

TAXATION

A photograph of a coastal landscape featuring large, layered rock formations. The sky is a deep blue, and the water is a lighter blue, suggesting a sunset or sunrise. The rock formations have natural arches and are situated on a rocky shore.

EU compliant yet flexible

Taxation

Malta is an attractive choice for companies. Malta has become a tried and tested ground for a number of operators relocating to the island as a base from which to conduct operations and international business. The benefits are enormous. The permutations are equally varied.

Malta's tax system, plus its extensive network of double taxation treaties, offers significant fiscal efficiency to investors and companies using the island as a base and has been recognised as one of the main drivers in creating an attractive environment for foreign investors.

Malta has been classified as the fifth most tax -friendly country for companies according to the 2008 Forbes Tax Misery and Reform Index and the most attractive country in the European Union in terms of taxes and social security contributions paid out by companies.

The combination of Malta's tax system and its extensive double tax treaty network means that, with proper planning and structuring, investors can achieve considerable fiscal efficiency using Malta as a base.

One of the key advantages of Malta's tax system is its full imputation system. This system has been in force since 1948 when income tax legislation was first enacted. Malta is, in fact, the only EU member state with a full imputation system of taxation in force. Another key advantage is Malta's extensive network of double tax treaties with almost all the important OECD countries (44 treaties in force; 12 are initialled awaiting ratification).

All Maltese companies pay tax at the rate of 35% but, as with all imputation systems, shareholders receive full credit for any tax paid by the company on distributed profits. Therefore, profits taxed at a corporate level are not subject to further tax at shareholder's level, and, depending on the rate of tax applicable to the recipient of dividends, may trigger off the entitlement to a tax refund to the recipient. As a result, shareholders of a Maltese company should, upon a distribution of profits, be eligible to claim refunds of the Malta tax paid at the corporate level.

Malta grants relief from double taxation under the credit method on source-by-source and country-by-country bases. The Maltese tax regime governing double taxation relief includes not only treaty relief but also unilateral relief, and thereby ensures that income arising from overseas is not subject to double taxation, even if there is no double taxation agreement in existence.

In terms of domestic legislation, no withholding taxes are imposed on dividends; interest and royalties paid to non-residents, as long as various conditions are complied with. In addition, no Maltese tax is imposed on gains realised from transfers of corporate securities by non-residents, again as long as the relevant conditions are complied with, particularly that the sole or main assets of the company whose securities are being transferred do not consist of Maltese immovable property.

Tax refund system under income tax legislation in Malta

Malta reached an agreement with the European Commission in January 2007 effectively preserving intact its competitive imputation tax system for business in Malta. The tax system is a general system applicable to all types of companies and to every shareholder. It is not a specific measure designed to help a specific sector. Consequently, it is a permanent agreement with the EU.

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Current general income tax

All companies resident in Malta are subject to income tax at a rate of 35%. There is no separate system of corporation tax, and a company is subject to tax in much the same way as an individual. A full imputation system is applicable which means that dividends paid by a company resident in Malta carry a tax credit equivalent to the tax paid by the company on its profits out of which the dividends are distributed.

This system applies to both resident and non-resident shareholders. Resident shareholders are taxed on the gross dividend at the applicable tax rates, but are entitled to deduct the tax credit attached to the dividend against their total income tax liability. Individual shareholders of companies are entitled to tax refunds when their marginal tax on the dividend is less than the tax paid by the distributing company.

Extended tax refund system - General conditions and tax consequences

Under this system, Advanced Company Income Tax (ACIT) will be payable upon distributions, by all companies, of profits which, as indicated earlier, are not derived from immovable property situated in Malta. The ACIT paid will be set-off by the distributing company against its company income tax. Once ACIT has been paid by the distributing company, shareholders, whether resident in Malta or not, may claim tax refunds as described below.

The ACIT is levied at the level of the distributing company at the rate of 35% and upon distribution; the shareholder will be entitled to a refund of a part or whole of that ACIT. This refund will be reduced where the distributing company would have claimed double taxation relief. The amount of the tax refund is set at 6/7ths of the tax paid by the company (5/7ths in the case of passive interest and royalties) and the full refund with respect to participating holdings will be retained. The resident shareholder is taxable for the total amount of net dividend and refund received. The non-resident shareholder is not taxed in Malta.

Participation Holdings

With regard to acquisitions of participating holdings made on or after 1 January 2007, where the non-resident company, having mainly passive income, is not resident, incorporated in an EU Member State, or is subject to tax at a rate, which is less than 15%, the following additional conditions must be satisfied:

- the shares in the non-resident company must not be held as a portfolio investment; and
- the non-resident company or its passive income must have been subject to tax at a rate, which is not less than 5%.

When a Maltese company to its shareholders distributes dividends received from a participating holding such shareholders are entitled to claim a refund of 100% of the ACIT paid on the distributed profits. Resident individual shareholders will be subject to Malta tax on the dividend and tax refund while non-resident shareholders and resident corporate shareholders in receipt of the dividend and tax refund will not be subject to tax thereon.

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Other key features of Malta's corporate tax law

In addition to the considerable benefits of the full imputation system and the extensive network of double taxation treaties, Malta offers businesses other key benefits under its tax legislation, including the following aspects:

- ◆ As an EU member state, entities have access to the Parent-Subsidiary, Interest & Royalties, and Mergers Directives
- ◆ Participation exemptions
- ◆ An exemption from tax on income derived by collective investment schemes
- ◆ Advance rulings issued by the Maltese Commissioner of Inland Revenue on international transactions that guarantee the tax position for a minimum of five years and may be renewed for a further five year period
- ◆ An absence of "thin capitalisation" rules and no anti-controlled foreign corporation legislation
- ◆ No capital duty on share issues and exemption from duty on transfers of shares in, by or to companies having the majority of their business interests outside Malta
- ◆ The possibility for companies to denominate their share capital and their accounts in any convertible currency with the chosen currency then being used for payment of tax and tax refunds (where applicable) thus minimising exchange risks
- ◆ The possibility of migrating companies to and from Malta
- ◆ Relative ease of incorporation for non-regulated entities
- ◆ Low registration and maintenance costs
- ◆ A taxation scheme for groups of companies allowing offset of losses between group companies
- ◆ Only EU member state with full imputation system
- ◆ Extensive network of double taxation treaties
- ◆ Refundable tax credit scheme – on revenues as dividends to shareholders
- ◆ Attractive tax residency status for individuals

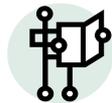
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Double Taxation Agreements

Malta's double taxation treaty network

Albania	Estonia	Lebanon	Russia
Australia	Finland	Libya	San Marino
Austria	France	Lithuania	Singapore
Barbados	Germany	Luxembourg	Slovakia
Belgium	Greece	Malaysia	Slovenia
Bulgaria	Hungary	Montenegro	South Africa
Canada	Iceland	Morocco	Spain
China, P.R.	India	Netherlands	Sweden
Croatia	Ireland	Norway	Switzerland*
Cyprus	Italy	Pakistan	Syrian Arab Republic
Czech Republic	Korea (Rep. Of)	Poland	Tunisia
Denmark	Kuwait	Portugal	United Arab Emirates
Egypt	Latvia	Romania	United Kingdom
			United States of America

Note: USA: Double Taxation between Malta and the United States agreed - treaty awaiting ratification through a United States Senate for Foreign Relations review. Countries awaiting signature or further negotiation are Bosnia and Herzegovina, Jordan, Serbia, Thailand, Turkey and Ukraine.



The World Economic Forum's Competitiveness Index 2010–2011 has ranked Malta 11th for financial market development, with a banking system which is 10th soundest in the world, while the Global Financial Services Index, published by the City of London in March 2008, ranks Malta in 4th place as the Centre where most organisations are likely to base operations in the next two to three years.



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