared in accordance with the Duty on Documents and Transfers Rules.



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## SEVENTH SCHEDULE

### DUTY SCHEDULES



#### SEVENTH SCHEDULE (Rule 12(8))

Notice in terms of Rule 12(8) of the Duty on Documents and Transfers Rules, 1993

Statement to be submitted by a transferee where the transfer of value is exempt from duty.

| PART 1 - DETAILS OF CHANGE IN THE ISSUED SHARE CAPITAL OR VOTING RIGHTS |                             | (Insert "Yes" or "No") |
|---|-----------------------------|------------------------|
| Nature of change  | Alteration of voting rights |                        |
|   | Allotment of shares         |                        |
|   | Conversion of shares        |                        |
|   | Reduction in share capital  |                        |
| Date of change  |                             |                        |

#### GIVE DETAILS

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## SEVENTH SCHEDULE

### DUTY SCHEDULES

| PART 2 - DETAILS OF TRANSFEREE |         |                             |                                |
|--------------------------------|---------|-----------------------------|--------------------------------|
| Name                           | Address | ROC No.<br>(companies only) | Income Tax<br>Registration No. |
|                                |         |                             |                                |

| PART 3 - DETAILS OF COMPANY IN WHICH CHANGE WAS AFFECTED |  |
|--|--|
| Company Name   |  |
| Income Tax<br>Registration No.                           |  |
| Company year end   |  |
| Date of incorporation                                    |  |
| Income Tax<br>Registration No.                           |  |

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SEVENTH SCHEDULE  
DUTY SCHEDULES

PART 4 - DETAILS OF EXEMPTION

State under which of the following provisions of the proviso to article 42B the transfer is exempt

|                 |  |
|-----------------|--|
| Paragraph (i)   |  |
| Paragraph (ii)  |  |
| Paragraph (iii) |  |
| Paragraph (v)   |  |

PART 5 - DECLARATION

I do hereby declare that the information submitted through this form is true and complete:

Transferee's signature:

Transferee's name:

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CASE STUDIES  
DUTY ON DOCUMENTS AND TRANSFERS

CASE 1  
CASE STUDIES

- Mr A acquired a property situated in Malta (but not situated in an urban conservation area) at a cost of €800,000 on 15 April 2020. The market value of the property on that date was equivalent to the cost.
- On 3 February 2023, Mr A sold the property to a third party for a consideration of €1,000,000. On that date, the market value of the property was €1,100,000.
- The property was not acquired by the third party to establish his sole ordinary residence.
- Advise Mr A on the Malta duty implications arising upon the sale of the property on 3 February 2023.



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CASE 1  
CASE STUDIES

- Duty is charged at the rate of €5 for every €100 or part thereof on the higher of the market value and consideration.

|  | €                |
|--|------------------|
| Market value   | 1,100,000        |
| Consideration  | 1,000,000        |
| <b>Transfer value</b> (higher of market value and consideration) | <b>1,100,000</b> |
| <b>Duty at €5 for every €100 or part thereof</b>                 | <b>55,000</b>    |



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## CASE 2

### CASE STUDIES

- On the 23 January 2015, Mr X inherited a property upon the death of his father, which property had a market value of €400,000 on that date. Mr X did not reside in the property prior to it being inherited.
- On 30 January 2023, Mr X sold the property to a third party for €840,000, which third party did not previously own any properties and acquired this property to establish his sole residence thereon. The property had a market value of €800,000 on that date.
- Advise Mr X on the Malta duty implications arising upon the sale of the property on 30 January 2023.



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## CASE 2

### CASE STUDIES

- No duty is charged on the first €200,000 of the transfer value as a result of this being the first immovable property acquired by the transferee, which property is being acquired for the purposes of establishing his sole ordinary residence thereon.
- Duty is charged at the rate of €5 for every €100 or part thereon on the remaining value.

|  | €              |
|--|----------------|
| Market value   | 800,000        |
| Consideration  | 840,000        |
| <b>Transfer value</b> (higher of market value and consideration) | <b>840,000</b> |
| Less first €200,000 not subject to duty                          | (200,000)      |
| <b>Taxable value</b>   | <b>640,000</b> |
| <b>Duty at €5 for every €100 or part thereof</b>                 | <b>32,000</b>  |



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### CASE 3

#### CASE STUDIES

- On 27 December 2022, Mr B inherited a property ('Property 1') upon the death of his mother, which property was previously the main residence of both himself and his mother.
- On 5 February 2023, Mr B sold a property that he had acquired as a rental investment ('Property 2') to a third party for a consideration of €500,000. The market value of the property at the time of the sale was €550,000.
- The third party did not acquire Property 2 to establish his sole ordinary residence. Property 2 is situated in an urban conservation area.
- Advise Mr B on the Malta duty implications arising upon:
  - The inheritance of Property 1; and
  - The sale of Property 2 to a third party on 5 February 2023.



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### CASE 3

#### CASE STUDIES

- **Property 1:**
- The property being transferred consists of a dwelling house which was the ordinary residence of the transferor and is being transferred to the direct descendants of the transferor *causa mortis*.
- Therefore, no Malta duty liabilities should arise upon the inheritance of the property.



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## CASE 3

### CASE STUDIES

- **Property 2:**
- Given that the property is situated in an urban conservation area (and assuming that all other applicable conditions are met), rule 5 of S.L. 364.19 should be satisfied. As a result, rule 3 of S.L. 364.19 notes that no duty shall be payable on the first €750,000 of the transfer value.
- The transfer value is €550,000 (i.e. less than €750,000) and therefore no Malta duty liability should arise upon the sale of the property.
- The anti-abuse criteria noted in rule 6 of S.L. 364.19 must continue to be satisfied.

|  | €              |
|--|----------------|
| Market value   | 500,000        |
| Consideration  | 550,000        |
| <b>Transfer value</b> (higher of market value and consideration) | <b>550,000</b> |

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## CASE 4

### CASE STUDIES

- Black Limited is a company incorporated in Malta in 2012 and which has been owned equally by Mr A and Ms B (two unrelated parties) since its incorporation.
- The company's issued share capital is made up of 300,000 ordinary shares with a nominal value of €0.50 each, with all shares being entitled to equal voting rights and rights to profits.
- Black Limited holds immovable property situated in Malta for the generation of rental income and capital accretion, which property was acquired in 2014 at a cost of €200,000 and which had a market value of €500,000 on 1 February 2023.

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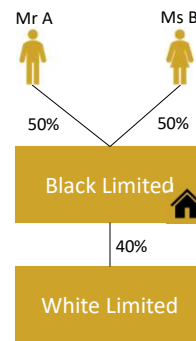
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## CASE 4

### CASE STUDIES

- In 2015, Black Limited acquired 40% of the share capital of White Limited.
- Both Black Limited and White Limited have not distributed any dividends since their incorporation.
- Black Limited's bank loans are not related to the acquisition of the immovable property.



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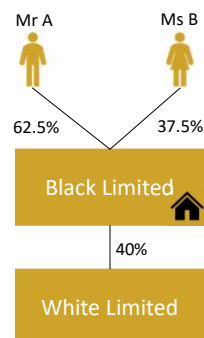
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## CASE 4

### CASE STUDIES

- On the 1 February 2023, Black Limited allotted 100,000 ordinary shares to Mr A with a nominal value of €0.50 each.
- Analyse any Malta duty requirements and, if applicable, prepare the relevant workings and appropriate duty schedules for this transaction, by reference to the financial information on the following slides.



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## CASE 4

### CASE STUDIES

- Profit before tax of each company for the past 5 years:

|      | Black Limited | White Limited |
|------|---------------|---------------|
|      | €             | €             |
| 2018 | 75,000        | 40,000        |
| 2019 | 95,000        | 47,000        |
| 2020 | 57,000        | 30,000        |
| 2021 | 40,000        | 20,000        |
| 2022 | 48,000        | 38,000        |



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## CASE 4

### CASE STUDIES

| Balance sheet extracts        | Black Limited   | Black Limited   | White Limited    |
|-------------------------------|-----------------|-----------------|------------------|
|                               | 31 January 2023 | 1 February 2023 | 31 December 2022 |
|                               | €               | €               | €                |
| <b>Non-Current Assets</b>     |                 |                 |                  |
| Property, plant and equipment | 150,000         | 150,000         | 440,000          |
| Investment property           | 200,000         | 200,000         | -                |
| Investment in White Limited   | 200,000         | 200,000         | -                |
| <b>Current Assets</b>         |                 |                 |                  |
| Trade receivables             | 15,000          | 15,000          | 67,000           |
| Cash                          | 30,000          | 80,000          | 330,000          |
| <b>Total Assets</b>           | <b>595,000</b>  | <b>645,000</b>  | <b>837,000</b>   |
| <b>Liabilities</b>            |                 |                 |                  |
| Trade payables                | 55,000          | 55,000          | 67,000           |
| Bank loans                    | 40,000          | 40,000          | 70,000           |
| <b>Total Liabilities</b>      | <b>95,000</b>   | <b>95,000</b>   | <b>137,000</b>   |
| <b>Equity</b>                 |                 |                 |                  |
| Share capital                 | 150,000         | 200,000         | 500,000          |
| Retained earnings             | 350,000         | 350,000         | 200,000          |
| <b>Total Equity</b>           | <b>500,000</b>  | <b>550,000</b>  | <b>700,000</b>   |



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## CASE 4

### CASE STUDIES

- The real value of Black Limited is to be calculated in accordance with the Capital Gains Rules for duty purposes [S.L. 364.06 rule 11(1)].
- Disallowed liabilities [DDTA article 42(2)(c)].

|             | Before         |                | After          |                |
|-------------|----------------|----------------|----------------|----------------|
|             | Property       | Non-Property   | Property       | Non-Property   |
|             | €              | €              | €              | €              |
| Assets      | 200,000        | 395,000        | 200,000        | 445,000        |
| Liabilities | -              | (95,000)       | -              | (95,000)       |
|             | <b>200,000</b> | <b>300,000</b> | <b>200,000</b> | <b>350,000</b> |



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## CASE 4

### CASE STUDIES

- The rate of duty applicable in this case is €2 for every €100 or part thereof [DDTA article 42(1)].
- $\text{€}500,000 / \text{€}850,000 \times 100 = 58.82\%$

| Non-current assets of Black Limited | €              |
|-------------------------------------|----------------|
| Property, plant and equipment       | 150,000        |
| Investment property                 | 500,000        |
| Investment in White Limited         | 200,000        |
|                                     | <b>850,000</b> |



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## CASE 4

### CASE STUDIES



#### FIFTH SCHEDULE (Rule 12(5))

Notice in terms of Rule 12(5) of the Duty on Documents and Transfers Rules, 1993

Computation of the value transferred referred to in article 42B of the Act

##### PART 1 - DETAILS OF CHANGE IN THE ISSUED SHARE CAPITAL OR VOTING RIGHTS (Insert "Yes" or "No")

|                  |                             |     |
|------------------|-----------------------------|-----|
| Nature of change | Alteration of voting rights | No  |
|                  | Allotment of shares         | Yes |
|                  | Conversion of shares        | No  |
|                  | Reduction in share capital  | No  |
| Date of change   | 1 February 2023             |     |

##### GIVE DETAILS

Allotment of 100,000 ordinary shares with a nominal value of €0.50 by Black Limited to Mr A

|   |       |
|---|-------|
| In case of an allotment of shares state the amount paid to the company per share:       | €0.50 |
| In case of a reduction of share capital state the amount paid by the company per share: | N/A   |

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## CASE 4

### CASE STUDIES

##### PART 2 - DETAILS OF ISSUED SHARE CAPITAL OF COMPANY

Immediately before change:

| Type     | Class | Votes per Share | Nominal value per share (€) | Number of shares | Total voting rights | Total nominal value (€) |
|----------|-------|-----------------|-----------------------------|------------------|---------------------|-------------------------|
| Ordinary | N/A   | 1               | €0.50                       | 300,000          | 300,000             | €150,000                |
|          |       |                 |                             |                  |                     |                         |
|          |       |                 |                             |                  |                     |                         |
|          |       |                 |                             | 300,000          | 300,000             | €150,000                |

Immediately after change:

| Type     | Class | Votes per Share | Nominal value per share (€) | Number of shares | Total voting rights | Total nominal value (€) |
|----------|-------|-----------------|-----------------------------|------------------|---------------------|-------------------------|
| Ordinary | N/A   | 1               | €0.50                       | 400,000          | 400,000             | €200,000                |
|          |       |                 |                             |                  |                     |                         |
|          |       |                 |                             |                  |                     |                         |
|          |       |                 |                             | 400,000          | 400,000             | €200,000                |

Note: Include only shares as referred to in rule 12(6).

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Note: Include only shares as referred to in rule 12(8)

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## CASE 4

### CASE STUDIES

Sec IV :Calculation of the amount representing the value of goodwill:

a Where company was in existence for the five financial years immediately preceding the year in which the transfer is made:

Year ended

Profit before tax

| Year1              | Year 2  | Year 3  | Year 4  | Year 5  | Total    |
|--------------------|---------|---------|---------|---------|----------|
| €75,000            | €95,000 | €57,000 | €40,000 | €48,000 | €315,000 |
| Value of goodwill: |         |         |         |         | €126,000 |

Note: Where the transfer is made during the company's first or second financial year the value of goodwill above shall be zero.

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## CASE 5

### CASE STUDIES

- A Limited is a Malta incorporated company with an issued share capital of 100,000 shares having a nominal value of €2 each.
- The company is held to the extent of 30% by Mr X, 25% by Mr Y and 45% by Ms Z.
- A Limited has two fully-owned Malta incorporated subsidiaries, B Limited and C Limited.
- B Limited also has a fully-owned Malta incorporated subsidiary, D Limited.
- D Limited holds immovable property situated in Malta.
- Mr Y and Ms Z are also equal shareholders of Alpha Limited, a Malta incorporated company.

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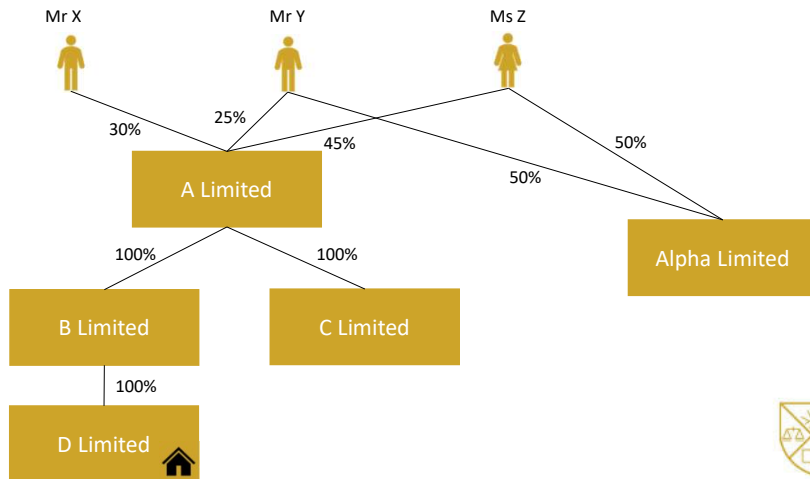
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## CASE 5

### CASE STUDIES



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## CASE 5

### CASE STUDIES

- Question 1:
- On 5 January 2023, B Limited transferred the entire issued share capital of D Limited to C Limited.
- Analyse any Malta duty considerations arising in relation to such transfer.

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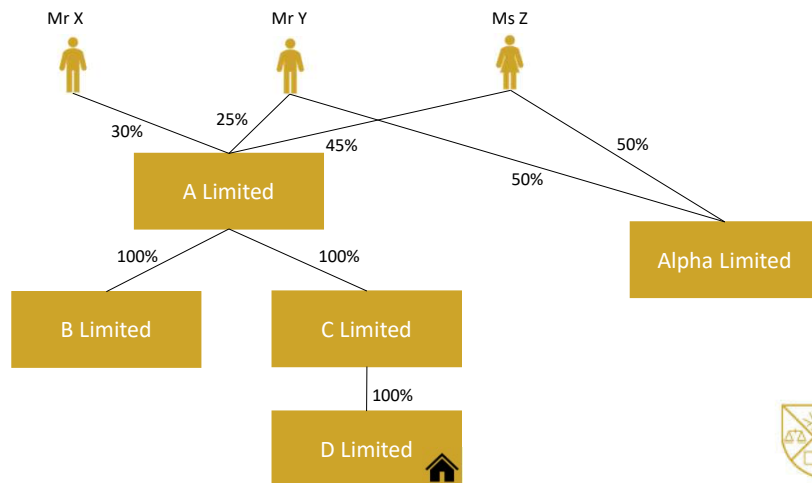
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## CASE 5

### CASE STUDIES



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## CASE 5

### CASE STUDIES

- B Limited and C Limited satisfy the criteria to be considered a group of companies for Malta duty purposes.
- Additionally, the companies are owned by the same shareholders having substantially the same percentage interest in the nominal share capital and voting rights of both companies.
- As a result, the transfer does not give rise to any Malta duty liability on the basis that the transfer is part of a re-organisation within a group of companies.

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## CASE 5

### CASE STUDIES

- **Question 2:**
- On 31 January 2023, A Limited transferred the entire share capital of B Limited to Alpha Limited.
- Analyse any Malta duty considerations arising in relation to question 1 as a result of this transfer.



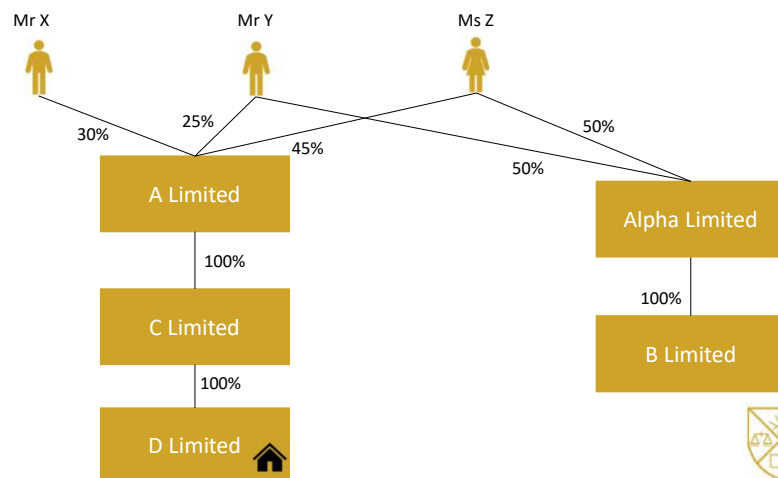
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## CASE 5

### CASE STUDIES



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## CASE 5

### CASE STUDIES

- From a Malta duty perspective, there should be no impact on the exempt transfer in question 1 (upon a change in the original group of companies, there is no clawback for Malta duty purposes similar to the degrouping provisions that apply to intra-group exempt capital gains).



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## CASE 5

### CASE STUDIES

- **Question 3:**
- On 15 February 2023, Mr Y transferred his entire holding in A Limited to Mr Beta, an unrelated third party.
- Analyse whether the transfer by Mr Y gives rise to any Malta duty considerations impacting question 1.



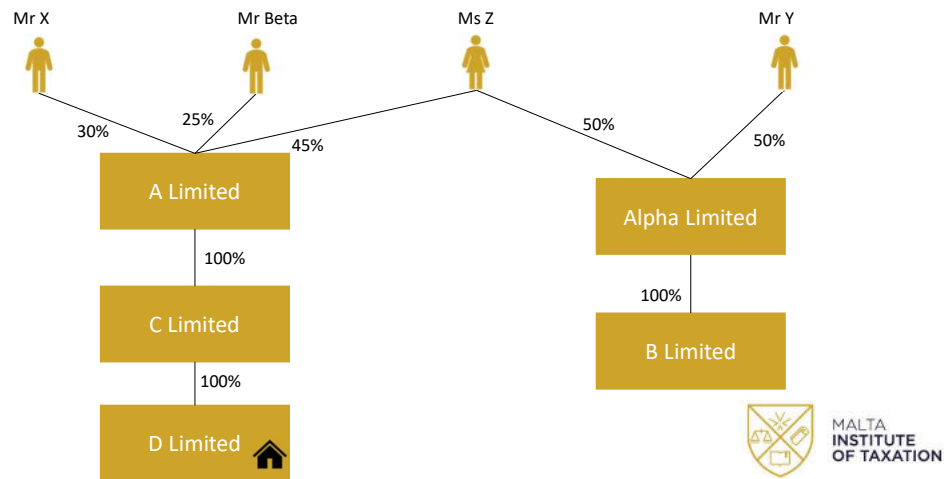
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## CASE 5

### CASE STUDIES



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## CASE 5

### CASE STUDIES

- From a Malta duty perspective, there should be no impact on the exempt transfer in question 1 (upon a change in the original group of companies, there is no clawback for Malta duty purposes similar to the degrouping provisions that apply to intra-group exempt capital gains).



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## CASE 6

### CASE STUDIES

- Mr Alpha owns 100% of the issued share capital of Beta Limited (200,000 ordinary shares with a nominal value of €2 each), a company incorporated in Malta by Mr Alpha in 2010.
- The ordinary shares held by Mr Alpha in Beta Limited entitle Mr Alpha to all rights to vote and rights to profits.
- Beta Limited holds immovable property situated in Malta for the generation of rental income and capital accretion, which property was acquired in 2015 at a cost of €300,000.
- As at 28 February 2023, the immovable property had a market value of €750,000.
- Beta Limited took out a bank loan to finance the acquisition of the investment property. €15,000 of this bank loan remains outstanding as at 31 December 2022.



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## CASE 6

### CASE STUDIES

- In 2018, Beta Limited acquired 60% of the issued share capital of Gamma Limited from a third party.
- Both Beta Limited and Gamma Limited have not distributed any dividends since incorporation.
- Mr Alpha is contemplating carrying out two mutually exclusive transactions by 28 February 2023:
  - Donating his entire holding in Beta Limited to his son; or
  - Transferring his entire holding in Beta Limited to an unrelated third party for a consideration of €2,000,000.
- Analyse any Malta duty requirements arising in connection with each of the above transactions and, if applicable, prepare the relevant workings and appropriate duty schedules, by reference to the financial information on the following slides.



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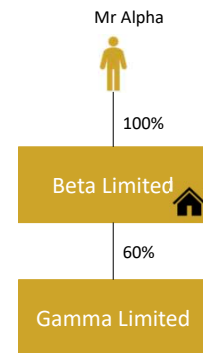
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## CASE 6

### CASE STUDIES

- Profit before tax of each company for the past 5 years:

|      | Beta Limited | Gamma Limited |
|------|--------------|---------------|
|      | €            | €             |
| 2018 | 40,000       | 80,000        |
| 2019 | 80,000       | 110,000       |
| 2020 | 92,000       | 90,000        |
| 2021 | 130,000      | 74,000        |
| 2022 | 140,000      | 60,000        |



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## CASE 6

### CASE STUDIES

| Balance sheet extracts as at 31 December 2022 | Beta Limited   | Gamma Limited    |
|---|----------------|------------------|
|   | €              | €                |
| <b>Non-Current Assets</b>                     |                |                  |
| Property, plant and equipment                 | 250,000        | 940,000          |
| Investment property                           | 300,000        | -                |
| Investment in Gamma Limited                   | 240,000        | -                |
| <b>Current Assets</b>                         |                |                  |
| Trade receivables                             | 110,000        | 100,000          |
| Cash  | 50,000         | 60,000           |
| <b>Total Assets</b>                           | <b>950,000</b> | <b>1,100,000</b> |
| <b>Liabilities</b>                            |                |                  |
| Trade payables                                | 35,000         | 100,000          |
| Bank loans                                    | 15,000         | 150,000          |
| <b>Total Liabilities</b>                      | <b>50,000</b>  | <b>250,000</b>   |
| <b>Equity</b>                                 |                |                  |
| Share capital                                 | 400,000        | 400,000          |
| Retained earnings                             | 500,000        | 450,000          |
| <b>Total Equity</b>                           | <b>900,000</b> | <b>850,000</b>   |



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CASE 6  
CASE STUDIES

- **Donation:**
- From a Malta duty perspective, there is no exemption for transfers of marketable securities via a donation to direct descendants. Therefore, the transfer falls within the scope of Malta duty.
- Malta duty at the reduced rate of €1.50 for every €100 or part thereof of the real value of the shares held by Mr Alpha in Beta Limited would be due upon the gratuitous transfer of such shares by Mr Alpha to his direct descendant provided that the donation is effected before 1 January 2024.



CASE 6  
CASE STUDIES

- The real value of Beta Limited is to be calculated in accordance with the Capital Gains Rules for duty purposes [S.L. 364.06 rule 11(1)].
- Disallowed liabilities [DDTA article 42(2)(c)]:

|             | Property       | Non-Property   |
|-------------|----------------|----------------|
|             | €              | €              |
| Assets      | 300,000        | 650,000        |
| Liabilities | (15,000)       | (35,000)       |
|             | <b>285,000</b> | <b>615,000</b> |



## CASE 6

### CASE STUDIES



#### SIXTH SCHEDULE (Rule 11(3))

Notice in terms of Rule 11(3) of the Duty on Documents and Transfers Rules, 1993

Statement to be submitted by transferee in a transfer of company shares

##### PART 1 - DETAILS OF TRANSFEROR AND TRANSFEREE

| TRANSFEROR |                                 |                         |                            |
|------------|---------------------------------|-------------------------|----------------------------|
| Name       | Address                         | ROC No (companies only) | Income Tax Registration No |
| Mr Alpha   | 20, Triq il-Bahar, Qawra, Malta | N/A                     | 928471M                    |

| TRANSFEREE    |                                 |                         |                            |
|---------------|---------------------------------|-------------------------|----------------------------|
| Name          | Address                         | ROC No (companies only) | Income Tax Registration No |
| Mr Alpha Jnr. | 20, Triq il-Bahar, Qawra, Malta | N/A                     | 685394M                    |

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## CASE 6

### CASE STUDIES

##### PART 2 - DETAILS OF COMPANY IN WHICH SHARES ARE BEING TRANSFERRED

|                            |   |
|----------------------------|---|
| Company Name               | Beta Limited  |
| Income Tax Registration No | 996549827   |
| Company year end           | 31 December   |
| Date of incorporation      | 1 March 2010  |
| ROC No                     | C 4698  |
| Authorised share capital   | 200,000 ordinary shares with a nominal value of €2 each |
| Issued share capital       | 200,000 ordinary shares with a nominal value of €2 each |

State whether: (Yes or No)

|   |  |     |
|---|--|-----|
| a | The Company holds shares directly or indirectly in other companies.<br>(if Yes attach details)   | Yes |
| b | The Company or any companies specified in (a) above own immovable property at the date of the share transfer.<br>(if Yes attach details) | Yes |

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## CASE 6

### CASE STUDIES

| PART 3 - DETAILS OF SHARE TRANSFER |                                      |   |  |  |
|------------------------------------|--------------------------------------|---|--|--|
| a                                  | Date of share transfer               | 28 February 2023  |  |  |
| b                                  | Number of shares transferred         | 200,000 ordinary shares with a nominal value of €2 each |  |  |
| c                                  | Consideration for shares transferred | NIL - donation  |  |  |

Give details of the shares transferred:

| Type     | Class | Votes per share | Nom Value per share | Number  |
|----------|-------|-----------------|---------------------|---------|
| Ordinary | N/A   | 1               | €2                  | 200,000 |
|          |       |                 |                     |         |
|          |       |                 |                     |         |

**PART 4 - COMPUTATION OF THE REAL VALUE OF THE SHARES TRANSFERRED**

The real value of the shares being transferred is to be determined as follows:

| REAL VALUE OF SHARES TRANSFERRED  |  |
|---|--|
| Sec I: Determination of the % of the real value of the company as represented by such shares.   |  |
| 'A' is the percentage of the issued share capital represented by the nominal value of those shares.   | 100%   |
| 'B' is the percentage of the total voting rights in the company represented by the total voting rights attached to those shares.  | 100%   |
| 'C' is the percentage of the profits available for distribution to the ordinary shareholders represented by the profits available for distribution to the holder of those shares. | 100%   |
| 'Y' represents the percentage to be determined.   | $Y = (0.4 \times A) + (0.2 \times B) + (0.4 \times C)$ |
|   | 100%   |

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## CASE 6

### CASE STUDIES

| Sec II : Computation of real value of company in accordance with rule 5(6) and (7) of the Capital Gains Rules, 1993: |   |                        |            |
|--|---|------------------------|------------|
| a  | Total Net Asset Value of the company:   |                        | €900,000   |
| b  | Real Value of shares held in another company representing at least 10% of the nominal value of the issued share capital of that other company, determined in accordance with rule 5 of the Capital Gains Rules, 1993: |                        |            |
|  | Company   | Income Tax no.         | Real Value |
|  | Gamma Limited   | 996548234              | €609,360   |
|  |   |                        |            |
|  |   |                        | €609,360   |
|  | Deduct book value of shares held in the company (as stated in the financial statements)   |                        | (€240,000) |
| c  | Total real value of immovable property as stated in the Architect's Valuation (as per Part 6) less Total book value of immovable property   | €750,000<br>(€300,000) |            |
|  | Adjustment to the value of immovable property:  |                        | €450,000   |
| d  | Value of goodwill: (as calculated in Sec IV below)  |                        | €192,800   |
| e  | Deduct the book value of shares referred to in rule 5(6)(d) of the Capital Gains Rules, 1993:   |                        | NIL        |
| f  | Add Liabilities in excess of the value of all assets as determined in accordance with article 42(2)(c) of the Act:  |                        | NIL        |
| g  | Total Adjusted real value of the Company  |                        | €1,912,160 |

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## CASE 6

### CASE STUDIES

| Sec III: Real value of shares transferred: |  |
|--|--|
| a  | Adjusted real value of the company<br>(Sec 1g)   |
| b  | Percentage of real value as represented by shares transferred<br>(higher of C/A, D/B in Sec I) |
| c  | Real value of shares transferred<br>(a X b)  |
| d  | Amount or value of the consideration for the shares transferred                                |
| e  | Amount chargeable to duty<br>(Higher of c and d)   |
| f  | Rate of duty<br>(€ 5 or € 2 for every one hundred euro or part thereof)                        |
| g  | Amount of duty due<br>(e X f)  |

| Sec IV: Calculation of the Amount Representing the Value of Goodwill:   |                  |         |          |          |          |
|---|------------------|---------|----------|----------|----------|
| a Where company was in existence for the five financial years immediately preceding the year in which the transfer is made: |                  |         |          |          |          |
| Year ended  | 31 December 2022 |         |          |          |          |
| Profit before tax   |                  |         |          |          |          |
| Year 1  | Year 2           | Year 3  | Year 4   | Year 5   | Total    |
| €40,000   | €80,000          | €92,000 | €130,000 | €140,000 | €482,000 |
| Value of goodwill:  |                  |         |          |          | €192,800 |

Note: Where the transfer is made during the company's first or second financial year the value of goodwill above shall be zero.

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## CASE 6

### CASE STUDIES

- Transfer of shares:
- The rate of duty in this case is €2 for every €100 or part thereof [DDTA article 42(2)(a)].
- $\text{€}750,000 / \text{€}1,240,000 \times 100 = 60.48\%$

| Non-current assets of Beta Limited | €         |
|------------------------------------|-----------|
| Property, plant and equipment      | 250,000   |
| Investment property                | 750,000   |
| Investment in Gamma Limited        | 240,000   |
|                                    | 1,240,000 |

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## CASE 6

### CASE STUDIES



#### SIXTH SCHEDULE (Rule 11(3))

Notice in terms of Rule 11(3) of the Duty on Documents and Transfers Rules, 1993

Statement to be submitted by transferee in a transfer of company shares

##### PART 1 - DETAILS OF TRANSFEROR AND TRANSFEREE

| TRANSFEROR |                                 |                         |                            |
|------------|---------------------------------|-------------------------|----------------------------|
| Name       | Address                         | ROC No (companies only) | Income Tax Registration No |
| Mr Alpha   | 20, Triq il-Bahar, Qawra, Malta | N/A                     | 928471M                    |

| TRANSFEREE  |                                    |                         |                            |
|-------------|------------------------------------|-------------------------|----------------------------|
| Name        | Address                            | ROC No (companies only) | Income Tax Registration No |
| Third Party | 31, Valley Road, Birkirkara, Malta | N/A                     | 967384M                    |

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## CASE 6

### CASE STUDIES

##### PART 2 - DETAILS OF COMPANY IN WHICH SHARES ARE BEING TRANSFERRED

|                            |   |
|----------------------------|---|
| Company Name               | Beta Limited  |
| Income Tax Registration No | 996549827   |
| Company year end           | 31 December   |
| Date of Incorporation      | 1 March 2010  |
| ROC No                     | C 4698  |
| Authorised share capital   | 200,000 ordinary shares with a nominal value of €2 each |
| Issued share capital       | 200,000 ordinary shares with a nominal value of €2 each |

State whether: (Yes or No)

|   |  |     |
|---|--|-----|
| a | The Company holds shares directly or indirectly in other companies.<br>(If Yes attach details)   | Yes |
| b | The Company or any companies specified in (a) above own immovable property at the date of the share transfer.<br>(If Yes attach details) | Yes |

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## CASE 6

### CASE STUDIES

| PART 3 - DETAILS OF SHARE TRANSFER |                                      |   |  |  |
|------------------------------------|--------------------------------------|---|--|--|
| a                                  | Date of share transfer               | 28 February 2023  |  |  |
| b                                  | Number of shares transferred         | 200,000 ordinary shares with a nominal value of €2 each |  |  |
| c                                  | Consideration for shares transferred | Cash consideration of €2,000,000                        |  |  |

Give details of the shares transferred:

| Type     | Class | Votes per share | Nom Value per share | Number  |
|----------|-------|-----------------|---------------------|---------|
| Ordinary | N/A   | 1               | €2                  | 200,000 |
|          |       |                 |                     |         |
|          |       |                 |                     |         |

| PART 4 - COMPUTATION OF THE REAL VALUE OF THE SHARES TRANSFERRED  |  |
|---|--|
| The real value of the shares being transferred is to be determined as follows:  |  |
| <b>REAL VALUE OF SHARES TRANSFERRED</b>   |  |
| Sec I: Determination of the % of the real value of the company as represented by such shares  |  |
| 'A' is the percentage of the issued share capital represented by the nominal value of those shares.   | 100%   |
| 'B' is the percentage of the total voting rights in the company represented by the total voting rights attached to those shares.  | 100%   |
| 'C' is the percentage of the profits available for distribution to the ordinary shareholders represented by the profits available for distribution to the holder of those shares. | 100%   |
| 'Y' represents the percentage to be determined.   | $Y = (0.4 \times A) + (0.2 \times B) + (0.4 \times C)$ |
|   | 100%   |

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## CASE 6

### CASE STUDIES

| Sec II: Computation of real value of company in accordance with rule 5(6) and (7) of the Capital Gains Rules, 1993; |   |                |
|---|---|----------------|
| a   | Total Net Asset Value of the company:   | €900,000       |
| b   | Real Value of shares held in another company representing at least 10% of the nominal value of the issued share capital of that other company, determined in accordance with rule 5 of the Capital Gains Rules, 1993: |                |
|   | Company   | Income Tax no. |
|   | Gamma Limited   | 996548234      |
|   |   | Real Value     |
|   |   | €609,360       |
|   |   |                |
|   |   | €609,360       |
|   | Deduct book value of shares held in the company (as stated in the financial statements)   | (€240,000)     |
| c   | Total real value of immovable property as stated in the Architect's Valuation (as per Part 6)   | €750,000       |
|   | less Total book value of immovable property   | (€300,000)     |
|   | Adjustment to the value of immovable property:  | €450,000       |
| d   | Value of goodwill: (as calculated in Sec IV below)  | €192,800       |
| e   | Deduct the book value of shares referred to in rule 5(6)(d) of the Capital Gains Rules, 1993:   | NIL            |
| f   | Add Liabilities in excess of the value of all assets as determined in accordance with article 42(2)(c) of the Act:  | NIL            |
| g   | Total Adjusted real value of the Company  | €1,912,160     |

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## CASE 6

### CASE STUDIES

| Sec III : Real value of shares transferred: |  |
|---|--|
| a   | Adjusted real value of the company<br>(Sec 19)   |
| b   | Percentage of real value as represented by shares transferred<br>(higher of C/A, D/B in Sec I) |
| c   | Real value of shares transferred<br>(a X b)  |
| d   | Amount or value of the consideration for the shares transferred                                |
| e   | Amount chargeable to duty<br>(Higher of c and d)   |
| f   | Rate of duty<br>(€ 5 or € 2 for every one hundred euro or part thereof)                        |
| g   | Amount of duty due<br>(e X f)  |

| Sec IV : Calculation of the Amount Representing the Value of Goodwill:  |                  |         |          |          |          |
|---|------------------|---------|----------|----------|----------|
| a Where company was in existence for the five financial years immediately preceding the year in which the transfer is made: |                  |         |          |          |          |
| Year ended  | 31 December 2022 |         |          |          |          |
| Profit before tax   |                  |         |          |          |          |
| Year 1  | Year 2           | Year 3  | Year 4   | Year 5   | Total    |
| €40,000   | €80,000          | €92,000 | €130,000 | €140,000 | €482,000 |
| Value of goodwill:  |                  |         |          |          | €192,800 |

Note: Where the transfer is made during the company's first or second financial year the value of goodwill above shall be zero.

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