

Malta your EU Hub and Base

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Malta is a jurisdiction of choice for companies seeking to explore beyond their traditional borders, diversify their business interests and looking for a hub from which to explore new markets. It is also the jurisdiction of choice for founders and entrepreneurs to base themselves and their families within Europe. The lifestyle, climate and competitive tax system are all key components of Malta's attractiveness.



Malta Tax System

Maltese tax Law finds its origins in the UK tax system and is based on the UK tax principles.

A person's liability to Maltese income tax is dependent upon two concepts, namely, domicile and residence.

Individuals that are both ordinarily resident and domiciled in Malta are subject to income tax on their worldwide income and certain capital gains. Persons resident but not domiciled in Malta are taxable on any income and certain capital gains arising in Malta and on income arising outside Malta that is received in Malta. Such persons are not taxable on any capital gains arising outside Malta, whether received in Malta or not. Individuals are subject to income tax at progressive rates of tax up to 35%, depending on their marital status for tax purposes (i.e. Single, Married or Parent), unless the respective individual is beneficiary of a special tax status or scheme, which would generally provide for a beneficial reduced rate of tax of 15% upon qualifying income.

Companies are subject to tax in Malta on their chargeable income at a flat rate of 35%. Maltese tax law provides for the **full imputation tax system** which completely eliminates the economic double taxation of company profits. Shareholders in receipt of dividends are entitled to a tax credit equal to the tax borne on the profits out of which the dividends are paid. Since the tax rate of 35% applicable to companies is also the highest tax rate in Malta, shareholders will not suffer any additional tax on the receipt of dividends.

Further, upon a distribution of profits by a company registered in Malta (i.e. a company resident in Malta or a non-resident company with a branch in Malta), its shareholders may claim partial tax refund. The most common tax refund is of 6/7ths, i.e. 30% (6/7ths of 35%) of the taxable profits. Where no double taxation relief has been claimed, the effective tax suffered in Malta on distributed profits will be 5%.

Malta's tax refunds system is applicable to both resident and non-resident shareholders in respect of the tax borne on profits derived from both domestic and international activities, with the exception of profits derived, directly or indirectly, from immovable property situated in Malta. The partial tax refund mechanism has been further reinforced in 2019 through the introduction of **fiscal unity**, which rules allow for group entities to form a tax group for Maltese income tax purposes, with the main benefit of fiscal unity arising from the cash flow advantage when compared to the current operation of the partial shareholder tax refunds. Through the fiscal unit the group may achieve an identical effective tax rate (i.e. 5% or lower) without the time lapse between the payment of the standard corporate income tax rate of 35%, and the receipt of the shareholder refund at the level of the shareholder, as the new rules will immediately reduce the tax due by the principal taxpayer to the lower effective tax rate.

In 2018, Malta also introduced the **Notional Interest Deduction** (NID) to address the disparity in income tax treatment between debt and equity, by granting a deduction for the return on equity financing. The NID can be claimed by companies and partnerships resident in Malta, including Maltese permanent establishments of foreign entities, against their chargeable income for the year. Whether claiming the NID may be beneficial depends on the debt / equity financing mix of the business.

Maltese tax law also includes the **participation exemption** providing for a 100% exemption with respect to profits (namely dividends) derived from a participating holding, as defined in the Income Tax Act, or from the transfer thereof (gains on transfer). The application of the participation exemption is subject to the satisfaction of a number of conditions, depending on the underlying transaction.

Malta has entered into **double tax treaties** with close to 80 countries, which treaties are still active.

Immigration Pathways

Several programmes are available under Maltese tax law which offer qualifying applicants and their dependants various residence/ immigration rights in Malta, and/ or special tax statuses.

The Shareholder/Investor Status

A Maltese Resident Company may apply for an employment licence for the company's Non-EU shareholder/s, provided that the company meets the one or more of the below listed criteria. Beneficiaries of an employment licence are granted residence rights.



Each Non-EU shareholder must have a fully paid up share capital of at least EUR 500,000



Have made a capital expenditure of at least EUR 500,000 that is to be used by the company, such as immovable property, plant and machinery



The company is leading a project that has been formally approved by the relevant authorities

The Global Residence Programme (GRP)

While allowing non-EU nationals to travel, reside and settle in Malta from an immigration perspective, the GRP is a special tax status which entitles the beneficiary and his dependants to a reduced rate of tax of 15%, upon taking up residence in Malta, on any income which is considered to arise outside of Malta for Maltese tax purposes and which is remitted to Malta (subject to a minimum annual tax of €15,000). Any income and capital gains considered to arise in Malta for Maltese tax purposes, would be subject to a flat rate of 35%. In order for one to benefit from such a status he is to take up tax residence in Malta and satisfy the respective criteria.

As to the timeline for application, generally the tax authorities take between 3-6 months from the date when the application for a special tax status and any supporting documentation is submitted to the CfR, in order to process the application and grant the status.

The Malta Permanent Residence Programme (MPRP)

The MPRP is a route to residence for beneficiaries and their qualifying dependents to permanently reside in Malta subject to satisfying the programme's various criteria. An overview of the highlights of the programme are as follows:

- economic stability by means of being in possession of a capital of a minimum of €500,000, of which at least €150,000 is in the form of financial assets OR being in possession of a capital of a minimum of €650,000, of which at least €75,000 is in the form of financial assets;
- a non-refundable administrative fee of €60,000;
- rental of a property for a minimum of €14,000 per annum; or purchase a property for a minimum value of €375,000 in Malta or in Gozo;
- a government contribution of €37,000 in respect of the main applicant and €7,500 in respect of adult dependants, included in the application, excluding the spouse;
- to hold a qualifying property for a minimum period of 5 years from the date of granting of the status;
- a donation to local charity/ies of €2,000 (one-time payment);
- all applicants included in the application must be in good health condition and hold a health insurance policy to cover all risks across Malta and the EU;
- an eligibility assessment is conducted by the Government in respect of all applicants included in the application. Candidates must be proper and fit persons being in possession of a clean criminal record and not listed under any sanctions list.

The MPRP is an immigration status and does not, of itself, have any impact on an individual's tax status, which should be assessed separately based on the criteria applicable for tax residence in terms of domestic law and any applicable double tax treaty.



The Malta Startup Residence Programme

A Maltese Startup Company may apply for an employment license for the company's Non-EU, EEA and/or Swiss shareholder/s, provided that certain conditions are met, some of which are included below:



- The individual is a non-EU, EEA and/or Swiss national;
- Has a concrete intention to develop and/or expand their business in Malta and is the founder or the co-founder of a company which has been registered for not more than 7 years anywhere globally, including Malta;
- The Maltese Startup is to have a tangible investment and/or paid-up share capital of not less than €25,000;
- The founder and/or co-founders are required to relocate and take up tax residence in Malta;
- Hold a health insurance policy to cover all risks across Malta for themselves and their dependents;
- Submit an application to Malta Enterprise with a business plan that will be approved by Malta Enterprise.

Eligible startup undertakings include:

- Manufacturing;
- Software development;
- Industrial services analogous to manufacturing;
- Health, biotechnology, pharmaceuticals and life sciences;
- Eco startups involved in the blue, green and sustainable industries;
- Other innovative economic activities which are enabled through knowledge and technology providing services or products which are currently not readily available in the relevant market, or which shall be provided through a process which is novel.

- Eligible business projects must meet at least two of the following criteria:
 - Propose products and/or services that have the potential to generate income from various geographical markets;
 - Produce products and/or services which are new, innovative or substantially improved compared to complementary products on the market;
 - Utilise products which are new or substantially improved compared to those adopted in current complimentary activities.

The Malta Startup Residence Programme is an immigration status and the individual's tax status is to be assessed separately based on the criteria applicable for tax residence in terms of domestic law and any applicable double tax treaty.

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