



TAX & CUSTOMS
ADMINISTRATION

M A L T A

Code of Conduct for Authorised Registered Mandataries

An Authorised Mandatary is a person who satisfies any of the below criteria:

- holds a warrant to practice as an advocate under the *Code of Organisation and Civil Procedure*; or
- holds a warrant to practice as a legal procurator under the *Code of Organisation and Civil Procedure*;
or
- has been appointed notary public in accordance with the provisions of the *Notarial Profession and Notarial Archives Act*; or
- holds a warrant to practice as an accountant under the *Accountancy Profession Act*; or
- is a member of the Institute of Financial Services Practitioners; or
- is a member of the Malta Institute of Taxation; or
- is a member of the Malta Institute of Accountants; or
- is a member of the Malta Institute of Management.

And is registered with the Commissioner for Tax and Customs under Regulation 10 of Subsidiary Legislation 123.129 and 123.130, entitled *The High Net Worth Individuals – EU/EEA/Swiss Nationals Rules*, *The High Net Worth Individuals – Non-EU/EEA/Swiss Nationals Rules* (hereinafter referred to as the *High Net Worth Individuals Rules*), Rule 10 of Subsidiary Legislation 123.134 entitled the *Malta Retirement Programme Rules, 2012*, Rule 10 of Subsidiary Legislation 123.148 entitled the *Global Residence Programme Rules, 2013*, Rule 10 of Subsidiary Legislation 123.148 entitled the *Residence Programme Rules, 2013*, and Rule 10 of Subsidiary Legislation 123.165 entitled the *United Nations Pensions Programme Rules, 2015*.

1. Duties and obligations

The Authorised Registered Mandatary is required to:

- a. Act as the sole channel between the Commissioner for Tax and Customs and the beneficiary;
- b. Abide by all applicable know-your-client obligations in respect of applicants for a special tax status under the *High Net Worth Individuals Rules*, the *Malta Retirement Programme*, the *Global Residence Programme Rules, 2013*, the *Residence Programme Rules, 2013* and the *United Nations Pensions Programme Rules, 2015*.
- c. Properly ascertain that all the relevant information being declared by the applicant in the application for special tax status under the *High Net Worth Individuals Rules*, the *Malta Retirement Programme*, the *Global Residence Programme Rules, 2013*, the *Residence Programme Rules, 2013* or the *United Nations Pensions Programme Rules, 2015* as well as subsequent to the confirmation of the special tax status, is true to the best of the Mandatary's knowledge;
- d. Inform the Commissioner for Tax and Customs of any material changes in the beneficiary's circumstances that may affect the special tax status under the *High Net Worth Individuals Rules*, the *Malta Retirement Programme*, the *Global Residence Programme Rules, 2013*, the *Residence Programme Rules, 2013* or the *United Nations Pensions Programme Rules, 2015*

In fulfilling the above-mentioned obligations, the Authorised Registered Mandatary needs to:

- a. Communicate any developments or circumstances that affect the special tax status to the Commissioner for Revenue and / or the beneficiary accordingly;

- b. Take all reasonable measures to ascertain the identity of a client as soon as reasonably practicable before accepting instructions to apply for special tax status in accordance with the *High Net Worth Individuals Rules*, the *Malta Retirement Programme*, the *Global Residence Programme Rules, 2013*, the *Residence Programme Rules, 2013* or the *United Nations Pensions Programme Rules, 2015*. Identification needs to be verified with reference to reliable and independent documentation and sources. This obligation applies even where the applicant has been an existing client of the Authorised Registered Mandatary;
- c. Take an active role in ascertaining the relevant information being declared by carrying out interviews with the client himself. It is necessary that the Authorised Registered Mandatary endeavours to find the true intention of the applicant and where possible verify such information through reliable and independent means.

2. Prohibitions

Authorised Registered Mandataries shall not engage in any form of misleading advertising.

For the purposes of this Code of Conduct:

- “Advertising” means any form of representation, including a brochure, circular, update, newsletter, article, write-up or report used to promote the supply of services connected with these Rules;
- ‘Misleading advertising’ means any advertisement which is misleading in any way, including in its presentation if:
 - it deceives or is likely to deceive the person to whom it is addressed or whom it reaches and if by reason of its deceptive nature, it is likely to negatively affect his economic behaviour or is one which for those reasons, injures or is likely to injure a competitor of the person whose interests the advertisement seeks to promote; or
 - it is detrimental to the interests of the Maltese financial services industry. In determining whether an advertisement is misleading, account shall be taken of all its features, and in particular of any information it may have about:
 - the characteristics of the scheme;
 - the nature and rights of the advertiser, including his identity and resources, his qualifications and ownership of industrial, commercial or intellectual property rights or any awards and distinctions made to him.

3. Liability

An Authorised Registered Mandatary is answerable for fraud and negligence in carrying out the relevant mandate

4. Cancellation of Registration

Any Authorised Registered Mandatary who is found to have not followed this Code, shall be cancelled from the list of Authorised Registered Mandataries.



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