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MIT Course on Taxation
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Module A – Lecture 3

Deductions (incl. Capital
Allowances)
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Date: 8 October 2026



AGENDA

- Introduction
- Article 14 – Positive test
- Article 26 – Negative test
- Group Relief Provisions
- Personal Tax Deductions



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Introduction

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Introduction

- Accounting profits are determined in accordance with GAAP (e.g. IFRS / GAPSME)
- Taxable profits are computed in accordance with the Income Tax Acts
- "chargeable income" means the total income of any person for any year
- "total income" means the aggregate amount of the income of any person from the sources specified in Part II of this Act, remaining after allowing the exemption under Part III and the **deductions under Part IV**, and computed in accordance with the provisions of Part V:



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Introduction

- Two tests must be satisfied for an expense to be deductible:
 - Article 14 – general rules for an expense to be allowable (Positive Test)
 - Article 26 – expenses which are not deductible (Negative Test)
- Certain computational rules and specific deductible expenses set out in various subsidiary legislation under the Income Tax Act



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ARTICLE 14 (POSITIVE TEST)

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General rule for tax deductibility

Article 14(1) ITA:

- “For the purpose of ascertaining the total income of any person there shall be deducted all outgoings and expenses incurred by such person during the year preceding the year of assessment to the extent to which such outgoings and expenses are **wholly and exclusively incurred** in the production of the income”
- Includes a non-exhaustive list of expenses allowable as a deduction



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General rule for tax deductibility

Outgoings and expenses “**incurred**”

- Requires an actual outflow of funds
- Not necessarily the case for an expense to be classified as such under accounting rules, e.g. increase in provisions and unrealized losses

The words “**wholly and exclusively**” imply that an expense must have been incurred with the sole intention of producing the income for it to be deductible, however, expenses incurred partly in the production of the income and partly not are allowable as a deduction **to the extent** (i.e. the proportion) to which they are incurred in the production of the income.



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General rule for tax deductibility

“**in the production of the income**”

- Requires a direct link between the expense and the income
- The income-earning activity must have commenced – an expense must be incurred during the actual production of the income
- Some time may elapse between the point when the expense is incurred and when the income is earned
- Distinction from the concept of expenses incurred “for” the production of the income



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Article 14(1)(a) – Borrowing costs

- *borrowing costs* incurred by such person where the Commissioner is satisfied that they were wholly and exclusively incurred for the purpose of that person's trade, business, profession or vocation, or on capital employed for the purpose of acquiring income
 - "...for the purpose..." – wider scope than the general rule of expenses incurred "in the production of the income"
 - Includes borrowing costs incurred in relation to capital employed, e.g. on loans borrowed to acquire plant and machinery
 - Loans borrowed to purchase shares held as a capital asset – borrowing costs deductible only if dividend income is earned from such holding
 - Matching of loan principal – borrowing costs allowable to the extent that they relate to borrowings which are employed for the purpose of acquiring the income



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Article 14(1)(a) – Borrowing costs

- *Provided that the deduction allowable under this paragraph shall be subject to such limitations, and may be carried forward, in such manner as may be prescribed and in accordance with guidelines issued under article 96(2)*
- Interest Limitation Rule under the European Union Anti-Tax Avoidance Directives Implementation Regulations (S.L. 123.187)
- These rules set a cap on the amount of 'exceeding borrowing costs' that can be deducted for tax purposes.
- Starting point is the deductibility in terms of article 14(1)(a). The Interest Limitation Rule should then be assessed with respect to borrowing costs which pass the test for deductibility under article 14(1)(a).



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Article 14(1)(b) - Rent

- Rent paid by a tenant of land or buildings occupied by him for the purpose of acquiring the income
- Includes rent, ground rent and payments for emphyteusis
- A deduction for rental expense is not allowed with respect to a period during which the land and buildings are not occupied by the person



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Article 14(1)(c) - Repairs

- Any sum expended for repairs of premises, plant or machinery employed in acquiring the income, or for the renewal, repair or alteration of an implement, utensil or article so employed
- 'Plant or machinery' vs 'implement, utensil or article'
- Plant and machinery – assets of a longer life span and on which wear and tear allowances may be claimed
- Implement, utensil and articles – assets of a shorter life span
- Different from improvements – which are disallowed in terms of Art 26(d) ITA
- Repairs cannot bring about something which did not exist before



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Article 14(1)(d) – Bad debts

- *bad debts incurred in any trade, business, profession or vocation, proved to the satisfaction of the Commissioner to have become bad during the year immediately preceding the year of assessment notwithstanding that such bad debts were due and payable prior to the commencement of the said year*
- *Provided that all sums recovered during the said year on account of amounts previously written off or allowed in respect of bad debts shall for the purposes of this Act be treated as receipts of the trade, business, profession or vocation for that year*
- Tax Guidelines on Bad Debts – guidelines on the interpretation and application of article 14(1)(d)
- https://mtca.gov.mt/docs/default-source/documents/personal-tax/legal-and-technical/guidelines/bad_debts_guide.pdf?sfvrsn=af250394_1



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Article 14(1)(d) – Bad debts

1. A debt must have been created in favor of the claimant
2. The debt must have arisen in a trade, business, profession or vocation
3. The debt must have become bad
4. The debt must have become bad during the year in respect of which the deduction is claimed
5. This has to be proved to the satisfaction of the Commissioner
6. The debt must have been brought to account as assessable income in a previous year



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Article 14(1)(d) – Bad debts

- For a debt to become 'bad', does it need to be bad in the strict sense?
- A bad debt which is not bad in the strict sense is still allowed as a deduction as long as the commercial judgement indicates that the debt is bad for the time being and the taxpayer took appropriate steps in an attempt to recover the debt.
 - If subsequently recovered, the amount recovered is treated as a receipt
- A debt is considered to have become bad where:
 - i. 24 months elapsed since the original due date for payment
 - ii. The debt does not exceed €1,200
 - iii. Total bad debts being written off during the YA does not exceed 2% of turnover
 - iv. Prima facie proof is provided that the taxpayer took adequate steps in an attempt to recover the debt or portion of the debt



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Article 14(1)(d) – Bad debts

- If a debt becomes bad during the same year in which it would have been brought to account as assessable income, it may be claimed as an expense if:
 - i. The amount written off is brought to account as assessable income amongst the sales/receipts/takings for the year; and
 - ii. The debt is bad in the strict sense
- Provisions for bad debts are never allowable



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Article 14(1)(e) – Pension contributions

- *any sum contributed by an employer to a pension, saving, provident or any other society or fund which may be approved by the Commissioner as may be prescribed*
- Rule 9 of S.L. 123.175 - Voluntary Occupational Pension Scheme Rules
- The allowable deduction is up to €2,000 per qualifying employee
- In addition, a tax credit amounting to the lower of 25% of the qualifying contribution or €750 per qualifying employee
- The tax credit is also available to qualifying employees who make qualifying contributions into the qualifying scheme



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Article 14(1)(e) – Pension contributions

- A 'qualifying contribution' is allowable as a deduction if it is made to a 'qualifying scheme' which is a retirement scheme or a long-term contract of insurance that meets the conditions in S.L. 123.175, being:
 - Occupational retirement scheme registered under the Retirement Pensions Act or any other law substituting such Act, or a long-term contract of insurance issued by a license holder and provides for programmed withdrawal of arrangements; and
 - Provides for the commencement of payment benefits when the person is between 61 – 70 years old, with exceptions where payment is made by reason of permanent disability or death of the beneficiary



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Article 14(1)(f) – Wear and tear allowances

- *a deduction in respect of the wear and tear of any plant and machinery, and any premises being an industrial building or structure, arising out of the use or employment of such property in the production of the income ...*
- Tax depreciation for fixed assets that are used or employed in the production of the income
- Available to the person who has the burden of wear and tear
- Straight line method on original cost determined in accordance with GAAP
- Full year's allowance in year of acquisition; none in the year of disposal



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Article 14(1)(f) – Wear and tear allowances

- Unabsorbed capital allowances may be carried forward against the same source of income
- Deductions for wear and tear are allowed only where proper records and documentation have been kept that support the cost of the respective assets.
- A proportional deduction is allowed where an asset is used partly in the production of income and partly for other purposes.



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Article 14(1)(f) – Wear and tear allowances

- **'Plant and machinery'** is not defined in the ITA. Generally, refers to fixed assets that have a relatively long life span and used continuously.
- S.L. 123.01 includes a non-exhaustive list of categories of assets that constitute plant or machinery, and the minimum number of years over which wear and tear allowances can be computed with respect to each category.
- **Industrial buildings and structures** *"includes a building used as a hotel or a car park or offices, as may be prescribed"*
 - "hotel" and "car park" are defined in article 2 ITA
 - "offices" is defined in S.L. 123.173
- Wear and tear allowances with respect to industrial buildings and structures:
 - 2% annual allowance – article 14(1)(f)
 - 10% initial allowance – article 14(1)(j)



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Wear and tear allowances – Motor vehicles

Income Tax (Deductions) Rules (S.L. 123.07)

- Cost on which capital allowances with respect to motor vehicles may be claimed capped at €14,000
- Deductions for lease payments on motor vehicles whose listed price exceeds €14,000 are restricted proportionately
- If the lessee has the burden of wear and tear, no deduction is allowed in respect of the lease payments
- This rule applies to any mechanically propelled vehicle constructed or adapted as a means of transport for individuals, but shall not apply to a vehicle:
 - of a type not commonly used as a private vehicle and unsuitable to be so used, or
 - used by the person claiming a deduction referred to in this rule wholly or mainly for the purpose of hire to or the carriage of members of the public in the ordinary course of his trade or business
 - used wholly or mainly for driving instruction in the ordinary course of a trade or business



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Article 14(1)(f) – Wear and tear allowances

- Rule 8 of S.L. 123.01 provides specific rules in relation to wear and tear allowances on assets acquired from a related party
- Two persons qualify as 'related parties' if one person controls and beneficially owns the other person to the extent of more than 50%, or both persons are controlled and beneficially owned to the extent of more than 50% by another person/s.
- Wear and tear allowances computed on the lesser of:
 - i. the written down value of the asset in the hands of the other person on the date of acquisition by the new owner, calculated after adding or deducting any balancing charge or allowance as the case may be; or
 - ii. the cost of acquisition to the new owner.



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Article 24 – Balancing Statement

- A balancing statement is to be prepared where wear and tear allowances were claimed with respect to an asset, and such asset is either:
 - a) Sold or otherwise transferred under an onerous title, whether still in use or not; or
 - b) Destroyed; or
 - c) Put out of use as being worn out or obsolete or otherwise useless or no longer required

...and the event in question occurs before the source of income in respect of which the deduction has been allowed has ceased to exist or to belong to the said person



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Article 24 – Balancing Statement

- Cost less accumulated capital and initial allowances = Tax Written Down Value (TWDV)
- Proceeds from disposal – TWDV = balancing charge / (allowance)
- Balancing charge = gain on disposal chargeable to tax
 - A balancing charge shall not exceed the aggregate amount of deductions allowed under article 14(1)(f) and (j)
- Balancing allowance = loss on disposal, treated in some way as capital allowances



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Roll-over relief

- Where an event that triggers the requirement to prepare a balancing statement occurs, and the asset is replaced, the taxpayer may opt to set off a balancing charge against the cost of new asset
- If the balancing charge is greater than the cost of the new asset – the balancing charge is equal to the difference, and no deductions are claimed under article 14(1)(f) and (j)
- If the balancing charge is equal to or lower than the cost of the new asset – the balancing charge is not made, deductions under article 14(1)(f) and (j) computed on the difference



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Article 14(1)(g) – Trading losses

- *a loss incurred by any person, solely or in partnership, in any trade, business, profession or vocation during the year preceding the year of assessment which, if it had been a profit, would have been assessable under this Act...*
- A loss is computed by taking into account all deductions which would have been allowable under article 14, except those under paragraphs (f) and (j)
- A trading loss can be set off against income from other sources of income, including capital gains
 - Capital losses may only be set off against capital gains
- Cannot be set off against income allocated to the FTA
- A loss incurred outside Malta not allowable as a deduction if had it been a profit it would have been retained outside Malta



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Article 14(1)(g) – Trading losses

- If loss cannot be set-off against any source of income for that year, the unabsorbed trading losses may be carried forward indefinitely
- Trading losses are available for group relief
- Trading losses generated during the year should be utilized before trading losses brought forward from previous years



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Article 14(1)(g) – Trading losses

- Where any merger or division referred to in the Rulings (Income Tax and Duty Treatment of Mergers and Divisions) Rules is being effected for bona fide purposes to the satisfaction of the Commissioner; and
 1. as a result of such merger or division, a **trade or business** previously carried on by a company or other person involved in the particular merger or division (hereinafter referred to as "the First Company") or any part thereof, **shall thereafter be carried on by another company or companies** or other person involved in such merger or division (hereinafter collectively referred to as "the Second Company"); and
 2. the **First Company is entitled to any loss** or to the balance of any loss incurred by the First Company in any year preceding the year of assessment or to any **wear and tear or initial allowances**, or to the balance of any such allowances due in respect of any year as aforesaid
- The Commissioner shall be entitled to grant his permission for the losses and, or wear and tear and, or initial allowances or such part thereof to be claimed by the Second Company



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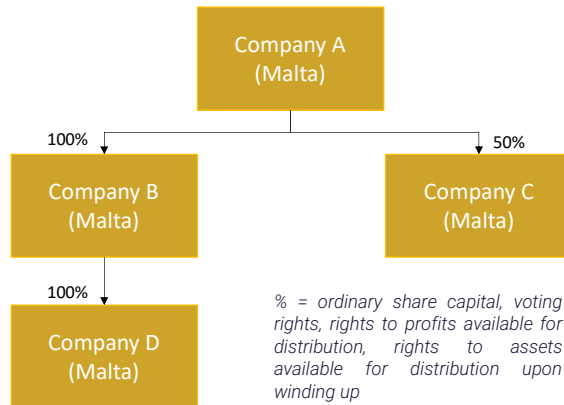
Articles 16 – 22: Group Relief Provisions

- Companies which are members of the same group as defined in Article 16 have the option to surrender trading losses between each other
- In terms of Article 16: *"two companies resident in Malta but neither of which is resident for tax purposes in any other country shall be deemed to be members of a group of companies if one is the fifty-one per cent subsidiary of the other or both are fifty-one per cent subsidiary of a third company resident in Malta"*
- A company is the fifty-one percent subsidiary of another company (the "parent company") if:
 - (i) more than 50% of its ordinary share capital and voting rights are owned directly or indirectly by the parent company; and
 - (ii) the parent company is beneficially entitled either directly or indirectly to more than 50% of any profits available for distribution to the ordinary shareholders of the subsidiary; and
 - (iii) the parent company would be beneficially entitled either directly or indirectly to more than 50% of any assets of the subsidiary available for distribution to its ordinary shareholders on a winding up



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Articles 16 – 22: Group Relief Provisions



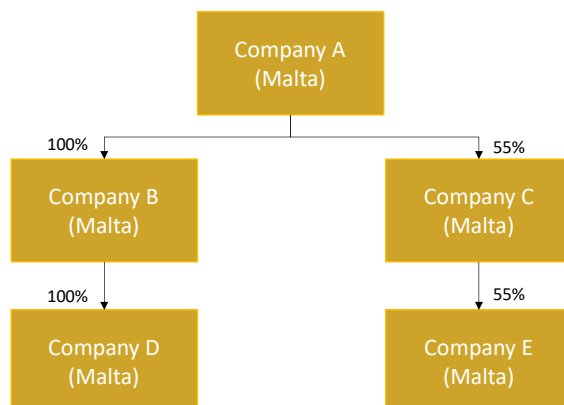
Companies A, B and D form part of a group

Company C is not part of the group since Company A does not have a holding of more than 50% in Company C



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Articles 16 – 22: Group Relief Provisions



Companies A, B, C and D form part of a group

Company E is not part of the same group since Company A does not have an indirect holding of more than 50% in Company E

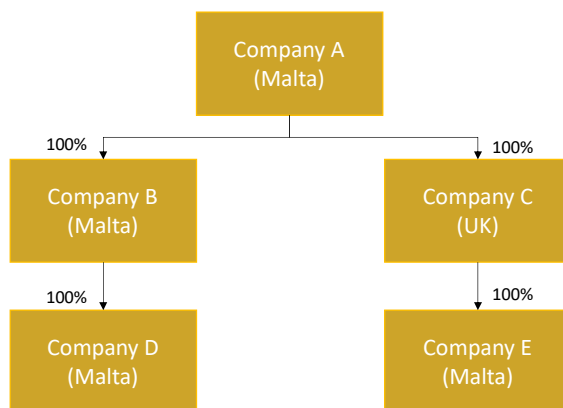
Company C and E form up a separate group

% = ordinary share capital, voting rights, rights to profits available for distribution, rights to assets available for distribution upon winding up



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Articles 16 – 22: Group Relief Provisions



Companies A, B, D and E form part of a group

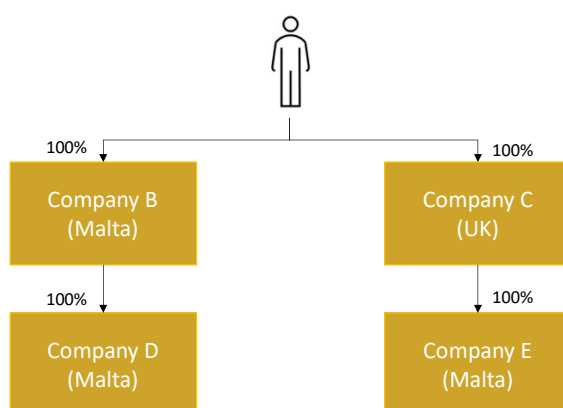
Company C is not part of the group since it is not resident in Malta

% = ordinary share capital, voting rights, rights to profits available for distribution, rights to assets available for distribution upon winding up

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Articles 16 – 22: Group Relief Provisions



Companies A and D form part of a group

Company E is not part of the same group since the common ownership is held by an individual

% = ordinary share capital, voting rights, rights to profits available for distribution, rights to assets available for distribution upon winding up

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Articles 16 – 22: Group Relief Provisions

- The surrendering company and the claimant company should
 - Be members of the same group throughout the year preceding the year of assessment for which the relief is claimed
 - Have accounting periods starting and ending on the same dates (exception in the case of companies that are incorporated or wound up during the year)
- Only trading losses incurred during the year can be surrendered – losses brought forward from previous years cannot be surrendered.
- If the surrendering company and claimant company makes up accounts and pay tax using different currencies, the losses to be surrendered must be converted to the currency in which the claimant company makes up accounts and pays tax
- Two or more claimant companies may claim losses from the same surrendering company
- The amount surrendered need not be for the full amount available
- A claimant company can claim losses in excess of its chargeable income for the year, in which case it can carry forward the excess amount



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Articles 16 – 22: Group Relief Provisions

- **IPA or MTA** losses of a surrendering company may only be deducted from the claimant company's IPA or MTA income
- **FIA** losses of a surrendering company may only be deducted from the claimant company's FIA income
- A **payment for group relief** shall not be taken into account in computing profits or losses of either company for the purposes of the ITA, and shall not be regarded as a distribution for the purposes of the ITA.
- A claim for group relief must be made **by the later of**:
 - The tax return date for the relative year of assessment in respect of which the claim is made, or
 - 12 months following the end of the company's accounting period, which date falls within the year immediately preceding the year of assessment for which the claim is made
- A claim for group relief shall include the **consent** of the surrendering company set out in such form as the Commissioner may require



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Articles 16 – 22: Group Relief Provisions

- **Anti-abuse provision – Article 19:** If, apart from this article, a company is a member of a group of companies, and arrangements are in existence the sole or main purpose of which is to reduce any company's tax liability, and by virtue of the said arrangements that company would cease to be a member of that group of companies, then that company shall be treated as not being a member of that group of companies for any year preceding a year of assessment in which the said arrangements are in existence
- **Exclusion of double relief – Article 20(1):** Relief shall not be given more than once, whether by giving group relief and by giving some other relief (in respect of any year of assessment) to the surrendering company, or by giving group relief more than once, in respect of the same amount.



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Article 14(1)(h) – Scientific research

- *expenditure on scientific research incurred by a person engaged in any trade, business, profession or vocation and proved to the satisfaction of the Commissioner to have been incurred for the use and benefit of the trade, business, profession or vocation*
- Scientific research includes basic research, applied research and development work involving the use of the results of basic and applied research
- Spread equally over 6 years if it is capital in nature, unless wear and tear allowances / initial allowances are availed of
- No deduction allowed under 14(1)(h) in the case of expenditure on plant and machinery or premises in respect of which any deduction under 14(1)(f) and (j) is allowed



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Article 14(1)(ha) – Research, development and innovation

- A deduction of 175% of the actual amount of expenditure incurred on research, development and innovation proved to the satisfaction of the Commissioner to have been incurred for the use and benefit of the trade, business, profession or vocation
- Applicable from year of assessment 2027
- Spread equally over 6 years if it is capital in nature, unless wear and tear allowances / initial allowances are availed of
- No deduction allowed under 14(1)(h) in the case of expenditure on plant and machinery or premises in respect of which any deduction under 14(1)(f) and (j) is allowed
- The Minister responsible for finance may by rules define the activities that constitute research, development and innovation for the purposes of this paragraph as well as prescribe such other conditions as may be applicable to this paragraph



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Article 14(1)(k) - Candidates in General Election

- *expenses incurred by or on behalf of a candidate for election of the House of Representatives on account of or in respect of the conduct or management of such election*
- Only allowed if candidate is elected
- Deduction is capped at the lesser of:
 - Maximum expenditure permissible under the General Elections Act
 - Actual expenditure incurred



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Article 14(1)(l) – Marketing and promotion

- *any expenditure incurred by a person engaged in a trade, business, profession or vocation for the purpose of promoting that trade, business, profession, or vocation including any expenditure on market research and obtaining market information, advertising or other means of soliciting business, providing samples, and participating in fairs and exhibitions*



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Article 14(1)(m) – Intellectual property

- *Any expenditure of a capital nature on intellectual property or any intellectual property rights incurred by a person and proved to the satisfaction of the Commissioner to have been used or employed in the production of the income of such person*
- First proviso: Spread equally over a number of years which is not less than 3 consecutive years, the first one being the year in which the expenditure has been incurred or the year in which the IP or IP rights is first used or employed in producing the income
- Second proviso: With effect from year of assessment 2024, any expenditure of a capital nature incurred on IP or IP Rights may, at the option of the person that has incurred such expenditure, be claimed in full by virtue of the second proviso to Article 14(1)(m) of the ITA.



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Article 14(1)(m) – Intellectual property

- Where the option under the second proviso is availed of, the deduction shall be calculated as follows:
 - Amount A: the amount which would otherwise have been deductible by reference to the minimum period as per the first proviso (e.g. 1/3 of the expenditure)
 - Amount B: the amount remaining after computing Amount A (e.g. 2/3 of the expenditure) – the “accelerated amortisation”
- This option is available also with respect to any such expenditure brought forward during the year of assessment 2024, in which case the option under the second proviso applies to the balance not yet calculated under the first proviso
- Where a taxpayer incurs expenditure in respect of more than 1 IP or IP right, the election under the second proviso is to be made independently for each asset.



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Article 14(1)(m) – Intellectual property

- If Amount A cannot be deducted in full due to insufficient income, it is treated as a normal deduction and therefore can create / increase a tax loss – provided that the IP or IP rights is used or employed in the production of income from a trade or business
- If Amount B cannot be deducted in full due to insufficient income, it cannot create or increase a tax loss, but can be carried forward and utilised in subsequent years.
- Where the taxpayer has more than one asset being IP or IP rights in respect of which the second proviso to article 14(1)(m) is availed of, and Amount B cannot be deducted in full due to insufficient income, the amount of utilised accelerated amortisation is to be attributed to one or more of the relevant IP or IP rights at the discretion of the taxpayer.
- If the IP or IP rights is used in the production of passive income, a loss cannot be created and accelerated amortisation cannot be carried forward.



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Example in the Guidance note issued by the CfTC

IP Asset A was acquired and put into use in the year of assessment 2024. IP Asset B was acquired and put into use in the year of assessment 2023 and a deduction in terms of Article 14(1)(m) was being claimed over a period of 4 years i.e., a deduction amounting to one-fourth of the expense was claimed in the year of assessment 2023.

Both IP assets are used and employed in the production of income from the same trading activity.

In the year of assessment 2024 the taxpayer opted to claim a deduction by virtue of the second proviso to Article 14(1)(m) in respect of both IP assets.



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Example in the Guidance note issued by the CfTC

	YA 2024	YA 2025	YA 2026
	EUR	EUR	EUR
Chargeable income produced through the use or employment of the IP BEFORE article 14(1)(m) deductions	1,900,000	1,850,000	1,200,000
LESS: Article 14(1)(m) amortisation deductible (excluding accelerated amortisation)*	(1,500,000)	(1,500,000)	(1,500,000)
Chargeable income produced through the use or employment of the IP BEFORE accelerated amortisation	400,000	350,000	450,000

*Assuming a deduction over 3 years (minimum period) for Asset A and a deduction over 4 years for Asset B



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Example in the Guidance note issued by the CfTC

	Cost of IP	YA in which the cost was incurred or the asset first used	Accelerated amortisation b/fwd	Standard amortisation deductible	Accelerated amortisation deductible	Utilised accelerated amortisation	Total amortisation utilised	Accelerated amortisation c/fwd
	EUR	EUR	EUR	EUR	EUR	EUR	EUR	EUR
YEAR OF ASSESSMENT 2024								
IP Asset A	3,000,000	2024	0	1,000,000	2,000,000	300,000	1,300,000	1,700,000
IP Asset B	2,000,000	2023	0	500,000	1,000,000	100,000	600,000	900,000
YEAR OF ASSESSMENT 2025								
IP Asset A	3,000,000	2024	1,700,000	1,000,000	700,000	200,000	1,200,000	500,000
IP Asset B	2,000,000	2023	900,000	500,000	400,000	150,000	650,000	250,000
YEAR OF ASSESSMENT 2026								
IP Asset A	3,000,000	2024	500,000	500,000	0	0	500,000	0
IP Asset B	2,000,000	2023	250,000	250,000	0	0	250,000	0

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Article 14(1)(m) – Intellectual property

- Where the IP or IP rights were acquired from a group company under a transaction which qualified for the intragroup relief under article 5(9) of the ITA, the total deduction that may be claimed by such acquirer is the lower of the cost of acquisition and the market value of the asset at the time of the transfer, reduced by the amount (if any) that the transferor had claimed as a deduction in terms of article 14(1)(m) in respect of the same IP or IP rights.
- Rule 4(2) of the Capital Gains Rules: Upon a transfer of IP or IP rights, the cost of acquisition used to determine the gains or profits from such transfer shall not include any amount in respect of which a deduction under article 14(1)(m) has been claimed.

Article 14(1)(ma) – Business permits, concessions & commercial leases

- *any expenditure of a capital nature incurred on or after 1st January 2025 by a person carrying on a trade, business, profession or vocation as consideration for the acquisition of a business permit or a concession, or a commercial lease, where the business permit or the concession or the commercial lease in question is used or employed in the production of income chargeable to tax in accordance with article 4(1)(a)*
- The terms “business permit”, “concession” and “commercial lease” are defined in article 14(1)(ma)
- Business permits and concessions are those issued/granted by a public authority.
- The deduction shall not include any payments attributable to the outright acquisition of an asset to which article 14(1)(m) applies
- No deduction can be claimed if the business permit, concession or commercial lease is acquired from a related party



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Article 14(1)(ma) – Business permits, concessions & commercial leases

- No deduction can be availed of with respect to permits, concessions or leases for an indefinite duration or for a duration of more than 15 years.
- The deduction shall be spread equally over the lesser of
 - (i) 15 years; and
 - (ii) the duration of the permit, concession or lease, if it is acquired for a period shorter than 15 years.
- If the duration of the business permit or concession or commercial lease can be extended or renewed at the option of the person acquiring them without the requirement for a payment of a capital nature by way of further consideration, the periods for which they may be extended or renewed shall be deemed to be part of their duration.



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Article 14(1)(ma) – Business permits, concessions & Commercial leases

- If a person who acquired a business permit or concession or commercial lease transfers, assigns or cedes the said asset, or sublets the leased property in question, or no longer uses or employs the asset in the production of the income chargeable to tax under article 4(1)(a) of the ITA, no further deduction can be claimed under article 14(1)(ma), even if that person may not have yet availed of the full deduction which otherwise may be granted.
- Capital expenditure incurred to extend, renew or modify the terms and conditions of the acquisition of the business permit, concession or commercial lease is treated as a fresh acquisition on which a tax deduction can also be claimed.
- Upon a transfer of the permit, concession or commercial lease, the cost of acquisition used to determine the gains or profits from such transfer shall be reduced by the total amount of deduction under article 14(1)(ma).



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Article 14(1)(n) – Childcare fees

- *any sum proven to the satisfaction of the Commissioner to have been paid by an employer to a licensed or registered childcare centre as fees in respect of childcare services for the children of his employees, up to a maximum of €935 per child*



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Article 14(1)(o) – Notional Interest Deduction

- *such sums in respect of risk capital as are aimed at approximating neutrality between debt and equity financing, as the Minister may prescribe*
- *This is the enabling provision for the Notional Interest Deduction Rules*



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Article 14(1)(p) – Patent Box

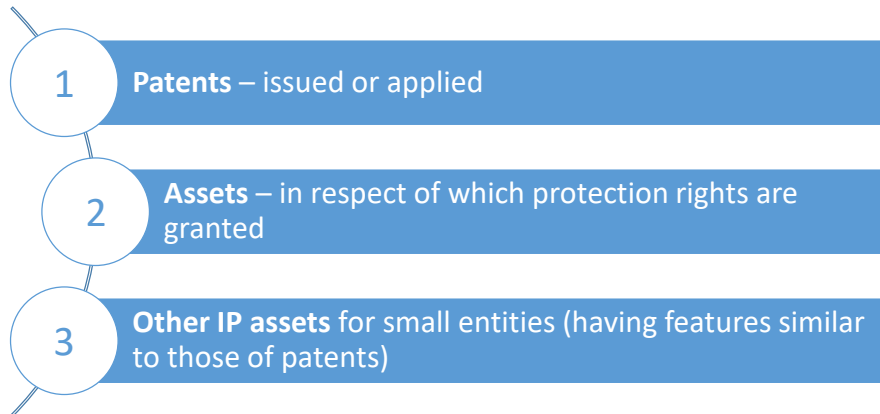
- *Deduction not exceeding such percentage amount of qualifying income as may be prescribed derived from qualifying intellectual property.....may be claimed by any person entitled thereto, whether such income arises in the course of a trade, business, profession or vocation or otherwise, subject to the satisfaction of such terms and conditions and to obtaining such determinations as may be prescribed*
- *Enabling provision for the Patent Box Regime (Deduction) Rules*



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Patent Box Regime (Deduction) Rules, 2019

Qualifying IP



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Patent Box Regime (Deduction) Rules, 2019

Conditions to benefit from deduction:

- Research, processing, planning, testing etc shall be carried out wholly or in part by the beneficiary;
- Beneficiary shall be the owner (or part owner) of the IP or holder of an exclusive license
- IP granted legal protection in at least one jurisdiction
- Maintenance of sufficient substance – physical presence, personnel, assets in the relevant jurisdiction in respect of the qualifying IP



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Patent Box Regime (Deduction) Rules, 2019

The deduction shall be calculated on the basis of the following formula:

$$95\% \times \left(\frac{\text{Qualifying IP Expenditure}}{\text{Total IP Expenditure}} \times \text{Income or Gains derived from qualifying IP} \right)$$



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Income Tax Deductions Rules SL 123.07

- Emoluments paid representing outgoings and expenses incurred wholly and exclusively in the production of the income are deductible to the extent that they are duly accounted for, i.e. reported in terms of FSS rules on the appropriate forms and furnished to the Commissioner by not later than 12 months after the relevant time limit prescribed under the FSS Rules



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Article 14(2)

- Enables the Minister responsible for finance to make rules to:
 - Prescribe method of calculating or estimating the allowable deductions under article 14 ITA
 - Prescribe tax credits and other tax deductions apart from those listed in Article 14(1) and determine those persons to whom these credits would apply and the method of calculating or estimating such tax credits or deductions and the amounts thereof



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Article 14(3) – Pre-trading expenditure

- **Pre-trading expenses** are in principle not allowable since they are not in the production of the income – but article 14(3) provides for an exception for certain pre-trading expenses subject to the following conditions:
 - Incurred not more than 18 months before a person begins his trade or business
 - Expenses would have been deductible if incurred after that time
 - Specific expenses as prescribed (S.L. 123.62): staff training, advertising and salaries and wages



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Article 14(4) – Income derived from immovable property

- Where a person derives income from the following and the property in question is owned by a related person:
 - Work carried out on or in relation to immovable property situated in Malta, consisting of brokerage and professional services, construction work, project management of construction work and work of tradesman;
 - Granting of loans or from any form of credit to finance the acquisition, development, construction, refurbishment, renovation of immovable property or any right thereon;
 - Any other matter which increases or enhances the value of immovable property or any right thereon



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Article 14(4) – Income derived from immovable property

- The income shall be deemed to constitute separate chargeable income
- The activity cannot give rise to a loss
- In determining the chargeable income from the transfer of such immovable property or any right thereon, the payments made by the related person in relation to works, loans or credit referred to in this article cannot give rise to a loss.
 - This does not apply with respect to interest which reflect the amount that would have been paid or payable if the persons referred to in article 14(4) were not related.



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DEDUCTIONS – OTHER LEGAL NOTICES

A number of other legal notices referring to special deductions are published from time to time

S.L. 123.01	Deduction for Wear and Tear of Plant and Machinery Rules
S.L. 123.02	Deduction of Tax (P.A.Y.E) Rules
S.L. 123.07	Income Tax Deductions Rules
S.L. 123.23	Deduction for Donations to Approved Philanthropic Institutions Notice <i>Repealed by Legal Notice 430 of 2014</i>
S.L. 123.26	Deduction of Expenses in respect of Immovable Property Rules
S.L. 123.61	Deduction (School Fees) Regulations
S.L. 123.68	Deduction of Additional Tax (Omissions) Rules
S.L. 123.82	Deductions and Tax Credits (Research and Development) Rules
S.L. 123.87	Deductions and Tax Credits (General and Specific Qualifications) Rules
S.L. 123.98	Deductions (Euro Related Expenditure) Rules
S.L. 123.107	Deductions and Tax Credits (Relevant Qualifications for Industry) Rules
S.L. 123.112	Deductions and Tax Credits (Pharmacy Of Your Choice) Rules
S.L. 123.115	Deduction (Tertiary Education) Rules
S.L. 123.116	Deduction (Workplace Accessibility) Rules
S.L. 123.118	Deduction (Childcare Facilities at the Workplace) Rules
S.L. 123.121	Deduction (Childcare Fees) Rules
S.L. 123.124	Deduction (Electric Vehicles) Rules
S.L. 123.128	Securitisation Transactions (Deductions) Rules
S.L. 123.149	Deduction (Income from Employment) Rules
S.L. 123.158	Deduction (Apprentices and Work Placements) Rules
S.L. 123.159	Deduction (Mature Workers) Rules
S.L. 123.176	Notional Interest Deduction Rules
S.L. 123.177	Deduction (Embellishment Project) Rules
S.L. 123.179	Deduction for Transportation Cost of Employees Rules
S.L. 123.194	Patent Box Regime (Deduction) Rules
S.L. 123.205	Group Deductions (Income Tax) Rules



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Deduction of Expenses in respect of Immovable Property Rules

- Applies to rental income brought to charge to tax under article 4(1)(e) of the ITA
- Allowable deductions are limited to:
 - a) Interest payable on a loan to acquire the rented property
 - b) Any rent, ground rent or similar burden
 - c) License fees
 - d) A further amount of 20% of the rental income less (b) and (c)
- Any excess deductions over the rental income for the year would be lost, i.e. computation cannot result in a tax loss.



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ARTICLE 26 (NEGATIVE TEST)

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Article 26 – Negative test

- “for the purpose of ascertaining the total income of any person no deduction shall be allowed in respect of:
 - a) Domestic or private expenses other than those specifically allowed by the ITA, being those allowed under Articles 14A – 14F
 - E.g. expenses such as Household expenses, education, entertainment, clothing, food are not allowable – application of income
 - b) Any outgoings and expenses to the extent to which they are not wholly and exclusively incurred in the production of the income
 - When the income is employment income, expenditure is allowable if it is necessarily incurred in the performance of the duties of the relative employment or office



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Article 26 – Negative test

- c) Any loss, diminution, exhaustion or withdrawal of capital, any sum employed or intended to be employed as capital or any expenditure for a capital purpose or of a capital nature save as provided in Art 14 and 23
 - e.g. capital allowances, interest on capital borrowed to be employed in acquiring the income, expenditure on scientific research are specifically allowed under article 14(1)
- d) The cost of any improvements
- e) Any loss or expense which is recoverable under any insurance or contract of indemnity
- f) Rent of any premises or part of premises not paid for the purpose of producing the income
- g) Payments of a voluntary nature – e.g. donations and gifts, however, certain donations to certain persons are specifically allowed under the provisions of specific subsidiary legislation under the ITA



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Article 26 – Negative test

- h) Any interest, discount or premium paid or payable to a person not resident in Malta where:
 - The non resident person derives or benefits from the said income, directly or indirectly, from the granting of loans or from any form of credit to finance the acquisition, development, construction, refurbishment, renovation of immovable property situated in Malta or any right thereon including professional fees related thereto and any other matter which increases or enhances the value of such immovable property or right thereon; and
 - The interest, discount or premium is exempt from tax under article 12(1)(c)(i); and
 - The payor of the interest, discount or premium is a person related to the person not resident in Malta.
- Two persons are related for the purposes of this provision if:
 - Both are controlled or beneficially owned, directly or indirectly, to the extent of 10% by the same persons; or
 - The payor owns, directly or indirectly, more than 10% of the ordinary share capital or voting rights of the person not resident in Malta.



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Article 26 – Negative test

- i) Any payment the making of which constitutes a criminal offence or, in the case of a payment made outside Malta, would constitute a criminal offence if made in Malta



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Other matters

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Other matters

- Interest Limitation Rule
- Hybrid Mismatches Rules
- Transfer Pricing Rules
- For an expenditure to be allowed as a tax deduction, it needs to be properly supported by a valid tax invoice/other equivalent document sustaining the expense.



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Personal Tax Deductions

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Article 14A – Alimony payments

- Alimony payments paid to the estranged spouse (not in respect of children) as determined by the Courts of Malta or as agreed by a public deed of personal separation under the authority of the Courts of Malta or a foreign court
- Amount of deduction is the lesser of:
 - The alimony payment, or
 - The individual's chargeable income
- The deductible alimony payment would be taxable in the hands of the recipient



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Article 14B – School fees

- School fees paid in respect of children attending prescribed private schools qualify for a deduction against the parents' income
- As from 1 January 2025, the deduction is taken as the lesser of:
 - The amount actually paid as certified by the head of school or kindergarten; and
 - €6,500 for each child attending secondary school
 - €4,600 for each child attending primary school
 - €3,500 for each child attending kindergarten school
- Where the services of a facilitator are used, the school fee deduction is increased to €9,320
- Where the parents live separately and they jointly contribute to the payment of the school fees, the deduction will be apportioned between them in proportion to the amount contributed



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Article 14C – Childcare fees

- Fees paid in respect of childcare services to a licensed or registered childcare centre
- The deduction is taken at the lesser of:
 - The amount actually paid as confirmed by official receipts;
 - €2,000



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Article 14D – Fees in respect of homes for the elderly and disabled

- Fees paid for residence in a private home for the elderly or disabled
- The deduction is taken at the lesser of:
 - The amount actually paid
 - €2,500 (€4,500 from year of assessment 2027)



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Article 14E and 14G – Fees for Sports / Cultural Activities

- Fees paid for children who have not attained the age of 16 years attending sports activities organised by a person registered under the Sports Persons (Registration) Regulations or by the Kunsill Malti għall-Isport or creative and cultural activities organised by institutions accredited by the Malta Council for Culture and the Arts
- The deduction is taken at the lesser of:
 - The amount actually paid
 - €300



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Article 14F – Fees for Tertiary Studies

- Fees paid in respect of studies at a recognized tertiary education institution, whether locally or abroad
- The deduction is taken at the lesser of:
 - The amount actually paid
 - €10,000



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