Main features of the Budget Measures Implementation Act, 2013

The Budget Measures Implementation Act, 2013 (the 'Act') was passed through parliament. The amendments include the introduction of a new tax bracket, the extension of the participation exemption to apply to branches, the extension of the royalty exemption, enabling provisions for rules on the fiscal unity, amendments designed to benefit the pensions industry and the removal of duty upon certain transfers of immovable property by inheritance or donation between parents and their children.

Income Tax Act

Amendments Relating to Individuals

The Act introduced a new tax bracket of 32% for income up to €60,000. The new tax bands are as shown in the table opposite:

Single Rates	€	%
0	8,500	0
8,501	14,500	15
14,501	19,500	25
19,501	60,000	32
60,001	onwards	35
Married Rates		
0	11,900	0
11,901	21,200	15
21,201	28,700	25
28,701	60,000	32
60,001	onwards	35
Parent Rates		
0	9,300	0
9,301	15,800	15
15,801	21,200	25
21,201	60,000	32
60,001	onwards	35

Further amendments include:

A deduction of up to €2,500 was introduced for persons paying fees for residency services in a private home for the disabled, or at a respite centre for their family members;

Amendments Relating to Companies or Corporate Bodies

The definition of industrial building or structure was amended to include a commercially operated car park which is the main income generating activity of a person claiming tax depreciation. This enables qualifying car parks to claim an initial allowance of 10% and a yearly tax depreciation.

Extension of certain Tax Exemptions

Participation Exemption

In 2010, the participation exemption with respect to capital gains was extended to include domestic scenarios. The law was now amended to allow for a participating holding to also be held in a Maltese partnership *en commandite* the capital of which is not divided into shares, which is not a property partnership.

The participation exemption has now also been extended to include any income or gains derived by a company registered in Malta which are attributable to a permanent establishment (including a branch) situated outside Malta or to the transfer of such permanent establishment, provided the taxpayer has not shown the income or gains as part of its chargeable income in the income tax return.

Royalty Exemption

The exemption in respect of qualifying royalty income was amended to also apply to royalties derived from trademarks.

Amendments relating to Immovable Property

The 7-year period from acquisition where a person selling immovable property may opt out of paying tax at 12% final withholding tax has been extended to 12 years.

Fiscal Unity

The Act contains a provision enabling the Minister to introduce rules allowing for fiscal unity, which would enable companies under common ownership to be entitled to elect to compute and determine their taxable income and losses as a single body of persons.

Duty on Documents and Transfers

Amendments related to Retirement Schemes

The Act introduced an exemption from duty on any policy of life insurance where the following conditions are met:

- The policy holder is a legal person which is incorporated or otherwise created in Malta; and
- The said legal person holds the policy in the capacity of a trustee or other fiduciary; and
- The life assured and persons who can benefit under the policy are all not resident in Malta; and
- Such trust or other fiduciary arrangement is exempt under the provisions of Article 12 (1)(d) of the Income Tax Act.

A further amendment relates to the definition of the term 'sum assured'.

The Act also extended the exemption from duty on acquisitions or disposal of marketable securities by, or issued by, retirement schemes whose beneficiaries consist solely of individuals not resident in Malta, and the trustee or fiduciary proves to the satisfaction of the Commissioner that the retirement scheme carries on or intends to carry on business, or has or intends to have, business interests to the extent of more than 90% outside Malta.

Amendments related to Immovable Property

The 3.5% duty ceiling for the acquisition of one's sole, ordinary residence has been raised from €116,468.67 to €150,000.

The reduced rate of duty of 3.5% in the case of a transfer of immovable property by gratuitous title (donation) by a person to his descendants in the direct line for the purpose of establishing therein or constructing thereon their sole, ordinary residence is complemented by an exemption from duty on the first €200,000 of the value of the property transferred.

An exemption from duty has been introduced upon transfers *causa mortis* of a dwelling house or part thereof, or of any real right thereon, where the property being transferred was the ordinary residence of the deceased for the whole period of 3 years preceding the transfer and is transferred to the deceased's descendants' in the direct line.

Furthermore the 10-year period for a claw back of duty where the surviving spouse (or the deceased's descendants that suffers from a disability) transfers the immovable property they inherited free of duty has been removed.

The exemption from duty on assignment of immovable property between spouses consequent to a consensual or judicial separation has been extended to include immovable property owned by a company which is fully owned by any or both spouses.

The Act also introduces a series of amendments for the calculation of duty in contracts of emphyteusis as well as in relation to the acquisition of property by means of emphyteusis, both with respect to the emphyteusis on the acquisition of one's sole, ordinary residence and with respect to other cases.

The penalties to be paid by notaries for failing to collect and pay tax on transfers of immovable property and the penalties for the under declaration of immovable property acquired have also been revised.

Amendments related to Transfers of Foreign Marketable Securities

The Act introduced further rules with respect to transfers of foreign marketable securities held in a company having, directly or indirectly, more than 50% of its business interests in Malta:

- Where the transferor, or transferee, of the foreign marketable securities is an individual resident and domiciled in Malta, or any other person who is owned or controlled, directly or indirectly, or acts on behalf of such individual the transfer will be dutiable even if it is executed outside Malta or through a local bank or person holding an investment services licence under the Investment Services Act.

- The transfer *causa mortis* of foreign marketable securities, or interests in a partnership registered outside Malta, is dutiable where the transferee *causa mortis* is ordinarily resident and domiciled in Malta.

Value Added Tax Act

The Act gives the Minister the power to make regulations relative to the introduction of the concept of VAT Grouping into Maltese law, whereby legally independent entities established in Malta which are closely bound to one another by financial, economic and organisational links may be regarded as a single taxable person.

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