

TAX GUIDELINE – Immovable Property settled on Trust

(article 5(18) of the Income Tax Act)

For the purposes of article 5(18) of the Income Tax Act, immovable property shall be deemed to have been settled on trust if:

- (i) monetary amounts (rather than the immovable property itself) were settled into the trust with the sole purpose of enabling the trustee to acquire immovable property, whether or not identified at the time when the amount is settled into the trust; and
- (ii) the immovable property was subsequently acquired by the trustee within a period not exceeding two (2) years from the date of settlement of the relevant monetary amounts utilised for the payment of the acquisition price of such property; and
- (iii) the immovable property is acquired by the trustee for the purpose of making it available for use by one or more of the beneficiaries of the trust as their sole, ordinary residence in Malta; and
- (iv) the beneficiaries of the trust have an irrevocable vested right to receive the immovable property acquired by the trustee; and
- (v) the relevant trust instrument specifically provides that the beneficiaries of such trust comprise only persons referred to in article 5(2)(e)(i) of the ITA, whether they are in existence or not at the time of such settlement, in relation to the settlors, such persons being either alone or with the settlors themselves; and
- (vi) the beneficiaries referred to in paragraph (iii) above shall be persons who are in existence at the time of the settlement of the monetary amounts settled into the trust and utilised by the trustee for the acquisition of the immovable property; and
- (vii) the trustee provides a statement to the Commissioner indicating the name and identification document of the beneficiaries of the trust and a description of the immovable property acquired or to be acquired by the trustee for the benefit of such beneficiaries.

The trustee of a trust shall immediately inform the Commissioner if any of the conditions referred to above are no longer satisfied at any time.