No. 1731

MINISTRY FOR FINANCE

Explanatory Notes[1]

1. Introduction

The title of these rules is the Taxation of Business of Insurance following adoption of International Financial Reporting Standard 17 Insurance Contracts Rules, 2024, hereinafter referred to as the "rules".

These new rules prescribe the computation of total income of insurance undertakings which have adopted the new accounting standard IFRS 17 'Insurance Contracts'.

2. Summary and background

During 2017, a new accounting standard IFRS 17 'Insurance Contracts' was published, superseding IFRS 4 'Insurance Contracts' and applicable to annual reporting periods beginning on or after 1st January 2023. IFRS 17 establishes the principles for the recognition, measurement, presentation and disclosure of insurance contracts within the scope of the standard. The objective of IFRS 17 is to ensure that an entity provides relevant information that faithfully represents those contracts. This information gives a basis for users of financial statements to assess the effect that insurance contracts have on the entity's financial position, financial performance and cash flows. However, IFRS 17 represents a complete overhaul of accounting for insurance contracts.

Public-interest entities are required to use IFRSs' as adopted by the EU to draw up their financial statements and to this end, insurance undertakings in terms of the Insurance Business Act (Cap. 403) would be required to adopt IFRS 17 to prepare the financial statements for the reporting periods beginning on or after 1st January 2023.

For this purpose, discussions with various stakeholders have taken place in relation to the implementation of IFRS 17 and its impact on taxation of such insurance undertakings. From a tax perspective, the adoption of IFRS 17 will have implications, both on transition and for ongoing calculations. To this end, it was thought opportune to implement the required changes brought about by the initiation of IFRS 17 through a new set of rules, issued in terms of article 27(8) of the Income Tax Act (Cap. 123).

Such rules prescribe the computation of total income of insurance undertakings which have adopted IFRS 17. Furthermore, such rules will also cater for a transitional impact which is expected to materialize upon adoption of IFRS 17, resulting from a change in recognition of profits under IFRS 17 from those recognized under the previous accounting standard (IFRS 4). This one-off transitional impact will result in possible substantial gains or losses during the first year of adoption. Similar to what other jurisdictions and Member States are doing, Malta has sought to assist the domestic insurance industry in this transition by allowing for a staggering of the tax impact through such rules. This will be done by allowing a portion of the tax payable on Year of Assessment 2024 (caused by the tax chargeable on the adoption gain) to be spread for the purposes of payment over a maximum period of five (5) years from the year of assessment immediately following the first accounting period for which an insurer has adopted IFRS 17. This deferral of tax payment is subject to an election taken by the taxpayer.

[1]These Explanatory Notes are in accordance with and for the purpose of article 3(2)(c) of the Small Business Act (Chapter 512 of the Laws of Malta).

3. Overview of the structure of the instrument

The legislation consists of six (6) rules, as follows:

Rule 1: Citation, commencement and applicability
Rule 2: Interpretation
Rule 3: Chargeability of income from business of insurance
Rule 4: Total income
Rule 5: Adoption gains or losses
Rule 6: Election

4. Commentary on parts and rules

Rule 1: stipulates the title, commencement and applicability of these rules. These rules apply to persons that derive gains or profits wholly or in part from the business of insurance as an insurer and who have adopted IFRS 17.

Rule 2: provides for definitions required for the functioning of the rules.

Rule 3: this rule stipulates that the total income of a person who derives gains or profits wholly or in part from the business of insurance as an insurer is to be calculated in accordance with the provisions of such rules.

Rule 4: this rule outlines that the total income of an insurer brought to charge in years of assessment when IFRS 17 is applied shall be equal to the adjusted profit before tax as defined in such rules.

Rule 5: provides for the adoption gains or losses which can arise as a result of a change to an insurer's accumulated profits or losses as a direct result of the insurer's implementation of IFRS 17.

Rule 6: provides for an election which is available to the insurer, allowing for the spreading of the payment of the tax chargeable on any adoption gains determined pursuant to rule 5. Such payment deferral can be spread over a maximum period of five (5) consecutive years commencing from the adoption year of assessment. Once taken, such an election would be irrevocable. However, should the insurer cease to be subject to tax in terms of the rules, deferral of such payment shall be discontinued and any balance outstanding balance shall be deemed to have become due by the tax settlement date of the last year of assessment relative to such accounting period within which the insurer is subject to tax under these rules.

Furthermore, the insurer is obliged to notify the Commissioner for Tax and Customs that such an election no longer applies.

5. Concluding section

These rules shall be deemed to have come into force with effect from the year of assessment 2024 in relation to accounting periods commencing on or after 1st January 2023.

In case of queries, the general public is encouraged to contact the Malta Tax and Customs Administration (MTCA) on 153.

N.B. These Explanatory Notes are not intended to be an exhaustive description of the instrument nor a substitute thereof or a legislative supplement thereto. These Explanatory Notes do not purport to be an authoritative ruling on the interpretation of the legislation.

6th December, 2024