

# Causa Mortis

## THESE PAGES PROVIDE INFORMATION ON THE TRANSFER PROCEDURES OF MALTA GOVERNMENT STOCKS AND MALTA GOVERNMENT RETAIL SAVINGS BONDS HELD BY DECEASED INVESTORS (*'CAUSA MORTIS'*)

### INTRODUCTION

Transfer (*'Causa Mortis'*), in simple terms, is a mechanism by which an heir is entitled, upon presentation of evidence, to acquire movable and/or immovable property of a deceased person.

### A STEP-BY-STEP GUIDE

These guidelines are intended to set out the procedures to be followed by the heirs of a deceased investor for the transmission/transfer (*'Causa Mortis'*) of Malta Government Stocks (MGSs) and Malta Government Retail Savings Bonds (MGRSBs).

#### 1. How to lodge a claim

The Debt Management Directorate (DMD) within the Treasury Department processes *'Causa Mortis'* claims of demised holders of MGSs and MGRSBs. **This Office recognises and accepts only claims received from a notary public or lawyer who shall be appointed by the heirs to process the claim on their behalf.** An acknowledgement is sent to the notary public/lawyer on receipt of a claim.

#### 2. Confirmation of Holdings of the deceased

After a *'Causa Mortis'* claim is received from the heirs' notary public/lawyer, the DMD obtains from the Malta Stock Exchange (MSE) a confirmation of:

(a) *Malta Government Stock (MGS)*:

- (i) holdings registered solely in the name of the deceased and/or jointly held with other persons.
- (ii) holdings held in the name of other persons but from which the deceased enjoyed the right of usufruct.

Until the finalization of transmission/transfer of securities/instruments, the MSE accounts in respect of the above-mentioned holdings are blocked by the Central Securities Depository (CSD) and no trading in these MGSs will be allowed.

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*(b) Malta Government Retail Savings Bond (MGRSB):*

- (i) holdings registered solely in the name of the deceased.

### 3. What documents are required?

The '*Causa Mortis*' claim submitted by the notary public/lawyer must include the information below and be accompanied by the following documents, duly stamped and certified in ink by the notary public/lawyer for their authentication:

- full particulars of the deceased including full name, surname, identity card number, marital status and permanent address before death.
- a declaration by a qualified person (namely a minister of religion, or a notary public or a lawyer) certifying that he/she has known the members of the family of the deceased. This declaration shall include a list with full names, identity card numbers and addresses of each survivor/heir, usufructuary and legatee.
- the Public Registry Testamentary Research Certificate and the Court Testamentary Research Certificate issued by the Public Registry and The Second Hall of the Civil Court respectively, confirming (or otherwise) the existence of wills made by the deceased.
- copy of relevant will/s (if any).
- a legal copy of the Court Decree confirming the Opening of Succession by the Second Hall of the Civil Court in the case the deceased died intestate, and the holdings exceed the value of €17,000.
- a clear statement by the notary public/lawyer confirming:
  - (i) the person/s and respective amounts to whom the MGSs are going to be devolved; and,
  - (ii) whether the MGSs are going to be transferred/registered in the name of the heirs or sold.

### 4. Divisibility of MGS

Malta Government Stocks are divisible in multiples of €100.

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## 5. When is a private agreement required?

The heirs are required to enter into a private agreement before a notary public/lawyer when the MGS holdings cannot be divided up exactly to the nearest one euro cent in accordance with the provisions of the last will of the deceased, on account of the divisibility and minimum allotment constraint mentioned in point 4 above.

Such private agreement, duly endorsed by all the heirs and the notary public/lawyer is to be submitted to the Treasury Department together with the other '*Causa Mortis*' documentation.

## 6. Selling the inherited MGSs

If the heirs wish to liquidate (sell) the devolved MGSs, a person appointed by the heirs shall be granted a Power (s) of Attorney, or a mandate through a Private Agreement, to deal with authorised financial intermediaries to sell the inherited MGSs on their behalf.

A Power of Attorney granted to Maltese residents should be attested to by a notary public or lawyer. A Power of Attorney granted by a non-resident heir and drawn up outside Malta must be submitted in terms of the requisites mentioned in paragraph 10 (b) below.

On the strength of such Power of Attorney or Private Agreement to this effect, the Treasury Department issues a permit authorising the MSE to unblock the relevant MSE accounts and allow the sale of MGSs by the appointed person. A copy of such permit is sent to the notary public/lawyer of the heirs.

The sale of MGSs shall be made by the appointed person through an authorised financial intermediary against presentation of the Power of Attorney or Private Agreement and the Permit issued by the Treasury Department. All the proceeds from the sale of MGSs are received by the appointed person in accordance with the agreement.

MGSs are traded on the Malta Stock Exchange in units of €100.

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## 7. Keeping the inherited MGSs

In accordance with the '*Causa Mortis*' claim submitted by the notary public/lawyer, the heirs may choose to keep the inherited MGSs and have them transferred in their name in terms of the instructions given to the notary public/lawyer. In such case:

- (a) a fee of €6.50 is payable on demand for each transfer in each security.
- (b) a form is sent to the notary public/lawyer comprising:
  - (i) the tax election by the heirs confirming their preference towards the receipt of their future interest payments (either net of the 15% final withholding tax [FWT] or gross of FWT); and,
  - (ii) direct credit instructions confirming the bank name and SEPA-compliant international bank account number (IBAN) in which future periodical interest payments and repayment of principal upon maturity shall be credited (deposited).
- (c) In the event when Malta Government Stocks are assigned to a Legal Entity, the Legal Entity Identifier (LEI) is to be submitted.

Upon receipt of payment for transfer fees, the tax election and SEPA direct credit transfer forms, the Treasury Department processes a release to the CSD so that the transfer of holdings can be effected by the MSE. When such transfer is effected, the MSE issues a Registration Advice to the new MGS holders, confirming that the inherited MGSs have now been registered in the heirs' name.

## 8. Liquidation of 62+ Malta Government Retail Savings Bonds

The 62+ Malta Government Retail Savings Bonds issued under the Malta Government Retail Savings Bonds Regulations are non-tradable debt instruments. In this regard, 62+ MGRSBs registered in the name of a deceased person will be repaid to the heirs upon the finalisation of the '*Causa Mortis*' claim.

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## 9. What happens to the interest payments and/or principal repayments (if any) which were issued between the date of death of the stockholder and the finalisation of the '*Causa Mortis*' claim?

Upon notification of the death of an MGS investor, the MSE blocks the MSE accounts of the deceased.

Any interest payments or principal repayments arising from such accounts will be held at the Treasury Department, in a suspense account, until finalisation of the transfer of holdings from the deceased onto the heirs through the '*Causa Mortis*' claim.

Once the '*Causa Mortis*' claim has been finalised, any amounts that were previously withheld at the Treasury Department pending finalisation of the '*Causa Mortis*' claim, will be paid to the heirs in accordance with the instructions given by the notary public/lawyer.

No additional interest is paid on any such amounts withheld by the Treasury Department.

## 10. Heirs residing outside Malta

(a) Heirs/Legatees residing outside Malta are to submit:

- (i) the Tax Identification Number (TIN) of the country of residence.
- (ii) the date, place and country of birth.
- (iii) the passport number, date and country of issue.

(b) A Power of Attorney granted by a non-resident heir and drawn up outside Malta should be attested to by a notary public of the country of residence and apostilled by a Competent Authority or drawn up in front of and signed by a Malta Consular Official.

(c) In the case of a probate, an original or authenticated copy of the probate needs to be attached. In the case of a European Certificate of Succession, a certified copy thereof needs to be submitted.

(d) When translation of documents originating from countries outside the European Union (EU) is necessary, they shall only be translated by a translator who is registered with the Competent Authority (in the EU this requirement is contemplated and envisaged in the certificate of succession).