

MEMORANDUM FOR THE CABINET BY THE
HON. MINISTER OF ECONOMIC PLANNING AND FINANCE

Income tax liability of local
Cable & Wireless Staff

The Manager, Cable & Wireless Limited has made representations regarding the income tax liability of local Cable & Wireless staff who are temporarily transferred overseas by the Company with a view to relieving redundancy in Malta and avoiding any premature discharges of Maltese personnel.

2. The main points raised by Messrs Cable and Wireless are as follows:-

Ordinary Residence

(i) Cable & Wireless staff who are posted overseas for two or three years are still considered as ordinary residents under the Income Tax law and as such have to pay Malta tax on their entire earnings - including expatriation allowances etc. - overseas. The net result is that, besides paying tax in the country where they are stationed (this is however refunded to them by the Company), these employees have to pay tax in Malta at much higher rates than would have been the case had they remained here.

Residence and Personal Deductions

(ii) Although the Cable & Wireless staff who are temporarily posted overseas are considered to be ordinary residents for tax purposes, yet they do not qualify for any personal deductions unless they set foot in Malta during the Income Tax year. This increases their tax liability and causes them additional hardship.

Free Board and Lodging

(iii) The hotel expenses borne by the Company on behalf of the Maltese employees stationed overseas are by statute considered to be "gains from profits or employment" in addition to the employees' emoluments received in cash. So where, as in the case of Bermuda, accommodation provided by the Company is extremely costly (about £700 per annum) the staff have to bear a considerable additional tax burden.

Overseas Tax Paid by the Company on behalf
of the Staff

(iv) The Company has devised some sort of arrangement under which it ultimately bears out of its own

/funds

L-Arkivji Nazzjonali ta' Malta

funds the whole or part of the overseas tax, other than U.K. tax (no hardship is involved here in view of the double taxation agreement between Malta and the U.K.), whilst the employee has to make good his entire Malta tax liability. Under the Income Tax Law however where an employer pays his employee's tax, such tax as is borne by the employer constitutes further "gains or profits" from employment. Moreover in such cases, the amount of additional income to be reckoned for tax purposes in respect of tax borne by the employers, is not the actual tax paid by the employer, but an appreciably larger amount ascertained by means of a complex mathematical process of grossing up. As a result the arrangement which is intended by the Company to relieve their staff from the burden of double taxation indirectly leads to a heavy additional tax liability in Malta for the staff.

3. The matter has been studied exhaustively by the Commissioner of Inland Revenue here who, whilst conceding that the strict application of the Malta Income Tax does affect the Cable & Wireless staff adversely, has taken the following stand on the submissions made by the Company:

(a) There is no question of tax hardship in the case of staff transferred to the U.K. on secondment terms because of the double taxation agreement entered into between Malta and the U.K. in 1961; in the case of staff posted to other territories in the Commonwealth (Aden, Bermuda, etc.) some relief from double taxation may also be granted under section 69 of the Income Tax Law;

(b) As regards personal deductions, in the exercise of a discretion vested in him under the law, the Commissioner of Inland Revenue has now allowed such benefits by way of an exceptional concession, to Cable & Wireless staff whose period of absence from Malta on overseas service does not exceed two years; as a result of this concession some of the tax disadvantages suffered by local employees of the Company who go overseas have therefore been removed;

(c) It is not advisable to exempt from Income Tax (on an ex-gratia basis) the value of the board and lodging benefits enjoyed by Cable & Wireless employees whilst serving abroad because this concession will have widespread repercussions locally. Nurses, teachers, hotel employees, etc. who are provided with free meals and lodgings by their employers here are in fact liable to pay income tax on these benefits;

(d) Government could, as a matter of policy, grant exemption from tax under section 8(2) of the Income Tax law in respect of the years of assessment

/from

from 1958 to 1963 on the additional emoluments included in the gross income liable to tax in Malta of Cable & Wireless staff consequent on the Company having paid out of its own funds their income tax liability in overseas territories (Vide (iv) of para 2 above).

4. Messrs Cable & Wireless Limited are to be commended on the efforts they have made in recent years to avoid discharging personnel on redundancy by transferring the younger staff overseas under a scheme whereby the older personnel will remain in service until the normal retiring age. There are other bodies in Malta who have devised similar schemes offering foreign service to redundant employees (N.A.A.F.I. have already transferred personnel to Germany) and in view of the current rise in unemployment it is not advisable that these efforts should be discouraged because of the ensuing heavy local tax commitments.

5. It is therefore proposed to grant to Cable and Wireless staff by way of concession the exemption mentioned at (d) of paragraph 3 above which involves a revenue sacrifice of about £3,000 in respect of the 6 years (1958/63) during which the overseas scheme has operated.

6. Hon. Ministers are asked to say whether they agree to the proposed concession which is the only remedy that can, in the circumstances, be applied without cutting across any vital income tax principles.

17th August, 1963.