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Tax Treatment of Malta Registered Companies



What is the taxation rate of a company incorporated in Malta ?

Companies incorporated in Malta are subject to a flat rate of Malta income tax of 35% on their profits. A number of specific tax exemptions exist in various areas such as the Malta Copyright Tax Exemption and the Malta Tax Exemption for Patent Royalties.

Companies are taxed at the standard rate of 35%, following the distribution of dividends. Thereafter, within 14 days, non resident shareholders are entitled to a statutory refund of part of the tax paid by the Malta company. Tax refunds are available to all non resident shareholders in respect of the distribution of profits other than those derived from immovable property situated in Malta and those such as bank interest on which a 15% final withholding tax at source has been levied.

“This statutory refund makes the Malta taxation system the lowest effective tax regime in the EU.”

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How much is the statutory refund ?

Malta statutory tax refunds are 6/7th of the tax paid by the Malta company (effectively reducing the 35% tax rate to just 5%).

For example where a company's gross profit is €500,000, the company would pay Euro 175,000 in tax. A non resident shareholder would be entitled to claim back Euro 150,000 in a tax refund.

Further refunds are available in certain cases and more information about this can be obtained by contacting Argent Advisory Ltd on the contact details below.

Malta's full imputation system of taxation explained.

The tax paid by the Malta company on the profits which is then distributed as a dividend to its non resident shareholders is credited in full against the Malta tax liability of that non resident shareholder. The full imputation system avoids the need for tax to be paid by the company and by the non resident shareholder. Companies pay tax at a flat rate of 35% and no further tax is due upon receipt of a dividend by the non resident shareholder.

Does Malta apply withholding tax upon the distribution of dividends to non-resident shareholders ?

No, Malta does not levy withholding tax on distribution of dividends to non-resident shareholders.

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How are Capital gains derived by a Maltese company treated ?

Capital Gains are not taxed separately in Malta: they are added to the other income of the company and charged to tax at the normal corporate rate of tax. Not all capital gains derived by a Maltese company are chargeable to tax in Malta. Chargeable gains relate to the gains on capital assets specifically listed under Article 5 of the Income Tax Act:

- Immovable property situated in Malta
- Rights over securities
- Business
- Goodwill
- Patents
- Trade-marks
- Trade names
- Beneficial interest in a trust

What is the tax treatment of Capital gains derived by non-resident shareholders on the sale/disposal of their Malta Company ?

Article 12 (c) (ii) of the Income tax Act provides that there shall be exempted from tax in Malta any gains or profits accruing to or derived by any person not resident in Malta on disposal of shares or securities in a company whose assets do not consist wholly or principally of immovable property situated in Malta.

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Malta as a tax jurisdiction.

The corporate tax and refund system described above applies to companies resident in Malta. Companies incorporated in Malta are considered ordinarily resident and domiciled in Malta and taxed in Malta on a worldwide basis.

A foreign company may be tax resident in Malta if its business is controlled and managed from Malta.

Companies which are resident or domiciled in Malta but not ordinarily resident and domiciled are subject to tax in Malta:

(i) on income and chargeable gains arising in Malta;

(ii) on income arising outside Malta which is received in Malta (remittance basis). No tax is payable on capital gains arising outside Malta to a company who is not ordinarily resident in Malta or nor domiciled in Malta [Proviso to Art 4(1) ITA]

Companies which are not incorporated or resident in Malta are only chargeable on Malta source income and/or capital gains. This would be the case, for instance, of a company incorporated and resident in a foreign jurisdiction which establishes a permanent establishment (i.e. a branch) in Malta.

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What is the most common trading structure adopted in Malta ?

For those wishing to trade, the creation of two Malta companies is a common structure: a Malta Trading company and a Malta holding company whereby the holding company holds the shares of the trading company in order to:

- (i) create an entity which accumulates the sum of the dividends and refunds received in respect of the Malta Trading's activity; and/or;
- (ii) be able to distribute accumulated profits as a dividend to a foreign EU holding company with a view of benefiting from the Parent Subsidiary Directive.

What is the Parent Subsidiary Directive ?

The Parent Subsidiary Directive may be applicable where the shares of a Malta company are held by a parent company located in another EU Member State. The Parent Subsidiary Directive provides that:

- (i) intragroup cross-border payments of dividends must be exempted from withholding tax by the Member State of the Subsidiary [Art 5];
- (ii) the Member State of the recipient Parent company must either refrain from taxing the incoming dividend altogether (exemption method), or tax it, but in that case credit, against the parent's corporation tax, the corporation tax already paid by the subsidiary in its Member State (indirect credit: credit for underlying tax) [Art 4].

There are several conditions to be satisfied for entitlement to the benefits of this Directive, as well as certain exceptions and tax advice is recommended. Please contact Argent Advisory Ltd below for more information.

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Note:

Efficient tax structuring is specific to individual circumstances and requires specialist treatment and advice. If structured correctly Malta has the most effective tax regime in the EU and it is recommended that professional tax advice is sought in order to achieve the optimum efficiency.

Please contact us on the contact details below for more information.

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