

Memorandum for Cabinet by the Minister of Finance, Customs and PortImportation of a car free of duty by persons who transfer their residence to Malta

Act XL of 1966 which came into effect on the 25th November, 1966, has for its scope the relief from Customs duty of a motor vehicle imported by a person who transfers his residence to Malta. This concession is subject to two conditions:-

- (a) that the car is imported not later than three months from the date of the first arrival of such a person to take up residence in Malta; and
- (b) that the Comptroller of Customs is satisfied that the person is entitled to the permanent resident tax benefits under the Income Tax Act, 1948.

2. As regards condition (a) the term 'first arrival to take up residence' has been found to give rise to misapprehension. There have been many cases of persons coming to the Island with the intention of staying for a few months but who later change their intention and decide to take up residence in Malta. They then apply for, and are given, permission to reside permanently (without having left the Island in the interval) and in these cases the condition is invariably construed by such persons as referring to the date when permission to reside in Malta was given. Legal advice given on this point is that in such cases the condition refers to the date when the person in question first arrived in Malta - even if his intention at the time was to stay for a short period. It was therefore suggested by Crown Counsel that due amendment be made to alter this condition to make it apply within three months of a person's first arrival in Malta to take up residence therein, or when this date precedes the date when permission to take up permanent residence is granted, within three months of the date of such permission.

3. The condition at (b) requires that the Comptroller of Customs be satisfied that the permanent resident is entitled to a special reduction in Income Tax. This requirement can only be met by a declaration to that effect by the Commissioner of Inland Revenue who, however, is not in a position to furnish such a declaration until after the first tax assessment has been made.

4. The position at law, is therefore, that while a car has to be imported within a period of three months, it is not possible for the second condition to be fulfilled within this period so that cars are being released provisionally under Section 16 of the Import Duties Act, 1964, against a monetary guarantee to cover the duty which can

only be returned when the Inland Revenue Department declaration is presented to the Comptroller of Customs. This results in unnecessary inconvenience being caused to those very people whose entry into Malta it is desired to encourage.

5. When an application by a person for permanent residence is approved a formal letter is sent by the Office of the Prime Minister to this effect. It may also be added that approval is only given in cases where the assets and/or income being imported by the applicant is such as to entitle him to the Income Tax concessions at present contemplated in Act XL of 1966.

6. It therefore follows that condition (b) may with advantage be substituted by a condition that the official permission sent to a person to enable him to take up permanent residence in Malta be presented to the Comptroller of Customs at the time duty-free release of a car is claimed.

7. In order not to discriminate against local firms engaged in the assembly of motor vehicles the concession of relief from duty applicable to persons changing their residence to Malta should also be made to cover motor cars purchased by these persons from stocks of cars assembled in Malta. This requires the drawing up of drawback regulations to this effect in terms of section 19 of the Import Duties Act, 1964.

8. The concession contemplated in Act XL of 1966 originated from a verbal request by a Mrs Hitchcock to consider the importation of her car into Malta as part of her personal belongings and to be exempted from the payment of Customs duty on it. Mrs Hitchcock imported her car in 1965. As a result of this request it was decided that persons who transfer their residence to Malta and who satisfy the Comptroller of Customs that they qualify to pay income tax at the rate of six pence in the £ were to be allowed to import a motor vehicle free of duty. This decision was given effect to by Act XV of 1966. As this Act came into effect in November, 1966 Mrs Hitchcock and other new residents who had imported their cars before then could not benefit from the provisions of the Act.

9. The question is whether ways and means should be found to enable Mrs Hitchcock and others who are in this predicament to keep their cars, up to now released on temporary importation conditions, without having to pay duty on them. In this connection it has to be kept in mind that during the second reading of the Bill in the House of Representatives, the Minister of Justice rebutted allegations by the Leader of the Opposition that the Government was committed to exempt from Customs duty a few persons who had already imported a car. It may not be really clear as to how far the talk can be one of commitment. What could have happened is that Mrs Hitchcock and others after her may have had intimated to them possible Government

intentions in the relative regard. Be that as it may, once there was a specific request by Mrs Hitchcock, and once such request was apparently never rejected but on the contrary was acted upon, it does seem hard on Mrs Hitchcock, to deny her the subsequent general acceptance.

10. In the circumstances it would seem only reasonable that the principle embodied in the provisions of Act XL of 1966 be applied to the case of Mrs Hitchcock and to those of other persons in the position as herself, who are a limited few, by the grant of exemption from duty in terms of Section 14 of the Import Duties Act.

11. Hon. Ministers are therefore asked to approve the submissions at paras. 6, 7 and 10 of this Memorandum.

November 28, 1967.

A B I L L

Entitled

AN ACT further to amend the Import Duties Act, 1967.

BE IT enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the House of Representatives of Malta, in this present Parliament assembled, and by the authority of the same, as follows:

Short Title

1. This Act may be cited as the Import Duties (Amendment) (No. 2) Act, 1967, and shall be read and construed as one with the Import Duties Act, 1964, hereinafter referred to as "the principal Act".

Amendment of Third Schedule to the Principal Act

2. The Third Schedule to the principal Act shall be amended by the substitution of the following item for item (1) of sub-heading II thereof:

"(1) One private motor vehicle imported by a person (husband and wife counting as one person for the purposes hereof) who transfers his residence to these Islands subject to such person satisfying the Comptroller of Customs that he is in possession of a permit of residence issued to him by the Government and subject to the motor vehicle being imported within three months of the date of the said permit or of such person's arrival in these Islands to take up residence, whichever date is the later:

Provided that, where any motor vehicle imported as aforesaid free of duty is sold or disposed of by of such person for use in these Islands, such motor vehicle shall be deemed to be taken out of bond at the time of such sale or disposal and duty shall be payable thereon by the person who becomes the owner thereof in accord with the provisions of section 4 of this Act."

Saving

3. Any motor vehicle imported free of duty under the provision substituted by section 2 of this Act shall, if sold or disposed of for use in these Islands, be deemed to have been imported under the provision substituted by the said section.

OBJECTS AND REASONS

This Bill amends the Import Duties Act, 1964, so as to enable persons who take up residence in Malta to import a private motor vehicle free of import duty without there being required to prove that they qualify for the deduction referred to in subsection (4) of section 22 of the Income Tax Act, 1948.

L. N. of 1967.

IMPORT DUTIES ACT, 1964
(Act XI of 1964)

Import Duties (Locally Assembled Motor Cars)
Drawback Regulations, 1967

Date of commencement:

In exercise of the powers conferred by sections 20 and 21 of the Import Duties Act, 1964 His Excellency the Governor-General has made the following regulations:

Citation

1. These regulations may be cited as the Import Duties (Locally Assembled Motor Cars) Drawback Regulations, 1967.

Drawback of duty on knocked down parts incorporated in a locally assembled vehicle

2. (i) Subject to the provisions of the Import Duties Act, 1964, and of these regulations, a drawback in respect of the import duties paid on the completely knocked down parts, materials and accessories incorporated in a locally assembled private motor vehicle shall be allowed when such vehicle is sold to a person who transfers his residence to these Islands, provided that such person produces to the Comptroller of Customs documentary evidence that his application to take up permanent residence in Malta has been approved by the Government of Malta and provided also that such motor vehicle is supplied directly to him not later than three months from the date of his arrival in these Islands to take up residence therein, or, when this date precedes the date when permission to take up permanent residence is granted, not later than three months from the date of such permission.

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(ii) No drawback under this paragraph shall be allowed -
(a) more than once in respect of the same person
(b) in respect of a person who import a motor vehicle free of duty under the provisions of section 5 of the Import Duties Act, 1964;

(iii) For the purposes of this regulations husband and wife shall count as one person.

Vehicle not to be sold or disposed of without permission of the Comptroller of Customs. Payment of amount allowed as drawback in case of disposal of motor vehicle.

3. (i) A motor vehicle in respect of which drawback has been allowed under the last preceeding regulation shall not be sold or otherwise disposed of for use in these Islands except with the prior permission, in writing of the Comptroller of Customs and under such conditions as he may deem proper to impose.

(ii) If a motor vehicle in respect of which drawback has been paid under these regulations is subsequently disposed of in Malta by the person to whom it had been supplied, the amount paid as drawback shall be repaid by the person in favour of whom the vehicle is disposed of.

(iii) Any person acting in contravention of any of the provisions of this paragraph or failing to comply with any condition imposed by the Comptroller of Customs under this regulation shall be liable on conviction by the Court of Magistrates of Judicial Police, at the instance of the Comptroller of Customs to a fine (málta) not exceeding two hundred pounds or an amount equal to the import duty drawn back under these regulations, whichever is the greater.