

DOING BUSINESS IN

Malta



Updated on- 12.10.2012

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PREFACE

This booklet has been prepared by MGI Malta, Certified Public Accountant and members of MGI for the information of clients and fellow members.

Whilst every care has been taken in the preparation of this booklet, no responsibility can be accepted for inaccuracies. The reader has to appreciate that laws, practice or both are subject to change from time to time, especially in Malta which, at present, is undergoing a restructuring exercise to bring all its fiscal and other laws in line with those of its European Union partners.

All the information in this booklet is in summarized form and the reader is advised to seek professional guidance before undertaking any business in Malta.

DISCLAIMER

The information in this booklet is being provided as a general guide only and should not be considered as a substitute for professional advice. MGI is a worldwide association of independent accounting and consulting firms. Each member firm undertakes no responsibility for the activities, work, opinions or services of other member firms.

INTRODUCTION

For the past two decades Malta has embarked on a very ambitious programme to establish itself as an International Finance and Industrial Centre.

Its strategic location makes this island nation an ideal stepping-stone for anybody wishing to tap the markets of Europe, North Africa and the Middle East.

A brief glance at Malta's long history will show that the island was strategically very essential for the control of the Mediterranean basin, Southern Europe and North Africa. As a result, over the ages, many a battle had been fought between contemporary powers to establish a foothold here.

Today, the Maltese government is offering such a foothold to any investor with his sight on the lucrative markets that surround us. Towards this end, various laws have been enacted to offer the best possible incentive for the potential investor. These incentives are described in greater detail in the following pages.

The island also boasts of a state of the art telecommunication network, excellent air and sea connections to all parts of the world. With a three hours flight radius from Malta one can reach any city in Europe, North Africa and the Eastern Mediterranean shores.

This guide is designed to give an insight into doing business in Malta together with relevant background information, which will be of assistance to any organisation considering the setting up of a business here.

The most common way of doing business in Malta is through a company or a local branch of a foreign company, and this booklet has been produced mainly with these entities in mind. Other forms of entities are possible, example-Trusts. Some entities, such as banks, insurance and investment companies are subject to special regulations, which may not always be dealt with in this booklet.

With its membership in the European Union as of 1st May 2004, the above attractions are even more relevant to investors from outside the Union.

Through its expertise and long experience, our firm is well placed to assist any investor contemplating the establishment of a business venture in Malta.

Malta is a holiday destination that is very popular with our northern neighbours. Approximately 1.2 million visitors come to Malta on an annual basis and the long term plans of the local authorities are to increase on these numbers. Many come here for our sun and clean Mediterranean Sea whilst many others marvel at the huge amounts of heritage sites located within a stone's throw of each other and which can be visited without too much travelling inconvenience. Therefore, anyone transferring to Malta will be working where others come to play.

Should the reader require further information about any aspect dealt with in this booklet, he/she is welcome to get in touch with us without any obligation. It is always our pleasure to assist you.



MGI Malta
Certified Public Accountants
381 Zabbar Road • Fgura PLA16 • Malta
www.mgimalta.com
info@mgimalta.com
T +356 2180 2044
F +356 2167 5418

THE MALTESE ISLANDS – KEY INFORMATION

Capital City	Valletta
Area	316 km ²
Currency	Euro
Population	approx. 408,900 (June 2007)
Life expectancy	Males 76.4% (2006) Females 81.2% (2006)
Crude Birth Rate per 1000	9.6 (2006)
Crude Mortality Rate per 1000	7.9 (2006)
Gross Domestic Product	EUR 12,390 (per inhabit. at current market prices)
Growth Rate (GDP)	6.1% (January - June 2007)
Trade	
Total Imports	EUR 3,391.56 million (2006)
Total Exports	EUR 2,216.39 million (2006)
Main Export Markets	
USA	12.43
EU	50.30%
Asia	28.28%
Africa	5.43%
Employment	Males (June 2007) 96,971 Females (June 2007) 43,096

	Unemployment (June 2007)	4.3%
Education	Number of schools	342
	Number of teachers	9,000

Quality of Life

Doctors	1170
Mobile phone subscriptions per 1000 inhabitants	851.4
Internet subscribers per 1000 inhabitants	234
Private motor vehicle licenses per 1000 inhabitants	686.4

MALTA IN BRIEF

Geography

The Republic of Malta is located in the very centre of the Mediterranean Sea, about 80km south of Italy and 290km north of the North African coast. It consists of two main islands, which are inhabited and three uninhabited smaller islands. The total surface area of these islands is 316 square kilometres. Seen from the sky, the island resembles a fish with its mouth wide open, straddling the Mediterranean Sea in a north- west to south-east position.

The capital city of the island is Valletta, which is also the administrative, legislative and commercial centre. It lies on the north-eastern coast almost equidistant from every part of the island.

Population

The Maltese population amounts to approximately 400,000. The origin of the inhabitants is Semitic and the language is Maltese which is also of Semitic origin (like Hebrew and Arabic) but written in the roman text.

Language

The official languages of the island are Maltese and English and you will find everybody will be able to speak to you in both. Many of the Maltese also speak Italian and at least another language, usually French or German.

Climate

Malta has a Mediterranean type of climate with warm, dry summers and mild winters. The average rainfall is 540mm and this falls mainly in the months between December and February.

Infrastructure

Malta has excellent sea and air links with the European continent and North Africa, with flights normally scheduled to facilitate connections to intercontinental flights. Our telecommunications are state of the art with direct dialling facilities to any part of the world.

Getting around on the island itself is very easy. Apart from the distance factor (a trip from one end of the island to the other takes only 45 minutes) our road network is quite comprehensive with arterial roads built to bypass residential areas and facilitate traffic.

With a population of around 400,000 who, between them, own over 280,000 motor vehicles, traffic on our roads can be hectic at times but relatively safe. A sense of humour may sometimes be an advantage here.

The island boasts of a telecommunications network that incorporates a fully automatic digitalised transmission system and satellite facilities, enabling direct dialling to any part of the world.

There are two main harbours, namely Valletta and Marsaxlokk. The latter is one of the largest free ports in the Mediterranean Sea, catering for intercontinental cargo needing distribution throughout the Mediterranean basin.

Malta's international airport handles up to 2.5 million passengers every year. The island is connected to most major cities in Europe and North Africa. Most European cities can be reached by direct flights from Malta within a three hours flight.

Time Zone

The island is one hour ahead of Greenwich mean-time and operates a summer time system with clocks being advanced one hour between March and October.

Health Services

Malta enjoys excellent public health facilities and these compare very favourably with similar private facilities. These public health facilities are available free of charge to all local nationals, expatriates working in Malta and even to tourists coming from countries which extend to the Maltese the same benefits.

The local hospitals are equipped to deal with any emergency and are staffed by medical personnel trained both locally and overseas. When very specialist treatment is required that would not be cost effective to perform in Malta, the health services will normally finance the required overseas medical treatment. Also, the local hospitals have regular visiting specialists from overseas that come to Malta to perform operations not normally done by residential specialists.

Currency

On 1 January 2008, Malta officially adopted the Euro as its national currency. The Central Bank of Malta became a member of the Eurosystem, which comprises the European Central Bank (ECB) and the national central banks of the EU Member States that have adopted the euro.

Political System

Malta obtained its independence from Britain in 1964 and in 1974 it adopted the Republican constitution with a President as its Head of State whose power, however, is symbolic.

The island is a Parliamentary Democracy with a legislature consisting of one House. The House of Representatives consists of 65 members and these are elected by popular vote every five years. There are two major political parties in Malta. Executive power rests with the Prime Minister and his Cabinet of Ministers.

Legal System

The legal structure is based on the civil law pattern of continental Europe but most administrative and fiscal legislation is based on British laws. Legislation is published in both the Maltese and English languages.

The Judiciary enjoys complete independence from the executive and legislative bodies. In 1987 Malta recognised the right of individual petition to the European Courts of Justice and in the same year adopted the European Convention on Human Rights as part of Malta's domestic legislation. From 1st May 2004 the island also adopted all the Directives applicable within the European Union.

Education

Malta has a British style of education with compulsory attendance between the age of 5 and 16 years. Malta's university was established in the 16th century which makes it one of the oldest in Europe. Education including University level is totally free in Malta including those run by religious institutions. The current university population is around 10,000, 20% of whom are foreign. Privately run schools are also common in Malta and include some catering solely for foreigners. There is also one school offering the American curriculum.

Education in public schools or those run by religious orders is totally free. Attendance is compulsory from the age of 5 to 16.

The **education curriculum** in Malta follows that adopted in the European Union and is constantly being updated. At age 16, students sit for their **Matsec Ordinary Level** exams (similar to the UK GCSE) after which they may study for their Advanced- Levels for another two years.

Entry into the University is normally at age 18 or 19 with courses available in most subjects. The most popular faculties are:

- Education
- Business studies
- Medicine
- Law
- Arts
- Architecture

University graduates wishing to continue their studies, normally do so at overseas universities.

The state also provides a system of **Stipends** for students attending higher educational institution. This is an integral part of our social policy intended to make such education more accessible to the low-income families. Apart from the stipend, a student may also apply for **soft loans** and **grants** to assist him in financing his/her studies.

Housing

When compared to the rest of Europe, housing in Malta is still cheap. Prices increase as one moves towards the more fashionable areas such as Sliema, St. Julians and the sea resorts.

When acquiring a property in Malta, the first step is to contact a **Notary Public** to draft the preliminary agreement wherein the seller agrees to sell and the buyer agrees to buy the specified property upon the specified terms and conditions. A deposit of 10% of the agreed price is paid on signing such agreement, which deposit may be forfeited if the buyer withdraws for no lawful purpose. If the seller similarly withdraws he may have to pay the buyer twice the deposit.

Once the preliminary agreement is signed, the Notary Public will carry out research to ensure the legal right of the seller to the property and ensure that such property is not subject to any mortgages or similar encumbrances. The buyer would normally enlist the services of an architect to ensure that the property is free from any structural faults and is covered with all the required building permits.

Upon confirmation by the Notary and the architect that no problems exist the final deed may be signed.

It is possible in Malta to obtain **loan finance** for the purchase of property from any of the commercial banks. There may be limits as to the amount of loan depending on the income of the buyer.

There exist no tax relief on expenses incurred in purchasing, financing or owning a residence. However, couples acquiring their first residence may **recover any Value Added Tax** paid on some of the expenditure incurred.

A foreign purchaser of property in Malta has to pay stamp duty at 5% of the contract value and in no case may such property cost less than Lm30,000.

Lifestyle

The Maltese enjoy a very European lifestyle intermixed with their Mediterranean traditions and customs. The country is relatively crime free with no political or religious violence. The locals are very tolerant of other customs, traditions and religious beliefs. In fact we welcome such diversities into our society and we are not afraid to adopt them as our own should we find this to our benefit. Proof of this is our rich language, the various religious denominations and numerous mixed marriages.

FORMS OF BUSINESS ORGANISATION

In Malta a business can be operated in any of the following forms:

- Sole Proprietorship
- Partnership
- Limited liability Company
- Branch of a foreign company (oversea company)
- Trust
- Foundation
- Co-operatives

Sole Proprietorship

This form of business involves the least number of formalities. Once a trading license is obtained, the sole proprietor can commence business immediately. The liability for trading debts is unlimited. A sole proprietor has very few reporting and no audit requirements. In general, a trade is obliged to register for Value Added Tax and is subject to income tax on his profits at the individual rates of tax.

The advantages of sole proprietorship are:

- Total flexibility
- Complete freehand in decision making
- Limited reporting requirements

Partnerships

This is a slightly more formal type of business organisation in that a partnership deed has to be completed before trading can commence. Partnerships are regulated by the Companies Act. On the creation of a partnership, a partnership deed has to be filed with the Registrar of Companies.

Two types of partnerships are possible, namely:

- General Partnership (*Partnership En Non Collectif*) :

A partnership formed by two or more partners which has its obligations guaranteed by the unlimited and joint and several liability of all the partners.

- Limited Partnership (*En Commandit*)

A partnership which has its obligations guaranteed by the unlimited and joint and several liability or one or more partners (general partner). A body corporate or an individual may act as a general partner.

The same advantages and disadvantages of sole proprietorship apply here also.

Limited Liability Company

The types of companies which can be registered in Malta are the following:

- Public limited liability company - 'Plc'
- Private limited liability company - 'Ltd'

Public and private limited liability companies may be formed with variable share capital. In case of a private company with variable share capital, the company should be registered as a 'SICAV'.

A public company may also be registered with variable share capital. In such case, the company should be registered as an 'INVCO'.

Company incorporation in Malta

On formation, a company is obliged register its Memorandum and Articles of Association with the Registrar of Companies and have its name approved by the same Registrar. The memorandum of association of every company should contain the following information:

- (a) Whether the company is a public company or a private company
- (b) The name and residence of each of the subscribers
- (c) The name of the company
- (d) The address of the company's registered office in Malta
- (e) The objects of the company
- (f) The amount of authorised share capital with which the company is to be registered, the number of shares subscribed by each of the subscribers and the amount paid-up in respect of each share
- (g) The number of the directors, the name and residence of the first directors. Where any of the directors is a body corporate, the name and registered or principal office of the body corporate
- (h) The manner in which the representation of the company is to be exercised and the name of the first person or persons vested with such representation
- (i) The name and residence of the first company secretary or secretaries
- (j) The period, if any, fixed for the duration of the company
- (k) In respect of each shareholder, director and company secretary, the number of an official identification document should also be given

Registered Office

The registered office must be in Malta, whilst any document required to be filed may be in Maltese or English. It is normal, however, that in all such documents the English language is used.

Consideration other than cash

The consideration for the acquisition of shares on original subscription or on a subsequent issue may consist of cash or any asset which is capable of economic assessment. Where shares are issued for a consideration other than cash, the full consideration should be transferred to the company within 5 years from the date the company is authorised to commence business or from the date of the decision to issue the shares.

Debt/Equity Restrictions

There are no debt/equity restrictions although public companies must convene a General Meeting if the value of their net assets falls to less than half of the called up share capital.

Minimum share capital requirements

The minimum share capital requirements are as follows:

	Authorised EUR	Issued EUR	Paid-up %
Public company	46,590	46,590	25%
Private	1,165	1,165	20%

Share capital denomination

This share capital may be denoted in any currency approved by the Central Bank of Malta.

Minimum number of shareholders

The minimum number of shareholders in a company is two, but private and exempt companies may have just one shareholder. In the latter case, the objects of the company have to be restricted to one main clause.

Administration of the company

Each company is administered by a Board of Directors. In the case of a private company, there is a minimum of only one director. A company secretary, who must be an individual, has also to be nominated in the Memorandum and a sole director may not also act as company secretary except in the case of private exempt companies.

Bank accounts

A company is not required to have a bank account with a Maltese bank. Although it is recommended to open a bank account in Malta, a company registered in Malta may have bank accounts only with foreign banks.

Incorporation duration

Provided that the Registrar of Companies is in possession of all incorporation documents, a company may be registered within 24 hours.

Registration fees

Incorporation of a Maltese company involves the payment of initial registration fees to the Registrar of Companies in Malta and varies according to the authorised share capital of the company.

Authorised Share Capital	Registration Fees
Up to EUR 4,660	EUR 350
From EUR 4,660 to EUR 11,650	EUR 350 plus EUR 24 for each EUR 2,330 or part thereof in excess of EUR 4,660
From EUR 11,651 to EUR 58,235	EUR 420 plus EUR 12 for each EUR 2,330 or part thereof in excess of EUR 11,651
From EUR 58,236 to EUR 232,940	EUR 652 plus EUR 12 for each EUR 11,650 or part thereof in excess of EUR 58,236
Over EUR 232,940	EUR 827 plus EUR 12 for every EUR 11,650 or part thereof exceeding EUR 232,940 provided that the maximum fee does not exceed EUR 1,750

Statutory filing obligations

The filing requirements of all companies are similar, namely

- Registrar of companies : Annual Return and Audited Financial Statements

- Inland Revenue Department : Tax Return and Auditor's Certificate

Companies classified as a small company by our Companies Act, need not file auditor's report with their annual return. To qualify as small the company must satisfy two of the following three criteria:

- Balance sheet total: EUR 46,590
- Turnover: EUR 93,175
- Average number of employees: Two

Branch of an Oversea Company

A body corporate constituted or incorporated outside Malta (oversea company) may establish and operate through a branch or place of business in Malta.

In general, within one month of establishing a branch or a place of business in Malta, the oversea company is required to deliver to the Registrar of Companies in Malta:

- (a) An authentic copy of the charter, statutes or memorandum and articles of the oversea company or other instrument constituting or defining the constitution of the oversea company
- (b) A list of the directors and company secretary, if any, or of the persons vested with the administration of the oversea company
- (c) A return containing the following particulars:
 - (i) The name and address of the branch or place of business
 - (ii) The activities to be carried out by the branch or place of business

- (iii) The names and addresses of one or more individuals resident in Malta authorised to represent the branch or place of business
- (iv) The extent of the authority of the individuals representing the branch;

Trusts

The trust concept is not generally found in countries like Malta whose legal system is based on civil law. Malta has, however, a codified trust law with the enactment of the Trusts Act, 1988. Upon the subsequent enactment of the Recognition of Trusts Act, 1994, Malta ratified the convention of the law applicable to trusts that was adopted by the Hague Conference on Private International Law. Through Act XIII of 2004, trusts became also available to Maltese residents.

Various types of trusts may be created, namely:

- Bare (or simple) trusts
- Discretionary trusts
- Accumulation and Maintenance trusts
- Protective trusts
- Charitable trusts
- Other forms of trusts which may be used for the creation of a pension scheme, employee benefit plan and collective investment funds.

Co-operatives

A Co-operative is another form of business organisation that is possible in Malta, although this concept is not so widely used.

Regulatory framework for co-operatives is contained in the Co-operative Act, 2001 which comes into force on 16th April, 2002.

A minimum of seven members may form a co-operative and this may have any object clause desired.

The administration of such co-operatives is supervised by the Co-operatives Board whose main function is to guide and assist same.

The major advantage of a co-operative is that all profits earned are tax free in the hands of the co-operative.

Re-domiciliation

The Companies Act allows companies incorporated or registered in an approved jurisdiction outside Malta to be registered in Malta without the need of liquidation. This eliminates the costs associated with liquidating the company and setting up a new company in Malta. A company which is migrated to Malta ceases to be registered in its original country of incorporation. A company which has been successfully re-domiciled to Malta continues to be regulated by the Companies Act which is fully compliant with EU Law.

Advantages:

- The act of migration does not raise any income tax in Malta
- Assets may be transferred with the company with no step-up in their tax basis
- All rights and obligations of a re-domiciled company are fully retained
- Access to Malta's flexible and attractive corporate tax system

- Access to the EU Directives
- Protection from double taxation by having full access to Malta's double tax treaty network
- Possibility to migrate to another jurisdiction with no exit tax imposed on outbound migration

(for more information on Re-domiciliation of foreign companies to Malta see page 94)

DIRECT TAXATION

Income tax in Malta is regulated by the Income Tax Act, subsidiary legislation in the form of legal notices and the decisions by the Board of Special Commissioners and the Court of Appeal. The administration of income tax is regulated by the Income Tax Management Act.

Financial Year End

Each organisation may determine its own financial year-end and notify this to the Inland Revenue Department. Companies are required to specify their reporting date in their Memorandum of Association. In default of such notification, 31st December is always presumed.

CORPORATE TAXATION IN MALTA

Definition of a company for tax purposes

Under Maltese law the following types of persons are treated as a company (non-transparent) for tax purposes:

- Limited liability companies
- Limited partnerships, which have their capital divided into shares
- Bodies of persons incorporated or registered outside Malta of a similar nature to limited liability companies or partnerships *en commandit*
- Co-operative societies

Cell companies

In the case of a cell company every cell or that part of a cell company in which non-cellular assets are held are treated as a separate company for tax purposes.

World-wide basis of taxation

A company incorporated under the laws of Malta is deemed to be ordinarily resident and domiciled in Malta. Companies which are ordinarily resident and domiciled in Malta are subject to tax in Malta on a world-wide basis.

Remittance Basis of Taxation

A company which is not incorporated in Malta but managed and controlled in Malta is considered to be resident but not domiciled in Malta.

Under the remittance basis of taxation, companies are subject to tax on:

- Any income deemed to arise in Malta
- Any income deemed to arise outside Malta and remitted to Malta

Companies incorporated outside Malta which are managed and controlled in Malta are not subject to capital gains arising outside Malta even if such gains are remitted to Malta.

Source Basis of Taxation

A limited liability company which is not incorporated under the laws of Malta and which is not managed and controlled in Malta is subject to tax on a source basis i.e. on income and gains arising in Malta.

Fiscal Year

The fiscal year in Malta is the calendar year. Each year of assessment a company has to file a tax return declaring its income for the year ended during the previous calendar year. This return has to be accompanied by auditor's certificate.

Chargeable Income

Any income derived by a company unless specifically exempted by the provisions of the Income Tax Act is subject to tax in Malta.

The accounting profits adjusted for tax purposes are used as a basis to determine the chargeable income of a company. Tax adjustments include the following:

- Non trading expenses
- Depreciation
- Provisions
- Unrealized losses or gains

Capital Allowances

Companies are entitled to deduct wear and tear allowances in respect of fixed assets used in the production of income. The rates are determined in accordance to special rules in the Income Tax Act.

Both initial and annual wear and tear allowances are granted. Such allowances can only be relieved against profits arising from the asset involved, and if not so relieved, may be carried forward. A system of balancing charges and balancing allowance is also available on the disposal of the asset, or it being put out of use.

Type of Asset	Minimum No. of years
Computers and Electronic Equipment	4
Computer software	4
Motor Vehicles	5
Furniture, Fixtures, Fittings and Soft Furnishings	10
Equipment used for construction of buildings and excavation	6
Catering Equipment	6
Aircraft	12
Ships and vessels	10
Electrical and Plumbing Installations and Sanitary Fittings	15
Cable Infrastructure	20
Pipeline Infrastructure	20
Communication and Broadcasting Equipment	6
Medical Equipment	6
Lifts and Escalators	10
Air-conditioners	6
Equipment mainly designed or used for the production of water or electricity	6
Other machinery	5
Other plant	10

Capital Gains

Further to reforms introduced on 25th November, 1992 to the Income Tax Act, capital gains became chargeable to tax in Malta. Only gains derived on the transfer assets specifically listed in the Income Tax Act are subject to tax in Malta. Such assets include:

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

Chargeable gains are not taxed separately but added to the other income of the company and charged to tax at the normal corporate rate of tax.

Exemptions from income tax

Income and gains exempted from tax in Malta include the following types of income:

- Income and gains from a 'participating holding' or from the disposal of such holding
- The transfer of Malta Government bonds and stocks
- Transfer of securities listed on the Malta Stock exchange
- Any gains and profits derived by a person not resident in Malta on the disposal of units in a collective investment scheme
- Any gains and profits derived by a person not resident in Malta on any units and such like instruments relating to linked long-term business of insurance including the surrender or maturity of linked long term policies of insurance
- Interest, discounts, premiums and royalties derived by a non-resident, provided that the non-resident person is not engaged in a trade or business in Malta through a permanent establishment situated in Malta and the interest, discount, premium or royalties are not effectively connected with such permanent establishment
- Capital gains derived by a non-resident person on the transfer of shares in a Maltese company provided that such the assets of such company do not wholly and principally consist of immovable property situated in Malta.

Roll-over Relief

For companies there exists the possibility of roll-over relief when the proceeds from the sale of one asset was utilised to acquire another. Transfers of assets within a group of companies are exempted.

Group Relief

A company may surrender its losses in favour of any group company subject to certain conditions. For this purpose two companies are considered to form part of a group if the shares of one company are at least 51% owned by the other, or both of them are 51% subsidiaries of a third company.

Carry-over of losses

Losses derived from a trade or business may be carried forward indefinitely. Capital losses may only be set off against capital gains and may be have to be carried forward indefinitely.

Thin capitalisation rules

There are no thin capitalisation rules in Malta.

Transfer pricing rules

Maltese does not have any structured transfer pricing rules.

Controlled foreign company legislation

Companies registered in Malta are not subject to controlled foreign company legislation

Trade Tax

Malta does not levy any trade tax or payroll tax.

Relief from double taxation

Maltese companies deriving income arising outside Malta may avail themselves of three types of relief from double taxation:

Treaty Relief

Malta's double tax conventions are based on the OCED Model which enjoy favourable withholding tax rates. Malta currently has 45 double tax treaties in force both with EU and non-EU countries

Unilateral Relief

Unilateral relief is a domestic mechanism to avoid double taxation on income which arises outside Malta and which has suffered foreign tax. Furthermore, under the unilateral relief provisions, a company may claim a credit for the underlying tax paid abroad by its foreign subsidiary. A credit for the underlying tax paid abroad may be claimed if the Maltese company controls directly or indirectly 10% or more of the voting power of a non-resident company.

Flat Rate Foreign Tax Credit

A Flat Rate Foreign Tax Credit may be claimed by a company registered in Malta with respect to income and gains arising outside Malta. The FRFTC is a 25% tax credit deemed to be levied abroad calculated on the net foreign sourced income.

Conditions to claim FRFTC:

- The company is expressly empowered to receive and allocate income to its foreign income tax account
- The company is in possession of a certificate from a certified public accountant and auditor certifying that the income in question stands to be allocated to the foreign income account.

Foreign Flat Rate Tax Credit	
Net foreign income	100
FRFTC gross up	25
Chargeable income	125
Corporate Income Tax at 35%	43.75
FRFTC	(25)
Malta tax payable	18.75

Corporate Tax Rate

The corporate tax rate in Malta is 35%

Payment of Tax

Company tax is payable in two ways, namely:

- Provisional tax payments
- Final settlement

During the year, and specifically by end of April, August and December, each company must make provisional tax payments on account of its tax liability on its current year's income. Such provisional tax payments are normally determined by the Income Tax Department and are based on the last year assessed. A company may request that such payments be adjusted if the current year's income is projected to be very different from that taken by the Department.

By 30th September of each year, every company must submit its settlement tax for the previous year whilst the tax return itself should be filed by 31st October.

Companies registered in Malta which have or intend to have more than 90% of their business interests outside Malta may pay their settlement tax within 18 months from their financial year end.

Tax Accounting

Malta operates a system of tax accounting whereby profits derived by a company are allocated to one of the following 5 tax accounts:

- Final Taxed Account
- Immovable Property Account
- Foreign Income Account
- Maltese Taxed Account
- Untaxed Account

Taxation of dividends

Malta operates a full imputation system for dividends paid out of profits allocated to the Maltese tax account, the Foreign income account and the Immovable Property account. Under the full imputation system, the shareholder is subject to tax on the gross dividend received however, is entitled to claim a full imputation credit of the tax levied on the distributed profits at company level.

Given that the highest rate of tax for individuals is equal to the corporate tax rate in Malta, dividends paid from the Maltese tax account and the foreign income account are effectively not subject to further tax in the hands of the shareholder.

Profits distributed from the final taxed account are not subject to further tax at the level of the shareholder.

Profits distributed from the untaxed account to Maltese resident individuals are subject to a withholding tax of 15%.

No withholding tax is imposed on dividends paid from the untaxed account to persons who are not resident in Malta.

TAX REFUND SYSTEM

The distribution of profits, by way of dividends, entitles the shareholders of a Maltese company to claim refunds of corporate tax on the profits paid by the company and allocated to the Maltese tax account and the foreign income account. The shareholders may claim one of the following refunds of tax:

Six-Sevenths (6/7ths) Tax Refund

A company registered in Malta may claim a 6/7ths refund on the profits which have been subject to tax and allocated to the Maltese tax account and the foreign income account

Conditions to claim a 6/7ths refund

- The income derived by the company is not qualified as passive interest or royalties
- No double tax relief has been claimed on income allocated to the foreign income account

Company	
Income	100
Tax @ 35%	(35)
Profits after tax	65
Shareholder	
Net Dividends	65
Tax at source	35
Gross dividend	100
Tax on Gross dividends	35
Full Imputation Credit	(35)
6/7ths Refund	(30)

Five-sevenths (5/7ths) Tax Refund

If the income derived by a company is qualified as passive interest or royalties and no double tax relief has been claimed on income allocated to the foreign income account, the distribution of profits entitles the shareholder to claim a refund of 5/7ths of corporation tax paid by the company on those profits

Company	
Income	100
Tax @ 35%	(35)
Profits after tax	65
Shareholder	
Net Dividends	65
Tax at source	35
Gross dividend	100
Tax on Gross dividends	35
Full Imputation Credit	(35)
5/7ths Refund	(25)

Two Thirds (2/3rds) Tax Refund

A shareholder may claim this type of refund on profits allocated to the foreign income account. Under this type of refund, a Maltese company is entitled to claim double tax relief on profits allocated to the foreign income account. Double tax relief in the form of a flat rate foreign tax credit may be claimed by the company.

Company	
Net Foreign Income	100
Flat Rate Foreign Tax Credit @ 25%	25
Chargeable Income	125
Tax @ 35%	43.75
Flat Rate Foreign Tax Credit (FRFTC)	(25.00)
Malta tax due	18.75
Shareholder	
Malta Tax	18.75
2/3rd Refund	(12.50)

Full Refund

A full refund of the corporate tax paid in Malta may be claimed on income and gains derived from a participating holding.

Company	
Dividends and gains from PH	100
Tax @ 35%	(35)
Profits after tax	65
Shareholder	
Net Dividends	65
Tax at source	35
Gross dividend	100
Tax on dividends	35
Full Imputation Credit	(35)
100% Refund	(35)

Date of refund

The tax is refunded by the Commissioner of Inland Revenue by not later than the 14th day following the end of the month in which the corporation tax is paid by the company.

DOUBLE TAX TREATY NETWORK

The following are the withholding tax rates levied by Malta's treaty partners on the distribution of dividends, interest and royalties to a Maltese resident person. Malta does not levy any withholding tax on outbound dividends, interest and royalties.

Country	Dividends		% of majority Shareholding	Interest	Royalties
	Minority Shareholding	Majority Shareholding			
Albania	15	5	25	5	5
Australia	15	15	-	15	10
Austria	15	15	-	5	10
Barbados	15	5	5	0/5	0/5
Belgium	15	15	-	10	10
Bulgaria	0	0	-	15	10
Canada	15	15	-	15	10
China	10	10	-	10	10
Croatia	5	5	-	0	0
Cyprus	15	15	-	10	10
Czech Rep.	5	5	-	nil	5
Denmark	15	0	25	nil	nil
Egypt	10	10	-	10	12
Estonia	15	5	25	10	10
Finland	15	5	25	10	10
France	15	5	10	10	10
Germany	15	5	25	10	10
Hungary	15	5	25	10	10
Iceland	15	5	10	0	0
India	15	10	25	10	15
Italy	15	15	-	10	10
Korea	15	5	25	10	nil
Kuwait	0	0	-	0	10
Latvia	10	5	25	10	10
Lebanon	5	5	-	0	5

Libya	15	15	-	15	15
Lithuania	15	5	25	10	10
Luxembourg	15	5	25	nil	10
Malaysia	0	0	-	15	15
Morocco	10	6.5	25	10	10
Netherlands	15	5	25	10	10
Norway	15	15	-	10	10
Pakistan	15	15	20	10	10
Poland	15	5	20	10	10
Portugal	15	10	25	10	10
Romania	5	5	-	5	5
San Marino	5	10	25	0	0
Slovakia	5	5	-	0	5
Slovenia	5	15	25	5	5
South Africa	15	5	-	10	10
Spain	5	0	25	0	0
Sweden	15	nil	10	0	0
Syria	0	0	-	10	18
Tunisia	10	10	-	12	12
UK	0	0	-	10	10

HOLDING COMPANIES

A Maltese holding company is a tax efficient vehicle to hold shares and other investments situated outside Malta. The application of the participation exemption on dividends and capital gains derived from a 'participating holding' in addition to the fact that Malta does levy any withholding tax on the repatriation of profits to foreign jurisdictions, makes Malta one of the most attractive EU holding jurisdictions.

Participating holding

Participation qualifies as a 'participating holding' if Maltese company satisfies at least one of the following condition:

- Holds 10% or more of the equity shares in a non-resident company
- The investment in the non-resident company amounts to Lm EUR 1,164,687 or more, subject to an (uninterrupted) time duration test of 183 days
- Has the option to acquire the remaining balance of the equity shares in the non-resident company
- Is entitled to first refusal in the event of the proposed disposal, redemption or cancellation of the remaining balance of the equity shares in the non- company
- Is entitled to sit on the Board of the non-resident company
- The holding of shares in the non-resident company is for the furtherance of the business of the Maltese company provided that the shares in the non-resident company are not held for trading purposes

A participation in a foreign partnership which is similar to a partnership *en commandit*, the capital of which is not divided into shares may also qualify as a 'participating holding'.

Participation Exemption

Income and gains derived from a 'participating holding' are completely exempt from income tax in Malta.

Anti-abuse provisions may restrict the application of the participation exemption on dividends derived from a participating holding. Under the anti-abuse provisions, the participation held by the Maltese company may at least satisfy one of the following conditions:

- It is resident or incorporated in a country or territory which forms part of the European Union
- It is subject to any foreign tax of at least fifteen per cent (15%)
- It does not have more than fifty per cent (50%) of its income derived from passive interest or royalties

Advance Revenue Ruling

An advance revenue ruling may be obtained from the Commissioner of Inland Revenue in Malta to confirm whether the participation qualifies as a 'participating holding'.

In addition, an advance revenue ruling may be obtained on the following:

- The tax treatment of any transaction which involves international business
- The tax treatment of any transaction which concerns any financial instrument
- Whether a particular transaction falls within the scope of the anti-avoidance provisions of the Income Tax Act

Advanced revenue rulings are issued by not later than 30 days from application and are binding for a period of 5 years.

Rulings may be renewed for another period of 5 years at the option of the applicant and remain valid for 2 years from the time of any relevant changes in the Income Tax Act.

Advantages of using a Maltese Holding Company

- Low capital requirements
- No funding restrictions
- No thin capitalisation rules
- May also carry out trading activities
- Participation exemption or full refund of tax
- No withholding tax on outbound dividends
- Access to EU Directives
- Wide Treaty Network
- Domestic relief from double taxation
- Exemption from stamp duty
- Non-resident shareholders are exempt from tax on any capital gains derived from the disposal of shares in the holding company

Nomineeships

Through the relevant provisions in our Companies Act, shareholding and directorships in any company can be held in the name of Nominee companies. To ensure that this nominee service is of the highest professional standard, the Act provides for a licensing procedure for companies intending to provide Nominee services. Shareholding in such nominee companies is restricted to lawyers, certified public accountants and Bankers. The divulging of the final beneficiary by a nominee company can only be ordered by the Maltese Courts and only in case of three pre-determined international crime situations.

FINANCING COMPANIES

Malta does not have a special regime for financing activities. This is particularly attractive because it allows complete flexibility on financing activities and supports a complete choice of financial instruments. Since 1st January 2007, a Maltese finance company may be incorporated as a normal limited liability company registered under the Companies' Act and yet claim refunds of tax and benefit from other fiscal incentives granted to local and foreign investors. Financing may also be structured through a Maltese branch of an overseas company.

Different types of financing vehicles may be used to support the operations of the investor:

- Group financing
- Conduit financing
- Fund Raising
- Finance Branch

Funding a financing company

A Maltese financing company can be entirely funded by equity or by a mixture of equity and debt. The company cannot be entirely funded by debt however, the minimum paid-up share capital can be as low as EUR 233. There are no limitations on the amount of debt which can be injected, thus any gearing level may be achieved to accommodate the needs of the international investor.

Thin capitalisation

Malta does not have any thin capitalisation rules. This ensures that no limitations are placed on the deductibility of interest. No withholding tax is levied on outbound interest payments. Furthermore, Malta does not have any restrictive transfer pricing rules. This ensures flexibility with regards to the rate of interest charged on intra-group financing. The absence of restrictive transfer pricing legislation creates an opportunity for a very low interest rate margin accruing to a Maltese company on back-to-back financing.

Access to EU Directives and Treaty Protection

Since Malta's membership to the European Union in 2004, Maltese companies have gained access to the EU Directives. In particular, the Interest and Royalties Directive (Directive 2003/49/EC), restricts other EU Member States to levy withholding tax on interest payments made between associated companies resident therein. Financing companies resident in Malta are entitled to treaty protection, thus, withholding tax on interest in the country of source may also be avoided or reduced by one of Malta's double tax treaties.

Entitlement to Tax Refunds

Under the tax refund system, shareholders are entitled to claim one of the following refunds of the tax suffered by Maltese company:

- 6/7ths of the Advanced Corporate Income Tax
- 5/7ths of the Advanced Corporate Income Tax
- 2/3rds of the tax payable in Malta

INTANGIBLE PROPERTY

Malta does not have any special regime for IP companies. As from 1st January 2007, a Maltese IP company can be incorporated as a normal limited liability company registered under the Companies' Act. The fact that a normal company may be used, implies that an IP company may undertake any activities in addition to the holding and licensing of IP. In fact, it is possible to use a normal Maltese company carrying out financing, holding, and licensing activities.

IP Holding Company

IP assets can be transferred to and held by a Maltese company which may subsequently license the IP assets to other related and non-related affiliates.

IP Conduit Company

IP assets would be owned by a company located in a low tax jurisdiction which then licenses or assigns the intangible asset to a Maltese company. The Maltese company would subsequently sub-license the IP to related or non-related affiliates. The absence of restrictive transfer pricing rules ensures complete flexibility with regards to the value assigned to licensing activities. It also ensures that a very low royalty margin arises in Malta on the sub-licensing activities of a Maltese company.

IP Branch

When the transfer of an IP asset to a Maltese legal entity gives rise to a high capital gains tax, foreign investors may opt to transfer the IP to a Maltese branch and yet gain entire access to the fiscal advantages granted by Malta.

Advantages

- No withholding tax on outbound royalties
- Access to EU Directives and Treaty Protection
- Entitlement to Tax Refunds
- Flexible patent and trademark legislative framework

INTERNATIONAL TRADING COMPANIES

Malta abolished its 'international trading company' (ITC) regime with effect as from 1 January 2007.

Companies whose activities consist of trading with persons outside Malta are no longer required to obtain the status of an ITC, yet still entitled to claim refunds of tax. Trading companies may now be incorporated as normal limited liability companies registered under the Companies Act without the need to obtain any special status.

Advantages of using a Maltese international trading company

Using a Maltese company to carry out international trade can reap the following benefits:

- Low costs of incorporation
- Low maintenance costs
- Local directors are not required
- No substance required
- Flexible transfer pricing rules allowing profits from international trade to be shifted to Malta
- Permitted to carry out activities other than trading
- Tax refunds
- Exemption from stamp duty

Tax refunds

A Maltese company carrying on international trading activities is entitled to claim one of the following refunds of tax:

- 6/7ths of the Advance Corporate Income Tax
- 2/3rds of the Malta Tax

TAX INCENTIVES FOR COMPANIES AND OTHER PERSONS OPERATING IN MALTA

The Malta Enterprise Corporation

The Malta Enterprise Corporation, established in 2003 is the Maltese government's exclusive agency to promote enterprise and related business undertakings in Malta. It encourages the establishment of new business undertakings and the expansion of existing business undertakings operating in Malta. It provides a comprehensive package of assistance and advisory services to international companies and investors considering commencing their operations in Malta. It is also responsible for the development and administration of tax incentives, schemes and other forms of support for new and existing ventures.

Further details on the Malta Enterprise Corporation may be found on <http://www.maltaenterprise.com/>

Incentives under the Malta Enterprise Act

Qualifying Activities

Incentives in the form of tax credit and enterprise support under the Malta Enterprise Act are granted to those activities which are deemed to constitute a qualifying activity:

- Production, manufacture, improvement, assembly, preservation, processing of any goods, materials, commodities, equipment, plant, machinery and the rendering and any industrial services analogous to these activities
- Repair, overhaul or maintenance of pleasure crafts, yachts not having more than thirty berths, aircraft, engines or equipment incorporated or used in such vessels or aircraft

- Information and Communications Technology (I.C.T.) developmental activities, software development, Information Technology (IT) enabled services including call centres and Information Technology (IT) solutions
- Certain research and development, and innovative start-ups
- Certain eco-innovations, waste treatment and environmental solutions
- Biotechnology, comprising the production or development of intellectual property or goods or the rendering of services resulting from, or related to, the study, research, discovery application, modification or development of living organisms or materials
- The provision of facilities directly required in the development or production of feature films, television programmes or commercials
- The provision of science and technology private tertiary education
- The provision of private health-care services through the setting up of new projects carrying out an investment of not less than 2.5 million Euro in medical equipment

Legal forms

A person wishing to operate in Malta and avail himself of these incentives may choose one of the following legal forms of doing business:

- An individual operating in his own capacity
- A Maltese company having distinct legal personality
- A Maltese branch of a foreign company
- An association

- Any other body of persons which promotes or supports the goals and objectives of such undertakings

Investment Tax Credits

Income derived from qualifying activities may benefit from tax credits which may be deducted from the chargeable income derived from these activities.

The amount of the credit may be determined either as a percentage of the qualifying expenditure or as a percentage of the wage costs.

Tax credit derived as percentage of qualifying expenditure

Where the tax credit is calculated as a percentage of the qualifying expenditure, the maximum amount of credit depends on the size of the undertaking:

- For an undertaking which qualifies as a small undertaking, the tax credit may not exceed 50% of the qualifying expenditure;
- For an undertaking which qualifies as a medium undertaking, the tax credit may not exceed 40% of the qualifying expenditure;
- For an undertaking which qualifies as a large enterprise, the tax credit may not exceed 30% of the qualifying expenditure.

(The meaning of a “small”, “medium sized” and “large” undertaking is derived from the meaning attributed to these terms in Commission Recommendation 2003/361/EC).

Tax credit based on wage costs

Where the tax credit is based on job creation, the amount of credit is calculated on the wage cost incurred by the undertaking carrying on a qualifying activity in the relevant year. The same thresholds mentioned above apply.

Unabsorbed tax credits

Any unabsorbed tax credits may be carried forward indefinitely against future chargeable income derived from these qualifying activities.

Conversion of tax credits

The Malta Enterprise Corporation may authorise the conversion of the investment tax credit into other forms of assistance including cash benefits.

Assistance to small and medium sized undertakings

The Malta Enterprise provides various type of assistance to undertakings which carry on or intend to carry on a qualifying activity and which contribute to the economic development of Malta.

Assistance for the development of new businesses by a small or medium sized start up undertaking

The Malta Enterprise may provide a cash grant for the acquisition of tangible and intangible assets or for the procurement of services. The amount assistance is capped at a certain percentage on the qualifying expenditure on tangible and intangible assets and the acquisition of services.

Assistance to small sized undertakings

The Malta Enterprise may provide assistance in the form of a cash benefits to small sized start-up undertakings with respect to the following costs:

- legal, advisory, consultancy and administrative costs directly related to the setting-up of the undertaking
- payments of interest on external finance required in the acquisition of tangible or intangible assets
- energy and water costs

- depreciation of tangible or intangible assets
- payments for leasing or renting of production facilities and equipment
- Wage costs including compulsory national insurance payments

Assistance for innovation

Assistance in the form of cash grants may be provided by the Malta Enterprise when an undertaking carries on a qualifying activity in connection with a technological, product or service innovation, process innovation or organisational innovation.

Other types of assistance

Other types of assistance in the form of cash grants which may be provided by the Malta Enterprise:

- Assistance which requires experts in a particular field
- Assistance to participate in fairs and exhibitions
- Assistance in the preparation and submission of proposals for participation in projects funded by the Seventh Research Framework Programme or the Competitiveness and Innovation Framework Programme
- Assistance for the use of ICT and e-business

Enterprise Support Incentives

Assistance in the form of cash grants may be granted by the Malta Enterprise in connection with an activity which may contribute to the economic development of Malta. The types of assistance which may be provided are the following:

- Assistance of participation in trade fairs

- Assistance for collaboration with other undertakings
- Assistance for business development projects
- Assistance for the engagement of advisors

For the further details on Industrial Incentives, the reader is also recommended to refer to our website at **www.mgimalta.com/publications.htm** , where we normally have various presentations on this subject.

TAXATION OF INDIVIDUALS

Non-resident and temporary residents

Individuals who reside in Malta for a period which does not exceed 6 months in any calendar year are only subject to tax on any income and gains arising in Malta

Exemptions

Non-resident individuals are not subject to tax on:

- Interest and royalties arising in Malta
- Capital gains on the transfer of shares in a Maltese company. (The assets of such company should not consist wholly or principally of immovable property situated in Malta.)

Temporary residents are subject to the following rates of tax

Other Non-Residents	Chargeable Income EUR	Multiply by	Deduct EUR
	0 - 700	0	0
	701 - 4,193	0.20	138
	4,194,-7,687	0.25	350
	7,688 – 11,181	0.30	734
	11,182 and over	0.35	1,292

Resident Individuals

Foreign individuals who reside in Malta for a period which exceeds 6 months in any calendar year are deemed to be resident but not domiciled in Malta.

Remittance basis of taxation

Such individuals are subject to tax on a remittance basis. Under the remittance basis of taxation, tax is levied on any income and gains arising in Malta and on any income arising outside Malta which are remitted to Malta. Any gains arising outside Malta are not subject to tax in Malta even if such gains are remitted to Malta.

Resident individuals are subject to tax at same rates applicable to ordinarily resident and domiciled individuals (see below).

Ordinarily resident and domiciled individuals

Individuals who are ordinarily resident and domiciled in Malta are subject to tax on world-wide basis. The following rates of tax are applicable to these individuals:

Single Tax Rates	Chargeable Income EUR	Multiply by	Deduct EUR
	0 - 8,150	0	0
	8,151-14,000	0.15	1,222
	14,001-19,000	0.25	2,622
	19,001 and over	0.35	4,522

Married Couples

A married couple files a single tax return. They have the right, however, to elect for separate assessment of the wife's earned income and pensions. Married couples are subject to the following rates of tax:

Married Tax Rates	Chargeable Income EUR	Multiply by	Deduct EUR
	0 - 11,400	0	0
	11,441-20,500	0.15	1,710
	20,501-28,000	0.25	3,760
	28,001 and over	0.35	6,560

The tax rates are determined in the Annual Budget by the Minister of Finance

Ordinarily resident and domiciled individuals may avail themselves of double tax relief on any income arising outside Malta

Capital Gains Tax

The only capital gains which are subject to tax are those derived on transfer of:

- Immovable Property
- Securities and shares (but excluding those quoted on the Malta Stock Exchange)
- Business
- Goodwill
- Trademarks,
- Trade names
- Patents
- Copyrights

Non residents are likewise subject to capital gains tax. However, gains resulting from the disposal of shares in Malta resident companies (even though not property owning companies) are exempted.

Special regulations have been announced by the Minister of Finance on 24th October, 2005 in his budget speech for 2006. As the practical aspects of these regulations have yet to be defined by Legal Notices as the time of writing, you are encouraged to refer to our web site for the latest developments in this area.

TAXATION OF OTHER ENTITIES

Entities such as clubs and trade unions are exempt from the payment of income tax in Malta subject to their fulfilling the stipulated conditions.

Co-operatives are also so exempted from the payment of tax on their earnings.

INVESTMENT INCOME

Investment income in Malta is also incremented to other income and taxed at standard rates. However, on certain types of income, a system of 15% withholding tax exists, which, if opted for by the taxpayer, will exempt him from any further tax liability on the same income.

This withholding tax can be opted for on the following income:

- Interest paid by local banks
- Interest, premiums and discounts payable by the Government of Malta, any of its agencies, Maltese public corporations or authorities
- Interest, discounts or premiums payable in respect of a public issue by a Maltese company
- Capital gains arising on the disposal of shares or units in a collective investment scheme licensed under the Investment Services Act, 1994.

An individual taxpayer need not even declare such income on his tax returns once an option for withholding tax was made, although, if he later finds that his marginal tax rate is less than 15%, he may wish to declare same and claim any refund due.

A company opting for withholding tax on its investment income would still need to declare same on its tax return.

Withholding Tax

Apart from the withholding tax on investment income mentioned in the preceding section, other forms of withholding tax exist on:

- Dividends paid by companies are subject to withholding tax at the standard company tax rate (tax at source)
- Interest on debenture and loans advanced for capital purposes are subject to withholding tax at the standard company tax rate if such interest is paid to another company, or at 25% if paid to an individual
- Wages and salaries are also subject to withholding tax under the F.S.S. system at rates that would bring the balance of any tax liability on such earnings by the end of the year to Nil.
- Any other income paid to a non-resident and not already taxed at source is subject to withholding tax at standard company rates if paid to a company or at 25% if paid to an individual.
- Any payment to foreign entertainers performing in Malta is subject to withholding tax of 10%.

INDIRECT TAXATION

Malta has the following types of indirect taxation:

- Duty on documents
- Value added tax
- Social security
- Import duties
- Excise duties
- Import levies

Duty of Documents

This duty is payable on certain transfers of immovable property, debts, shareholding and on the issue of certain insurance policies.

The rates applicable vary from 2% to 5% depending on the type of asset and mode of transfer.

The exemptions from the payment of this duty include:

- Transfers of property between group companies
- Partitioning of property by joint owners
- Transfers between spouses
- The following types of insurance - Health, Marine, Aviation, Export Finance and Re-insurance
- Transfers of foreign marketable securities if effected through a local bank

Value Added Tax

In line with most modern economies, this is Malta's major form of indirect taxation.

Vat is charged on all sales of services and products subject to various exemptions. The standard rate is 18% whilst holiday accommodation and tourism related services, paid for by the tourist before his arrival in Malta, are subject to a reduced rate of 5%. Exports are vat free.

Every business which provides a vatiable service, whatever its size, has to be registered with the Department of Vat before it can commence business and must file a return in the prescribed format at the end of the prescribed period.

Small service provides with a turnover of less than Lm5, 000 per annum and product suppliers with a turnover of less than Lm12, 000 per annum may opt out of collecting and reclaiming VAT.

Social Security

Malta has a comprehensive social security system that practically covers a person from the cradle to the grave. This system is financed through social security contributions paid by each employee and employer.

At present each employee pays 10% (**maximum EUR 31.94 weekly**) of his basic wage as contribution whilst the employer pays another 10%. These contributions have to be remitted together with payroll tax deductions at the end of each month. The self-employed pay approximately 15% (**maximum EUR 47.89 weekly**) on their earned income of the previous year and this is remitted in three instalments in April, August and December.

The types of benefits one can claim under this system are numerous and are continually being enhanced by each successive legislature. Amongst the major benefits one finds:

- Maternity benefits
- Children allowance
- Sickness and injury benefits
- Retirement pensions
- Widow pensions
- Invalidity pensions
- Disability pensions
- Free medical services and hospitalization

Malta has signed social security reciprocal agreements with the following countries:

- United Kingdom
- Canada
- The Netherlands
- Libya¹

¹ The reciprocal social security agreement between Malta and Libya is restricted to the payment of contributions for Maltese people working in Libya.

Import Duties

Non-EU imports into Malta are subject to import duties which are regulated by the Harmonised Description and Coding System 1983 (H.S. Codes).

Excise Duties

Excise duties are charged on alcohol, wines, tobacco and petroleum products

Protective Levies

Since Malta became a member of the European Union on 1st May, 2004, all levies that were in existence as at that date were removed.

Through special **Derogations** negotiated by the Maltese authorities with the EU, the island still retained the rights to re-introduce levies on agricultural imports if they feel that our small agricultural community was in need of temporary protection.

SHIPPING COMPANIES

Ship Registration

All types of vessels, from pleasure yachts to oil rigs, may be registered.

The procedure for the registration of a vessel is carried out in two stages:

Provisional registration, which in terms of law has the same effect as the so-called permanent registration, can be effected very quickly. Authority to operate a ship, however, will only be given once the Administration is satisfied that the vessel conforms to all the standards required by the relative International Conventions.

Provisional registration has a validity of six months, although this can be extended by a further six months. By this time all the documentation has to be completed for permanent registration. This includes in particular:

- Evidence of ownership
- Cancellation of former registry

Authority to operate still remains linked to conformity with the relative international standards on:

- Manning,
- Safety
- Pollution prevention

Advantages of the Maltese Flag

- Complete tax exemption to owners, charters and financiers of Maltese ships of over 1000 net tons,
- No restrictions on the nationality of the shareholders and directors of Maltese companies, and master, officers and crew of Maltese ships
- No restrictions on the sale and mortgaging of Maltese ships
- No trading restrictions
- Preferential treatment is given to Maltese ships in certain ports
- Twenty-four hour, seven days a week service in respect of urgent matters.

Bare-boat Charter Registration

Maltese law provides both for bare-boat charter registration of foreign ships under the Malta flag and also for the bare boat charter registration of Maltese ships under a foreign flag. Vessels so registered enjoy the same rights and privileges, and have the same obligations, as any other ship registered in Malta. The requirements for bare-boat charter registration are that the ship must be bare boat chartered to Maltese citizens or Maltese companies and that the ship, which is not a Maltese ship, is registered in a compatible registry.

Mortgages

A mortgage in respect of a Maltese ship may be recorded in the Maltese register as soon as the vessel is registered while transfer and discharge of mortgages may be effected immediately on presentation of relative documentation to the Registrar.

Manning Requirements

Upon registration of a ship, and on application by the owner, the Merchant Shipping Directorate, in accordance with the Solas

Convention issues a minimum safe manning certificate valid for the period of the provisional registry. On permanent registration the Directorate will issue a minimum safe manning certificate valid for three years.

There are no restrictions as to the nationality of seamen engaged on Maltese ships. However, the crew on Maltese trading ships must be in possession of a recognized valid certificate of competency issued in terms of 1978 STCW Convention.

Licensed Shipping Organisations

Organisations which have their activities limited to one or more of the following activities may qualify as a licensed shipping organisation:

- The ownership, operation (under charter or otherwise), administration and management of a ship or ships registered as a Maltese ship and the carrying on of all ancillary financial, security and commercial activities
- The ownership, operation (under charter or otherwise), administration and management of a ship or ships registered under the flag of another state and the carrying on of all ancillary financial, security and commercial activities
- The holding of shares or other equity interests in entities, whether Maltese or otherwise, established for any of the purposes stated in this article and the carrying on of all ancillary financial, security and commercial activities
- The raising of capital through loans, the issue of guarantees or the issue of securities by the company when the purpose of such activity is to achieve the objects stated above for the shipping organisation itself or for other shipping organisations within the same group

Entities which may be established as a licensed shipping organisation

- Limited liability company (Public and Private) incorporated under the Laws of Malta
- General Partnership (*Partnership En Nom Collectif*)
- Limited Partnership (*Partnership En Commandit*)
- A foreign body corporate or other entity enjoying legal personality in terms of the law under which it has been established and which has a registered as place of business in Malta.

Exemptions

Exemptions from Income Tax

- Income derived from shipping activities
- Capital gains arising on the liquidation, redemption, cancellation, or any other disposal of shares, securities or any other interest, held in any licensed shipping organisation
- Any interest or income payable by a licensed shipping organisation to any person in respect of financing activities
- Any dividends paid to the shareholders of a licensed shipping organisation out of profits derived from the ownership or operations of an exempted ship

A 'tonnage tax ship' is defined in Maltese law as a ship registered under the Merchant Shipping Act which:

- Has a net tonnage of not less than 1000 tonnes registered under the Merchant Shipping Act; and
- Is owned entirely, chartered, managed administered or operated by a licensed shipping organisation

Exemption from Social Security Contributions

Persons not resident in Malta who are officers or employees of a licensed shipping organisation are exempt from the provisions from Social Security Act in Malta

Exemptions from Stamp Duty

No stamp duty is payable on:

- The registration of a tonnage tax ship under the Merchant Shipping Act
- The issue of shares or securities in of a licensed shipping organisation or the purchase, transfer, assignment or negotiation of any security or interest of any licensed shipping organisation
- The sale or other transfer of a tonnage tax ship
- The registration of any mortgage in relation to a ship or licensed shipping organisation
- The assignment of any rights and interests, in respect of any ship

Tonnage Tax

Ships registered in Malta under the Merchant Shipping Act are subject to a registration fee and annual tonnage tax as follows:

Rates per net tonnage payable on registration and annually in respect of all ships, except pleasure yachts, of 24 metres in length overall and more:

Ship of Net Tonnage (NT)		Fee on Registration	Annual Tonnage Tax
Exceeding	Not Exceeding		
0	2,500	EUR 585	EUR 875
2,500	8,000	EUR 585 plus 23.29 cents for every NT in excess of 2,500 NT	EUR 875 plus 34.94 cents for every NT in excess of 2,500 NT
8,000	10,000	Lm 1,685 plus 6.99 cents for every NT in excess of 8,000 NT	EUR 2,795 plus 3.43 cents for every NT in excess of 8,000 NT
10,000	15,000	EUR 2,005 plus 6.99 cents for every NT in excess of 10,000 NT	EUR 3,170 plus 13.98 cents for every NT in excess of 10,000 NT
15,000	20,000	EUR 2,355 plus 6.99 cents for every NT in excess of 15,000 NT	EUR 3,870 plus 11.65 cents for every NT in excess of 15,000 NT
20,000	30,000	EUR 2,705 plus 6.99 cents for every NT in excess of 20,000 NT	EUR 4,450 plus 9.32 cents for every NT in excess of 20,000 NT
30,000	50,000	EUR 3,400 plus 6.99 cents for every NT in excess of 30,000 NT	EUR 5,380 plus 6.99 cents for every NT in excess of 30,000 NT
Exceeding 50,000		EUR 4,800 plus 6.99 cents for every NT in excess of 50,000 NT	EUR 6,780 plus 4.65 cents for every NT in excess of 50,000 NT

Reductions or increases in registration fees and annual tonnage in respect of ships, except pleasure yachts, of 24 metres length overall

Age of Ship		Reduction on Fee on Registration %	Reduction or Increase on Annual Tonnage Tax %	
Equal to or Exceeding	Less than			
Years				
0	5	50	-20	
5	10	25	-15	
10	15	-	-	
15	20	-	+5	
20	25	-	+5	Subject to minimum increase of EUR 215

ONLINE GAMING OPERATIONS

In 2000 the Maltese government issued regulations governing the operations Internet Based Gaming Offices.

The Malta Lotteries and Gaming Authority will grant licences to operate gaming offices to such persons who have demonstrated “appropriate business ability to conduct the betting office successfully”.

Licences are issued for a minimum period of five years and may be extended for further periods of five years each.

Company Registration

A Malta based gaming operation must be carried out by a Maltese registered company as specified in Regulation 4 of the Remote Gaming Regulations (LN176/2004). Gaming companies are not subject to any special tax regime. In fact, online gaming operations may be carried out through a normal limited liability company registered in Malta under the Companies’ Act.

Licensing Requirements

Obtaining a gaming licence in Malta is a serious affair and in the interest of the consumers and the local reputation, the Gaming Authority would require knowing that the applicant can meet the licence obligations. An audited control system must be drawn up with regard to the accounting, administration and electronic technology.

The license carries with it the right of inspection, at any time to verify whether the conditions are being complied with. The operations of a licensed company are subject to the laws and regulations of Malta. The application for a gaming license requires the following documentation:

- Detailed profile of the promoting company
- A copy of the last audited accounts of the promoting company
- A business plan indicating the economic activity - including job creation if any - which will be carried out from Malta
- A plan of the premises earmarked for adoption as a call centre.

Licensing fees

On submission of application form EUR 2,330 (USD 3,675) for any class of remote gaming licence.

On Issue of any Remote Gaming Licence EUR 7,000 (USD 11,040) per annum. Such a licence is normally issued for a 5 year period.

On application for renewal of any Remote Gaming Licence EUR 1,200 (USD 1,895).

Basic Requirements

The regulations require a presence in Malta in the form of premises from which the operations are carried out.

Betting against computer generated games such as cyber-casinos on the Internet will also be considered for a license and the Internet may be used as a communication medium (e.g. e-mail) to a call-centre.

Gaming Taxation

Online gaming

- EUR 4,660 (USD 6,800) per month for first six months

- EUR 7,000 (USD 10,300) per month for the entire duration of the licence period.

Class 4 Licences

- EUR 0 per month for first six months
- EUR 2,330 (USD 3,400) per month for the next six months and EUR 4,660(USD 6,800) per month for the remaining period of the license.

Online betting operations

- One half of one per centum (0.5%) on the gross amounts of bets accepted

Online betting exchanges

- One half of one per centum (0.5%) on the sum of all net winnings calculated per player per betting market

Online pool betting

- One half of one per centum (0.5%) on the aggregate of stakes paid.

Provided that in no case will the maximum of tax payable per annum by any licensee in respect of any one license, exceed EUR 466,000 (USD 686,000).

Direct taxation of online gaming companies

Companies registered on or after 1st January 2007 are taxable at the rate of 35% however, shareholders are entitled to claim back a 6/7ths refund of the advanced corporate income tax upon distributions of profits.

Alternatively, shareholders may claim a 2/3rds refund of the tax payable in Malta.

In addition, Malta does not levy withholding tax on any outbound distributions of dividends. The refund system and the absence of a dividend withholding tax ensures that profits derived by gaming companies are taxed and repatriated outside Malta in the most efficient manner.

EU Laws

The EU presently does not regulate gambling and in accordance with the EU principle of solidarity, EU member states are free to regulate the matter at a national level. In fact the EU welcomes Malta's approach to attract online gambling.

In a number of test cases, the European Court of Justice has held that the Treaty of Rome applies to the sector and further considers gambling as falling under the free movement of capital principle.

What Malta Offers

Fiscal Benefits

- Low taxation on gaming operations in Malta
- Tax exposure in Malta may be as low as 5%
- A wide network of double taxation agreements

Other Advantages

- Sound legal and financial system
- Sound ICT infrastructure
- Legislation on betting and e-commerce
- Strong regulatory bodies
- Solid international reputation
- Highly skilled work force
- Low cost of doing business
- State of the Art telecommunications facilities
- An internal market of circa 500 million EU citizens.

FOREIGN RESIDENTS IN MALTA – PERMANENT RESIDENCE

With its beautiful Mediterranean climate, its abundance of historic and cultural sites and the ever-present blue and inviting sea, Malta is a most attractive location for the establishment of residence to thousands of expatriates. This attraction is enhanced through the island's proximity to the European mainland, most of which can be reached by air travel of 3 hours duration or less. The proficiency of the Maltese at foreign languages, especially English (which is our second national language) Italian and French, go a long way in making these foreign residents feel wanted and welcome. Malta is also a very safe environment wherein to live and raise one's family.

Permanent Residents Scheme

Malta offers a special scheme for foreigners wanting to shift their residence to Malta. The scheme does not impose any restrictions on the reasons why foreigners may want to become resident in Malta. The scheme is mostly attractive to retired individuals deriving substantial streams of income who might consider relocating themselves to a warm country with high standards of living and yet minimising their overall tax burden. However, any foreigner may apply for a permanent resident certificate provided that no employment activity is carried out in Malta. Combining Malta's wide treaty network with the fiscal incentives of the scheme, various tax planning techniques may be developed to decrease the tax liability of the foreigner. Warm climate, attractive property prices, Mediterranean culture, good infrastructure and the welcoming Maltese citizens make Malta one of the most attractive countries to reside in.

Income Tax

Residents holding a permanent resident certificate are taxed on a remittance basis. This means that they are subject to tax on:

- Income arising in Malta
- Capital gains arising in Malta
- Income arising outside Malta and remitted to Malta

Permanent residents are not subject to tax on any gains arising outside Malta even if such gains are remitted to Malta.

Income Tax Rate

As a permanent resident in possession of a valid permit issued in terms of the Immigration Act, the applicable tax rate shall be 15% flat rate with a minimum tax payable per annum of EUR 4,200.

Transfers of Capital

Transfers to Malta out of capital are not taxable. For tax purposes, any income, which is not transferred to Malta in the year, it is earned, becomes part of the capital sum invested overseas. Any subsequent transfer to Malta from such funds would be considered a transfer of capital. To prove this one needs to present some sort of statement (example - bank statement) showing that the funds transferred formed part of the invested sum at the beginning of the year.

It is recommended for the permanent resident in Malta to open two bank accounts and transfer all income into the first account and all capital withdrawals into the second. This will facilitate the preparation and support of his Income Tax Return, as well as to prove the minimum income received in Malta as stipulated in his Permanent Resident Permit.

Double Tax Relief and Tax Planning

Whenever the income received in Malta has already been taxed by another tax jurisdiction, a credit may be claimed on the tax paid at source. However, in no instance can such a claim reduce the local tax payable to below the stipulated minimum of EUR 4,200.

From the above it becomes clear that whenever the income has already been taxed overseas at a rate which is higher than the local applicable rate of 15%, it will not matter what amounts of income the permanent resident brings to Malta since the credit for the higher overseas tax will always cancel the tax payable on that income in Malta. In other words, no tax liability arises in Malta for any income arising outside Malta which has suffered tax at the rate of 15% or more and has been remitted to Malta.

An element of tax planning arises whenever the income is derived in a jurisdiction where it is not subject to tax at source. In such case the permanent resident may either opt to remit the income to Malta and be subject to tax at a rate of 15%. Alternatively, the permanent resident may opt retain this income abroad. In such case, where the income is not needed in Malta, it will be advantageous to retain the income abroad and thus suffer to no tax in Malta. Furthermore, if additional funds are required locally, then repatriation from the capital sums would be more appropriate since, as stated above, this will not give rise to income tax.

It has to be noted also, that Investment Income arising in Malta is also taxed at the above rate (i.e. 15%) Therefore it may be in the taxpayer's interest to transfer all bank accounts to a Maltese bank instead of leaving them overseas if they are attracting a higher rate of tax. Such investment in Malta is totally safe, whether one chooses one of the three local major banks or Government Stocks.

Another option is to transfer these savings to a tax-free jurisdiction. However unless the income from such savings exceeds EUR 20,000 per annum, this will not give rise to any tax savings in Malta, as anything below this level would still attract the minimum tax payable of EUR 3,500.

Customs Duty

Permanent residents are permitted to import into Malta all their used (as opposed to brand new) personal belongings, free from any customs duty or import licenses as long as they are imported within 6 months of one's arrival in Malta.

Also, one private vehicle may be imported free of customs duty and Value Added Tax provided that such a vehicle has been owned for a continuous period of at least six months immediately before the issue of the said permit.

Alternatively, the Permanent Resident may choose to acquire his vehicle in Malta, in which case it will be exempt from Customs duty (but not Value Added Tax).

If such a vehicle is disposed of in Malta the vehicle is re-valued by the Customs Department and Value Added Tax and customs duty have to be paid thereon. VAT is payable at 15% on all vehicles so sold, whilst vehicles of non EU origin also attract a 12% customs duty. These rules do not apply if the vehicle is sold to another Permanent Resident.

Repatriation of Capital

On the abandonment of his Maltese residence, the ex permanent resident is entitled to repatriate all his capital held in Malta to any foreign jurisdiction of his choice.

Conditions to obtain a Permanent Residence Certificate

- Provides documentary proof that he/she can bring into Malta an annual income of not less than EUR 13,980 in his respect and a further EUR 2,330 in respect of each dependent
- Provides documentary proof that from the date of application, onwards he has either an annual income of not less than EUR 23,300 arising outside Malta or has in his possession a capital of not less than EUR 349,410

- The individual is required to take up residence in Malta within 12 months from the date the certificate is issued
- Produces evidence that within 12 months of taking up residence in Malta, he/she has acquired a flat at a cost of not less than EUR 69,880 or a house of not less than EUR 116,470 or leased immovable property at not less than EUR 4,192 per annum.

E-COMMERCE

With the continued increase in information technology and its widespread diffusely to all parts of the globe, e-commerce is already having a huge impact on how the human race does business.

E-commerce is good for business and good for the consumers since it:

- Widens choice
- Reduces costs
- Increases competition
- Facilitates trading

Realising the potential that e-commerce can have on our economy, the Maltese government has set up the first dedicated E-Money Enterprise Zone in the world.

Malta is the ideal location for the establishment of an e-commerce company. Amongst its major advantages one finds:

- Economic, social and political stability
- Well educated and energetic workforce
- State of the art telecommunication facilities
- Modern legal and business climate
- Dedicated legislation
- A reputation as a world leader in financial services
- Cost competitiveness
- Real tax efficiency

In short, Malta offers any e-money operation a location that ensures success and enhances its reputation.

Legislation

During the past 10 years Malta's laws have been continually reviewed and modernised to bring them up to date with current global requirements and also in preparation for entry of the island into the European Union, on 1 May 2004.

Malta's laws have their root in English Common law and Roman civil law. As such any lawyer in the world can easily understand them, especially European lawyers.

For the E-Money sector, the Electronic Commerce Act 2001 is perhaps the most important. Borrowing extensively from best practices across the globe, this Act provides "for the validity of transactions carried out and information submitted through electronic communications" This Act also makes the misuse of electronic signatures, signature creation devices and certificates as criminal offences, as are the unlawful access or use of information and the misuse of computer hardware.

In June 2000 Malta became the first European country and one of only six in the world, to reach an accord with the organization For Economic Cooperation and Development (OECD) on the development of tax practices that would help encourage greater global economic stability. Malta is now playing a central role in working with the OECD on policy development and in spite of the favourable tax provisions available to companies the OECD has officially declared that Malta is not a tax haven.

Telecommunications

During the last fifteen years Telecommunication in Malta has gone through a period of rapid change brought about by privatisation and de-regulation. Since 1st January 2003, the telecommunication sector in Malta is a totally open market.

The major benefits to the consumer of such policies are:

- Drastic drop in charges (sometimes by as much as 77%)
- Higher investment in the latest technology by the market players
- Wider range of services

Malta has a fully digitalised national telephone network that provides for:

- Packet switching,
- Frame relay,
- High speed leased lines,
- ISDN
- ADSL

The local cable company has invested in the creation of a Digital Interactive Hub that can provide for:

- Interactive television
- Telephony
- Video on demand
- Internet and live video streaming for commercial use

In Malta almost all homes are linked to the fixed-line telephone network whilst the cable network passes through 98% of all properties with 67% of all businesses and household actually using such service.

Internationally, Malta is connected through two satellites stations (one to the Atlantic Ocean region and the other to the Indian Ocean region) and a submarine fibre optic link to mainland Europe.

The ISP sector in Malta is highly competitive and offers many services including:

- Hosting and virtual hosting
- Server housing and maintenance
- Brokerage and trading services
- E-payment gateways
- E-commerce integration
- Multi-currency credit card transaction processing
- On line cable internet application design and development
- ASP services and web design
- Cost Savings

When compared to mainland Europe, Malta has various cost advantages. Amongst the most important one finds:

- Employment costs 70% less
- Property costs 50% less
- Professional fees 60% less

New companies may also be eligible for grants and/or subsidised loans as well as a host of other benefits provided by the Malta Enterprise Act

Taxation

Amongst the most salient tax benefits, one finds:

- The possibility of tax efficient Maltese company subject to a refund of 6/7ths of tax paid by such company on the distribution of profits
- Special tax benefits for incoming companies
- Tax benefits for expatriate staff
- Double taxation agreements with over 45 countries
- Tax incentives for software development, back office and digital warehousing services operations.

EXCHANGE CONTROL

The exchange controls that are normally of interest to a foreign investor include:

- Capital invested in Malta
- Repatriation of profits
- Repatriation of salaries earned by expatriates

Capital Invested In Malta

There are no controls on capital that is to be invested in Malta, although the **Malta Financial Services Authority** does carry certain character checks to ensure that the image of the country is protected as far as possible.

Capital invested in Malta can be repatriated without any special formalities.

Repatriation of Profits

Maltese legislation also guarantees the repatriation of profits earned from local investment. No special formalities are required.

Repatriation of Earnings

Expatriate employees can easily transfer all their earnings to an overseas destination upon proof of their earnings. The only documentation that need be submitted to any local bank when transferring such funds is a copy of the pay slip showing the earnings and proof that tax thereon has been deducted.

Internet Banking

Like all modern economies Malta's banking institutions all offer internet banking facilities whereby non resident investors can be in total control of their funds that may be present in Malta. Once the bank accepts to open a bank account it automatically provides such facilities.

REDOMICILATION OF FOREIGN COMPANIES TO MALTA

The re-domiciliation of companies registered in foreign jurisdictions to Malta has been made possible through changes made in the Maltese COMPANIES ACT 1995, during the year 2002 - Refer Legal Notice 344/2002.

This means that such a company requiring the transfer of their operations to Malta need not liquidate the foreign company and register a new one in Malta. Instead they can move their domicile to Malta whilst the legal entity originally formed in the foreign jurisdiction remains in existence.

The effect of such a move is that it does not create a new legal entity, but instead moves the original entity from one legal jurisdiction to another. Such a company will still retain all its assets, rights, obligation and liabilities it had in its original country of registration. Furthermore any legal proceedings instituted by or against this company will not be affected. Neither will the company officers be released from any of the obligations, judgment, convictions, rulings, order, debt or liability that was or becomes due on any cause existing against them.

The first step that needs to be taken is a formal application to the Registrar of Companies requesting that the foreign registered company be re-domiciled to Malta. This application must be accompanied by the following documentation:

- Proof that the law in the original country permits such a re-domiciliation, usually in the form of a declaration from the foreign authority in charge of registration of companies
- A copy of the company's memorandum or charter showing that it permits such re-domiciliation and containing all the information as required by Maltese company law

- Evidence that the foreign jurisdiction has been informed of this request to re- domicile to Malta
- Proof that the shareholders, debenture holders and creditors of the company have consented to the migration in such numbers or proportion as is required by the law in the jurisdiction of origin
- A resolution of the shareholders of the company authorizing it to migrate to Malta
- A certificate of good standing issued by the jurisdiction where the company is incorporated.
- A declaration signed by all the directors of the company confirming :
 1. The current name of the company, and the name it wishes to be registered in Malta
 2. Details of the jurisdiction where it is presently incorporated
 3. The date of incorporation
 4. Their decision to re-domicile to Malta
 5. The company has informed its current jurisdiction of its intention to migrate to Malta
 6. That no proceedings are pending against the company for breach of any law of the foreign jurisdiction
- A declaration by the directors that the company is solvent

- A list with full details of :
 1. Company directors
 2. Company secretary
 3. Persons vested with the administration and/or representation of the company, if any.

Once all these documents are filed with the Registrar of Companies, a provisional certificate of continuation is issued and the company will be considered as provisionally registered under the Companies Act.

Within six months of the issue of such certificate, the company has to present proof to the Registrar that it has ceased to be registered as a company in its original jurisdiction. If this is not done, the Registrar may:

- Strike the company off the local register of companies, or
- Extend the time limit for submission of the above proof by a further 3 months.

On presentation of the required evidence, the Registrar will issue a certificate of continuation and requires that the provisional certificate of continuation be surrendered to him.

Upon completion of these formalities, the company will be considered as duly registered under the Companies Act and becomes subject to all its provisions.

Non-Permissible Registration

Applications for re-domiciliation to Malta will not be entertained if they originate from companies that:

- Are in dissolution or are being wound up
- Insolvency proceedings, arrangements, compositions, recovery and similar proceedings have been commenced by or against them
- A liquidator or special administrator or receiver has been appointed
- There is a scheme or order suspending or restricting creditors' rights
- There exist proceedings against it for breach of any law in the country of its original incorporation.

ACQUISITION OF IMMOVABLE PROPERTY IN MALTA

The acquisition of immovable property situated in Malta by non-residents is governed by the Acquisition of Immovable Property (Acquisition by Non-residents) Act, referred to as, the AIP rules.

Non-residents

A person is considered to be a non-resident for the purposes of the AIP rules if:

- In the case of an individual, such individual is not a citizen of Malta or of another Member State
- In the case of an individual who is a citizen of Malta or of another EU Member State, such citizen has not been resident in Malta for a minimum continuous period of 5 years at any time preceding the date of acquisition of the immovable property
- In the case of any body or other association of person (including a company), such body or association of persons:
 - (i) Is constituted, formed, established, incorporated or registered under the laws of a State other than Malta or another Member State; or
 - (ii) It has its registered address, principal place of residence or of business in a state other than Malta or another Member State; or
 - (iii) 25% or more of its share or other capital is owned by a non-resident person; or
 - (iv) It is directly or indirectly controlled by one or more non-resident persons;

AIP Permit

Unless the property is situated in a Special Designated Area, a non-resident may acquire immovable property situated in Malta only if he/she is in possession of a valid AIP permit.

A non-resident may not acquire more than one immovable property which requires an AIP permit.

Conditions to obtain an AIP Permit

In the case of a dwelling house:

- The immovable property is solely used as a residence by the applicant and his family
- Acquisition is to be effected within six months from the date of issue of the permit
- Within three months from publication of the deed of acquisition, a certified copy of such deed must reach the office of the Commissioner of Inland Revenue
- The immovable property may not be sold in part or converted into more than one dwelling house

In the case of a plot of land:

- The applicant is to develop the plot into one complete single residence within a period of two years
- The immovable property is eventually to be used solely as a residence by the applicant and his family
- The acquisition is to be effected within six months from the date of issue of the permit

- Within three months from publication of the deed of acquisition, a certified copy of such deed must reach the office of the Commissioner of Inland Revenue (Capital Transfer Duty Department).

An AIP permit will only be issued if the value of the immovable property is not less than EUR 70,000 in case of an apartment or not less than EUR 117,000 in the case of any other property.

Special Designated Areas

There is no need for a non-resident person to obtain an AIP permit with respect to immovable property situated in a Special Designated Area.

This implies that an immovable property situated in a Special Designated Area may be acquired by a non-resident who already owns immovable property situated in Malta acquired through the means of an AIP permit.

Furthermore, there are no restrictions on the amount of properties which may be acquired in areas situated in Special Designated Areas.

The following areas situated in Malta are deemed to be Special Designated Areas:

- **Fort Chambray**



- **Portomaso Development**



- **Cottonera Development**



- **Manoel Island / Tigne` Point**



- **Tas-Sellum Residence**



- **Madliena Village Complex**



- **SmartCity**



- **Fort Cambridge Zone, Tigne`**



- **Pender Place**



MGI Malta
Certified Public Accountants
381 Zabbar Road • Fgura PLA16 • Malta
www.mgimalta.com
info@mgimalta.com
T +356 2180 2044
F +356 2167 5418