

Malta – Primary legislation

INCOME TAX ACT

<http://www.justiceservices.gov.mt/DownloadDocument.aspx?app=lom&itemid=8658&l=1>

Article 76(4)

- 76.** (1) If the Minister responsible for finance by order declares that arrangements specified in the order have been made with the Government of any territory outside Malta with a view to -
- (a) affording relief from double taxation in relation to income tax and any tax of a similar character imposed by the laws of that territory;
 - (b) preventing fiscal evasion;
 - (c) giving assistance in the collection of tax;
- and that it is expedient that those arrangements should have effect, the arrangements shall have effect notwithstanding anything in this or any other enactment.
- (2) On the making of an order under this article with respect to arrangements relating to any territory forming part of the Commonwealth, article 89 shall cease to have effect as respects that territory except in so far as the arrangements otherwise provide.
- (3) An order made under this article may be revoked by a subsequent order.
- (4) The Minister responsible for finance may make rules for carrying out the provisions of any arrangements having effect under this article. In particular, with regard to arrangements for the prevention of fiscal evasion, rules may be made in relation to -
- (a) the availability of applicable information;
 - (b) the access to applicable information;
 - (c) the mechanism of exchange of information;
 - (d) appropriate rights and safeguards; and enforcement provisions (including applicable penalties).

Article 96(1) and (2)

- 96.** (1) The Minister responsible for finance may from time to time make rules generally for carrying out the provisions of this Act and for such matters as are authorised by this Act to be prescribed.
- (2) Any guidelines, explanations or instructions relating to the Income Tax Acts or of the rules referred to in subarticle (1) contained in a publication or circular published by or under the authority of the Commissioner and distributed or made available to taxpayers in general, shall be read and construed as one with such rules and shall have the same effect as the rules to the extent that such guidelines, explanations or instructions are not in conflict with the Income Tax Acts on the said rules or with guidelines, explanations or instructions published at a later date and to the extent that -
- (a) they give a definition of any term or an interpretation of any provision contained in the Income Tax Acts or the rules;
 - (b) they determine the manner in which any provision of the Income Tax Acts or the rules is to be applied;
 - (c) they determine any matter which in accordance with the Income Tax Acts or the rules may be determined by or is subject to the approval or the discretion of the Commissioner.
- (3) The Minister responsible for finance may make rules prescribing tax credits and may also by such rules determine the class of persons to whom such tax credits shall apply and the method of calculating or estimating such tax credits and the amounts thereof.
- (4) The Minister responsible for finance may by rules amend, repeal or substitute the Schedule to this Act.

INCOME TAX MANAGEMENT ACT

<http://www.justiceservices.gov.mt/DownloadDocument.aspx?app=lom&itemid=8841&l=1>

- 10A.** (1) The Commissioner may, when and as often as he deems necessary, give notice in writing to any person to furnish him, within a reasonable time stated in such notice, not being less than thirty days, such information as may be necessary in order to provide information, including documents, to

foreign tax authorities where arrangements between Malta and the respective State or its tax authorities exist for the reciprocal exchange of information for tax purposes.

(2) The provisions of this article shall apply even if the Commissioner could not collect the relevant information for the purposes of the Income Tax Acts. The provisions of this article shall have effect in respect of any person, entity or scheme, including a person entity or scheme referred to in article 17, notwithstanding any obligation to secrecy or confidentiality, or to any other restriction relating to the disclosure of information.

(3) For the purposes of this article, "tax" means any tax to which an arrangement as referred to in subarticle (1) applies.

(4) The powers of the Commissioner to require a person to provide information under this article include the power:

(a) to require any person to complete and deliver to the Commissioner any return specified in that notice;

(b) to summon any person who, he has reason to believe, is able to give information required for the purposes of this article, to attend before him and to examine such person on oath or otherwise;

(c) to require any person to produce for examination any books, documents, accounts (including bank statements, passbooks and other bank documents) and any other document which the Commissioner may require or a copy or extract thereof;

(d) to require any person to give information by means of written statements;

(e) to require any person to authenticate in such form as the Commissioner may consider appropriate or as may be prescribed any document prepared by that person or an extract thereof or the copy of any document held by that person or of an extract thereof;

(f) to require any person to confirm on oath any declaration made by him or any document prepared by him;

(g) to require any person to provide information, documents or written statements in such other form as the Minister may prescribe.

(5) The Minister may make rules for the collection and maintenance of information, even where arrangements between Malta and other relevant jurisdictions, or their tax authorities, for the purposes of exchange of information for tax purposes, are not in force:

Provided that the person that is obliged to collect and maintain such information according to such rules shall not be obliged to provide such information to the Commissioner before an arrangement between Malta and the other relevant jurisdiction, or its tax authorities, for the purposes of exchange of information for tax purposes, enters into force.