

Taxpayers' Charter



Ministry for Finance

Taxpayers' Charter

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Introduction

This Taxpayer Charter explains what you can expect from us and what is expected from you.

The aim of the Charter is that of nurturing the relationship between the Revenue departments and the community that they serve, a relationship of mutual trust and respect. We want to provide you with a service that is fair, efficient, and that makes it easy for you to get things right. Yet, we also want to be firm with those who try to avoid their obligations to the detriment of the rest of the community which we all form part of.

This Charter is the result of an initiative first mentioned in the Budget Speech for 2010, and has evolved into its present form following consultation with involved stakeholders.

Definitions

For the purpose of this Charter, some general terms have been used. These include words used by the revenue departments that you might be involved with. This is what we mean when we refer to the following:

- **Taxpayer**

“Taxpayer” is any person registered for tax purposes, who is obliged to pay or collect, deduct or remit, any of the taxes in terms of the respective tax legislations, or who is required to provide information to the tax departments.

- **Tax departments**

The term “tax departments” refers to the Inland Revenue Department, including the Capital Transfer Duty Division, and the Value Added Tax Department.

- **Tax Legislation**

Tax legislation includes:

- The Income Tax Act;
- The Income Tax Management Act;
- The Duty on Documents and Transfers Act;
- The Value Added Tax Act;
- The Eco-Contribution Act; and
- Other subsidiary and peripheral legislation.

- **Tax**

The term “tax” includes Duty administered by the Capital Transfer Duty Division, within the Inland Revenue Department.

Your Rights

You have the right:

1. to be treated with fairness and impartiality
2. to be treated as honest and tax compliant unless there is evidence to the contrary
3. for certainty
4. for assistance and information from the Tax Departments
5. to pay no more than the correct amount of tax
6. not to be subject to retrospective taxation
7. to minimise compliance costs
8. to be advised and represented by any person on taxation matters
9. to appeal
10. to privacy and confidentiality of information we hold about you
11. to know what information we hold about you
12. for the licit arrangement of your tax affairs that minimise the tax liability
13. to request a payment plan
14. to complain about our service, behaviour and actions

1. Right to be treated with fairness and impartiality

We will:

- treat you with courtesy, consideration and respect;
- behave with integrity and honesty;
- act impartially and professionally;
- make fair and equitable decisions in accordance with the law;
- resolve your concerns, problems or complaints fairly and as quickly as possible; and
- respect your EU freedoms.

2. Right to be treated as honest and tax-compliant

We know that the great majority of people act honestly. We presume that unless there is evidence to the contrary:

- you are telling us the truth;
- the information you provide is complete and accurate;
- you pay the tax you owe; and
- you claim only what you are entitled to.

We have a responsibility towards the community to ensure that everyone complies with the tax laws. These laws give us time to review the information you have given us. If we check your information, it does not mean we think you are dishonest. But where we find discrepancies, we must take follow-up action.

3. Right for certainty

Under normal circumstances we will strive to:

- provide you with information about the tax implications of your actions;
- let you know as soon as possible about the conduct of an enquiry or an investigation, or for the production of documents and further information; and
- arrange for a suitable time and place for the interview related to the enquiry or investigation and allow you time to prepare your records.

4. Right for assistance and information from the Tax Departments

We will endeavour to:

- help you understand your legal rights, tax obligations and benefits;

- provide you with updated information in clear and plain language accessible over the department's website or made available in printed form;
- serve you with clear and detailed tax statements;
- provide information in a way that meets your needs; and
- respond promptly to your enquiries and requests and, if we cannot help you immediately, we will contact you back as soon as possible.

You may seek guidance on how the law applies to a specific transaction, and we will give you an opinion on the basis of the prevailing interpretation of the law. However, our assistance does not extend to tax planning advice.

If you contact us by phone, our staff will identify themselves and reply to your query or tell you when they can give you a full reply if they are unable to do so there and then.

If you communicate with us in writing we will strive to reply within a reasonable period. Our reply will include the full name and telephone number of the officer concerned.

If you visit us we will endeavour to:

- see you immediately, if you have an appointment; and
- answer your query straight away or, if this is not possible, tell you when you can expect an answer from us.

We may require that you explain your query in writing to avoid misunderstanding.

5. Right to pay no more than the correct amount of tax

We will act with integrity in all our dealings with you so that:

- only the tax legally due is paid
- all deductions, credits and other entitlements are properly allowed.

6. Right not to be subject to retrospective taxation

Tax laws change from time to time. As a general principle, such changes will only apply to income arising, gains realised, goods or services supplied, or transactions and events occurring after the change of legislation.

You will not to be subject to retrospective taxation whenever there is a change in tax legislation.

7. Right to minimise compliance costs

We will strive to facilitate your dealings with us by:

- making it easier for you to understand and meet your tax obligations;
- making it cheaper for you to comply by reducing the workload, time and effort involved to meet your obligations;
- providing services that are useful to you;
- consulting stakeholders on new initiatives we intend to introduce; and
- assessing feedback from stakeholders on the services we offer.

8. Right to be advised and represented by any person on taxation matters

We respect your right to represent yourself or be represented by any person of your choice on taxation matters and dealings with the department. You are always required to authorise in writing any person who acts on your behalf or to discuss your tax affairs with us.

Normally you can appoint any person of your choice, but there are certain electronic services we offer that must be delegated to a tax representative recognised under the tax laws.

You will still be responsible for the accuracy of information you give us and timeliness of submissions, even if someone else, including a tax representative, helps you to prepare and submit tax returns or other tax documents. Should you choose to be represented by another person, we will respect all your rights as well as those of the person representing you.

9. Right to appeal

When we communicate to you a decision about your tax affairs, and you disagree, you have the right to object or appeal and request a review in accordance with the provisions of the Tax legislation. We will, in normal circumstances, strive to:

- clarify the basis of the decision;
- explain your rights for a review, objection or appeal;
- review your case if you believe that we have misinterpreted the facts, applied the law incorrectly or not handled your affairs properly;
- ensure that the review is completed in a comprehensive, professional and impartial manner;
- determine your objection as quickly as possible, unless we require more information to do so, or the issues are unusually complex;
- give you reasons if your objection has been completely or partially refused; and
- request further information from you only where it is necessary to resolve the issues in dispute.

10. Right to privacy and confidentiality of information we hold about you

In the course of our duties we collect information about you. We will only ask you for information that we need to perform our duties. We will:

- protect information we obtain, receive or hold about you;
- allow our staff to see only the information they need to do their job; and
- only share or release information about you when permitted by law.

The data we hold about you is safeguarded by the Data Protection Act and by the secrecy provisions of the Tax legislation. We respect your privacy and keep your information confidential except in those circumstances where the law allows us to disclose your information to others for specific purposes.

Sometimes, we are also requested to share information with foreign tax authorities with whom we have tax treaties. Under EU Conventions and Council Regulations, the departments are also obliged to cooperate with other tax authorities' requests for exchange of information including assistance with recovery of tax in order to combat tax avoidance.

In order to protect the information we hold about you we will ask you to provide proof of your identity when you contact us to discuss your tax affairs. For example, if you phone us, you could prove your identity by giving your date of birth, your address or details from a department-generated document. Other information can also be used as proof, depending on the circumstances.

11. Right to know what information we hold about you

You have the right to access information that we hold about you through a written request addressed to The Data Controller. We will normally allow you access to the information, unless it:

- is sensitive or legally protected;
- is exempted under the law;
- is provided to us in confidence;
- would prejudice an enquiry, an assessment or the collection of tax or duty;
- would jeopardise the proper administration of the law.

Where we cannot provide you with the information, we must give you the reasons for our decision.

12. Right for the licit arrangement of your tax affairs that minimise the tax liability

We distinguish between lawful arrangements that lessen the tax liability, from unlawful tax avoidance schemes and evasion. It is our duty to track down evasion and unacceptable tax avoidance schemes.

13. Right to request a payment plan

We recognise that a taxpayer may face temporary financial difficulties that may cause delay in effecting payments. In such circumstances you may request a plan for payment over a reasonable period of time in which case you are expected to:

- provide us with information about your financial circumstances;
- agree a reasonable plan for payment;
- observe that agreement.

If your circumstances change and you can pay earlier, or you cannot pay according to the agreed plan, we expect you to inform us promptly.

With regard to the plan for payment, please note that although entering into a repayment programme with the department gives you more time, and also stops the department from taking further legal action for collection, there will still be an interest charge of 0.75% per month (9% per annum) on unpaid balances.

14. Right to complain about our service

We are accountable to Parliament for our actions and we are also governed by various other legislation, including the Public Administration Act and the relative Directives.

If you are not satisfied with our service, behaviour or actions, you have the right to make a complaint. We recommend that:

- you first try to resolve your problem with the tax officer;
- if you are not satisfied, you may raise the problem with the tax officer's manager;
- if you still are not satisfied, you may raise the problem with the Assistant Director (Customer Care), Ministry for Finance. This may be done through any of these channels:
 - a personal encounter;
 - in writing, addressed to the Assistant Director (Customer Care);
 - email info.mfin@gov.mt
 - phone our complaints line on 25998285/25998000
 - lodge a complaints form online at <http://www.finance.gov.mt>
 - If you still are not satisfied, you may refer your case to the Ombudsman.

In the case of serious criminal allegations against any of our officers, you should inform the Police.

Your obligations

You are expected:

1. to be honest
2. to be compliant, and cooperate when you deal with the Tax Departments
3. to keep proper records in accordance with the law
4. to file proper and complete tax documents and effect payments by the statutory due dates
5. to inform the Tax Departments about changes in circumstances
6. to know your tax responsibilities and the consequences for non-compliance

1. Obligation to be honest

You are expected to:

- be honest, truthful and act within the law;
- give us accurate and complete information as and when required;
- declare all assessable income;

- claim only deductions, rebates and credits to which you are entitled.

2. Obligation to be compliant and cooperate when you deal with the Tax Departments

You are expected to:

- register with the respective departments as required by the relevant tax legislation;
- verify any information you are required to confirm and comply with requests for confirmation on time;
- inform us promptly if you disagree with tax statements or claims issued by the department;
- inform us of any errors, omissions or mistakes that have been made in your return, form or information you provided;
- comply with requests for further information and give us all the relevant facts; and
- be cooperative with tax officials and treat them with the same courtesy, consideration and respect they are expected to give you.

If tax officers are subjected to rude or abusive behaviour they may end an interview or phone call.

3. Obligation to keep proper records in accordance with the law

You are expected to prepare, keep and retain proper, sufficient and updated records, and to issue tax invoices and fiscal receipts as required by law. This will help you to:

- prepare accurate tax returns;
- meet all the reporting requirements;
- keep track of your financial affairs; and
- give us correct and complete information when we ask for it.

The law sets out the records you must keep for tax purposes. You are normally expected to keep such records for the required retention period.

4. Obligation to file proper and complete tax documents and effect payments by the statutory due dates

You are expected to:

- take reasonable care in providing complete and accurate information in your tax returns and other documents you are required to provide to meet your tax obligations;

- send us returns and forms in the required format within the prescribed time frames;
- pay the full amount of your taxes by the due dates; and
- withhold and remit by due dates all taxes withheld or collected on behalf of others.

5. Obligation to Inform the Tax Departments about changes in circumstances

You are expected to notify immediately any changes in your personal and business circumstances that affect the way your taxes and entitlements are determined. Such changes include

- tax residency;
- personal and business addresses;
- marital status;
- change in business activity; and
- any other circumstances that affect your taxability.

6. Obligation to know your tax responsibilities and the consequences for non-compliance

You are expected to:

- be aware of your tax obligations and consequences for non-compliance; and
- know your personal responsibility for all the information that is communicated by you or on your behalf.

Although you may be represented by another person, this does not alter in any way your responsibility.

If you do not meet your tax obligations the law provides for

- the imposition of penalties and/or interest; and
- prosecution, in more serious cases.