



MALTA  
INSTITUTE  
OF TAXATION

TAXATION OF  
EMPLOYMENT  
INCOME

© Malta Institute of Taxation 2022

1

## DISCLAIMER

This material is the intellectual property of Malta Institute of Taxation. It is for the sole use of the registered attendee of the MIT Course on Tax Compliance to whom it was made available, exclusively for their educational purposes. The publication, whether in whole or in part, reproduction, distribution and/or editing of the content is prohibited. Likewise, the recording of a lecture in audio or video, including by means of screenshots, is strictly prohibited.

Any views and opinions that may be expressed during the lecture are those of the speaker and may not necessarily reflect or represent the views and opinions of the Malta Institute of Taxation. Any reference to practices, whether past or present, should not be construed as an endorsement thereof.

As this material is intended for educational purposes only, it does not in any way constitute advice and should not be relied upon as such.

The content of this presentation is intended to reflect the Lecturer's understanding of the legislation and/or practices applicable as at the date of first delivery, that is, the date specified below.



MALTA  
INSTITUTE  
OF TAXATION

© Malta Institute of Taxation 2022

2

## AGENDA

- Jurisdictional conflicts on Employment Income
- Working mainly outside Malta
- Fringe Benefits
- Over-time work
- Part-Time Work



© Malta Institute of Taxation 2022

3

## Jurisdictional conflicts on Employment Income

© Malta Institute of Taxation 2022

4

## Where does Employment Income arise?

- No rules in the Income Tax Act which prescribe the circumstances when employment is deemed to be performed in Malta
- BSC Case 31/1955 → place where employment activity is carried out
- Non-residents earning income from employment carried out in Malta are still obliged to declare and pay tax on their employment in Malta
- Expatriates → an expatriate is a person who is a foreigner who comes to Malta either to work (inc self-emp); study; retire etc



© Malta Institute of Taxation 2022

5

## Where does Employment Income arise?

- Factors which should be considered when determining where is employment income arising:
  - Place where work is actually performed;
  - On behalf of whom the work is performed
  - Where the payment comes from to the employee
  - Where the contract of service is finalised
  - Duration of the work involved



© Malta Institute of Taxation 2022

6

## Jurisdictional conflicts on Employment Income

- Jurisdiction to tax employment income is tackled in Article 15 of OECD Model
- Even if the employment income is sourced in Malta, it is not Malta which levies tax but country of residence if ALL the following 3 conditions are satisfied:
  - Recipient is present in Malta for less than 183 days
  - Employer is not resident in Malta
  - Employment does not relate to a fixed place of business the employer has in Malta



© Malta Institute of Taxation 2022

7

## EMPLOYMENT OUTSIDE MALTA

© Malta Institute of Taxation 2022

8

## Employment outside Malta

- Article 56(17)
- The article offers the possibility of a 15% flat tax rate on employment income derived from work carried out outside Malta WHERE the contract of employment specifically requires the performance of work mainly outside Malta
- Not applicable with respect to:
  - Services provided on behalf of the Government of Malta; and
  - Services provided on board of ships, aircraft and road vehicles owned/leased by a Maltese company
- Recently the CFR seem to have become stricter in the enforcement of this and have added that in addition, such person is not expected to spend more than 30 days in Malta.
- Applicable to '*any individual*' therefore even to expatriates



MALTA  
INSTITUTE  
OF TAXATION

UPDATED

© Malta Institute of Taxation 2022

9

## Employment outside Malta

- The employment income subject to the 15% flat rate tax is deemed to be the first part of the employee's income.
- This is only an option, so employment income derived outside Malta may still be subject to the normal progressive rates.
- No prior approval is necessary from CIR and this may be taken on a self-assessment basis in the tax return.



MALTA  
INSTITUTE  
OF TAXATION

© Malta Institute of Taxation 2022

10

## Employment outside Malta - EXAMPLE

- Mr. Borg is resident and domiciled in Malta and works with a Maltese company which requires him to work 11 months every year in Norway. His remuneration during this period is EUR 50,000. For the 1 month spent in Malta, his company pays him Euro 5,000. Mr. Borg is not married.



© Malta Institute of Taxation 2022

11

## Employment outside Malta - ANSWER

- Euro 50,000 from outside Malta @ 15% → Euro 7,500 tax
- The other Euro 5,000 taxable at normal rates BUT it is as if the Eur 50,000 have already been taxed:
  - 1st as if  $(50,000 \times 25\%) - 2,725 = 9,775$
  - 2nd as if  $(55,000 \times 25\%) - 2,725 = 11,025$
- THEREFORE → Eur 1,250 (difference)
- TOTAL TAX →  $7,500 + 1,250 = \text{Euro } 8,750$
- (if A.56(17) is not availed of the total tax would have been EUR 11,025)



© Malta Institute of Taxation 2022

12

# FRINGE BENEFITS

© Malta Institute of Taxation 2022

13

## FRINGE BENEFITS (1)

- The term 'fringe benefit' is defined as any benefit/income provided, or deemed to be provided, by reason of employment or office
- Fringe benefits are subject to tax only in those circumstances where the income from the relative employment or office falls within the scope of the Income Tax Act
- The value of the benefit is deemed to arise in the country where the services are wholly or principally performed and therefore taxed in that country
- If the benefit is deemed to arise by reason of a directorship in a company, then the value of the benefit is deemed to arise in the country where the company is managed and controlled



© Malta Institute of Taxation 2022

14

## FRINGE BENEFITS (2)

- Definition of person deemed to be in a controlling position
  - Holds directly or indirectly 25% or more of the ordinary share capital or the voting rights in that company or in an associated company
  - Holds directly or indirectly shares in that company, and together with any shares held directly or indirectly in that company or an associated company by a member/members of his family, amount to an aggregate of more than 50% of the ordinary share capital or voting rights in that company
  - He is a director of that company or of an associated company but is not registered with the competent authority as a full time employee with that company or with an associated company



© Malta Institute of Taxation 2022

15

## FRINGE BENEFITS (3)

### CIRCUMSTANCES IN WHICH A FRINGE BENEFIT IS DEEMED TO BE PROVIDED BY REASON OF EMPLOYMENT OR OFFICE

- Provided by an employer to his employee
- Provided by a company or a partnership to an individual who holds an office in that company or partnership
- Provided by a company to an individual who was an employee or officer of that company as a reward for services rendered to that company



© Malta Institute of Taxation 2022

16



## FRINGE BENEFITS (4)

### CIRCUMSTANCES IN WHICH A FRINGE BENEFIT IS DEEMED TO BE PROVIDED BY REASON OF EMPLOYMENT OR OFFICE (continued)

- Provided by a company on a regular basis to an individual who, when such benefit was first provided or the company first decided to provide it, was an employee or an officer of that company
- Provided to an individual who holds an office by a person who is responsible for the payment of remuneration for duties performed under the terms of appointment to that office
- Provided by a third party as a reward for services rendered by an individual in the course of his duties as an employee or an officer of a company



© Malta Institute of Taxation 2022

17

## FRINGE BENEFITS (5)

### FURTHER QUALIFICATIONS TO THE CIRCUMSTANCES

- Benefit provided by a company to an individual who is an employee or officer of an associated company is deemed to be a benefit provided by the associated company
- Benefit provided by a company to an individual who is a member of the family of an individual who is an employee or officer of that company or an associated company is deemed to be a benefit provided to the said officer or employee



© Malta Institute of Taxation 2022

18

## FRINGE BENEFITS (6)

### FURTHER QUALIFICATIONS TO THE CIRCUMSTANCES (continued)

- Benefit provided by an employer (other than a company) to an individual who is not an employee of employer but who is a member of the family of an employee of that employer is deemed to be a benefit provided to the said employee
- Benefit provided by a third party is deemed to be provided by the employer if such benefit is provided on the employer's instructions, direct, explicit or otherwise, or through his intervention



© Malta Institute of Taxation 2022

19

## FRINGE BENEFITS (7)

### PRESUMPTIONS MAY BE REBUTTED

- In all the circumstances above, with the exception of where the benefit is provided as a reward, presumption may be rebutted if the following evidence is provided:
- Benefit is a donation made by an individual on purely personal considerations
- Benefit is in settlement or on account of a debt not related to the services rendered in the course of employment or office
- Benefit is a distribution of profits to a person in his capacity as a shareholder or partner or represents drawings



© Malta Institute of Taxation 2022

20

## VALUE OF BENEFITS (1)

- Determined by the Fringe Benefits Rules
- Benefit expressed as an annual value, one twelfth of it for each calendar month during which that benefit is provided, one out of 365 for each day of any part of the month during which that benefit is provided, unless otherwise stated
- If annual value of benefit changed during the month, the above applies as if the new value is a separate benefit from that provided prior to the change



© Malta Institute of Taxation 2022

21

## VALUE OF BENEFITS (2)

- If any provision of the Rules results in a negative value of a benefit, the benefit is deemed to have no value
- Any value determined by the Rules shall be rounded up or down to the nearest Euro
- In the case of the value of a benefit which consists of property being used by more than one beneficiary, the annual value as determined by the Rules shall be apportioned by the provider of such benefit between the beneficiaries according to what is reasonable to him or as determined by the Commissioner



© Malta Institute of Taxation 2022

22

## MARKET PRICE

- Property – an expert valuation shall constitute sufficient evidence of the market price
- Provisions to follow should there be two expert valuations – the Commissioner's and the Beneficiary's
- The expert valuation shall only constitute evidence of the market price not of any other matter relevant to the determination of the value of the benefit
- If value of the benefit, supported by an expert valuation, is less than that finally determined to be the correct value, not considered as an omission, an offence or a default



© Malta Institute of Taxation 2022

23

## PERIOD DURING WHICH A BENEFIT IS DEEMED TO BE PROVIDED (1)

- Immovable property – day on which property is first used by the beneficiary
- Property – day on which property is first made available for the use of the beneficiary
- Benefit deemed to continue to be provided as long as that immovable property/property is available for use by the beneficiary
- In case of movable property, if it is not available for use for less than 30 consecutive days, deemed to be available to the beneficiary during that period



© Malta Institute of Taxation 2022

24

## PERIOD DURING WHICH A BENEFIT IS DEEMED TO BE PROVIDED (2)

- In case of movable property, if it is not available for use for 30 consecutive days or more, deemed not be available to the beneficiary during that period
- If a similar property is made available during period in which property is still deemed to be available to the beneficiary, the value of the benefit for that period is determined by reference to the similar property
- Property is not deemed to be available to the beneficiary if it is used exclusively, or specifically reserved for the exclusive use of third parties in the course of the business of the provider of the benefit



© Malta Institute of Taxation 2022

25

## CATEGORY 1– BENEFITS RELATING TO MOTOR VEHICLES (1)

- Private use by an individual of a vehicle that is owned or held under a title of lease by another person is deemed to be a benefit provided by the person to the individual in any of the following circumstances
  - Vehicle at the exclusive disposal of the individual
  - Vehicle regularly available for use by the individual outside the hours he usually performs his duties as an employee or an officer
  - Vehicle is regularly kept overnight or during weekends by the individual in premises, other than business premises (not applicable if employee performs duties of a messenger or a driver)
  - Vehicle regularly used by the individual for purposes not directly linked with his employment or office
- Not deemed to constitute private use if Commissioner determines that the use constitutes official use



© Malta Institute of Taxation 2022

26

## CATEGORY 1 – BENEFITS RELATING TO MOTOR VEHICLES (2)

- The annual value of the private use of a vehicle is the result of
  - The vehicle use value +
  - The maintenance value +
  - The fuel value
- Then multiply the result by
  - The private use value



© Malta Institute of Taxation 2022

27

## CATEGORY 1 – BENEFITS RELATING TO MOTOR VEHICLES (3)

- The vehicle value is the price of the vehicle plus the cost of any accessories not included in the price of the vehicle
- If accessories are fitted after the benefit has started, the vehicle value is adjusted as from the date they are fitted
- In the case of a vehicle owned by the provider of the benefit, the price of the vehicle is the actual cost as shown in the invoice including taxes and delivery charges and any special discounts not generally available to other purchasers



© Malta Institute of Taxation 2022

28

## CATEGORY 1 – BENEFITS RELATING TO MOTOR VEHICLES (4)

- In the case of a vehicle, other than a classic vehicle
  - Not owned by the provider of the benefit; or
  - Purchased before 01/01/2001 and its price cannot be properly established; or
  - Provided out of the provider's own stock; or
  - Acquired second hand by the provider
- Price shown for same or comparable model in price list drawn up or approved by the Commissioner
- In the case of a classic car, as defined in the Rules, price fetched on the open market on the date the benefit is first provided



© Malta Institute of Taxation 2022

29

## CATEGORY 1 – BENEFITS RELATING TO MOTOR VEHICLES (5)

- The vehicle use value is 17% of the vehicle value if vehicle is not more than 6 years old
- The vehicle use value is 10% of the vehicle value in all other cases
- 6 years old on or after the sixth anniversary from when the vehicle was first registered for road use, whether in Malta or abroad



© Malta Institute of Taxation 2022

30

## CATEGORY 1 – BENEFITS RELATING TO MOTOR VEHICLES (6)

- The maintenance value is 3% of the vehicle value if vehicle value does not exceed €28,000
- The maintenance value is 5% of the vehicle value in all other cases
- Maintenance value is deemed to represent all costs, except fuel and garaging of the vehicle, incurred by the provider of the benefit, even if costs are borne fully or partly by the beneficiary, but regardless of the actual cost the value is determined by applying the percentages above



© Malta Institute of Taxation 2022

31

## CATEGORY 1 – BENEFITS RELATING TO MOTOR VEHICLES (7)

- The fuel value is 3% of the vehicle value if vehicle value does not exceed €28,000
- The fuel value is 5% of the vehicle value in all other cases
- Fuel value is deemed to represent costs relating to the fuel consumed borne by the provider of the benefit either by reimbursement in full or in part to the beneficiary
- If fuel costs fully borne by the beneficiary then the fuel value is €0
- If fuel costs reimbursed not against receipts then the fuel value is €0 (benefit determined in another manner)



© Malta Institute of Taxation 2022

32



## CATEGORY 1 – BENEFITS RELATING TO MOTOR VEHICLES (8)

- Private use percentage

Car Value	Private Use %	Private use percentage will be €0 if:
Not exceeding €16,310	30	<ul style="list-style-type: none"> <li>• Vehicle value does not exceed €16,310; and</li> </ul>
€16,311 to €21,000	40	<ul style="list-style-type: none"> <li>• Vehicle is used for point to point service by an employee; and</li> </ul>
€21,001 to €32,620	50	<ul style="list-style-type: none"> <li>• The Commissioner approves in writing the applicability of this rule</li> </ul>
€32,621 to €46,600	55	
Exceeding €46,600	60	



© Malta Institute of Taxation 2022

33

## EXAMPLE 1 OF VEHICLE ANNUAL VALUE

- Car less than 6 years old – €35,000 – Maintenance and Fuel paid by the provider of the benefit
- |                                     |               |
|-------------------------------------|---------------|
| • Vehicle use value – €35,000 x 17% | €5,950        |
| • Maintenance value – €35,000 x 5%  | €1,750        |
| • Fuel value – €35,000 x 5%         | <u>€1,750</u> |
| • Total                             | <u>€9,450</u> |
- Private use value – €9,450 x 55%
- |  |        |
|--|--------|
|  | €5,198 |
|--|--------|
- Annual Fringe Benefit is €5,198 – €433.17 per month before FSS



© Malta Institute of Taxation 2022

34

## EXAMPLE 2 OF VEHICLE ANNUAL VALUE

- Car less than 6 years old – €35,000 – Maintenance and Fuel paid by the beneficiary of the benefit
- Vehicle use value – €35,000 x 17% €5,950
- Maintenance value – €35,000 x 5% (still applied) €1,750
- Fuel value – not applied € 0
- Total €7,700
- Private use value – €7,700 x 55% €4,235
- Annual Fringe Benefit is €4,235 – €352.92 per month before FSS



© Malta Institute of Taxation 2022

35

## CATEGORY 1 – BENEFITS RELATING TO MOTOR VEHICLES (9)

- A vehicle allowance paid by a person to an individual is deemed to be a fringe benefit by the former to the latter
- Vehicle allowance means
  - Payment relating to the use of the individual's own vehicle whether by reimbursement of costs or otherwise
  - Payment to third parties to cover fuel or other costs incurred by that individual in the use of his vehicle
  - Payment to the individual relating to fuel costs incurred in the use of the vehicle owned or leased by the provider, where payment is not reimbursement against receipts



© Malta Institute of Taxation 2022

36

## CATEGORY 1 – BENEFITS RELATING TO MOTOR VEHICLES (10)

- The value of the vehicle allowance is the amount paid
- If vehicle allowance is paid in terms of the employee's contract of service and the beneficiary is not in a controlling position and the employee is not entitled to the private use of another vehicle owned or held under a title of lease by the employer, then the value determined as above is reduced by 50% and the maximum reduction is €1,170
- If in receipt of more than one vehicle allowance the maximum reduction applies to the aggregate allowances



© Malta Institute of Taxation 2022

37

## CATEGORY 1 – BENEFITS RELATING TO MOTOR VEHICLES (11)

- An employee may claim a deduction in his income tax return of expenses incurred in the use of his vehicle and a deduction for wear and tear to the extent that such deductions relate to the use of the vehicle for his employer's business
- Maximum deduction that may be claimed is the amount the total deductions above exceeds the €1,170
- The vehicle allowance is deemed to have no value if it is a reimbursement of costs and such reimbursement is made by reference to the distance actually covered and the employer has logged the details to which such reimbursement refers



© Malta Institute of Taxation 2022

38

## EXAMPLE OF VEHICLE ALLOWANCE AND DEDUCTION CLAIMED IN TAX RETURN

- €2,500 in contract of employment for use of own car for employer's business
- Fringe Benefit
- €2,500 x 50% €1,250
- Maximum Deduction €1,170
- €2,500 - €1,170 €1,330
- Annual Fringe Benefit is €1,330 – €111.83 per month before FSS



© Malta Institute of Taxation 2022

39

## EXAMPLE OF VEHICLE ALLOWANCE AND DEDUCTION CLAIMED IN TAX RETURN (continued)

- Determine % of use for private use and use for employer's business – 50%-50%
- Fuel (52 weeks x €30) €1,560
- Licence € 100
- Insurance € 360
- Service and Repairs € 500
- Wear & Tear (bought in 2015 - €14,000/5) €2,800
- Total €5,320



© Malta Institute of Taxation 2022

40

## EXAMPLE OF VEHICLE ALLOWANCE AND DEDUCTION CLAIMED IN TAX RETURN (continued)

- % of use for private use and use for employer's business – 50%-50%
- Amount for use for employer's business (50% x €5,320) €2,660
- Less non-taxable car cash allowance €1,170
- €1,490
- Deduction claimed in tax return €1,490



© Malta Institute of Taxation 2022

41

## CATEGORY 2 – BENEFITS RELATING TO USE OF PROPERTY (1)

- Definitions of market value and cost of immovable property and movable property
- The private use by an individual of any property, other than a 'vehicle' and consumable items, which is owned or held under a title of lease by another person, is deemed to be a benefit provided by the latter to the former



© Malta Institute of Taxation 2022

42

## CATEGORY 2 – BENEFITS RELATING TO USE OF PROPERTY (2)

- The private use of immovable property is deemed to be a benefit when it is used by an individual for his accommodation or private enjoyment or any other purpose other than a place to perform his duties as an employee or an officer
- The private use of movable property is deemed to be a benefit when it is used by an individual wholly or mainly in any manner other than in the course of his duties as an employee or an officer



© Malta Institute of Taxation 2022

43

## CATEGORY 2 – BENEFITS RELATING TO USE OF PROPERTY (3)

- Accommodation of an individual in immovable property, including the use of any furniture therein, does not constitute a private use
  - Where the property is an official residence allocated by a public authority or institution of a public nature to the individual as the holder of an office
  - Where the property is provided temporarily for the personal security of the individual
  - Where the property is the business premises and the individual is an employee not in a controlling position and the accommodation in such property is necessary for the better performance of the individual's duties and the employment is one where it is customary to provide accommodation to employees carrying on the same business



© Malta Institute of Taxation 2022

44

## CATEGORY 2 – BENEFITS RELATING TO USE OF PROPERTY (4)

- Accommodation of an individual in immovable property, including the use of any furniture therein, is not deemed to constitute a benefit by the company to the individual or to a member of his family by reason of an employment or office if all the conditions are satisfied
  - The company does not carry on a trade or business and only owns specific assets
  - The company does not have any liabilities other than those specified
  - Where the company has a liability, it is not secured by an associated company and other conditions
  - The company does not claim any group relief with respect to losses brought forward
  - The accommodation is provided to a direct or indirect shareholder/members of his family, all of whom are not employees and not in receipt of any remuneration from that company



© Malta Institute of Taxation 2022

45

## CATEGORY 2 – BENEFITS RELATING TO USE OF PROPERTY (5)

- Determination of the annual value of the benefit
- Immovable property owned by the provider or a related person – 5% of the higher of the market value and the cost of the property
- Provided that in the case of immovable property held under a title of emphyteusis – the higher of 5% of the market value and the total of 5% of the cost of the property and an amount equivalent to the relative annual ground rent



© Malta Institute of Taxation 2022

46

## CATEGORY 2 – BENEFITS RELATING TO USE OF PROPERTY (6)

- Movable property – 12% of the higher of the market value and the cost of the property
- Property leased to the provider of the benefit and is owned by a person who is not a related person – the rent payable for the year in question
- Property leased to the provider of the benefit and is owned by a related person – the rent payable for the year in question to a non-related person



© Malta Institute of Taxation 2022

47

## CATEGORY 2 – BENEFITS RELATING TO USE OF PROPERTY (7)

- Provider of the benefit incurs or reimburses expenses connected with the private use of the property – increased by the amount of such expenses in the month they are incurred
- Accommodation in a hotel or guest-house – the amount chargeable by that hotel or guest-house for a year at the rate charged to guests for similar accommodation
- Individual using property pays rent for the said use – reduced by the amount of rent paid in that year



© Malta Institute of Taxation 2022

48



## EXAMPLE 1 OF IMMOVABLE PROPERTY OWNED BY PROVIDER AND RENT PAID BY BENEFICIARY

- Property acquired for €250,000 – Valued by appraiser when first used by beneficiary at €300,000
- 5% of higher of market value and cost €15,000
- Add expenditure incurred by provider of benefit € 3,500
- €18,500
- Less rent paid by beneficiary € 6,000
- Annual Benefit €12,500
- Annual Fringe Benefit is €12,500 – €1,041.67 per month before FSS



© Malta Institute of Taxation 2022

49

## EXAMPLE 2 OF IMMOVABLE PROPERTY HELD UNDER A TITLE OF EMPHYTEUSIS BY PROVIDER

- Premium paid €800,000 + Ground rent of €500 – Valued by appraiser when first used by beneficiary at €850,000
- 5% of market value €42,500
- 5% of premium paid, plus the annual ground rent €40,500
- Annual Benefit is the higher of the above €42,500
- Annual Fringe Benefit is €42,500 – €3,541.67 per month before FSS



© Malta Institute of Taxation 2022

50

## CATEGORY 3 – OTHER BENEFITS (1)

### IN-HOUSE BENEFIT

- Definition of in-house benefit reduction – the lower of €700 and the value of the benefit before the reduction
- If more than one benefit qualifying for the in-house benefit reduction is being provided to the same beneficiary – the lower of €700 and the total value of such benefits before the reduction
- If person to whom the benefit is being provided is in a controlling position – in-house benefit reduction is €0



© Malta Institute of Taxation 2022

51

## CATEGORY 3 – OTHER BENEFITS (2)

### BENEFICIAL LOAN ARRANGEMENTS

- The grant of a loan by a person to an individual is deemed to be a benefit provided by the former to the latter
  - Loan is any advance or credit and any amount shown in the records of a person as owed by another person
  - Granted at beneficial terms if no interest is payable or the interest is less than the benchmark rate of interest
  - Benchmark rate of interest in the case of an institutional lender to one of the employees is the rate applied by the CBM on refinancing as at the end of the previous calendar year – other circumstances determined by the Commissioner and is currently 6.5% per annum



© Malta Institute of Taxation 2022

52

## CATEGORY 3 – OTHER BENEFITS (3)

### BENEFICIAL LOAN ARRANGEMENTS

- Determination of the annual value of the benefit
  - Interest computed at the benchmark rate of interest reduced by the interest paid on that loan by the beneficiary during the year
  - If loan granted by institutional lender to employee the value is reduced by the in-house benefit reduction
  - If loan granted by a company to a shareholder holding more than 25% of the ordinary share capital and voting rights in that company, value is €0



© Malta Institute of Taxation 2022

53

## CATEGORY 3 – OTHER BENEFITS (4)

### FREE OR DISCOUNTED MEALS

- The provision by a person to another person of a free meal or discounted meal is deemed to be a benefit provided by the former to the latter
- It is not treated as the provision of a benefit when it is provided
  - By an employer which is a hotel/restaurant at a time when meals are not normally served to the public and in an area designated as solely reserved for the use of staff
  - By any other employer in a canteen where meals are served to the staff generally
- Cost of the meal incurred by the provider reduced by any price paid by the beneficiary, in the case of hotel/restaurant reduced by the in-house benefit reduction



© Malta Institute of Taxation 2022

54

## CATEGORY 3 – OTHER BENEFITS (5)

### FREE OR DISCOUNTED AIRLINE OR SEA TRANSPORT TICKETS

- The provision by a person to another person of a free or discounted airline or sea transport ticket is deemed to be a benefit provided by the former to the latter
- The value is the excess of the normal price of the ticket over the price paid by the beneficiary
- If the company providing the benefit operates an airline or a shipping line, or the benefit is provided by an associated company, the value is the higher of the actual cost or 20% of the price of an economy fare ticket sold to the public, reduced by the in-house benefit reduction



© Malta Institute of Taxation 2022

55

## CATEGORY 3 – OTHER BENEFITS (6)

### FREE OR DISCOUNTED TRANSFER OF PROPERTY AND PROVISION OF SERVICES

- The transfer of ownership of any property or provision of a service, for no consideration or for a consideration less than the value, by a person to another person is deemed to be a fringe benefit provided by the former to the latter
- The provision of a voucher or similar document to acquire any property or service at no consideration or at a price which is less than the value of the property or service, and the voucher is used, it will not be deemed to be a benefit provided by reason of an employment or office if the Commissioner is satisfied that the employer does not supply the property or service and it is not a reward scheme for services rendered
- The use by a person of consumables belonging to another person at no consideration or at a consideration which is less than the value of the consumable is deemed to be a benefit, the transfer of ownership



© Malta Institute of Taxation 2022

56

## CATEGORY 3 – OTHER BENEFITS (7)

### FREE OR DISCOUNTED TRANSFER OF PROPERTY AND PROVISION OF SERVICES

- The value of the benefit is the excess, if any, of the value of the property or service over consideration paid by the beneficiary
- In the case of a transfer of a motor vehicle which was used privately before by the beneficiary, the value will be reduced further by the total value of the fringe benefits as determined by the Rules
- In the case of a transfer of an in-house property or provision of an in-house service, the value will be reduced by the in-house benefit reduction
- When the in-house property or service is provided to an employee on a working day and it is consumed on the employer's business premises, the benefit shall have no value



MALTA  
INSTITUTE  
OF TAXATION

© Malta Institute of Taxation 2022

57

## CATEGORY 3 – OTHER BENEFITS (8)

### FREE OR DISCOUNTED TRANSFER OF PROPERTY AND PROVISION OF SERVICES

- The value of the in-house property or service is the selling price normally charged reduced by any discounts generally available and increased by any costs incurred in transferring such property or providing such service
- The value of other property or service is the higher of its market value and its cost, again increased by any additions, improvements or accessories incurred after acquisition and the costs incurred in transferring such property or providing such service



MALTA  
INSTITUTE  
OF TAXATION

© Malta Institute of Taxation 2022

58

## CATEGORY 3 – OTHER BENEFITS (9)

### FREE OR DISCOUNTED TRANSFER OF PROPERTY AND PROVISION OF SERVICES

- Price paid for acquisition of movable property acquired more than 6 years before, is deemed to be 60% of the actual price
- If immovable property acquired by provider of benefit/beneficiary under an emphyteutical grant, the price(cost)/consideration will be calculated differently depending on whether perpetual or temporary



© Malta Institute of Taxation 2022

59

## CATEGORY 3 – OTHER BENEFITS (10)

### FREE OR DISCOUNTED TRANSFER OF PROPERTY AND PROVISION OF SERVICES

- The provisions of the Income Tax Act shall apply to the chargeable tax in the hands of the provider of a benefit upon the transfer of property
- If the beneficiary transfers property acquired by way of a benefit and the cost of acquisition is relevant to compute the chargeable tax in the hands of the beneficiary, the cost is deemed to be the amount of consideration actually paid increased by the value of the said benefit



© Malta Institute of Taxation 2022

60

## CATEGORY 3 – OTHER BENEFITS (11)

### SHARE OPTION SCHEME BENEFIT

- Option to acquire shares in a company or an associated company is not a benefit, the exercise by an employee of such option is deemed to be a benefit provided by the employer to the employee
- Shares transferred to an employee of a company or an associated company under a share award scheme is deemed to be a benefit by the employer to the employee by reason of his employment
- A benefit is deemed to be provided on each date shares are issued or transferred



MALTA  
INSTITUTE  
OF TAXATION

© Malta Institute of Taxation 2022

61

## CATEGORY 3 – OTHER BENEFITS (12)

### SHARE OPTION SCHEME BENEFIT

- The value of the benefit is the excess of the price the shares would fetch in the open market on the date when the benefit is provided over the price paid by the beneficiary for those shares
- The excess constitutes chargeable income separate and distinct from any other chargeable income of the beneficiary and shall be chargeable to tax at 15%



MALTA  
INSTITUTE  
OF TAXATION

© Malta Institute of Taxation 2022

62

## CATEGORY 3 – OTHER BENEFITS (13)

### SHARE OPTION SCHEME BENEFIT

- Any gain arising on the transfer of shares by the beneficiary constitutes a capital gain for the purpose of the Income Tax Act
- To determine the gain the cost of the acquisition of shares is deemed to be the price fetched on the open market on the date of the exercise of the option



© Malta Institute of Taxation 2022

63

## CATEGORY 3 – OTHER BENEFITS (14)

### PAYMENT OR REIMBURSEMENT OF EXPENSES INCURRED FOR PRIVATE PURPOSES

- When a person pays or reimburses, in full or in part, expenses for the benefit of another person and such expenses are not included in any of the benefits referred to so far, the former is deemed to provide a benefit to the latter



© Malta Institute of Taxation 2022

64



## CATEGORY 3 – OTHER BENEFITS (15)

### PAYMENT OR REIMBURSEMENT OF EXPENSES – EXEMPT

- However, the payment or reimbursement of the following expenses is not deemed to constitute a benefit provided by reason of employment or office when made against actual receipts, still a benefit if it takes the form of a cash allowance
- Expenses necessarily incurred in the production of the beneficiary's income in his capacity as an employee or the holder of an office
- Expenses incurred by the employee on the instructions of the employer and reimbursement is made against receipts



© Malta Institute of Taxation 2022

65

## CATEGORY 3 – OTHER BENEFITS (16)

### PAYMENT OR REIMBURSEMENT OF EXPENSES – EXEMPT

- Costs of travel for a business purpose
- Costs of travelling between Malta and Gozo for a business purpose, relocation costs and cost of journeys between work shifts
- Cost of business related training
- Subscriptions in respect of an employee's membership in a professional body required in his capacity as an employee



© Malta Institute of Taxation 2022

66

## CATEGORY 3 – OTHER BENEFITS (17)

### PAYMENT OR REIMBURSEMENT OF EXPENSES – EXEMPT

- Costs of providing insurance for business purposes
- Cost incurred by an employer in providing organised transport for his employees
- Gift to an employee, not in cash, to mark a festive or similar occasion, and the value of which does not exceed €120 in any one year, or such other amount approved by the Commissioner



© Malta Institute of Taxation 2022

67

## CATEGORY 3 – OTHER BENEFITS (18)

### PAYMENT OR REIMBURSEMENT OF EXPENSES – EXEMPT

- Cost of providing insurance against expenses for medical treatment or an insurance policy under a scheme generally available to employees, also applicable to officers of the company as long as scheme is available generally to the employees of the company
  - Cost is not deemed to constitute a benefit to any beneficiary by reason of an employment or office if it does not exceed three times the lowest cost of providing insurance to other employees in general
- Cost incurred by an employee, as evidenced by receipts, or by an employer for the provision of telephony services, including cost of telephone set and mobile



© Malta Institute of Taxation 2022

68

## CATEGORY 3 – OTHER BENEFITS (19)

### PAYMENT OR REIMBURSEMENT OF EXPENSES – EXEMPT

- Costs incurred in the provision of the use of a computer and related equipment and software owned by the employer or held under a title of least by the employer and used by the employee for the purpose of the employer's business
- Costs incurred in the provision to an employee of internet services, against receipts, used for the purpose of the employer's business
- Cost of the provision for the benefit of employees of recreational facilities in the employer's premises



MALTA  
INSTITUTE  
OF TAXATION

© Malta Institute of Taxation 2022

69

## CATEGORY 3 – OTHER BENEFITS (20)

### PAYMENT OR REIMBURSEMENT OF EXPENSES – EXEMPT

- Long service awards granted to an employee in recognition of 15 years or more service, award must not exceed €120 per year of service and provided no similar award has been granted within the previous 10 years
- Award granted to an employee who is not a director for a scheme for the promotion of safety at work, provided that such scheme is outside the scope of the employee's normal duties
- Cost of the provision to employees of uniforms and safety clothing



MALTA  
INSTITUTE  
OF TAXATION

© Malta Institute of Taxation 2022

70

## CATEGORY 3 – OTHER BENEFITS (21)

### PAYMENT OR REIMBURSEMENT OF EXPENSES – EXEMPT

- Health related costs such as medical examination or test required to take up a new employment, cost of medical care as a prevention against injury or illness available generally to employees with the same work-related health risks and counselling available generally to employees exposed to the same work-related health risks
- Generic clause – any such payment in kind or cost or reimbursement as may be approved by the Commissioner



© Malta Institute of Taxation 2022

71

OVER-TIME  
WORK

© Malta Institute of Taxation 2022

72

## OVER-TIME WORK

- As from 1<sup>st</sup> January 2020
- First 100 hours of overtime for employees whose basic pay does not exceed €20,000 and who do not hold a managerial position shall be taxed at a flat rate of tax of 15%
- As long as the over-time rate is up to twice the normal pay rate
- As long as not a managerial post where the basic weekly wage is no more than €375
- The maximum qualifying overtime emoluments cannot be more than €10,000 with the relative maximum 15% tax on overtime being €1,500.
- The 15% tax is considered a final tax unless:
  - The employee opts to declare the qualifying employment income in his tax return together with his other income; or
  - The employee is a 'non-filer' and the Revenue determines that opting out of the 15% regime would have been more beneficial for the employee.



© Malta Institute of Taxation 2022

73

## PART-TIME WORK

© Malta Institute of Taxation 2022

74

## PART-TIME WORK (1)

**UPDATED**

- An individual, resident in Malta, shall pay tax at the rate of 10% on any income derived from part-time work, and who moreover
  - Derived other income from a full time employment, registered as such with Jobsplus
  - Was in receipt of a pension taxable in Malta
  - Was receiving full time instruction at a university, college or other educational establishment, or was in an apprenticeship with a view to qualifying in a trade or profession
- Income from part-time work is understood to consist only of gains or profits arising from any trade, business, profession or vocation or gains or profits arising from any employment



© Malta Institute of Taxation 2022

75

## PART-TIME W ORK (2)

- An individual is not required to declare such income derived from part-time work, and which is subject to 10% tax, in the income tax return
- However, if the chargeable income arising from part-time work, for either spouse, or both spouses, exceeds €12,000 in the case of trade, or exceeds €10,000 in the case of employment, the excess is to be declared in the income tax return and taxed together with the other income at the applicable progressive rates of tax
- Notwithstanding, taxpayer may opt to declare all such income in the income tax return to be taxed at the applicable progressive rates of tax, the tax withheld at 10% will be available as a tax credit and a refund may result



© Malta Institute of Taxation 2022

76

## PART-TIME WORK (3)

- An individual whose total income is not above the tax free bracket and his income from part-time work is from employment, at any time he may direct the employer, in writing on the prescribed form, of his part-time work not to deduct tax
- In the case of a married/civil union couple the 10% tax applicable to part-time work may be applied to either or each spouse where at least one of the spouses satisfies one of the conditions, as long as the part-time income is not derived from the other spouse, family member, or any company in which the spouse or any family member is directly or indirectly a shareholder (not applicable to a married couple living together in respect of whom an election for a separate return is effective)
- Fringe benefits are not construed as constituting income from part-time employment



MALTA  
INSTITUTE  
OF TAXATION

© Malta Institute of Taxation 2022

77

## PART-TIME WORK (4)

### IN THE CASE OF PART-TIME TRADE

- Part-time work is registered with Jobsplus
- Does not engage more than 2 employees on a part-time basis
- Proper books of account are kept
- Performs such work not for an organisation with which he is employed on a full-time basis
- If applicable, registered for VAT purposes



MALTA  
INSTITUTE  
OF TAXATION

© Malta Institute of Taxation 2022

78

## PART-TIME WORK (5)

### IN THE CASE OF PART-TIME EMPLOYMENT

- Part-time work is registered with Jobsplus
- Performs such work not for an organisation with which he is employed on a full-time basis
- Exception to the above are police officers performing extra duty work, such work is considered as income from part-time work, extra duty work is not overtime and it is not part of the police officer's normal duties
- Work is only considered to be part-time work if individual is not engaged for more than 30 hours in any one week



© Malta Institute of Taxation 2022

79

## PART-TIME WORK (6)

### SAME EMPLOYER

- Companies controlled and beneficially owned, directly or indirectly, to the extent of more than 50% by the same shareholders
- A government entity which is controlled directly or indirectly by another government entity



© Malta Institute of Taxation 2022

80



## PART-TIME WORK (7)

### INCOME FROM PART-TIME WORK SHALL NOT INCLUDE

- Remuneration paid by government to holders of an office, including members on boards or tribunals
- Fees and other similar payments made to members of the Board of Directors of companies or to members on boards of public corporations established by law



© Malta Institute of Taxation 2022

81

## PART-TIME WORK (8)

### INCOME FROM PART-TIME WORK SHALL INCLUDE

- Any person who derives income from a qualifying sale as defined in the Sale of Agricultural Produce Rules, (sale of agricultural produce grown and cultivated in Malta in the course of an agricultural activity carried out by or in the name of the vendor) and who also satisfies the conditions in terms of these Rules
- Form has to be completed and submitted to the Commissioner by 30<sup>th</sup> April of the year following that in which the income was derived



© Malta Institute of Taxation 2022

82

## PART-TIME WORK (9)

- If employer is not withholding tax, employee has to pay tax to the Commissioner by the 21<sup>st</sup> December of the year following that in which the income from part-time work was derived and Form TA 23 has to be completed and submitted
- A part-time self-employed person has to complete and submit Form TA 22 together with a payment of the relevant tax by a specific date following the year in which the said income was derived – 30<sup>th</sup> April
- Where the relevant payment of tax is not effected by the said dates and the Commissioner issues a notice in writing informing the individual that an enquiry will be conducted, all the income from part-time work shall be added with the rest of the individual's income and taxed at the applicable progressive tax rates



© Malta Institute of Taxation 2022

83



MALTA  
INSTITUTE  
OF TAXATION

© Malta Institute of Taxation 2022

84