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**Malta – Changes to  
Remittance Basis, Highly  
Qualified Persons Rules**

by KPMG, Malta (a KPMG  
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## flash Alert

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Malta has amended its rules on the remittance basis of taxation that will impact persons who though not ordinarily resident or not domiciled in Malta have a spouse who is both ordinarily resident and domiciled in Malta. Furthermore, a new measure will affect the ability of certain highly qualified individuals to benefit from a flat tax rate of 15 percent.

### Why This Matters

The measure pertaining to the remittance basis of taxation will disallow, as from 1 January 2015, the application of the remittance basis of taxation in respect of individuals who are either (a) domiciled but not ordinarily resident or (b) ordinarily resident but not domiciled in Malta, whose spouse is both ordinarily resident and domiciled in Malta. In this regard, such individuals will now become taxable on their worldwide income and capital gains, irrespective of receipt/remittance of such income to Malta.

The changes to the Highly Qualified Persons Rules will allow certain European Economic Area (EEA) and Swiss nationals to enjoy an extended period of eligibility with respect to the application of a reduced 15-percent flat tax rate for certain qualifying employment.

### Budget Measures Implementation Act, 2015 (Act No. XIII of 2015) and the Remittance Basis of Taxation

The Act brought about changes to the applicability of the remittance basis of taxation. Such changes will affect persons who though not ordinarily resident or not domiciled in Malta have a spouse who is both ordinarily resident and domiciled in Malta. The amendment would also apply to persons benefitting from the returned migrant provisions whose spouse is both ordinarily resident and domiciled in Malta.

#### Key Changes

Up until 31 December 2014, the following rules applied:

- Persons who were both ordinarily resident and domiciled in Malta were taxable in Malta on their worldwide income and capital gains; whilst
- Persons who were either (a) domiciled but not ordinarily resident or (b) ordinarily resident but not domiciled in Malta, were subject to tax on a remittance basis, irrespective of the tax status of their spouse, i.e., such persons were taxable on income and capital gains arising in Malta and on income which does not arise in Malta but is received in Malta. Capital gains arising outside Malta were not subject to tax in Malta.

As noted above, under the new rules, the remittance basis of taxation can no longer be applied from 1 January 2015, in respect of individuals who are either (a) domiciled but not ordinarily resident or (b) ordinarily resident but not domiciled in Malta, whose spouse is both ordinarily resident and domiciled in Malta.

In this regard, such individuals with a spouse who is both ordinarily resident and domiciled in Malta will now become taxable on their worldwide income and capital gains, irrespective of receipt/remittance of such income in/to Malta.

As from 1 January 2015, the wording of the amendment would also have the effect of bringing to charge to Maltese income tax, capital gains arising outside of Malta to persons benefitting from the returned migrant provisions whose spouse is both ordinarily resident and domiciled in Malta.

### **The Highly Qualified Persons Rules**

These Rules were introduced in 2011 to attract to Malta highly qualified and experienced individuals. (For prior coverage, see [Flash International Executive Alert 2011-195](#), 22 November 2011.)

The Rules grant individuals who satisfy the various eligibility criteria the benefit of a flat rate of income tax of 15 percent upon income derived from their qualifying contract of employment. This benefit was previously generally limited to a maximum consecutive period of five years with respect to EEA and Swiss nationals, commencing from the year in which the individual was originally liable to tax in Malta in terms of the Income Tax Act.

The Highly Qualified Persons (Amendment) Rules, 2015 (L.N. 225 of 2015), introduced an amendment that allows for this period to be extended by a further five years up to a maximum period of 10 years of assessment in total. It should be noted that this extension is not automatic, it may be granted upon application by the beneficiary (EEA and Swiss nationals only) of the Rules, insofar as he or she continues to adhere to the other provisions of the Rules.

The maximum eligibility period for EEA and Swiss nationals in terms of the Highly Qualified Persons Rules has therefore been extended, subject to application, for an additional five years up to a maximum of 10 years of assessment.

*For further information or assistance, please contact your local KPMG GMS or People Services professional or one of the following tax professionals with the KPMG International member firm in Malta:*

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