
EMANUEL ELLUL LIMITED

TAX & MANAGEMENT CONSULTANTS



Malta's tax refund system

Basis of Malta taxation - Individuals

Income tax in Malta is governed by the Income Tax Act and the Income Tax Management Act, together with their respective subsidiary legislation, and collectively referred to as the Income Tax Acts ('ITA').

In terms of the ITA, any person that is considered to be ordinarily resident and domiciled in Malta is subject to Malta tax on a worldwide basis, that is on any income or gains whether arising in Malta or not.

Persons that are either resident or domiciled in Malta are subject to Malta tax on income and gains arising in Malta and on so much of their income arising outside Malta (excluding capital gains) that is remitted to or received in Malta. Income subject to Malta tax includes capital gains arising on the transfer of immovable property, securities, business, permits, goodwill and intellectual property rights.

Basis of Malta taxation – Maltese Companies

A company incorporated and registered in Malta is considered to be ordinarily resident and domiciled in Malta for Malta tax purposes and is therefore subject to a standard rate of 35% Malta tax on its worldwide income. A company that is incorporated outside Malta is only considered to be resident in Malta if its management and control is exercised in Malta. Any overseas tax suffered by a Malta company would generally be eligible for tax relief as a credit against the Malta tax liability arising on the corresponding source of income.

Full imputation system of taxation

Malta operates a full imputation system of taxation with respect to dividends whereby the tax suffered by a Malta registered company on those profits which it distributes as a dividend in favour of its shareholder is credited in full against the Malta tax liability of that shareholder.

Since the 35% tax rate applicable to companies is equivalent to, or more than the maximum progressive rate of tax applicable to individuals, a dividend distribution would typically result in no further tax payable at the level of the shareholder.

Tax accounting

For Malta tax purposes, a company registered in Malta is required to allocate its distributable profits to the following five separate taxed accounts depending on the source and nature of the said profits:

- **Final Tax Account (FTA)**, to which a company would allocate tax exempt profits (where the exemption is retained at shareholder level upon distribution) and profits subject to a final tax;
- **Immovable Property Account (IPA)**, to which a company would allocate profits subject to tax under the ITA, derived directly or indirectly from immovable property situated in Malta;
- **Foreign Income Account (FIA)**, to which a company would allocate income subject to tax under the ITA, derived principally from investments situated outside Malta;
- **Maltese Taxed Account (MTA)**, to which a company would allocate income subject to tax under the ITA which is not allocated to the FTA, the IPA or the FIA; and
- **Untaxed Account (UA)**, to which a company would allocate the difference between total distributable profits/accumulated losses and those amounts allocated to any of the other taxed accounts.

It should be noted that the full imputation system only applies to distributions from the IPA, FIA and the MTA.

Tax refunds

A shareholder in receipt of a dividend distributed by a Malta company out of profits which have been allocated to its MTA or FIA is entitled to claim a refund of the Malta tax on those profits, provided that the shareholder is duly registered for this purpose. In order to avail from the Maltese tax regime system, shareholders in receipt of such dividends should not be ordinarily resident and domiciled in Malta.

The rate of tax refund to which the registered shareholder is entitled depends on the following factors:

1. The nature of the underlying profits out of which the dividend has been distributed by the Malta company and the tax account allocation of those profits; and
2. The application of any double taxation relief by the Malta company on such profits.

In most cases, the tax refund entitlement of a registered shareholder would be of six-sevenths of the Malta tax suffered by the Malta Company on the profits out of which the dividend is distributed. This rate may however vary as follows:

- **Passive Interest or royalties (PIR)**, where the profits out of which a dividend is distributed consists of PIR, the refund is reduced to five-sevenths of the Malta tax suffered on those profits.
- **FIA profits subject to a claim of double taxation relief**. A tax refund at the rate of two-thirds of the Malta tax would apply to dividends distributed out of profits allocated to the FIA in respect of which the distributing company has claimed double tax relief.
- **Participating Holdings (PH)**. A company in receipt of income (dividends) or gains derived from an investment which qualifies as a participating holding in terms of article 2 of the ITA may elect to:

1. Apply the participation exemption in which case such income/gains would be exempt from Malta tax; or
2. Include such income/gains as part of the taxable income of the Malta company which would entitle its shareholder in receipt of a dividend out of those profits to a full refund of the Malta tax paid by the company on that income/gains.

A claim for a refund of tax by a registered shareholder of a Malta company is paid by the Malta fiscal authorities within 14 days of a valid application being submitted.

Calculation of tax refund

Tax refunds are generally calculated on the tax charged on the underlying profits of the Malta company out of which the dividend has been distributed before deducting any double taxation relief, unilateral relief or commonwealth relief, but limited to the actual tax paid by the company.

The above tax refund mechanisms may be illustrated in the examples shown in the following table.

Income stream	Income subject to foreign tax relief		PH (non participation exemption)	PIR	Any other income
	MTA	FIA	FIA	FIA	FIA/MTA
Company Level					
Income	1,000	1,000	1,000	1,000	1,000
Malta tax at 35%	350	350	350	350	350
Less: Foreign tax relief	(50) ¹	(150) ²	-	-	-
Net Malta tax	300	200	350	250	300
Shareholder Level					
Net dividend	650	650	650	650	650
Tax refund rate (computed on 35% Malta tax)	6/7	2/3 limited to 200	Full refund	5/7	6/7
Tax refund	300	200	350	250	300
Net Malta tax	-	-	-	-	-
Malta effective tax rate	0%	0%	0%	10%	5%

¹ Income subject to 5% foreign tax

² Income subject to 15% foreign tax

It may be noted from the above table that through the application of a tax refund it would be possible to achieve a combined overall Malta effective tax rate in a range of between 0% – 10%.

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