Why use a Maltese Company?

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Malta has experienced a significant increase in the registration of new companies during the past few years, boosted by the success of the financial services sector and a consistent growth in Gross Domestic Product (GDP).

The growth in the financial services sector can be directly attributed to Malta's generous system of tax refunds and unilateral relief, as well as it's reputation as a compliant International Finance Centre and yet within the EU.

Malta Holding Companies

Dividends and capital gains derived from a participating holding in a non-resident company are exempt from Malta income tax.

Where a trading company is situated in the EU, then the inclusion of a Maltese company into the ownership structure could enable it to benefit from the EU Parent-Subsidiary Directive, resulting in no withholding taxes on payment of dividends to the Maltese company.

Where the holding is a "participating holding" there will be no taxation of dividends and capital gains at the Malta holding company level.

There is also no withholding tax on payments to the shareholder of the Malta company, which could be a non-EU entity such as a Jersey holding company, owned by a Jersey trust or foundation.

Definitions applicable to Malta Companies

The holding arises where the holding company:

- Holds more than 10% of the equity shares of the foreign company, or
- Holds at least one equity share and has an option over the balance, or
- Holds at least one equity share and has the right of first refusal over the balance, or
- Holds at least one equity share and has the power to appoint a director, or
- Has made a substantial equity share investment greater than €1,164,000, which is held for at least 183 days, or
- Holds equity shares in furtherance of its business (but not trading stock)

Equity shares are shares that confer the following entitlements to the holder:

- Dividends on a distribution
- Vote at shareholders' meetings
- Surplus assets on a winding up

A holding is a participating holding if:

- It is resident in an EU country, or
- The company the holding is in is subject to a minimum 15% rate of tax, or
- The target company has less than 50% of its income consisting of passive interest/royalties, or
- Where more than 50% of the target company's income consists of passive interest and royalties, the holding must not constitute a portfolio investment and must be subject to a minimum 5% rate of tax

Malta Trading Companies: the attractive tax refund system

Malta registered companies are subject to corporation tax at 35%.

However, at the end of a financial year, after a dividend is declared to the shareholders of the company and the tax is paid, the authorities will refund 6/7ths of the tax paid in Malta.

This results in a net corporate taxation rate in Malta of 5%.

Use of a Malta Company as an intellectual property holding vehicle

Royalties from patents: tax exemption

Royalties and similar income derived from patents in respect of inventions are exempt from Maltese taxation.

The intellectual property must be the result of research and development activities. Such activities can be performed anywhere in the world, leading to an invention which has then been patented anywhere in the world.

Foreign withholding tax on royalties paid to Malta, where appropriate, will be mitigated through the EU Interest and Royalties Directive and Malta's double tax treaties. In the majority of cases this will reduce the withholding tax on royalties to between 0% and 10%.

Intellectual Property that has not been patented: tax refund

Malta operates the imputation method of taxation. This means that where a dividend is paid from the taxable profit of a company it is possible for the shareholder to claim back a proportion of the tax paid by the company.

- The rate of refund applicable is, in most cases, 6/7ths, which effectively reduces the tax burden to 5%
- In the case of passive royalties (royalties which are not directly or indirectly related to a trade or business and have not suffered foreign tax of at least 5%), a refund of

5/7ths of the Malta tax paid may be claimed, which gives an effective Maltese tax burden of 10%

- Where double taxation relief is claimed, a refund of 2/3rds of the Malta tax paid by the company is available

Flat Rate Foreign Tax Credit

An effective way to enjoy additional tax relief on royalty income, which does not relate to patents in Malta, is to claim **Flat Rate Foreign Tax Credit. This is best illustrated by a working example:**

Flat Rate Foriegn Tax Credit (FRFTC)			
	Without Expenses (£)	With Expenses (€)	With Expenses Exceeding 41% (€)
Royalties recievable net of any foreign tax	1000.00	1000.00	1000.00
Deductable expenses including amortisation	-	(409.65)	(900.00)
Royalties less expenses	1000.00	590.35	100.00
FRFTC	250	250.00	42.35
Grossed up chargable income	1250.00	840.35	142.35
Tacation at 35%	437.50	294.12	49.82
FRFTC limited to 85% of the tax charged	250.00	250.00	42.35
Tax payable by the company	187.50	44.12	7.74
Tax as a percentage of royalties recieved after expenses	18.75%	7.47%	7.47%
2/3rds Tax refund to shareholder on payment of divided	125.00	29.41	4.98
Net Maltese tax suffered	62.50	14.71	2.49
Tax suffered as a percentage of royalties after expenses	6.25%	2.49%	2.49%

Yacht Type	%	Effective VAT Rate
Sailing boats or motor boats over 24 metres in length	30%	5.4%
Sailing boats between 20.01 to 24 metres in length	40%	7.2%
Motor boats between 16.01 to 24 metres in length		
Sailing boats between 10.01 to 20 metres in length	50%	9.0%
Motor boats between 12.01 to 16 metres in length		
Sailing boat up to 10 metres in length	60%	10.8 %
Motor boats up to 12 metres in length		

% percentage of yacht charter deemed to take place in EU territorial waters.*

The jurisdiction of Malta also offers an attractive Yacht Leasing Scheme

Malta has the largest combined ship and yacht maritime register in Europe and ranks amongst the top 10 worldwide.

The Maltese Register provides the benefits of vessels being able to fly an EU Flag, an accessible and efficient regulatory authority as well as extensive network of Double Taxation Treaties, (over 60 in force).

Yacht leasing in Malta and the VAT efficiencies

Malta has operated a yacht leasing scheme since late 2005 when the Maltese VAT Authority published guidelines for pleasure vessel VAT leasing arrangements between a lessor (a Malta company) and the lessee or user of a pleasure craft.

In a typical VAT leasing arrangement a Maltese company purchases a yacht from a European Union (EU) supplier, which, due to EU VAT laws, has a zero VAT impact. The Maltese company then registers the yacht under the Maltese flag and leases the yacht to the user, with the user having an option to purchase the yacht at the end of the lease.

The guidance issued by the Maltese VAT Authority indicates that it is difficult to calculate the amount of leasing income that is subject to VAT (the standard rate in Malta is 18%). VAT is only charged when the supply of the service is in EU territorial waters and it is relatively difficult to track the movement of pleasure craft.

The guidance issued by the VAT Department established a "deemed usage" of pleasure craft in EU territorial waters and therefore the effective rate of VAT to be charged on the leasing income by the lessor. These rates vary depending on the size of the vessel involved.

The effect of the arrangement is that the lessee or user can purchase the vessel at the end of the lease term having paid a reduced rate of VAT in comparison to the standard rate in Malta of 18%.

Conditions to participate in the Malta Yacht Leasing Scheme

- Prior approval needs to be gained in writing from the Commissioner of VAT in Malta, who will consider the rate of VAT to be charged and the appropriate value of the vessel
- Various other conditions apply for the VAT arrangements to take effect

Yacht Registration in Malta - additional potential advantages

- Shareholders of yacht chartering companies can benefit from the imputation system of taxation, which, due to generous unilateral relief and tax refunds, can result in an effective tax rate as low as 5%
- Yachts imported into Malta for chartering purposes, but not registered for the leasing scheme, may benefit from a VAT deferral arrangement; thus relieving the company from paying out the VAT portion upon acquisition
- For companies resident but not registered in Malta, income arising from charter activities is taxed on a remittance basis. Therefore only income remitted to Malta or income arising in Malta is subject to tax in Malta
- Taxation on profits can be reduced to as little as 5%
- The Double Tier Structure allows tax-free holding and reinvestment of retained earnings through a Malta holding company
- The yacht registration and company incorporation processes in Malta are straightforward and efficient

Maltese holding companies, trading companies and companies that hold intellectual property offer a number of tax advantages due to the Maltese system of tax refunds and unilateral relief.

Whitmill can assist with:

- Formation and management of companies
- Registered office facilities
- Tax compliance services
- Accountancy services
- Director services
- Dealing with all aspects of acquisitions and disposals

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