

Lecture Title: Tax & National Insurance – Part 1



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Date: 9 November 2022

Social Security – Introduction

- Malta's current social security welfare system is the result of the development and updating of a set of laws over several decades
- The main aim of social security law is to reduce the financial hardships of:
 - **Sickness**
 - **Disability**
 - **Injury**
 - **Old Age**
 - **Unemployment**
- Thus the social security system is considered as being the backbone of our country's social welfare



Social Security – Introduction

- Malta's social security legislation is mainly provided for by the Social Security Act
- Not enough to look into the Social Security Act... reference should also be made to legal documents / provisions, such as:
 - **EU Regulations**
 - **Social Security Reciprocal Agreements; and**
 - **Unwritten practices and procedures**



Procedure to apply for a Social Security Number

- Visit one of the District offices around Malta and Gozo;
- Fill in an online application; or
- For expatriates, the employer can submit a copy of the foreign person's passport together with the Jobsplus Engagement Form – fully completed and signed but not including the Income Tax Number and Social Security Number of such person to the International Relations Unit at the Social Security Department



Definitions

- “Gainfully occupied” – means a person employed in insurable employment or self-occupied
- “Insurable employment” – shall mean every employment in Malta under any contract of service or apprenticeship. Written or oral, and whether expressed or implied, including employment by or under the Government of Malta, unless excepted in terms of the excepted employments



Classification for NI purposes

- The Social Security Act categorises persons as either:
 1. Employed person
 2. Self-occupied persons
 3. Self-employed persons

Determination of classification is to be made using the above chronological order

- The NI classification is mainly important because it determines the rate of NI and also the manner of pension calculation (at least for now)



Classification for NI purposes

- Employed persons – in general are persons employed in Malta ... but be careful re “Excepted Employments” ...

- example of Excepted Employment... employment of a majority shareholder
- although employed, for social security purposes treated as self-occupied
- therefore self-occupied social security contributions are payable

... indeed employed contributions (employer + employee) result to be higher than self-occupied contributions ... therefore if there is a wrong classification in such circumstances would result in higher social security payment



Self occupied vs Self employed

- The term Self employed as referred to in the Social Security Act and its meaning differ to the way we use it colloquially
- Strictly speaking, the terms 'self-employed person' or a 'self-occupied person' both refer to a person who
 - is not an employee working for an employer;
 - derives income of more than €910 per annum from an activity;
 - pays class (II) social security contributions
- Normally, the term self-employed is referred to anybody who works for himself/herself. It is the type of activity that differs



Self occupied vs Self employed

- Self-occupied persons – are persons who are ordinarily resident in Malta and engaged in any gainful occupation through which earnings exceeding €910 per annum are derived
- Self-employed persons – are persons who are ordinarily resident in Malta and who are not in an insurable employment or self-occupied i.e. persons earning passive income (i.e. rents, investments, or any other passive income)
- Although in general the NI rates and the pension calculation are the same for self-occupied and self-employed there are still certain differences between the two e.g. special rate for single persons applies only for self-employed persons



Special classification – individuals working outside Malta

Article 13 Social Security Act

- A person who:
 - is employed under a contract of service outside Malta, and
 - retains his/ her ordinary residence in Malta
- In this case, the person may request to be classified as an employed person (even if he/ she is not in insurable employment in Malta) and only employee's share of NI would be payable
- What is “ordinary residence” for Social Security purposes? ... Unwritten practice: similar to domicile under tax principles
- Flexibility provided by the Social Security Department re “contract of service outside Malta”
- This provision may protect Maltese NI contributions for pension purposes especially if employment is outside the EU



Social Security Contributions

All persons who are over the age of sixteen (16) and who have not yet attained retirement age, and who are in insurable employment, are liable to pay Social Security Contributions. Social Security contributions are paid in weekly rates, and each year of gainful occupation will carry 52 or 53 social security contributions (depending on the annual number of Mondays) on the payee's contribution record



Employed Person

Employed Persons who are not excepted under Part II of the First Schedule of the Social Security Act, shall be liable to pay Class 1 Social Security Contributions with applicable contribution rates according to Part I of the Tenth Schedule of the Social Security Act

All full-time or part-time employees who are employed for less than eight (8) hours in any one calendar week are not considered as being in insurable employment for Social Security Contribution purposes



Employed Person

- Social Security Contributions by Employed persons are called Class 1 Contributions and are paid by direct deductions from the same employees' wages/salary. In a normal case scenario, an equivalent rate paid or deducted from the employee's wage/salary, is also paid by the employer
- The employee's contributions are deducted from his/her gross remuneration
- The employer's contributions are paid on top of his/her gross remuneration



Employed Person

- Contributions are due on the total gross salary excluding remuneration for overtime, any form of bonus, any extra allowances, any remuneration in kind and commissions
- The employee and employer portion of the social security, together with the Maternity Leave Fund Contributions are reported in the FS5 form and payment should be made to the Inland Revenue Department ...



Employed Person

Part-time employees who therefore work less than 40 hours per week and who earn less than the National Minimum (weekly) Wage, can opt to have their share on social security contributions, paid at the rate of 10% of their basic weekly wage. This contribution rate is called the Pro-rata rate and does not apply to the employer's share who has to pay the full applicable weekly rate. One should also consider that when paying social security contributions by 10% pro-rata, these will not be considered as one contribution per week for records purposes, but carry a lesser albeit proportional weight against the applicable full weekly rate



Employed Person – SSC Rates – Class 1

Category	Description
A	Persons under 18 years of age earning not more than the amount indicated below
B	Persons aged 18 and over, earning not more than the amount indicated below
C	All persons whose basic weekly wage is between the amounts indicated below
D	All persons whose basic weekly wage is equal to or exceeds the amount indicated below

Category	From	To	by Employee	by Employer	Total
A	0.10	182.83	6.62	6.62	13.24
B	0.10	182.83	18.28*	18.28	36.56

*or if the employee chooses, 10% of the basic weekly wage. This rate of contribution entitles the contributor to pro-rata contributory benefits.

Persons born up to 31st December 1961

Category	From	To	by Employee	by Employer	Total
C	182.84	378.98	10%	10%	n/a
D	378.99	n/a	37.90	37.90	75.80

Persons born as from 1st January 1962 onwards

Category	From	To	by Employee	by Employer	Total
C	182.84	499.73	10%	10%	n/a
D	499.74	n/a	49.97	49.97	99.94

There are another two categories i.e. Category E and F which are applicable to students who are following a full-time course of studies or instruction under the Student-Worker Scheme, or other similar schemes involving distinct work and study periods for which they are receiving remuneration



Self-Occupied Persons

A self-occupied person is one who:

- is not an employed person;
- is excepted under Part II of the First Schedule of the Social Security Act;
- is engaged in any activity through which earnings exceeding €910 per annum are being derived



Self-Occupied Persons

- Full-time or part-time employees who are employed for less than eight (8) hours per week but earn more than €17.50 per week (€910 per annum); are considered as Self-Occupied persons for Social Security Contribution purposes
- Social Security Contributions are calculated on the previous year's annual net earnings
- Annual net earnings means income derived from any economic activity and taken net of expenses incurred in the generation of such income
- Practice: in the first year of self-occupation, the Social Security Department would in general allow the payment of the lowest NI
- Such Class 2 contributions are payable in April, August and December, in arrears



Self-Employed Persons

- A self-employed person means a person who has not yet passed his sixty-fifth birthday, is ordinarily resident in Malta, and is not an employed person or a self-occupied person
- Social Security Contributions are calculated on the previous year's annual net earnings
- In this case the annual income should be of a passive nature e.g. rents, interest, dividends, etc.
- Social Security Contribution rates for self-employed are in general the same as for self-occupied
- Such Class 2 contributions are also payable in April, August and December, in arrears
- The difference in weight between Class 2 self-occupied contributions and self-employed contributions, is that self-employed contributions are valid only for Pension purposes, while self-occupied contributions are valid for both Pension and Short Term Benefit eligibility purposes



Self-Occupied and Self-Employed Persons – SSC Rates – Class 2

Category	Annual Net Income €		Weekly Rate	Full Time Farmers	Applies To	
	From	To			Self-Employed	Self-Occupied
SP*	1,006	9,387	27.08	n/a	✓	✗

*The SP rate applies only to single persons who are not self occupied.

SA	910	10,848	31.29 ⁽¹⁾	20.86	✓	✓
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¹ €31.29 or 15% of the annual net earnings if the person is a part-time self-occupied woman or a full-time student who has not reached the age of 24 who is a part-time self-occupied person or a pensioner who is a part-time self-occupied person whose annual net earnings do not exceed €10,848. If the person elects to pay less than the €31.29, this may result in a reduced contributory benefit.

Persons born up to 31st December 1961

SB	10,849	19,706.90	15%	10%	✓	✓
SC	19,706.91	n/a	56.85	37.90	✓	✓

Persons born as from 1st January 1962 onwards

SB	10,849	25,986	15%	10%	✓	✓
SC	25,987	n/a	74.96	49.97	✓	✓





What is Income Tax?

- Malta taxes individuals who are both domiciled and ordinarily resident in Malta on their worldwide income
- Any person who is ordinarily resident in Malta but not domiciled in Malta is taxable only on income arising in Malta and on any foreign income remitted to Malta, i.e. on income and chargeable gains arising in Malta and on income outside Malta that is received in Malta. Such persons are not taxable in Malta on income arising outside Malta, which is not received in Malta, and on capital gains arising outside Malta, regardless of whether they are received in Malta, or otherwise



What is Income Tax?

- However, persons who are married to an individual ordinarily resident and domiciled in Malta, are subject to a worldwide basis of taxation (and not on a source and remittance basis)
- A non-resident individual is taxed only on income and chargeable gains arising in Malta
- Individuals are subject to tax on income arising in a calendar year (i.e. the basis year), which is assessed to tax in the year following the year in which it arises (i.e. the year of assessment)



Personal Income Tax Rates

The rates of tax for an individual are progressive rates with a range of 0% to 35%. The higher the income, the higher the tax rate. A person who is resident in Malta for more than 183 days a year will be taxed in Malta on his/her income earned in Malta, as well as on any income earned overseas that is received in Malta. The law stipulates that, each month, the employer is obliged to deduct the amount of tax payable on a salary, at source. Certain payments are deductible from the taxable income of an individual that are allowable for tax purposes



What is domicile?

- Domicile means the country where you officially have a permanent home or have a substantial connection with
- If it is not the place where you currently live, it is then the place which you intend to return and make your home indefinitely
- In simple terms your domicile is your home
- You can have more than one residence but you only have one domicile



What is domicile?

- When you are born, you are automatically assigned to the same domicile as your father. This is known as your domicile of origin
- Even if you move abroad it is highly unlikely that your domicile will change



Why is domicile important?

- It is crucial to determine your domicile for tax purposes
- Your tax liabilities can be divided into three main areas:
 1. Personal Income Tax (from investment or employment);
 2. Capital Gains Tax; and
 3. Inheritance Tax



Can you change your domicile?

- After the age of 18, you can change your domicile
- For this, you will be required to satisfy several criteria with evidence of each one
- The criteria for changing your domicile are varied, and each case will be judged on its merit combining with the evidence provided



Can you change your domicile?

- The basic principles for changing your domicile will typically include as an absolute minimum:
 - Leaving the country in which you are domiciled and settle in another country
 - Provide strong evidence that you intend to live in your new location permanently or indefinitely



Is it easy to get domicile status in Malta?

The answer is **No**

- You are required to break all ties with other countries to be domiciled in Malta
- Once you get the status, you will be taxable on a worldwide basis
- Under the Maltese jurisdiction, you can have multiple residences but only **ONE** domicile
- Also, Malta does not have any deemed domicile rules



Is it easy to get domicile status in Malta?

It is crucial to mention that if you are a third-country national and have taken up Maltese citizenship by investment (IIP), you will remain domiciled in your native country



What is Non-domiciled status

- Typically be a foreign national living in Malta, which means you or your parents are not of Maltese origin
- While you may be considered a tax resident, your domicile will typically remain as your country of birth. If you are recognised as a "non-dom", you cannot live in Malta indefinitely



Who is a resident?

- You will be considered a resident (for tax purposes at least) if you're present in a country for 183 days or more per tax year or if not, by visiting the country very frequently and have the intention to reside there
- It also means that you have the legal right to live, work, set up business, travel or even study in a particular country



Who is a resident?

- The Malta Residency programs like Malta Permanent Residence Program (MPRP) and Global Resident Program (GRP) give the opportunity to non-European nationals and their families to settle in Malta
- If you are a resident in Malta, it doesn't mean you are a tax resident as well



Who is a tax resident?

- In general, individuals who spend more than six months in Malta in a calendar year are likely to be Maltese tax residents
- Reference is made to Article 13 of the Income Tax Act whereby tax shall not be payable in respect of any income arising outside Malta to any person who is in Malta for some temporary purpose only and not with any intent to establish his residence therein and who has not actually resided in Malta at one or more times for a period equal in the whole to six months in the year preceding the year of assessment



Who is a tax resident?

- Tax residency in Malta is a facts-based test, and the following factors are usually taken into account to determine the residency of individuals:
 - Place of abode;
 - Physical presence, i.e. > 183 days;
 - Regularity and Frequency of visits;
 - Intention to reside in Malta;
 - Ties of birth;
 - Ties of the family; and
 - Business Ties



Income tax in Malta

- In Malta the taxation of an individual's income is **progressive**; i.e. the higher an individual's income, the higher the tax paid
- To attract highly qualified personnel from abroad, Malta has introduced an incentive scheme targeting foreign executives



Income tax in Malta

- Professionals in the financial services, gaming and aviation sectors can benefit from a flat personal income tax rate of 15% on income up to €5 million. Any income over that figure is tax-free
- To qualify for this tax incentive, the employee must earn a minimum of €88,242 for 2022 (this increases annually) among other criteria



Income tax in Malta

- EU, EEA and Swiss nationals can benefit from the reduced tax rate for a maximum period of 15 years whilst third-country nationals for a maximum period of 12 consecutive years
- No new determinations will be issued after 31 December 2025
- There is another scheme which applies only to persons employed within the aviation sector which has no sunset provision (up until now)



What happens if a person is not a Tax Resident anywhere?

- Most of the countries tax income on a residence basis, so it is possible that the person is not taxed anywhere
- But if you want to open a bank account, then the bank might ask for a tax number to receive income. So being a tax nomad would not get you anywhere
- For this purpose, Malta has programs like Global Residence Program (GRP) to give you a tax identification number



Double taxation

Often, double taxation occurs as an unintended consequence of tax legislation, whereby international businesses are burdened with income tax arising from the country where the income was earned, and taxed once more when the income is repatriated in the home country of the business



Double taxation

- Malta has over 70 double tax treaties in force
- Double taxation system helps to reduce withholding taxes when a foreign company is paying a dividend to Malta
- As per the Domestic Legislation, if a Maltese company is paying dividends outside of Malta, there will be no withholding tax even if there is no agreement
- Treaties help to reduce the withholding tax on inbound dividends, interests and royalties
- It also solves dual residence status conflicts where income is taxed twice
- Malta has different types of double taxation reliefs
- If foreign income is received in Malta and the treaty allocates right to Malta, Malta will give relief on the tax suffered in another country, subject to a sealing which is usually the Malta Tax



Malta Double Tax Treaties and Tax Information Agreements

- In force: Albania, Andorra, Australia, Austria, Azerbaijan, Bahrain, Barbados, Belgium, Botswana, Bulgaria, Canada, China, Croatia, Cyprus, Czech Republic, Denmark, Egypt, Estonia, Finland, France, Georgia, Germany, Greece, Guernsey, Hong Kong, Hungary, Iceland, India, Ireland, Isle of Man, Israel, Italy, Jersey, Jordan, Korea, Kosovo, Kuwait, Latvia, Lebanon, Libya, Liechtenstein, Lithuania, Luxembourg, Malaysia, Mauritius, Mexico, Moldova, Montenegro, Morocco, Netherlands, Norway, Pakistan, Poland, Portugal, Qatar, Romania, Russia, San Marino, Saudi Arabia, Serbia, Singapore, Slovakia, Slovenia, South Africa, Spain, Sweden, Switzerland, Syria, Tunisia, Turkey, Ukraine, United Arab Emirates, United Kingdom, USA, Uruguay and Vietnam
- Treaties signed but not yet in force: Belgium, Curaçao
- Tax Information Exchange Agreements in Force: Bahamas, Bermuda, Cayman Islands, Gibraltar, USA
- Tax Information Exchange Agreements – signed but not in force: Macao



