Special Tax Status for High Net Worth Individuals
Overview

Background to the Changes
• The Permanent Residence Scheme (‘PR Scheme’).
• Deficiencies of the Permanent Residence Scheme
• Objectives of the new Rules

The New Rules
• The Enabling provision.
• Rules for EU/EEA/Swiss Nationals.
• Rules for Non-EU/Non-EEA/Non-Swiss Nationals.
• Authorised Registered Mandatory.
Background to the Changes
Problems with the Former Scheme

• Minimum tax requirement had not been revised since 2003.

• No periods of stay were imposed and therefore PRs did not necessarily spend money in Malta.

• Qualifying property thresholds and qualifying capital thresholds were very low and resulted in an insignificant investment in the Maltese economy.

• PRs qualifying for long term residence under EU law created an unsustainable social cost to the Government.
Problems with the Former Scheme...

• ‘Permanent Residence’ status created confusion viz. Permanent Residence under EU law.
• Used by third country residents to acquire residence rights under EU law.
• Absence of minimum period of stay meant that PRs could claim Maltese tax residence status without spending a material time in Malta (leading to international tax avoidance).
• PRs were sharing qualifying properties.
Objectives of the new Rules

• Truly targeting and accepting High Net Worth Individuals
• Fit and Proper applicants only are accepted
• Attracting individuals who leave proper value to the country Limit social cost liabilities to future generations
• Manage tax residency in line with Malta’s international obligations and current international tax norms
The New Rules
The Enabling Provision


• A new article, article 56 (23) has been added to the ITA which prescribes that the Minister can grant special tax status to persons who meet a number of criteria.

• Special tax status carries the right to pay tax at a beneficial rate of tax of 15% on foreign source income (subject to a minimum tax payment).
Rules for EU/EEA/Swiss National
Main Eligibility Criteria

• Must hold a qualifying property holding
  – purchased property for EUR 400,000; or
  – rented property of EUR 20,000 p.a.
  – exception made for property purchased up to 14 September 2011 and an application under the PR scheme has been filed up to that date (EUR 116,000 consideration acceptable).

• A qualifying property holding must not be a shared property.

• Non-Maltese domiciliary.

• In possession of health insurance together with stable and regular resources.

• Pass a fit and proper test
  – International due diligence exercise
  – Regulated application and communication processes - must be undertaken by Authorised Registered Mandatory only.

• Application fee of EURO 6,000
Continuing Obligations

• Must retain qualifying property holding.
• Must retain insurance and stable resources.
• Must not become a Maltese domiciliary.
• Must reside in Malta for a minimum of 90 days.
• Must not stay in any other jurisdiction for more than 183 days (becoming tax resident therein).
• Special reporting obligations and notifications.
Minimum Tax

• 15% tax with possibility to claim double tax relief.
• Minimum tax of EUR 20,000.
• An additional minimum tax of EUR 2,500 per dependant.
Rules for Non-EU/Non-EEA/Non-Swiss
Eligibility Criteria

• Same as per EU/EEA/Swiss but some special rules will apply.

• If beneficiary intends to become a long-term resident or is already a long-term resident must enter into a qualifying contract that contemplates a financial bond of Euro 500,000 and an additional Euro 150,000 per dependant, to cover potential social costs.

• Must be fluent in one of the official languages of Malta.
Continuing Obligations

• Same as per EU/EEA/Swiss.
• Should beneficiary become a long-term resident he/she must enter into a qualifying contract.
Minimum Tax

- 15% tax with possibility to claim double tax relief.
- Minimum tax of EUR 25,000.
- An additional minimum tax of EUR 5,000 per dependant.
Authorised Registered Mandatory

• An application for special tax status under the *High Net Worth Individuals Rules* may only be submitted to the Commissioner of Inland Revenue through the services of a person that qualifies as an Authorised Registered Mandatory.

• An Authorised Registered Mandatory must be registered with the Commissioner of Inland Revenue under the *High Net Worth Individuals Rules*.

• ARMs will be required to follow a Code of Conduct, which if not respected may lead to de-registration from an ARM.
Existing Permanent Residents and Pending Applications
Amendments to the Current Residents Scheme Regulations

• No new certificates shall be issued on or after 1 January 2011.

• Existing PRs will not lose their status but PRs who sell the property to which their permit refers must upgrade their qualifying property to the new thresholds.

• Existing PRs must submit evidence of stable resources and health insurance.

• Existing PRs must prove that the property where they reside is not occupied by persons other than the permit holder and his family members.
Pending Applications to PR scheme

Applications received up to 14 September 2011
• Can opt to apply under the new HNWI Rules
• Application fee of EURO 6,000 waived;
• Property already purchased in Malta by that date that qualified under the PR Scheme would be accepted as qualifying property under the new Rules.
Further information

• Detailed Information sessions will be organised
• Guidance notes available on the IRD website www.ird.gov.mt
• Any further queries not covered by these notes to be sent through email to itu.mfei@gov.mt

This will serve as a basis to prepare and publish detailed FAQs on the new arrangements.