

SUBSIDIARY LEGISLATION 364.12**EXEMPTION OF DUTY IN TERMS OF
ARTICLE 23 ORDER**

2nd November, 2007

LEGAL NOTICE 343 of 2007, as amended by Legal Notices 425 of 2007, and 393 of 2013, consolidated, and as amended by Legal Notices 29, 182, 378 of 2015, 384 of 2016, 342 of 2017, 8 and 415 of 2018, 281 of 2019, 240, 427 of 2020, 130, 277, 324 and 460 of 2021 and 122, 224 and 366 of 2022.

1. The title of this Order is the Exemption of Duty in terms of article 23 Order. Title.

2. As from the 16th October, 2007 in respect of transfers by a gratuitous title by a person to his descendants in the direct line who acquire immovable property for the purpose of establishing therein or constructing thereon their sole, ordinary residence, the duty otherwise chargeable in terms of the Duty on Documents and Transfers Act, shall be chargeable on the value thereof at the rate of three euro and fifty cents (3.50) per one hundred euro or part thereof, provided that this is the first transfer by such a person to such a descendant for this purpose and in this manner and provided that the notary who receives any deed of such a transfer shall record in the deed a written declaration by the person so transferring and the person so acquiring that the property is being acquired for the said purpose for the first time and the notary shall warn the said person and descendant of the importance of the truthfulness of such declaration.

Exemption of duty on transfers by a gratuitous title to descendants in the direct line.
Amended by:
L.N. 425 of 2007.
Cap. 364.

3. In respect of transfers of property, made on or after the 5th November 2013 but before the 15th October 2019, which qualify for relief of duty under article 32(4)(a) of the Duty on Documents and Transfers Act, no duty shall be chargeable on the first one hundred and fifty thousand euro (€150,000) of the aggregate value of the consideration paid for the acquisition of such property by a person, provided that this is the first immovable property acquired *inter vivos* by such person and provided that the notary who receives any deed of such a transfer shall record in the deed a written declaration by the person so acquiring that this is the first immovable property acquired *inter vivos* by him and the notary shall warn the said person of the importance of the truthfulness of such declaration:

Exemption of duty on acquisition of first immovable property.
Amended by:
L.N. 29 of 2015;
L.N. 182 of 2015;
L.N. 378 of 2015;
L.N. 384 of 2016;
L.N. 8 of 2018;
L.N. 415 of 2018;
L.N. 281 of 2019;
L.N. 240 of 2020;
L.N. 427 of 2020;
L.N. 277 of 2021;
L.N. 460 of 2021;
L.N. 366 of 2022.
Cap. 364.

Provided also that relief granted under this Order shall not apply to any transfer of property where a notice of a promise of sale or transfer relating to such property has been given to the Commissioner in accordance with the provisions of article 3(6) of the Duty on Documents and Transfers Act or of rules made under that Act before the 1st July 2013: Cap. 364.

Provided that in respect of transfers of property made on or after the 15th October 2019 but before the 20th October 2020, which qualify for relief of duty under article 32(4)(a) of the Duty on Documents and Transfers Act, no duty shall be chargeable on the first one hundred and seventy-five thousand euro (€175,000) of the aggregate value of the consideration paid for the acquisition of such property by a person, provided that this is the first immovable property Cap. 364.

acquired *inter vivos* by such person and provided that the notary who receives any deed of such a transfer shall record in the deed a written declaration by the person so acquiring that this is the first immovable property acquired *inter vivos* by him and the notary shall warn the said person of the importance of the truthfulness of such declaration:

Cap. 364.

Provided further that in respect of transfers of property made on or after the 20th October 2020 but before the 1st January 2024, which qualify for relief of duty under article 32(4)(a) of the Duty on Documents and Transfers Act, no duty shall be chargeable on the first two hundred thousand euro (€200,000) of the aggregate value of the consideration paid for the acquisition of such property by a person, provided that this is the first immovable property acquired *inter vivos* by such person and provided that the notary who receives any deed of such a transfer shall record in the deed a written declaration by the person so acquiring that this is the first immovable property acquired *inter vivos* by him and the notary shall warn the said person of the importance of the truthfulness of such declaration:

Added by:
L.N. 240 of 2020.

Provided also that in respect of transfers of property made on or after the 9th June 2020, for the purpose of determining whether the property is the first immovable property acquired *inter vivos* by such person, the previous acquisition by such person of an undivided share of immovable property representing less than twenty-five per cent (25%) of the real value of the whole of such property, shall not be taken into account, so however that this proviso shall not apply if such person has been granted the relief provided under article 32(4)(a) of the Duty on Documents and Transfers Act or under this article:

Cap. 364.

Added by:
L.N. 277 of 2021.

Provided further that in respect of transfers of property made on or after the 9th June 2020, for the purpose of determining whether the property is the first immovable property acquired *inter vivos* by such person, the previous acquisition by such person of a garage of not more than thirty square metres, shall not be taken into account, so however that this proviso shall not apply if such person has been granted the relief provided under article 32(4)(a) of the Duty on Documents and Transfers Act or under this article:

Cap. 364.

Added by:
L.N. 8 of 2018.
Substituted by:
L.N. 281 of 2019.

Provided also that together with the form or other means provided by the Commissioner for the purposes of article 51 of the Duty on Documents and Transfers Act, there shall be submitted to the Commissioner for Revenue legal evidence that no other immovable property had been acquired *inter vivos* before, and that the said form has been submitted to the Commissioner for Revenue on or before the 28th February 2024:

Cap. 364.

Provided also that the benefit would apply on a *pro-rata* basis according to the share of the property being acquired.

Exemption of duty
on acquisition of
residential
property in Gozo.

Added by:
L.N. 384 of 2016.
Cap. 364.

Amended by:
L.N. 342 of 2017;
L.N. 415 of 2018;
L.N. 281 of 2019;
L.N. 427 of 2020;
L.N. 460 of 2021;
L.N. 366 of 2022.

4. (1) In the case of a transfer *inter vivos* of residential property situated in Gozo, the duty otherwise chargeable in terms of the Duty on Documents and Transfers Act shall be chargeable at the rate of two euro (€2.00) for every one hundred euro (€100.00) or part thereof of the amount or value of the consideration for the transfer of the property or the value of the property, whichever is the higher.

Provided that this article shall only apply where all the following conditions have been satisfied:

- (a) the notice of the promise of sale agreement in relation to such transfer is given to the Commissioner for Revenue

on or after the 18th October 2016;

- (b) the final deed relative to the said transfer shall be made by the 31st December 2023 and the notice of the final deed relative to said transfer shall be given to the Commissioner for Revenue by the 28th February 2024;
- (c) no relief is claimed under article 32C of the Duty on Documents and Transfers Act; Cap. 364.

Provided also that this article shall not apply to acquisitions of property made for the purpose of demolition and the construction of more than one unit, or to acquisitions of property in the course of a trade or business:

Provided also that this article shall not apply to acquisitions made by a body of persons:

Provided also that where a notice of a promise of sale or transfer relating to a property given to the Commissioner in accordance with the provisions of article 3(6) of the Duty on Documents and Transfers Act or of rules made under that Act before the 18th October 2016 is either cancelled after the said date or expired and, either the said property is transferred to the same person or persons appearing on the said promise of sale which has been cancelled or expired or, another property forming part of the same project or situated within the same building is transferred to the same person or persons appearing on the said promise of sale which has been cancelled or has expired, any of such transfers shall for the purpose of this article be deemed to be transfers in respect of which a notice of a promise of sale or transfer has been given to the Commissioner in accordance with the provisions of article 3(6) of the Duty on Documents and Transfers Act or of rules made under that Act before the 18th October 2016. Cap. 364.

(2) For the purposes of this article, "residential property" includes a garage attached to or underlying such residence or a garage situated in the same block of residential apartments of which the residence forms part or a garage of not more than thirty (30) square metres situated within five hundred (500) metres of such residence or block of apartments, and acquired together with such residence on the same deed.

(3) In the case of a transfer of land, the relief granted under this article shall only apply if one residential unit is to be built thereon, and such relief shall be forfeited in the case of a breach of this condition.

5. (1) In the case of a transfer *inter vivos* of immovable property or any real right over such property made on or after the 9th June 2020 but before the 1st January 2022, the duty otherwise chargeable in terms of the Duty on Documents and Transfers Act on the first four hundred thousand euro (€400,000) of the amount or value of the consideration for the transfer of the property or the value of the property, whichever is the higher, shall be chargeable at the rate of one euro and fifty cents (€1.50) for every one hundred euro (€100.00) or part thereof:

Exemption from duty on certain property transfers.
Added by:
L.N. 240 of 2020.
Amended by:
L.N. 427 of 2020.
L.N. 130 of 202;
L.N. 324 of 2021;
L.N. 122 of 2022;
L.N. 224 of 2022.
Cap. 364.

Provided that this article shall only apply where all the following conditions are satisfied:

Cap. 246. (a) the person acquiring the property does not require a permit for the purposes of the Immovable Property (Acquisition by Non-Residents) Act;

(b) notice of the final deed in relation to such transfer is given to the Commissioner for Revenue by not later than the 31st January 2022; and

Cap. 364. (c) no relief is claimed under article 32C of the Duty on Documents and Transfers Act on the same transfer.

Provided further that where notice of the relative promise of sale or promise of transfer is given to the Commissioner for Revenue before the 1st January 2022, the exemption under this article shall also apply in the case of a transfer *inter vivos* of immovable property or any real right over such property made by not later than the 30th June 2023, provided that notice of the final deed in relation to such transfer is given to the Commissioner for Revenue by not later than the 31st July 2023:

Cap. 246. Provided further that this article shall not apply to a person who would have required a permit by the Minister for the purposes of the Immovable Property (Acquisition by Non-Residents) Act had the property acquired not been situated in a special designated area.

(2) In the case of an acquisition of an undivided share of property, the benefit shall apply on a *pro rata* basis according to the share of the property being acquired.

Cap. 364. (3) (a) where the Commissioner is of the opinion that two or more transfers form part of a structured arrangement, he may order, within five years from the date of the last of the said transfers, that the exemption granted under this article shall not apply to those transfers and in such a case the duty shall be chargeable on each of those transfers in accordance with the provisions of the Duty on Documents and Transfers Act without reference to this article;

(b) the difference between the duty chargeable as provided in sub-article (3)(a) and the duty already paid shall become payable by not later than thirty (30) days following the service of a notice on the transferee;

Cap. 364. (c) a person served with a notice made under sub-article (3)(a) shall have the same rights of objection and appeal in accordance with the provisions of the Duty on Documents and Transfers Act as if that notice were an assessment made under article 54 of that Act;

(d) for the purpose of this article, "structured arrangement" means two or more acquisitions of portions of the same property made by the same person within a period of six months which are executed by two or more deeds, rather than by one single deed, solely or mainly for the purpose of inflating the benefit of the exemption that would

otherwise be available in terms of this article;

- (e) for the purpose of paragraph (d), "portions of the same property" includes:
 - (i) adjacent parcels of land;
 - (ii) portions of developed property or of property under construction that are not identifiable as separate units;
 - (iii) the airspace and the property beneath it;
 - (iv) portions of the airspace overlying the same property;
 - (f) for the purpose of paragraph (d), acquisitions made by bodies of persons that are directly or indirectly controlled and beneficially owned as to more than fifty per cent (50%) by the same persons shall be deemed to be acquisitions made by the same person.
- (4) The provisions of this article shall be deemed to have come into force on the 9th June 2020.
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