

L.N. 114 of 2018

**INCOME TAX ACT
(CAP. 123)**

Tax Credit (Higher Educational Qualifications) Rules, 2018

IN exercise of the powers conferred by articles 12 and 96 of the Income Tax Act, the Minister for Finance has made the following rules:-

1. The title of these rules is the Tax Credit (Educational Qualifications) Rules, 2018. Title.

2. (1) In these rules, unless the context requires otherwise - Definitions.

"the Act" means the Income Tax Act; Cap. 123.

"MQF 7 qualification" and "MQF 8 qualification" mean an educational qualification that, in terms of the Education Act or of the Mutual Recognition of Qualifications Act, is classified as, or is recognised as being equivalent to, a Level 7 or a Level 8 qualification, respectively, under the Malta Qualifications Framework; Cap. 327.
Cap. 451.

"relevant qualification" is a qualification that satisfies all the following conditions:

(a) it is an MQF 7 qualification or an MQF 8 qualification;

(b) it is awarded following the successful completion of a course or programme of studies that is completed on or after 1 January 2018;

(c) it is awarded to an individual who had not completed forty years of age on the date of the commencement of the course or programme of studies in question;

(d) where the individual is employed in a professional capacity the qualification was not obtained in fulfilment or part-fulfilment of the conditions which he had to satisfy in order to be able to exercise that profession. For the purpose of this paragraph, a profession means an occupation that can only be held by individuals who are in possession of defined academic qualifications.

Cap. 452.

(2) An individual shall not be deemed to be in a whole-time employment unless he is a whole-time employee or a whole-time employee with reduced hours as defined in the Employment and Industrial Relations Act and actually performs services under an employer-employee engagement that has been notified to the Corporation set up in terms of the Employment and Services Act.

Cap. 343.

Claim for a tax credit.

3. (1) Subject to the other provisions of these rules, an individual who is in possession of a relevant qualification and who derives income from a whole-time employment and performs his services wholly or mainly in Malta may claim a tax credit to be determined in accordance with these rules.

(2) A claim for a tax credit under these rules shall be made for the year or each year of assessment for which that credit is due on such form and in such manner as the Commissioner may determine. The individual making the claim shall provide the details mentioned below together with any other information that may be requested in the said form:

(a) the description of the qualification that has been awarded;

(b) the name of the educational establishment that awarded it;

(c) the date of the commencement and the date of the successful completion of the course or programme of studies in question.

Cap. 327.
Cap. 451.

(3) The Commissioner may request the person who claims the tax credit to produce confirmation in writing by the educational establishment that conducted the course or programme of studies in question of the information referred to in sub-rule (2) and to produce confirmation in writing by the relevant authority that the qualification is or has been recognised as equivalent to a Level 7 or a Level 8 qualification under the Malta Qualifications Framework in terms of the Education Act or the Mutual Recognition of Qualifications Act.

Years of assessment for which the tax credit is allowed.

4. (1) When the relevant qualification is an MQF 7 qualification, the tax credit shall be allowed against the tax on the income derived during the year immediately following the year in which the course or programme of studies in question was successfully completed.

(2) When the relevant qualification is an MQF 8 qualification, the tax credit shall be allowed against the tax on the income derived during the two years immediately following the year in which the

course or programme of studies in question was successfully completed.

(3) Notwithstanding the provisions of sub-rule (2), when the relevant qualification is an MQF 8 qualification and the individual had previously obtained an MQF 7 qualification and availed himself of a tax credit in accordance with these rules in respect of that previous qualification, the tax credit in respect of the MQF 8 qualification shall be allowed to him only for the year of assessment commencing on the 1st January of the year immediately following that in which the course or programme of studies leading to the MQF 8 qualification was successfully completed.

(4) Except as provided in sub-rule (3), a tax credit under these rules shall be allowable only in respect of one relevant qualification.

5. Where an individual benefits or has benefited from any tax benefit or any form of financial assistance from the Government or any government agency in terms of any law and the condition or one of the conditions for the entitlement to that benefit or assistance is or was the attainment of an educational qualification by that or any other individual, no tax credit shall be allowable under these rules in respect of that same qualification.

No cumulative benefits for the same qualification.

6. (1) When the individual has obtained the relevant qualification upon the completion of a course or programme of studies on a full-time basis that commenced in 2017 or later, the tax credit shall be in an amount equivalent to the tax chargeable for the year of assessment in question on the income from his whole-time employment. When the income from the whole-time employment exceeds €60,000, the tax credit for that year shall be calculated as if the said income was €60,000.

The amount of the tax credit.

(2) When the individual has obtained the relevant qualification upon the completion of a course or programme of studies on a full-time basis that commenced before 2017, the tax credit shall be equivalent to -

$$(A - 2017) / (A - B) \times C$$

where:

A = the year in which the course or programme of studies is successfully completed

B = the year in which the course or programme of studies commenced

C = the amount calculated in accordance with sub-rule (1)

(3) When the individual has obtained the relevant qualification upon the completion of a course or programme of studies on a part-time basis, the tax credit shall be equivalent to fifty percent of the amount calculated in accordance with sub-rule (1) or sub-rule (2), as the case may be.

(4) For the purpose of this rule, the income from the whole-time employment shall be deemed to be the first part of the individual's chargeable income for the respective year of assessment.

Condition for
the beneficiary
to remain in
employment.

7. (1) The tax credit under these rules shall be allowed on condition that the individual remains continuously in whole-time employment and continues to perform his services wholly or mainly in Malta up to the end of the fourth year, or, in the case to which rule 4(2) applies, the fifth year following the year in which the course or programme of studies in question was successfully completed.

S.L. 372.28.

(2) Any individual to whom a tax credit is allowed under these rules and who is in breach of the condition set out in this rule shall refund to the Commissioner an amount equal the tax credit with interest at the rate determined in accordance with the Income Tax (Rate of Interest) Rules running from the date on which that condition is breached. No interest shall be chargeable if the individual informs the Commissioner in writing about the breach of the condition within four months and effects the refund within twelve months from the date of the breach of the condition.

(3) Sub-rule (2) shall be without prejudice to the liability of any person arising in terms of any provision of the Income Tax Acts for an omission from a tax return, so however that the breach of the condition set out in this rule shall not, of itself, be treated as an omission.

(4) An individual whose employment is terminated or who does not remain in whole-time employment shall not be treated to be in breach of the condition set out in this rule if -

(a) he takes up whole-time employment in Malta again within three months; or

(b) his whole-time employment is terminated on account of certified sickness or injury.