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Taxation on Different Sources of Income

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AGENDA

- Introduction
- Dividends
- Premiums, Interest or Discounts
- Pension, charge, annuity or annual payments
- Royalties, Premiums and any other profits arising from property
- Rent
- Other income

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Taxation on Different Sources of Income
Introduction

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Introduction
In today's lecture

- During this lecture we will be going through the provisions of Articles 4(1)(c) to 4(1)(g) of the ITA.
- These provisions are applicable in respect of unearned income.

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Article 4(1)(c)
Dividends, Premiums, Interest or discounts

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Article 4(1)(c)
Dividends

- Bonus Shares
- Full Imputation
- Maltese Individuals
  - *Exemption*
  - *Tresholds*
- Participation Exemption
- Special Rates
  - *15%*
  - *2.5%*

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Article 4(1)(c)
Dividends – Theory (1/10)

- Dividends represent payments of the profits of a company, or part thereof, to its shareholders.
- Dividend as defined in Article 2 of the ITA *"includes –*
- *(a) bonus shares;*
- *(b) any distribution made by a company, to its partners or shareholders, as the case may be, and any amount credited to them as partners or shareholders as the case may be;*
- *(c) any distribution made by a co-operative society to its members and any amount credited to them as members, including any patronage refund, bonus certificate or bonus share, made, paid or allotted in accordance with the law regulating such societies for the time being in force in Malta"*
- This is not an exhaustive definition of the term dividends.

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Article 4(1)(c)
Dividends – Theory (2/10)

- It is important to note that the tax treatment of bonus shares may vary from the accounting treatment.
- Bonus shares are deemed to constitute dividend income for tax purposes however these are typically not included as part of the company receiving such bonus shares.
- As a result for tax purposes, the income and the underlying tax would stand to be taken into consideration for tax purposes despite not being reported in the recipients financial statements.
- However it is important to note that bonus shares are deemed to constitute dividends for the purpose of the ITA insofar as they are issued out of distributable reserves.

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Article 4(1)(c)
Dividends - Theory (3/10)

Dividend income from a local company:

- Malta's taxation system is a full imputation system by virtue of which tax paid at the level of a company is available as a credit to its shareholder.
- Through the application of **Article 59(1)(a)** of the **ITA**, a Malta resident company can deduct from the amount of any dividend paid to any shareholder the tax paid on the income out of which the dividends are paid.
- However, as a result of **Article 31** of the **ITA**, the shareholder is deemed to be in receipt of the gross amount prior to the tax deducted at the level of the company.
- The shareholder is entitled to a credit equivalent to the tax paid by the Malta resident company, which credit is utilized against the shareholder's tax liability of the same dividend by virtue of **Article 60** of the **ITA**.

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Article 4(1)(c)
Dividends - Theory (4/10)

Lecture Example 1:

- MaltaSub is a Malta registered company wholly owned by Malta Parent.
- MaltaSub earned €100 of revenue on which it suffered tax of €35.
- Subsequently MaltaSub effected a dividend distribution of €65 to Malta Parent.

On the basis of the above what would be:

- Malta Parent's income;
- Tax thereon; and
- Tax actually payable by Malta Parent.

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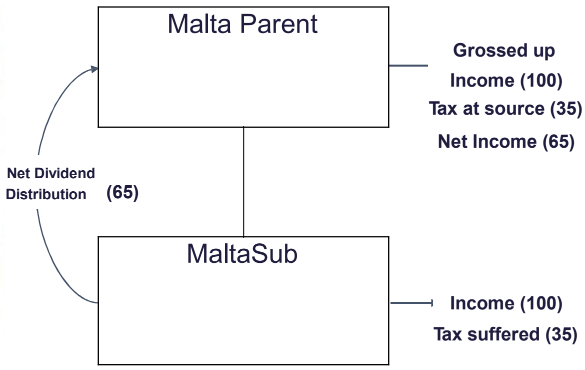
Article 4(1)(c)
Dividends – Theory (5/10)



- MaltaSub earns €100 of income and suffers tax of 35%.
- MaltaSub distributed a net dividend of €65 to Malta Parent.
- Malta Parent is deemed to have received dividend income of €100 on which tax of €35 is payable.
- Malta Parent is entitled to a credit of €35 on this dividend income.
- Malta Parent has no further tax to pay.

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Article 4(1)(c)
Dividends – Theory (6/10)

- Further to the scenario in slide 9, in the event that the shareholder of the MaltaSub is subject to a rate, less than 35%, the shareholder would be entitled to a refund of the imputation credit in excess of the tax chargeable at the level of the shareholder.
- Therefore, in principle, an individual shareholder taxed at the progressive rates may be eligible for such refunds. This is subject to the relevant thresholds in Article 12(1)(c)(iii).
- As from YA 2018 distributions by companies listed on a recognised stock exchange to qualifying shareholders would not be subject to the provisions of Article 12(1)(c)(iii). *(This will be dealt with in further detail in one of the upcoming lectures dealing with exemptions.)*

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Article 4(1)(c)
Dividends - Theory (7/10)

Lecture Example 2:

- MaltaSub is a Malta registered company wholly owned by Mr. X.
- Mr. X is subject to tax at the single rates and his only source of income is the dividend income from MaltaSub.
- MaltaSub earns €15,000 of income on which tax is levied at 35%.
- MaltaSub effected a dividend distribution of €9,750 to Mr. X.

On the basis of the above what would be:

- Mr. X's income;
- Tax thereon; and
- Tax actually payable/refundable by/to Mr. X.

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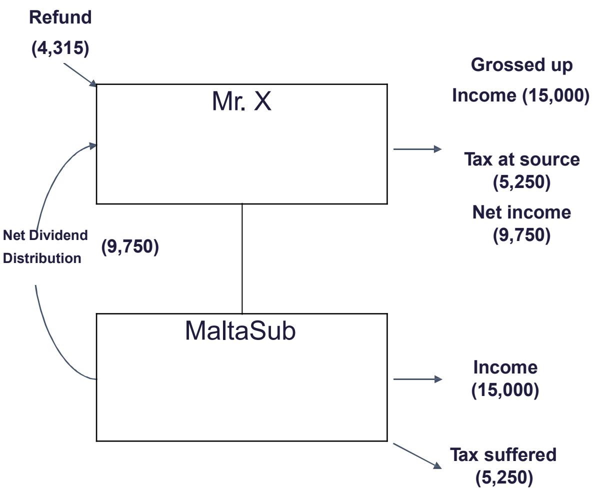
Article 4(1)(c)
Dividends – Theory (8/10)



- Mr. X is a Malta resident individual subject to tax at the single rates and his only source of income is the dividend income from MaltaSub.
- MaltaSub earns €15,000 of income and suffers tax of 35%.
- MaltaSub distributed a net dividend of €9,750 to Mr. X.
- The tax chargeable to Mr. X amounts to €935 (15,000 * 25% - 2815).
- Mr. X is entitled to a refund of €4,315 being the credit in excess of the tax chargeable to Mr. X.

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Article 4(1)(c)
Dividends – Theory (9/10)

- Dividend income from a foreign subsidiary is taxed at the statutory rate applicable to the recipient of the dividend.
- The participation exemption in terms of Article 12(1)(u)(1) of the ITA may be available.
- Upon the payment of a dividend, dividend certificates are to be presented to the shareholder complying with the requirements of Article 59(5) of the ITA.

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Article 4(1)(c)
Dividends – Theory (10/10)

- An exception to the imputation system is income from the Final Tax Account on which no credit is available to the shareholder but no further tax will be levied on this income.
- In addition Article 48(1) of the ITA provides for some additional exceptions to Malta's imputation system on:
  - *any tax which a company has deducted or is entitled to deduct from any dividend paid to any person who in virtue of any exemption granted by or under any law is not chargeable to tax thereon; and*
  - *any tax charged on any body of persons under article 56(4) of the Income Tax Act, or under article 27(3) and (4); and*
  - *any tax which a company has deducted or is entitled to deduct from any dividend paid to a collective investment scheme.*

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Article 4(1)(c)
Dividends – Lecture Example 3 (1/2)

- Company A is a holding company with investment in two subsidiaries registered in Malta namely, Sub1 Ltd and Sub2 Ltd.
- During financial year ended 31 December 2016 the company received the following dividend income:

	Sub1 Ltd		Sub2 Ltd	
Tax Account	Final Tax Account @15%	Immovable Property Account @35%	Maltese Taxed Account @35%	Final Tax Account Exempt
Gross amount	9,440	23,000	95,440	234
Net Malta tax	1,416	8,050	33,404	-
Net amount	8,024	14,950	62,036	234

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Article 4(1)(c)

Dividends – Lecture Example 3 (2/2)

An extract from the Financial Statements of Company A shows the following:

- Opening Retained Earnings (entirely made up of MTA profits) amounted to €35,000;
- Dividend income for the year amounted to €128,114 (this represents the sole income of the company) split as indicated in slide 13;
- Company A's only expense is an accrual for audit fees of €1,000; and
- Profit before tax for the year amounted to €127,114.

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Article 4(1)(c)

Dividends – Lecture Example 3 - Computation

			€
Profit before tax			127,114
Add back:			
Disallowed expenses			1,000
			128,114
Less:			
FTA dividend income			(9,674)
Chargeable income			118,440
Tax at 35%			41,454
Tax at source			(41,454)
Tax payable			-
Total tax suffered by the company (41,454 + 1,416)			42,870

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Article 4(1)(c)

Dividends – Lecture Example 3 – Answer (1/2)

With reference to the Model Answer to Example 1 please note the following:

- TRA 08 – Dividend income from the Final Tax Account (FTA) are to be reported Net of tax as function of the Income Tax Return (for the Allocation in TRA 61 to be properly calculated).
- TRA 08 – Dividend income from the other tax accounts are to be reported gross of tax with the tax thereon reported in the Malta tax paid column.
- TRA 18 – Dividend income from the FTA is to be reported as exempt income in TRA 18 and allocated to the FTA.
- Page 3 – Dividends in cell 26a represent all dividends except those allocated to the FTA, reported gross of tax.
- Page 3 – Exempt income in cell 30a represent dividends from the FTA, reported net of tax.
- Page 3 – The adjustment in cell 32a, represents an adjustment for the tax at source not reported in the Income Tax Return but reported in the Financial Statements.

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Article 4(1)(c)

Dividends – Lecture Example 3 – Answer (2/2)

- Page 4 – Following the reversal in page 3 of the dividend income. Dividend income allocated to the Immovable Property Account, Maltese Taxed Account and Foreign Income Account is reintroduced in Cells 50a, 50b and 50c respectively.
- Page 5 – The tax on Company A's chargeable income is calculated and in cells 85a and 85b a claim for the tax at source suffered on the company's dividend income is claimed.
- Page 5 – Any tax due by the company would be reflected in cell 89a however this is Nil as the company is claiming credit for the tax paid at source on the dividend income received.
- In Page 6, TRA 61, TRA 62 and TRA 63, the allocation to the different tax accounts may be observed.

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Article 4(1)(c)
Dividends – Further taxes

- When company pays a dividend out of profits subject to tax at 32.5% (old tax reserves) – impose a top up tax of 2.5% **(ITA Article 67)**
- When company pays a dividend out of the untaxed account to a resident individual (not a company) – impose a withholding tax of 15% **(ITA Article 62).**

In cases 2 & 3, withholding tax is to be passed on to CIR within 15 days from the date of payment of the dividend

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Article 4(1)(c)
Dividends, **Premiums, Interest or discounts**

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Article 4(1)(c)
Interest, Premiums or Discounts (1/9)

- **Interest** can be defined as the compensation received in exchange of borrowing money.
- The ITA does not define the term interest however Article 4(1)(c) of the ITA stipulates that the term interest *'includes any gains from any sum of money in whatever currency deposited with a person carrying on the business of banking under the Banking Act in any account whatsoever'.* Therefore income on deposits with banking institutions also fall within the remit of Article 4(1)(c).

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Article 4(1)(c)
Interest, Premiums or Discounts (2/9)

- **Premiums** may refer to financial instruments where, upon maturity, an amount in excess of the par-value is payable in addition to any interest.
- **Premiums** should not be deemed to refer to payments made on contracts of insurance as such transactions would typically be entered into in the context of a trade or business and taxed in terms of Article 4(1)(a) of the ITA.
- **Discounts** represent the acquisition of financial instrument upon issue, such as treasury bills, for a value less than its par-value. The difference between the cost upon issue and the amount received upon maturity (or disposal prior to maturity) represents discount income.

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Article 4(1)(c)
Interest, Premiums or Discounts (3/9)

- **Interest**, **premiums** or **discounts** would, in principle and save for the applicability of the investment income provisions, be taxed at the statutory rates (35% for companies and progressive rates for individuals) in the hands of the taxpayer earning such income.
- When the investment income provisions (covered later in this lecture) apply a beneficial tax rate of 15% is available at the option of the taxpayer.
- In terms of Article 33 of the ITA a payor of Investment Income as defined in Article 41 of the ITA should withhold tax at the rate of 15% upon payment to a recipient.

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Article 4(1)(c)
Interest, Premiums or Discounts (4/9)

The following is a list of items of income [relevant to Article 4(1)(c)] falling within the definition of Investment Income in Article 41 of the ITA:

- Bank interest (except interest payable in respect of any bearer account)
- Interest, discounts or premiums payable by the Government of Malta or by any agency thereof;
- Interest, discounts or premiums payable by a corporation or authority established by law;
- Interest, discounts or premiums payable in respect of a public issue by a company, entity or other legal person resident in Malta or otherwise;

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Article 4(1)(c)

Interest, Premiums or Discounts (5/9)

- Interest, discounts or premiums payable in respect of a private issue by a company, entity or other legal person howsoever constituted and resident in Malta paid to a collective investment scheme.
- Interest payable by a foreign bank where the payment of the income from investment is made through an authorised financial intermediary.

- NB – This is not representative of the entire list in Article 41 of the ITA but an extract relevant to this lecture.

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Article 4(1)(c)

Interest, Premiums or Discounts (6/9)

- In terms of Article 41(b) a payor shall mean:
- *"the person who is liable to make, or if different, who makes a payment of investment income…"*
- Furthermore by virtue of Article 41A(c) the term payor also *"includes an authorised financial intermediary and all the obligations of a payor shall apply to such an intermediary with respect to all payments of investment income effected through his services. A payment of investment income is effected through the services of an authorised financial intermediary when such payment –"*

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Article 4(1)(c)
Interest, Premiums or Discounts (7/9)

- *"(i) is made to the intermediary who holds the relevant investment for the benefit of the recipient"*;
- *"(ii) is made directly to the recipient who requires that an authorised financial intermediary collects an amount of tax equal to fifteen per cent of such income for onward payment to the Commissioner";*
- *"(iii) is made through an arrangement approved by the Commissioner, which arrangement enables the collection of tax on such income through an authorised financial intermediary".*

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Article 4(1)(c)
Interest, Premiums or Discounts (8/9)

In terms of Article 41(c) a recipient shall mean:

- Sub-paragraph "(i) a person who is resident in Malta during the year in which investment income is payable to him or which is payable to a person under subparagraphs (ii) or (iii)…".
- The definition however excludes Banks and Insurance Companies and companies owned directly or indirectly by such companies, unless the latter company does not carry on the business of a Bank or an Insurance company and a determination that the company falls within the definition of a recipient has been issued by the Commissioner.
- The definition also excludes Companies registered in terms of Article 24 of the Malta Financial Services Authority Act.

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Article 4(1)(c)
Interest, Premiums or Discounts (9/9)

- *"(ii) receiver, guardian, tutor, curator, judicial sequestrator or committee acting on behalf of a person referred to in sub-paragraph (i) of this paragraph"*
- *"(iii) a trustee or foundation pursuant to or by virtue of which any money or other property whatsoever shall for the time being be paid or applied to or for the benefit of a person referred to in sub-paragraph (i)"*
- *"(iv) an EU/EEA individual (and his or her spouse where applicable) in the circumstances envisaged by the first and second provisos to article 56(1)(c)".*

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Article 4(1)(c)
Interest, Premiums or Discounts – Lecture Example 4

- Company A is in receipt of the following income:
- Bank interest subject to 15% Final Withholding Tax of €400 on which tax withheld amounted to €60.
- Interest income from a loan to a related party amounting to €15,000.
- Premium income of €5,000.
- The company's only expense is an audit fee of €1,000.

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Article 4(1)(c)

Interest, Premiums or Discounts – Lecture Example 4 - Computation

			€
Profit before tax			19,400
Add back:			
Disallowed expenses			1,000
			20,400
Less:			
Interest income subject to 15% final withholding tax			400
Chargeable income			20,000
Tax at 35%			7,000
Tax at source			-
Tax payable			7,000
Total Tax suffered by the company (7,000 +60)			7,060

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Article 4(1)(c)

Interest, Premiums or Discounts – Lecture Example 4 - Answers (1/2)

With reference to the Model Answer to Example 2 please note the following:

- TRA 09 – As the interest income is of a passive nature TRA 09 needs to be completed. The income subject to 15% withholding tax in terms of the Investment Income Provisions is allocated under the Final Tax Account. The other interest income does not fall within the definition of investment income and therefore may not be subject to a final tax and included under the Maltese Taxed Account column.
- TRA 10 - The Premium income has been included in TRA 10 as it also represents income of a passive nature chargeable to tax in terms of Article 4(1)(c).
- TRA 60 – This attachment is completed automatically with income subject to final withholding taxes or statutory deductions and corresponding add backs.

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Article 4(1)(c)
Interest, Premiums or Discounts – Lecture Example 4 - Answers (2/2)

- Page 3 – Similar to Example 1, the income chargeable to tax in terms of Article 4(1)(c) and not subject to a final withholding tax has been included in cell 26a;
- Page 3 – The interest income subject to 15% final withholding tax is included automatically upon completion of TRA 9 and TRA 60, in cell 29a.
- Page 4 – The interest income not subject to 15% final withholding tax, and the Premium income are reintroduced in cells 51b and 52b respectively.
- Page 5 – Upon arriving at the chargeable income, the tax chargeable thereon is calculated and the tax payable can be observed in cell 89a.
- Page 6, TRA 61, TRA 62 and TRA 63 – These include the relevant allocations to the various tax accounts on the basis of the computation in pages 3 and 4.

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Article 4(1)(d)
Pension, charge, annuity or annual payment

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Article 4(1)(d)
Pension, charge, annuity or annual payments

- This article brings to charge pension income, annuities and other such income.
- **Pension** can be defined as income for compensation of past employment and/or past contributions made. The pension may be a State pension offered by the government (such as Malta's pension system to which an individual contributes Social Security Contributions) or by Private Employers.
- **Charge** may typically refer to a imposition for periodical payment, which may be perpetual or temporary.
- **Annuities** similarly can be defined as a financial product which seeks to invest funds received as contributions by an individual or by a separate person on behalf of that individual with a view of paying our future benefits at a later point in time. This can be seen as the accretion of capital through regular payments in return for annual income.
- **Annual Payments** refer to income of a recurring nature (not necessarily annual) not falling within the parameters of the other provisions.

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Article 4(1)(d)
Pension rebates

- As from 1st January 2017, a new treatment applicable to individuals aged 61 or over and who receive pension income subject to tax in Malta
- possibility of a tax rebate to be set-off against the tax on the pensioner's chargeable pension as follows (below figures as per 2022): UPDATED
    - 15% of pension income less €9,100 (being the capping of the 0% bracket for single rates). Provided that such rebate shall not exceed €783;
    - 15% of pension income less €10,500 (being the capping of the 0% bracket for parent rates). Provided that such rebate shall not exceed €573;
    - 15% of pension income less €12,700 (being the capping of the 0% bracket for married rates). Provided that such rebate shall not exceed €243. A further tax rebate shall be allowed against the tax on such person's chargeable income, as follows: Tax rebate = [(chargeable income less 12,700) multiplied by 15%] less the first part of the rebate (i.e. 15% of pension less €12,700 but cannot exceed €540).

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Article 4(1)(e)
Rents, **Royalties, Premiums and any other profits arising from property**

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Article 4(1)(e)
Rent, Royalties, Premiums and other profits arising from property

This article brings to charge Rent, Royalties, Premiums and other profits arising from property

- **Rent** is the ongoing payment by a person to the owner of property for the former to utilise the property
- **Royalties** can be defined as payments made for the use of intangible property, which property may include patents and work which is copyrighted.
- **Premiums** may represent, in theory, represent payments due upon entering into a rental or royalty agreement but do not represent a payment of a rent or royalty.

- Royalties and premiums are taxable at the statutory rates (35% for companies and progressive rates for individuals)

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Article 4(1)(e)
Taxation of rental income

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Article 4(1)(e)
Taxation of Rental Income

Rental income may be subject to tax in three different manners:

- As normal trading income taxable in terms of Article 4(1)(a) with the normal deduction rules applicable (this is not being dealt with in this lecture).
- As income of a passive nature in terms of Article 4(1)(e) taxed at the statutory rate applicable to the recipient of such income and claiming the deductions prescribed in terms of the Deduction of Expenses in Respect of Immovable Property Rules, Subsidiary Legislation 123.26 of the laws of Malta (the 'Rules').
- As income, whether of a passive or a trading nature, subject to a final tax of 15% final tax on gross rental income received.

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Article 4(1)(e)
Taxation of Rental Income

The deductions allowed against Rental income in terms of the Rules are the following:

- *"The amount of interest allowable under article 14(1)(a) of the Act*
- *any rent, ground rent or similar burden payable;*
- *where applicable, the licence fee payable for the purpose of the Guest Houses and Holiday Furnished Premises Act; and*
- *a further amount equivalent to twenty per cent of the income remaining after deducting from the total of the income in question the expenditure referred to in paragraphs (b) and (c) of this rule, so however that no such deduction shall be allowed in respect of income arising from any emphyteutical concession."*

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Article 4(1)(e)
Taxation of Rental Income – Lecture Example 5

Company A is the owner of a residential property and of an office, both of which are rented out to third parties. During 2016 Company A was in receipt of following income and incurred the following expenses:

- Rental income of €7,200 from the rent of the residential property and rental income of €18,000 from the rent of the office;
- Interest expense of €3,000 in respect of a loan taken to finance the acquisition of the office;
- Ground rent of €100 payable on the residential property and €120 payable on the office;
- Audit fees of €1,000 and Bank Charges of €200.

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Article 4(1)(e)
Taxation of Rental Income – Lecture Example 5 - Computation

			€
Profit before tax			20,780
Add back:			
Disallowed expenses			1,200
			21,980
Less:			
20% Maintenance allowance ([25,200 – 220] *20%)			4,996
Chargeable income			16,984
Tax at 35%			5,944
Tax at source			-
Tax payable			5,944
Total tax suffered by the company			5,944

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Article 4(1)(e)
Taxation of Rental Income – Lecture Example 5 – Answer (1/2)

With reference to the Model Answer to Example 3 please note the following:

- TRA 11 – Total rental income of €25,200 has been included against which Interest income of €3,000 and Ground Rent of €220 have been deducted. In addition a 20% maintenance allowance is being claimed computed with reference to Gross Rents less Ground Rent payable.
- TRA 11 – No deduction is being claimed on the Bank Charges and Audit fees as these are not prescribed deductions in the Rules.
- Page 3 – Disallowed audit fees and bank charges have been included in cells 11a and 12a.
- Page 3 – Gross rental income has been included in Cell 27a as income chargeable to tax in terms of Article 4(1)(e) of the ITA.
- Page 3 – Expenses which have been deducted against rental income (and form part of the Income Statement of Company A) have been reversed in Cell 20a. This is being done in order to end with income no income chargeable in terms of Article 4(1)(a).

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Article 4(1)(e)
Taxation of Rental Income – Lecture Example 5 – Answer (2/2)

- Page 3 – No reversal of the 20% maintenance allowance is included as this does not form part of the Statement of Comprehensive Income in the Financial Statements of Company A.
- Page 4 – The rental income, after deductions, is reintroduced in Cell 53a.
- Page 5 – The resulting rental income is taxed at the statutory rate of a company, i.e. 35%.
- Page 6 & TRA 62 – These pages show the tax account allocations of Company A.

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Article 4(1)(e)
Taxation of Rental Income

Rental income may also be taxed in terms of Article 31D of the ITA as follows:

- The application of Article 31D is an option at the discretion of the taxpayer;
- A final tax of 15% on Gross rental income is levied;
- If the option to be taxed at 15% is exercised, all the relevant income for a year of assessment must be taxed in terms of the provisions of Article 31D (subject to the limitations on related party transactions);
- The option is not applicable in respect of the commercial tenements or clubs rented between related parties;

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Article 4(1)(e)
Taxation of Rental Income

- Related parties are defined as:
  - *“a body of persons is related to an individual if it is owned or controlled, directly or indirectly, as to more than twenty-five percent by that individual; and*
  - *“two bodies of persons owned or controlled, directly or indirectly , as to more than twenty-five percent by the same persons”*
- Regardless of the accounting reference date of the taxpayer, tax in terms of Article 31D is levied on a Calendar year basis;
- By 30 April (was previously June) of the relevant year of assessment, the taxpayer must deliver to the Commissioner Form TA24 along with the payment for the tax.

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Article 4(1)(e)
Taxation of Rental Income – Lecture Example 6

The scenario in Lecture Example 5 is being reproduced, however in this case Company A opts to be taxed under the provisions of Article 31D.

Company A is the owner of a residential property and of an office, both of which are rented out to third parties. During 2016 Company A was in receipt of following income and incurred the following expenses:

- Rental income of €7,200 from the rent of the residential property and rental income of €18,000 from the rent of the office;
- Interest expense of €3,000 in respect of a loan taken to finance the acquisition of the office;
- Ground rent of €100 payable on the residential property and €120 payable on the office;
- Audit fees of €1,000 and Bank Charges of €200.

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Article 4(1)(e)

Taxation of Rental Income – Lecture Example 6 - Computation

			€
Gross rental income			25,200
Tax at 15%			3,780

- As the company is subject only to a final tax, no tax would be due at tax return stage. In this instance all expenses will be not deductible for tax purposes while all the income is subjected to a final tax in terms of the provisions of Article 31D

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Article 4(1)(e)

Taxation of Rental Income – Lecture Example 6 – Answer (1/2)

With reference to the Model Answer to Example 4 please note the following:

- Form TA 24 – This Form was prepared and submitted by Company A within the prescribed deadline of 30 June 2017 (assuming YA 2017);
- TRA 11 – This TRA has not been completed as the rental income is being charged to tax in terms of the provisions in Article 31D.
- TRA 83 – The information contained in Form TA24 is being reproduced;
- TRA 60 – Upon the completion of TRA 83, TRA 60 is automatically populated;

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Article 4(1)(e)
Taxation of Rental Income – Lecture Example 6 – Answer (2/2)

- Page 3 – All the expenses incurred by Company A are being disallowed in cells 11a to 14a as Article 31D brings to charge the gross rental income and no deductions are allowable;
- Page 3 – The rental income subject to 15% final withholding tax is included automatically upon completion of TRA 9 and TRA 60, in cell 29a;
- Pages 4 & 5 – As the rental income is subject to a final tax, this is not being reintroduced in page 4 and no further tax is due by Company A in page 5; and
- Page 6, TRA 61 and TRA 62 – These pages show the tax account allocations of Company A.

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Article 4(1)(e)
Taxation of Rental Income – Further considerations

- Article 31D was introduced also as an incentive to encourage persons to report their rental income and pay tax thereon;
- By offering a reduced rate of 15% (as opposed to 35%, effectively 28%, of the normal regime) and an easier computation it was thought that the incentive to evade tax would be reduced.
- Despite these consideration one must always keep in mind that the application of Article 31D may not be the more beneficial option in all circumstances.
- If Mr. X earns rental income of €10,000 incurs interest expense of €5,000 on the loan utilised to acquire the same property Mr. X would be better off not applying the provisions of Article 31D.
  - Article 31D Regime - €10,000 * 15% = €1,500. The tax liability would amount to €1,500.
  - 20% Maintenance Allowance regime - €10,000 - €5,000 – (10,000*20%) = 3,000 * 35% = €1,050. The tax liability would amount to €1,050.

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Article 4(1)(g)
Other income

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Article 4(1)(g)
Taxation of Other Income

- Article 4(1)(g) reads "gains or profits not falling under any of the foregoing Paragraphs"
- Article 4(1)(g) is effectively a catch all clause to bring to charge any income not of a capital nature which may not fall within the remit of the other charging provisions of Article 4(1).

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Recap
Tax Return

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Recap
Company Tax Return

Charging Provision	Relevant TRA
Article 4(1)(c)	TRA 8 – Dividend TRA 9 – Interest TRA 10 – Discounts or premiums
Article 4(1)(d)	N/A – In the tax return of a company
Article 4(1)(e)	TRA 11 – Rent (Not subject to final tax) TRA 12 – Ground Rent TRA 13 – Royalties, premiums and other income arising from property TRA 83 – Rent subject to final tax
Article 4(1)(g)	TRA 14 – Other Income

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