

TAX 12

Your Malta tax handbook
for the next 12 months.



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The purpose of this handbook is to provide basic legal information for investors seeking to conduct business in Malta. The handbook is based on general principles of Maltese law and does not represent any kind of legal opinion. Should you require tax advice on a specific issue, please contact ARQ Group directly.

The contents of this handbook were compiled by ARQ Group on

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Contents

04

[Chapter 1](#)
[Malta's economy](#)

12

[Chapter 2](#)
[Forms of Organisations](#)

20

[Chapter 3](#)
[Corporate Taxation](#)

36

[Chapter 4](#)
[International Taxation](#)

54

[Chapter 5](#)
[Taxation of individuals](#)

76

[Chapter 6](#)
[Industry Incentives](#)



Chapter 1

Malta's economy



TAX 12

Your Malta tax handbook
for the next 12 months.



Activity

The economy continued to grow at a sustained rate. Provisional estimates issued by the National Statistics Office (NSO) indicate that the Gross Domestic Product (GDP) for the third quarter increased by 9.5% in nominal terms when compared to a year earlier. In real terms, GDP went up by 7.5%. During the third quarter of 2018, GDP growth was mainly attributable to domestic demand and external demand. Total final consumption expenditure increased by 8.1% in nominal terms and 6.5% in real terms.

The flash estimate for third quarter euro area growth stood at 1.6% declining from 2.2% in the previous quarter. A decline is also expected from the European Union (EU) average growth rate down 1.8% in Q3 2018 from 2.1% in Q2 2018.

Tourism also continued to be an important contributor to Malta's economy.

The number of total inbound visitors in October grew by 10.5% compared with growth of 15.1% in September. Tourist spending in Malta increased at a more modest rate of 3.3%, after going up by 4.8% in September. On the other hand, during the third quarter of the year, foreign passengers fell to 183,480, from 206,541 in the same period of 2017, even though the number of cruise liners that visited Malta stood at 95, only four less than a year earlier.

The Index of Industrial Production, which measures economic activity in the quarrying, manufacturing and energy sectors, rose by 0.9% in October in annual terms, following a contraction of 4.7% in the preceding month. On the other hand, growth in retail trade, which is a short-term indicator of final domestic demand, fell at an annual rate of 2.3%, following a decline of 0.9% in September.



Labour market

In July, the number of persons registering for work stood at 1,828 decreasing by 26.9% when compared to the corresponding month in 2017. The registered unemployment rate in February 2018 stood at 1.0% of the labour supply.

The seasonally-adjusted unemployment rate published by Eurostat for Malta also declined in October, falling to 3.7%, down from 4.0% a year earlier. The rate for the euro area was 8.1% in October 2018, stable compared with September 2018 and down from 8.8% in October 2017.

During the first quarter of 2018, Labour Force Survey estimates indicated an increase of 6.8% in employment when compared to the corresponding quarter of 2017. The average annual basic salary (excluding overtime, bonuses and allowances) of employees for the third quarter of 2018 was estimated at €19,076.

The highest basic salary was recorded in the Information and Communication sector. Average annual salaries varied from €32,979 among managers to €11,691 among persons employed in elementary occupations.

The seasonally-adjusted unemployment rate published by Eurostat for Malta also declined in October, falling to 3.7%, down from 4.0% a year earlier.



Prices & cost competitiveness

After picking up for several months, the annual rate of inflation as measured by the Harmonised Index of Consumer Prices (HICP) in October 2018 fell to 2.0% from 2.5% in September 2018 largely reflecting tourism-related services. Inflation in non-energy industrial goods (NEIG) eased further, reflecting downward pressures on prices for imported goods. On the other hand, food inflation picked up, driven by annual increases in the prices of bread, dairy products, and vegetables. Inflation in the energy subcomponent was unchanged when compared with September.

Cost inflation, as measured by the Industrial Producer Price Index (PPI), stood at 3.4% in October. Inflation eased, when compared to recent months.

Malta's harmonised competitiveness indicators (HCI) continued to point towards further deterioration in international

competitiveness in October. Annual growth in the nominal HCI stood at 2.6%, while the real HCI, which also takes into account relative price pressures, grew by 3.3%. This suggests that movements in the euro exchange rate and developments in relative prices vis-à-vis international trading partners over the past year have negatively impacted Malta's competitiveness. Nonetheless, the extent of this deterioration has moderated in recent months.

During the second quarter of this year, the Property Price Index (PPI) increased at a slightly faster pace as it rose by 5.7% on a year earlier, after rising by 5.6% in the first quarter of 2018. In the quarter under review, the rate of growth in Malta was higher than that registered in the euro area, which stood at 4.3%.



Government finance

During the second quarter of 2018, the general government returned to a surplus after registering a deficit during the previous quarter. When measured as a four-quarter moving sum, the general government surplus was significantly higher when compared with the period ending in June 2017. The cyclically-adjusted surplus-to-GDP ratio also improved during this period. Meanwhile, general government debt as a share of GDP decreased slightly to 49.6% at the end of June 2018, from 50.5% at the end of March.

At the end of June, the debt-to-GDP ratio in the euro area stood at 86.3%.

Sentiment

In October, the Central Bank's Business Conditions Index (BCI) eased slightly over the previous month, and fell to 0.6. The latest drop in the BCI index reflected lower economic sentiment, which outweighed improvements in tourist arrivals and the labour market, amongst other factors. The BCI, however, continued to indicate above average conditions.

The Central Bank's Economic Sentiment Indicator (ESI) declined to 109, from 120 in the preceding month and remained above its long-term average of 101. Lower sentiment was registered in all sub-components except among consumers, whose confidence was unchanged.



Looking ahead

The Central Bank's latest projections foresee economic growth to remain strong from a historical perspective. During the projection horizon, growth will remain high, supported by both demand and supply factors. In particular, the continued impact of the energy reforms, new investment projects and increased labour supply are expected to keep potential output elevated. Domestic demand, driven by higher consumption and investment, is anticipated to become the primary driver supporting the economic expansion over

the projection horizon. Net exports are expected to provide some support this year, but their contribution is expected to turn negative from 2019, reflecting higher import growth.

Annual inflation, based on the HICP, is projected to edge up to 2.1% by 2021, reflecting a pick-up in domestic wage pressures. With respect to public finance, projections for the government balance remain in surplus and for debt the debt-to-GDP ratio is projected to decline to below 40% by 2021.

The pace of job creation is set to moderate but remain strong. The labour market is projected to remain tight, with the unemployment rate remaining at 4.0% by 2021.



Real GDP growth Q2/2018 MT	5.9%
Real GDP growth Q2/2018 Euro area	2.1%
Tourists (Jan-Jul 18)	+16.9%
Total nights spent by tourists (Jan-Jul 18)	+16.6%
Registered unemployment rate (Feb 2018)	1.0%
Employment growth (Q1 2018)	+5.7%
HICP Inflation Rate (Aug 2018)	2.4%
Government balance-to-GDP (Q1 2018)	2.5%
Government debt-to-GDP (Q1 2018)	50.4%



Credit ratings

Rating Agency	Long-term	Short-term	Outlook
Fitch	A+	F1+	Stable
Moody's	A3	n/a	Positive
Standard & Poor's	A-	A-2	Positive



Chapter 2

Forms of Organisations



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Your Malta tax handbook
for the next 12 months.



In Malta, business may be conducted through the various forms of organisations generally known in most countries.

The Maltese Companies Act, Chapter 386 of the Laws of Malta, is the principal legislation covering the setting up of companies and partnerships and how their affairs may be conducted.

This section gives a brief description of the main forms of entities in Malta.



Limited liability companies

A limited liability company is formed by means of capital divided into shares. The liability of the shareholders is limited to the amount, if any, unpaid on the shares held.

The Companies Act distinguishes between a public limited company and a private limited company.

A private company is a company that restricts the rights to transfer shares, limits the number of its members to fifty and prohibits any invitation to the public to subscribe for any shares of the company.

A private company may also be an exempt company if no body corporate acts as its director and if it is established with one main trading activity. A private exempt

company may also be a single member company, whereas a private company must have a minimum of two shareholders.

A public company is defined as a company that is not a private company as defined by the Companies Act.

The name of a public limited company must end with the words 'public limited company' or the abbreviation 'plc.' The name of a private limited liability company must end with the word 'limited' or with the abbreviation 'ltd.'

The vast majority of companies in Malta are private companies.



2.2

Partnerships

A Partnership 'en nom collectif' has its obligations guaranteed by the unlimited, joint and several liability of all its partners.

A Partnership 'en commandite' has its obligations guaranteed by the unlimited, joint and several liability of its general partners, and by the liability, limited to the amount of their contribution, of one or more limited partners. Partnerships 'en commandite' may have their capital divided into shares.

Partnerships 'en commandite', with capital divided into shares, are treated like limited liability companies for income tax purposes.

All forms of corporate entities described above have a legal personality that is distinct from that of its members.

Partnerships 'en commandite', with capital divided into shares, are treated like limited liability companies for income tax purposes.



2.3

Trusts

The principal Maltese law on trusts is the Trusts and Trustees Act, Chapter 331 of the Laws of Malta.

Maltese legislation allows for the setting up of various types of trusts: Constructive Trusts, Discretionary Trusts, Fixed Interest Trusts and Purpose Trusts.

A Trust is deemed to exist whenever a person, referred to as 'the trustee', holds, as owner, or has vested in him property under an obligation to deal with that property for the benefit of other persons called the beneficiaries (whether or not yet ascertained or in existence), or for a charitable purpose which is not for the benefit only of the trustee, or for both such aforesaid benefit and purpose.

Maltese legislation allows for the setting up of various types of trusts: Constructive Trusts, Discretionary Trusts, Fixed Interest Trusts and Purpose Trusts.

Foundations

The setting up of foundations and associations is regulated by the Civil Code, Chapter 16 of the Laws of Malta.

A foundation is an organisation generally set up by donated funds, whereby the assets are entrusted to an administrator for the fulfilment of a specified purpose or for the benefit of a named person/s (beneficiaries).

A foundation is endowed with legal personality and the assets of a foundation are kept distinct from the assets of its founders, administrators or beneficiaries.

A foundation may not be established to trade or to carry on commercial activities even if the proceeds of such efforts are destined for social purposes.

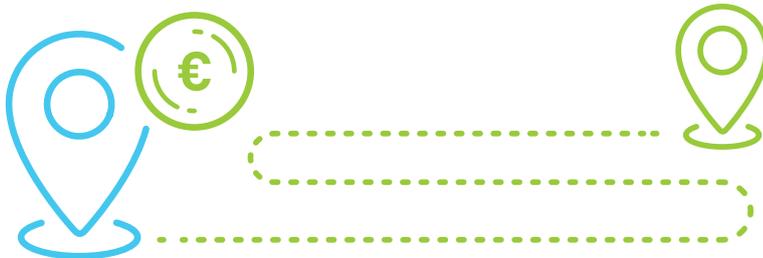
A foundation may only be constituted through a public deed or by a will.





Branches of foreign companies

A company incorporated outside Malta that establishes a place of business in Malta must register with the Maltese Registrar as an overseas company. Certain details about the company must be provided to the Registry of Companies and the company would also need to submit annual documentation similar to that required from a Maltese company.





2.6

Continuation of companies

Malta allows a foreign body corporate of a nature similar to a Maltese company to be continued in Malta without being wound up.

Essentially the foreign company would move its corporate seat to Malta without being dissolved in the country or jurisdiction from which it is exiting. A company may only be continued in Malta if the jurisdiction from which it is exiting is an approved jurisdiction that permits such a continuation.

The continued company would retain all its assets and liabilities and would also be permitted to step up the base cost of its assets to market value upon the continuation.

Once a Maltese certificate of registration is issued, the company would become subject to all rights and obligations under Maltese law.

A company may only be continued in Malta if the jurisdiction from which it is exiting is an approved jurisdiction that permits such a continuation.



Chapter 3

Corporate Taxation



TAX 12

Your Malta tax handbook
for the next 12 months.



3.1

Main Features

Income tax is levied on income in general as well as on certain specified capital gains in terms of the Maltese Income Tax Act (ITA), Chapter 123 of the Laws of Malta.

The standard corporate tax rate in Malta is 35%.

Income is categorised under the following headings:

- **gains or profits from a trade, business, profession or vocation;**
- **gains or profits from an employment or office;**
- **dividends, premiums, interest or discounts;**
- **pension, charge, annuity or annual payment;**
- **rents, royalties, premiums and any other profits arising from property;**
- **gains or profits not falling under the above categories.**

Whereas all sources of income are taxable, only certain types of capital gains are subject to tax in Malta. Capital Gains are tackled in Section 3.4 of this handbook.



3.2

Jurisdiction to Tax

Persons who are ordinarily resident and domiciled in Malta are liable to tax on their world-wide chargeable income and capital gains, i.e. on all sources of income and capital gains irrespective of their source.

A person who is resident but not ordinarily resident and domiciled in Malta is subject to tax on:

- **income and capital gains arising in Malta; and**
- **income arising outside Malta and received in Malta.**

Foreign capital gains derived by persons who are resident but not ordinarily resident and domiciled in Malta are not subject to tax in Malta.

A person who is not resident in Malta is subject to tax on chargeable income and capital gains arising in Malta.



3.3

Determination of chargeable income

The rules set out in the ITA for calculating chargeable income (i.e. profit for income tax purposes) are not necessarily the same as the rules that apply to calculating profit in other circumstances (for example the rules for determining accounting profit and loss under an accounting framework such as International Financial Reporting Standards [IFRSs]). Accordingly, whether an expense can be taken into account for calculating taxable profits depends solely on whether the ITA (and/or rules issued under the ITA) allows that expense to be considered deductible.

Article 14(1) of the ITA states that a person is entitled to claim a deduction for all expenses incurred to the extent that they were wholly and exclusively incurred in the production of the income. Therefore, for

any expense to be treated as deductible, a direct link must exist between the item of expenditure and the income against which it is to be deducted.

However, there are specific items of expenditure that are never deductible. These include:

- **the cost of any improvements.**
- **losses or expenses which are recoverable under any insurance or contract of indemnity;**
- **rent of any premises or part of premises not paid for the purpose of producing the income;**
- **any payments of a voluntary nature, such as gifts and donations;**



- certain payments of interest, discount or premium paid or payable to a person not resident in Malta;
- depreciation of Fixed Assets;
- fines and penalties;
- provisions.

In addition to the above, Article 14(1) of the ITA also includes specific examples of deductible expenses such as:

- interest;
- rent;
- repairs;
- **bad debts (subject to satisfying a number of conditions set out in the guidelines issued by the Inland Revenue);**
- pensions;
- **childcare services paid by an employer;**
- **capital allowances and trading losses.**

Other allowable deductions include pre-trading expenses. Such expenses are deductible in so far that:

1. the said expenses are incurred not earlier than 18 months prior to the commencement of the business;
2. the expenses would have been deductible if the business was producing income; and
3. the expense consists of staff training, salaries and wages, and advertising.

A company that is registered in Malta may also be entitled to claim exemptions on certain types of income.

An exemption which is very commonly availed of is the participation exemption - this is dealt with in Section 4.3 of this handbook.



3.4

Capital Gains

Capital gains are subject to tax if they are derived from the transfer (including any alienation under any title) of:

- **immovable property;**
- **securities (defined as shares and stock and suchlike instruments that participate in any way in the profits of the company and whose return is not limited to a fixed rate of return, units in a collective investment scheme and units and suchlike instruments relating to linked long-term business of insurance);**
- **business, goodwill, business permits, copyright, patents, trademarks, trade-names and any other intellectual property;**
- **beneficial interest in a trust;**
- **interest in a partnership;**
- **market value of shares through a change in the issued share capital or voting rights of a company.**

There are instances where transfers of any of the above assets may qualify for an exemption or deferral of income tax, for example, when an asset is transferred within a group of companies as defined in the ITA.

Furthermore, most transfers of immovable property are subject to a final withholding tax on the transfer value, instead of taxed on the capital gain. The rates of final withholding tax on the transfer of immovable property range from 2% to 12%, depending on the type of transfer.



Losses

The ITA states that a loss incurred in any trade, business, profession or vocation may be offset against any other taxable income or capital gains that has been derived during the year.

The loss can only be used if, had there been a profit, it would have been subject to income tax. Similarly, a loss arising on an activity that, if profitable would have yielded exempt income, may not be taken as a trading loss.

The loss is to be calculated in the same manner as profits. Therefore, a loss exists for income tax purposes if a negative figure remains after adjusting for all the allowable deductions (apart from capital allowances). Furthermore, if there is insufficient income against which to set off these expenses,

then the unabsorbed balance may be carried forward indefinitely and absorbed against future income sources until the whole amount is utilised. This unabsorbed balance shall be recorded in each respective tax return until it has been fully absorbed.

Alternatively, rather than carrying the loss forward to future periods, the ITA allows a company to surrender a trading loss to another company if that other company forms part of the same “group.”

For two companies to be treated as forming part of the same group, both companies must be resident in Malta and not resident in any other country for tax purposes. >



3.5

Losses

Furthermore, one of the companies must be a 51% subsidiary of the other or both must be a 51% subsidiary of a third company resident in Malta.

A company is considered to be a 51% subsidiary of another if:

- 1. more than 50% of its ordinary share capital and voting rights are owned directly or indirectly by the parent company; and**
- 2. the parent company is beneficially entitled either directly or indirectly to more than 50% of any profits available for distribution to the ordinary shareholders of the subsidiary company; and**
- 3. the parent company would be beneficially entitled either directly or indirectly to more than 50% of any assets of the subsidiary company available for distribution to its ordinary shareholders on a winding up.**

Merely satisfying the definition of a group is not sufficient to be eligible to claim group loss relief. Other conditions must also be satisfied.



Rental income

The ITA provides for specific rules which deal with the deduction of expenses against income derived from immovable property, subject to this income not being considered as deriving from a trade or business.

The only expenses that are allowed as a deduction against the income are the following:

- **interest – any interest incurred on the funds borrowed to acquire the property;**
- **rent and ground rent;**
- **license fees;**
- **maintenance allowance – a 20% further deduction is allowed against the income from the property after deducting the rent, ground rent and license fees from such income.**

The rental income derived from such immovable property will be taxed at 35% after factoring in the above deductions.

Alternatively, the company may opt to have the rental income on immovable property taxed at a flat rate of 15%. Such tax will be final and no deductions may be made against such income should the company opt for this.



3.7

Investment income

Income that qualifies as investment income may be subject to a 15% final withholding tax, at the option of the taxpayer.

Investment income includes:

- bank interest;
- interest, discounts or premiums payable by the Government of Malta;
- interest, discounts or premiums payable by a corporation or authority established by law;
- interest, discounts or premiums payable in respect of a public issue in Malta by a company, or other legal entity whether resident in Malta or otherwise;
- capital gains arising on the disposal of shares or units in a collective investment scheme licensed under the Investment Services Act, where the collective investment scheme redeems, liquidates or cancels such shares or units;
- capital gains arising on the surrender or maturity of units and suchlike instruments relating to linked long term business of insurance;
- certain dividends and tax refunds.



3.8

Tax filings

30th March of the following year

- **Manual filing of income tax return and self-assessment for companies with a financial year ending between 1st January and 30th June**
- **Payment of settlement tax for companies with a financial year ending between 1st January and 30th June**

30th April of the following year

- **Manual filing of income tax return and self-assessment for companies with a financial year ending 31st July >**



3.8

Tax filings

31st May of the following year

- Payment of settlement tax for companies with a financial year ending 31st July

30th June of the following year

- Manual filing of income tax return and self-assessment for companies with a financial year ending 31st August
- Payment of settlement tax for companies with a financial year ending 31st August
- Extended electronic filing of income tax return and self-assessment for companies with financial year ending between 1st January and 30th June



-
- **Manual filing of income tax return and self-assessment for companies with a financial year ending 30th September**
 - **Payment of settlement tax for companies with a financial year ending 30th September**
 - **Payment of 15% tax on rental income and filing of rental income declaration form**

31st July of the following year

- **Manual filing of income tax return and self-assessment for companies with a financial year ending 31st October**
- **Extended electronic filing of income tax return and self-assessment for companies with financial year ending 31st August >**



3.8

Tax filings

31st August of the following year

- **Payment of settlement tax for companies with a financial year ending 31st October**
- **Manual filing of income tax return and self-assessment for companies with a financial year ending 30th November**
- **Extended electronic filing of income tax return and self-assessment for companies with financial year ending 30th September**
- **Payment of settlement tax for companies with a financial year ending 30th November**



30th September of the following year

- **Manual filing of income tax return and self-assessment for companies with a financial year ending 31st December**
- **Payment of settlement tax for companies with a financial year ending 31st December**
- **Extended electronic filing of income tax return and self-assessment for companies with financial year ending 31st October**
- **Country by Country Reports (CbCR)**
- **CbCR Notifications**



Tax filings

31st October of the following year

- Extended electronic filing of income tax return and self-assessment for companies with financial year ending 30th November

30th November of the following year

- Extended electronic filing of income tax return and self-assessment for companies with financial year ending 31st December

Should any of the above deadlines not be adhered to penalties will be applicable on any late submissions of tax returns whilst interest at the rate of 0.54% on the amount of tax payable will be incurred for every month in default.

Provisional tax payments

Period

Date due

January – April

30th April

May – August

31st August

September – December

21st December



Chapter 4

International Taxation



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for the next 12 months.



4.1

The Maltese Tax Refund System

Whilst the standard corporate tax rate in Malta is 35%, the effective tax rate could be reduced considerably through the Tax Refund System. This system allows shareholders to claim a refund of the tax paid on the dividend being distributed. There are four different refunds which would depend on the source of the income being distributed, and whether any double tax relief has been claimed. The refunds are:

6/7ths refund – applies to the distribution of chargeable income from trading activities, not mentioned below. The effective tax rate following the application of this refund is of 5%;

5/7ths refund – applies to the distribution of chargeable income derived from passive interest or royalties or from a participating holding which does not satisfy the conditions referred to in article 12(1)(u) (1). The effective tax rate following the application of this refund is of 10%;

2/3rds refund – applies to the distribution of chargeable income allocated to the Foreign Income Account and in respect of which the company has claimed relief of double taxation;

100% refund – applies to the distribution of chargeable income allocated to the Foreign Income Account which satisfies the Participation Exemption conditions.



This system allows shareholders to claim a refund of the tax paid on the dividend being distributed.

Event 1

Malta Trading Company chargeable income is taxed at 35%.

Event 2

Malta Trading Company declares a dividend and distributes such to its Holding / Shareholder.

Event 3

6/7 of Corporation Tax is refunded by the Malta Government to the Holding/ Shareholder. Holding Company applies for and Malta Government grants tax refund. >



4.1

The Maltese Tax Refund System

Administrative Obligation relating to the Tax Refund System

In order for the shareholder to be able to claim one of the above refunds, the shareholder must be registered as such with the Inland Revenue Department (IRD). This is done by submitting a specific form known as the 'shareholders registration form.'

Since the above refunds are due on the amount of tax on the dividend being distributed, for the shareholder to be able to claim the refund the company must declare a dividend, submit the tax return for the year relating to the distribution and pay the tax related to that distribution. The shareholder may then claim the refund by

submitting the Refund Claim Form, which typically includes:

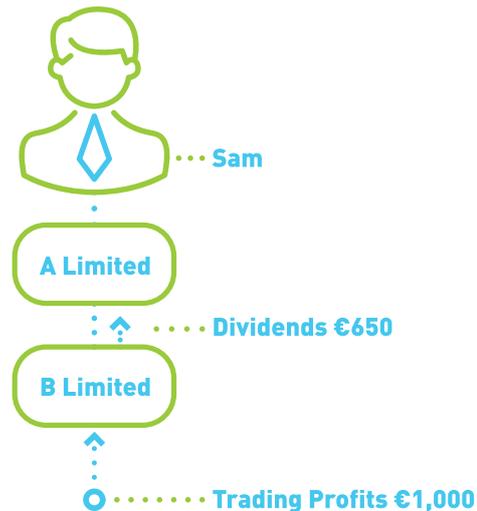
- 1. The details of the company distributing the dividend and of the shareholder entitled to the refund;**
- 2. The amount of profits being distributed and the allocation of such profits to the various tax accounts;**
- 3. The type and amount of refund which the shareholder is entitled to;**
- 4. The bank account into which the refund should be paid;**
- 5. Other details such as copies of the dividend warrant, copy of the tax return of distributing company and the shareholding structure.**



The Full Imputation System

Malta adopts a full imputation system, whereby the tax paid by the company is fully available as a credit in the hands of the shareholder on the dividend income received. This effectively eliminates any economic double taxation on the dividend, since the same flow of income is taxed only once, in the hands of the company.

Given that individuals are taxed at progressive rates, reaching a 35% rate on annual income of above €60,000, whilst companies are taxed at a flat 35%, the credit on the taxation of dividends could be higher than the Maltese tax chargeable on the shareholder. This could result in a tax refund due to the shareholder, subject to certain restrictions.





4.2

The Full Imputation System

(i) Tax at the level of B Limited

Chargeable income	€1,000
Tax at 35%	€350
	€650
Net dividends distributed by B Limited to A Limited	€650

(ii) Tax at the level of A Limited

Gross Dividend	€1,000
Tax at 35%	€350
Credit under Full imputation system	(€350)
Tax due	€0
Shareholder receives dividend of	€650



Participation Exemption

Malta's incentives extend to holding vehicles mainly on the basis of the Participation Exemption. A company that is registered in Malta may be entitled to an exemption on any income or gains from a participating holding or from the transfer thereof. The exemption has also been extended to income or gains derived by a company registered in Malta which are attributable to a permanent establishment situated outside Malta or to the transfer of such permanent establishment.

“Participating holding” shall mean a holding which arises where:

- A. a company directly holds at least 5% of the equity shares of a company, which holding confers an entitlement to at least 5% of any two of the following:**
 - i. right to vote;**
 - ii. profits available for distribution; and**
 - iii. assets available for distribution on a winding up; or**



4.3

Participation Exemption

- B. a company is an equity shareholder in a company and is entitled to call for and acquire the entire balance of the equity shares; or
- C. a company is an equity shareholder in a company and is entitled to first refusal in the event of the proposed disposal, redemption or cancellation of all the equity shares of that company; or
- D. a company is an equity shareholder in a company and is entitled to either sit on the Board or appoint a person to sit on the Board of that company as a director; or
- E. a company is an equity shareholder which holds an investment representing a total value, as on the date or dates on which it was acquired, of a minimum of €1,164,000 for an uninterrupted period of not less than 183 days; or
- F. a company is an equity shareholder in a company, where the holding of such shares is for the furtherance of its own business and is not held as trading stock for the purpose of a trade.



Malta Company



Dividend flow (covered by participation exemption) if underlying subsidiary qualifies as a participating holding.



**Non-Malta Company
(Overseas Company)**

With respect to dividends derived from a participating holding the exemption shall only apply when one of the following conditions are satisfied:

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

Where none of the above conditions are satisfied, the exemption could still apply subject to the satisfaction of additional conditions.



4.4

Double Tax Relief

Apart from ensuring elimination of economic double taxation through the Full Imputation System, Malta also ensures elimination of juridical double taxation by virtue of its vast treaty network and also by virtue of its unilateral relief mechanisms.

Malta has various forms of mechanisms for the elimination of double taxation:

- 1. Treaty Relief;**
- 2. Unilateral Relief;**
- 3. Flat Rate Foreign Tax Credit (FRFTC);**
- 4. Commonwealth Relief.**

Although it is mentioned in income tax legislation, Commonwealth relief is not widely used and will not be covered in this handbook.



01. Treaty Relief

Treaty relief is relief from double taxation in terms of a double tax treaty which Malta has agreed to with another jurisdiction. Typically, for a person to benefit from provisions of a tax treaty, the person must be resident in one of the Contracting States which are a party to the treaty. Therefore, one of the eligibility conditions for this particular relief is that such a person is resident in Malta.

As opposed to the exemption method, Malta applies the credit method for elimination of double taxation, specifically the ordinary credit method. Through this method, the amount of any foreign tax paid which is available as a credit against any Malta tax due may not exceed the tax payable in Malta, that is, the person may never end up in a refund position as a result of applying this type of relief. Other conditions apply, such as having evidence of the foreign tax that was suffered. Claims must also be made within the two years following the end of the year of assessment referred to in the claim.

The list of countries with which Malta has a double tax treaty may be seen in Annex 1 of this handbook.

02. Unilateral Relief

Apart from relieving double taxation in situations where a double tax agreement is in place, that is bilaterally, Malta also relieves double taxation on a unilateral basis, even in situations when a double tax agreement would not have been signed.

Most of the conditions and procedures of unilateral relief are similar, if not, identical to Treaty Relief, the main difference being that under this type of relief no double tax agreement needs to be in place with the jurisdiction where the tax has been suffered.



03. Flat Rate Foreign Tax Credit (FRFTC)

Another form of unilateral relief, which is applied in specific circumstances to companies registered in Malta is the Flat Rate Foreign Tax Credit, more commonly referred to as FRFTC. The FRFTC is a credit for a deemed foreign tax of 25% of the amount of income received in Malta, applicable also in situations when no foreign tax was suffered. Apart from the fact that it is only applicable to companies registered in Malta, the FRFTC may only be applied on income which is allocated to the Foreign Income Account and a certificate is to be presented confirming that the income in respect of which the FRFTC has been claimed has been derived from foreign sources and falls to be allocated to the company's FIA.

Worked Example	€
Foreign income	1,000.00
Gross up of foreign tax deemed to have been suffered (25% x €1,000)	250.00
Chargeable income	1,250.00
Tax at 35%	437.50
Less: FRFTC	(250.00)
Tax payable (effective Maltese tax charge = 18.75% i.e. €187.50 / €1,000)	187.50



4.5

Notional Interest Deduction

Late in 2017, Malta introduced the concept of a Notional Interest Deduction (NID).

The NID aims to approximate the tax treatment of equity and debt by enabling entities to take a deduction of interest which they are deemed to have incurred on their equity. Such deduction is at the discretion of the company or partnership.

This NID is a product of two variables:

- **the reference rate – this is the risk-free rate which, in terms of the NID rules, is determined by reference to the current yield to maturity on Malta Government Stocks plus a premium of 5%; and**
- **the risk capital on which the reference rate is applied – this includes share capital, share premium, positive retained earnings, interest free loans and any other reserves as at the end of the year. >**



4.5

Notional Interest Deduction

Permanent establishments of a company not resident in Malta are also entitled to claim the NID, in which case the risk capital will be the capital of the permanent establishment.

The NID is claimed against the chargeable income for the year and must be approved by all shareholders.

Such deduction must be capped at 90% of the chargeable income for any given year – should there be any excess deduction, this may be carried forward to subsequent years and used as a deduction against chargeable income in those years.

The NID is subject to certain anti-avoidance rules to prevent abuse.



4.6

The EU's Anti-Tax Avoidance Directive

The regulations of the EU Anti-Tax Avoidance Directive were implemented into Maltese tax law by means of Legal Notice 411 of 2018. The new regulations came into force on 1 January 2019, with the exception of the rule relating to exit taxation, which shall come into force on 1 January 2020.

The ATAD Implementation Regulations apply to all companies as well as other entities, trusts and similar arrangements that are subject to tax in Malta in the same manner as companies. They also apply to entities that are not resident in Malta but that have a permanent establishment in Malta provided that they are subject to tax in Malta as companies.



The following 4 anti-avoidance measures have been introduced into Maltese domestic law:

Interest Limitation Rule

The aim of this rule is to discourage companies from creating artificial debt arrangements designed to minimise taxes.

The rule introduces a capping on the amount of borrowing costs that a taxpayer may deduct against chargeable income. Exceeding borrowing costs shall be deductible only up to 30% of the taxpayer's earnings before interest, tax, depreciation and amortisation (EBITDA).

“Exceeding borrowing costs” are defined as the amount by which the borrowing costs exceed interest income and other equivalent taxable revenues from financial assets that the taxpayer receives. Any borrowing costs which cannot be deducted may be carried forward to subsequent years for a maximum of 5 years.

Malta excluded from the scope of the interest limitation rule:

- **Exceeding borrowing costs falling below €3 million;**
- **Entities that are not part of a consolidated group for financial accounting purposes and have no associated enterprises or Permanent Establishments;**
- **Financial undertakings; and**
- **Exceeding borrowing costs incurred on loans used to finance long-term public infrastructure EU projects and loans which were concluded before 17 June 2016.**



Exit Tax

A tax will be charged on the difference between the market value of the transferred assets and their value for tax purposes in the following situations:

- **Transfers of assets from Head Office to a Permanent Establishment (PE) in another Member State or Third Country in so far as Malta no longer has the right to tax capital gains from the transfer of such assets due to the transfer;**
- **Transfers of assets from a PE in a Member State to a Head Office or PE in another Member State or Third Country in so far as Malta no longer has the right to tax capital gains from the transfer of such assets due to the transfer;**
- **Transfers of Tax Residence to another Member State or to a Third Country, except for those assets effectively connected with a PE in Malta;**
- **Transfers of a PE to another Member State or to a Third Country in so far as Malta no longer has the right to tax capital gains from the transfer of such assets due to the transfer.**

In situations where the transfer is between Member States or to a third country that is party to the EEA Agreement there is the possibility of paying the exit tax in instalments over 5 years.

General Anti-Abuse Rule (GAAR)

Malta's Income Tax Act (ITA) already contained a general anti-abuse rule as per Article 51 of the ITA. The new regulation which came into force on 1 January 2019 adds to this rule by applying the definition of tax avoidance schemes as per the EU Directive. The regulation targets non-genuine arrangements put in place for the essential purposes of obtaining some form of tax advantage, whether in the form of a tax reduction or deferral. 'Non-genuine arrangements' would be arrangements which are not put into place for valid commercial reasons reflecting the economic reality.



Controlled Foreign Company Legislation (CFC)

As a result of the introduction of a CFC rule, income derived by subsidiaries or attributed to Permanent Establishments may in certain circumstances be taxed in the jurisdiction of the parent and/ or Head Office.

The main conditions for the CFC rule to apply are the following:

- **The parent company, that is resident in Malta, together with associated enterprises, holds a direct or indirect participation of more than 50% of the voting rights, or owns directly or indirectly, more than 50% of the capital, or is entitled to receive more than 50% of the profits of a foreign entity; and**
- **The actual corporate tax paid by the foreign entity is less than half the tax that would have been paid had the income been subject to tax in Malta.**

Once the CFC rule kicks in, the non-distributed income of the CFC will be included in the tax base of the Maltese parent, or Maltese Head Office, if the income arises from non-genuine arrangements which have been put in place for the essential purpose of obtaining a tax advantage.

The CFC rule will not apply to entities or PEs with accounting profits of:

- **No more than €750,000 and non-trading income of no more than €75,000; or**
- **No more than 10% of its operating costs.**



Chapter 5

Taxation of individuals



TAX 12

Your Malta tax handbook
for the next 12 months.



5.1

Residence and Domicile

Malta asserts jurisdiction to tax on the basis of territoriality, ordinary residence, domicile and remittance. Individuals who are ordinarily resident and domiciled in Malta are taxable on their worldwide income. On the other hand, individuals who are either domiciled but not ordinarily resident in Malta or ordinarily resident but not domiciled in Malta are taxable on Malta-sourced income and capital gains and any foreign source income which is received in Malta. Foreign sourced capital gains are not taxable in Malta (even if received in Malta) for such individuals.

Residence

Although the ITA does not incorporate a definition of the term 'ordinary resident,' it does define the term 'resident of Malta' in terms of being an individual who resides in Malta except for temporary absences which seem reasonable and not inconsistent to the Commissioner.



Therefore, a person can be resident in Malta without being ordinarily resident in Malta. Ordinary residence requires more than just residence; it requires residence in a place with some sort of continuity. Ordinary residence means residence which is part of a person's everyday life. To determine if a person is ordinarily resident in that country the following elements are usually considered: the duration of an individual's presence in the country, the frequency and nature of the individual's visits to the country as well as the nature of any personal or business ties that the individual has with the country.

Ordinary residence in brief consist of the following elements:

- **a regular physical presence in a country, i.e. residence which is part of the regular order of a person's life;**
- **residence with a degree of continuity, notwithstanding occasional temporary absences;**
- **residence.**



Domicile

The domicile of a person has been defined as being the country which is considered by law to be his permanent home.

There are three types of domicile which are:

- **Domicile of birth;**
- **Domicile of choice;**
- **Domicile by operation of law.**

At birth, every person receives a domicile of origin. Typically, it is the domicile of their father at the time of their birth. However, one may obtain a domicile of choice by actually residing in a country with the intention of seeking permanent or indefinite ongoing residence. The presumption of law is against a change of domicile and it is an established rule that anyone who tries to change their domicile must prove it. A domicile of origin can only be abandoned by obtaining a domicile of choice, but a domicile of choice can be abandoned by simply ceasing to reside in the country permanently. As soon as the domicile of choice is abandoned, the domicile of origin is revived.



Remittance Basis

With effect from the year of assessment 2019 (basis year 2018), non-domiciled persons are subject to a minimum annual tax of €5,000 in Malta.

This minimum tax is payable if the non-domiciled person:

- **is not taxable in Malta in accordance with a scheme establishing a minimum amount of tax in Malta, including the Residence Programme, the Global Residence Programme, the Malta Retirement Programme and the Residents Scheme Regulations; and**
- **derives income arising outside Malta amounting to not less than €35,000 or its equivalent in another currency – in the case of a married couple, one would have to look at the income derived by both spouses.**

In computing the minimum tax, account shall be taken of any Maltese income tax paid, whether by withholding or otherwise, excluding tax paid on capital gains.

Should the income, excluding capital gains, chargeable to tax in the hands of the non-domiciled person result in a Maltese tax liability amounting to less than the minimum tax, the person shall be deemed to have received additional income arising outside Malta such that the total tax liability on the total income would amount to the minimum tax of €5,000. By way of example, if a non-domiciled person would be liable to €2,000 of tax in Malta on income arising or received in Malta, he would have to top up that amount by another €3,000.



5.2

Rates of tax

There are three sets of rates which apply to resident individuals which are applicable to individuals in line with their personal circumstances.

Resident individuals who are neither married and do not have any children are generally required to pay tax on their income at the rates referred to as the “single rates,” resident individuals who have children may pay tax on their income at the rates referred to as the “parent rates,” whilst in the case of resident individuals who are married and living together the law gives such individuals a choice to either (i) be taxed separately by applying the “single rates” (i.e. elect for a “separate computation”) or (ii) aggregate

all their income into one pot and pay tax at the rates referred to as the “married rates” (i.e. elect for a “joint computation”). The married rates may also be applied by EU/EEA nationals whose spouse is not resident in Malta if they meet the required conditions to apply such rates and the couple derives at least 90% of their total worldwide income from Malta.

Parent rates may only be availed of if the individual maintains the child under his or her custody or pays for the maintenance of such child; in both cases the child must be under the age of 18 (or 23 if receiving full time instruction). It is also necessary that the child does not derive income of more than €2,400 from any gainful occupation.



The ITA treats a married couple as constituting one single taxpayer for administrative purposes and, irrespective of whether the married couple elects for a joint or a separate computation, the married couple is required to file one single income tax return. However, a married couple is barred from applying the separate computation if the other spouse's income consists solely of income that is deemed to constitute a fringe benefit.

By way of exception to the above, a single parent may also avail himself of married rates where such parent satisfies the following conditions:

- **the parent maintains under custody a child who is not over the age of 16 or, if over that age, is in full-time education, in a full-time apprenticeship or is incapacitated; the child does not derive income of more than €2,400 annually in his or her own right;**
- **the parent is the beneficiary of the child's government children allowance (if such allowance is payable);**
- **the parent did not receive any financial assistance in respect of the maintenance of the said child from the other parent; and**
- **the parent was not living or residing at the same house with the other parent of the child.**



Tax Rates for Basis Year 2019

Tax Rates

Chargeable Income (€)

Single Rates

From	To	Rate	Subtract (€)
0	9,100	0%	0
9,101	14,500	15%	1,365
14,501	19,500	25%	2,815
19,501	60,000	25%	2,725
60,001	and over	35%	8,725

Married Rates

From	To	Rate	Subtract (€)
0	12,700	0%	0
12,701	21,200	15%	1,905
21,201	28,700	25%	4,025
28,701	60,000	25%	3,905
60,001	and over	35%	9,905

**Chargeable Income (€)****Parent Rates**

From	To	Rate	Subtract (€)
0	10,500	0%	0
10,501	15,800	15%	1,575
15,801	21,200	25%	3,155
21,201	60,000	25%	3,050
60,001	and over	35%	9,050

Non-Resident Tax Rates

Persons (other than companies) who are not resident in Malta are subject to income tax at the following rates:

For every euro of the first €700	0%
For every euro of the next €2,400	20%
For every euro of the next €4,700	30%
For every euro of the remainder	35%



5.3

Tax treatment of non-residents

Article 13 of the ITA contains another jurisdictional rule which deals with temporary residents. This states that a person who is neither ordinarily resident nor domiciled in Malta and only spends a short amount of time in Malta, will not be taxed on foreign sourced income whether received in Malta or not. This Article therefore establishes that an individual will not be taxed on any foreign sourced income provided that they are resident in Malta for a 'temporary purpose', without any intention of establishing residence on the island and for a period not exceeding six months.

Furthermore, individuals who are not considered to be resident in Malta will be taxed on any income which is sourced in Malta. This income will be taxed at the rates referred to as "non-resident rates." Local interest and royalty income are exempt from tax, as are capital gains on holdings in collective investment schemes or on securities if the underlying asset is not Maltese immovable property.



Special tax status

There are several programmes designed for EU and third country nationals wanting to obtain residence and/or tax residence in Malta.

EU Programmes

Economic Self Sufficiency

Thanks to the freedom of movement with the EU, any citizen of any member state can reside for a period of three months in another European country. At the lapse of the three months, the EU national needs to regularise himself/herself by means of a residence permit.

Qualifying criteria:

The applicant must show that he/she:

- has stable and regular resources to maintain himself/herself and any dependents;
- is in possession of health insurance covering himself/herself and any dependents;
- has appropriate title to property in Malta (owned or leased).

No government fees are applicable.



The Residence Programme

The Residence Programme (TRP) was introduced in 2013 following a high demand from EU individuals of high repute wishing to relocate Malta while at the same time benefitting from a tax incentive. TRP is a specific tax residence programme which results in a 15% flat rate for any foreign income received in Malta, subject to a minimum annual tax of €15,000.

Qualifying criteria:

The Applicant must show that he/she:

- is fluent in one of the official languages in Malta (Maltese and/or English);
- owns qualifying property in Malta (owned or leased) for the value of €275,000 (reduced to €220,000 if situated in the south of Malta or Gozo), or alternatively leases property of not less than €9,600 per annum (reduced to €8,750 if the property is situated in the south of Malta or Gozo);
- has sufficient resources to support himself/herself and any dependents;
- is in possession of health insurance covering himself/herself and any dependents.

Government fees: €6,000 administrative fees for each application



Malta Retirement Programme

The Maltese government introduced the Malta Retirement Programme (MRP) in 2012, with the objective of attracting EU/EEA and Swiss nationals of high repute who receive a pension as their primary and regular source of income. Applicants under this programme benefit from a tax incentive of 15% flat rate on the remitted pension to Malta subject to a minimum annual tax of €7,500.

Qualifying criteria:

The Applicant must show that he/she:

- is fluent in one of the official languages in Malta (Maltese and/or English);
- owns qualifying property in Malta (owned or leased) for the value of €275,000 (reduced to €220,000 if situated in the south of Malta or Gozo), or alternatively pays rent which is not less than €9,600 per annum (reduced to €8,750 if the property is situated in the south of Malta or Gozo);
- has sufficient resources to support himself/herself and any dependents;
- is in possession of health insurance covering himself/herself and any dependents;
- is in receipt of pension income that constitutes at least 75% of the total receivable income.

Government fees: €2,500 administrative fees for each application



Highly Qualified Persons

The Maltese government launched the Highly Qualified Persons Rules (HQP) in 2011 to attract experts from EU and Non-EU countries to fill specific roles within the aviation, gaming and financial services sectors. Recently, the HQP Rules have been extended to certain roles within the Assisted Reproductive Technology field. Through the HQP rules, the applicant is entitled to benefit from a tax incentive of 15% flat rate on the employment income generated in Malta for the specific role. The special tax rate applies for a consecutive period of five years for an EU/EEA national and for a period of four years for a Non-EU national.

Qualifying criteria:

The Applicant must show that he/she:

- holds recognised professional qualification in the relevant qualifying field;
- is employed within a company recognised by the relevant authority;
- receives a minimum income of €75,000 from a qualifying contract of employment;
- possesses health insurance covering himself/herself and any dependents;
- is not domiciled in Malta.

No government fees are applicable.



Non-EU Programmes

Global Residence Programme

The Global Residence Programme (GRP) was introduced in 2013 following a high demand from Non-EU individuals wishing to relocate Malta while at the same time benefitting from a tax incentive. GRP is a specific residence tax programme which results in a 15% flat rate for any foreign income received in Malta, subject to a minimum annual tax of €15,000.

Qualifying criteria:

The Applicant must show that he/she:

- is fluent in one of the official languages in Malta (Maltese and/or English);
- owns qualifying property in Malta (owned or leased) for the value of €275,000 (reduced to €220,000 if situated in the south of Malta or Gozo), or alternatively leases property of not less than €9,600 per annum (reduced to €8,750 if the property is situated in the south of Malta or Gozo);
- has sufficient resources to support himself/herself and any dependents;
- possesses health insurance covering himself/herself and any dependents.

Government fees: €6,000 administrative fees for each application



Malta Residence and Visa Programme

In 2014, the Maltese government introduced the Malta Residence and Visa Programme to grant Third Country Nationals and their dependants a permanent residence status in the Island. The programme is aimed at attracting Third Country Nationals of high repute who intend to invest in the island.

Qualifying criteria:

The Applicant must show that he/she:

- owns qualifying property in Malta (owned or leased) for the value of €320,000 (reduced to €270,000 if situated in the south of Malta or Gozo), or alternatively leases property of not less than €12,000 per annum (reduced to €10,000 if the property is situated in the south of Malta or Gozo);
- has sufficient resources to support himself/herself and any dependents;
- possesses health insurance covering himself/herself and any dependents.

Government fees: €30,000 administrative fees for each application

Other obligations:

- €250,000 investment in government stocks and bonds, to be kept for a minimum period of five years.



Highly Qualified Persons

The Maltese government launched the Highly Qualified Persons Rules (HQP) in 2011 to attract experts from EU and Non-EU countries to fill specific roles within the aviation, gaming and financial services sectors. Recently, the HQP Rules have been extended to certain roles within the Assisted Reproductive Technology field. Through the HQP rules, the applicant is entitled to benefit from a tax incentive of 15% flat rate on the employment income generated in Malta for the specific role. The special tax rate applies for a consecutive period of five years for an EU/EEA national and for a period of four years for a Non-EU national.

Qualifying criteria:

The Applicant must show that he/she:

- **holds recognised professional qualifications in the relevant qualifying field;**
- **is employed within a company recognised by the relevant authority;**
- **receives income from a qualifying contract of employment which qualifies under these rules of a minimum of €75,000;**
- **is in possession of health insurance covering himself/herself and any dependents;**
- **is not domiciled in Malta.**

No government fees are applicable.



5.5

Tax filings

30th April of the following year

- **Payment of minimum tax under the Global Residence Programme**
- **Payment of minimum tax under the Residence Programme**
- **Payment of minimum tax under the Malta Retirement Programme**

30th June of the following year

- **Manual filing of income tax return and self-assessment for individuals**
- **Payment of settlement tax for individuals**
- **Payment of 15% tax on rental income**
- **Submission of rental income declaration form**



Should any of the above deadlines not be met, penalties will be applicable to any late submissions of tax returns whilst interest at the rate of 0.54% on the amount of tax payable will be incurred for every month in default.

Provisional tax payments

Period	Date due
January – April	30 th April
May – August	31 st August
September – December	21 st December



5.6

Work permits, Visas and residence permits

Non-EU foreigners seeking to work in Malta require a work permit. These permits must be obtained in advance on an application of the prospective employer.

Persons entering Malta require a passport but an identity card is sufficient in terms of agreements with certain countries. Following accession to the EU, Malta is bound to the EU rules in respect of immigration. Malta also forms part of the Schengen area and is therefore subject to the Schengen rules.

Nationals travelling into Malta from certain countries may require a visa. Tourists may extend their stay in Malta for more than

90 days subject to the approval of the immigration authorities. Persons wishing to reside regularly in Malta may apply for a residence permit, which will be subject to a number of conditions.

Malta also forms part of the Schengen area and is therefore subject to the Schengen rules.



Social Security

All employed and self-employed persons must pay social security contributions. Employers make social security contributions per week and per employee at a rate of 10% of the basic wage paid to their employees, subject to a minimum of €17.25 and a maximum of €34.94 for persons born up to 31 December 1961, or €45.58 for persons born from 1 January 1962 onwards. Employees make a 10% contribution, subject to the same minimum.

The Social Security Act defines the following two categories of persons that are required to pay Class Two contributions:

- **Self-occupied persons are those who earn income in excess of €910 per year from a trade, business, profession, vocation or any other economic activity.**
- **Self-employed persons are those who receive income from rents, investments, capital gains or any other income.**

Rates for Class Two social security contributions are based on the annual net profit or income for the year preceding the contribution payment year. >

5.7

Social Security

For all self-employed persons whose income during the calendar year immediately preceding the contribution year was less than €10,194, a weekly contribution of €29.41 applies.

For persons born on 31 December 1961 or earlier, and whose income in the preceding year exceeded €10,195 up to €18,167, the weekly contribution is 15% of the annual net earnings. If income in the preceding year exceeded €18,168, the weekly contribution is €52.40.

For persons born from 1 January 1962 onwards, and whose income in the preceding year ranged from €10,195 up

to €23,701, the weekly contribution is 15% of annual net earnings. If income in the preceding year exceeded €23,702, the weekly contribution is €68.37.





Chapter 6

Industry Incentives



TAX 12

Your Malta tax handbook
for the next 12 months.



6.1

Asset management and investment funds

Over the past years, Malta has set itself as a financial services hub. Malta's entry into the EU provided the momentum required to create a sound regulatory framework, which coupled with the excellent responsiveness of the Malta Financial Services Authority, created an attractive location to base investment services providers and collective investment schemes.

The tax treatment of Collective Investment Schemes depends on the type of fund. Maltese law draws a distinction between prescribed and non-prescribed funds. This distinction is important in establishing whether and how tax is to be charged on investment income, capital gains and dividend distributions.

The main properties of each class may be classified as follows:



Prescribed Funds	Non-prescribed Funds
Formed under the Laws of Malta	Any fund which does not qualify as a prescribed fund – This includes overseas funds as well as Maltese funds having more than 15% of assets situated outside Malta).
Over 85% of the fund’s assets are situated in Malta	An overseas UCITS scheme registered in accordance with foreign law.

Generally, the income of a non-prescribed fund is not subject to tax in Malta.



6.2

Cryptocurrencies and Blockchain

As a small island, Malta positioned itself as one of the most established regulatory bodies worldwide. From asset registration to financial industry, iGaming and blockchain-based platforms, jurisdictional innovation has always been securing Malta's economy and allowed the country to specialise in niches that the majority is sceptical of. Blockchain and cryptocurrency regulations will likely repeat that success and create a safe space for operators in these industries to function.

On the 4th July 2018, the Maltese Parliament approved three bills, establishing the first regulatory framework for blockchain, cryptocurrency and Distributed Ledger

Technology (DLT). Although there were countries which had passed legislation in relation to Initial Coin Offerings (ICOs), Malta is the first country to provide a regulated environment to operators in the blockchain, cryptocurrency and DLT space.

The first law, known as the Malta Digital Innovation Authority Act, establishes the Malta Digital Innovation Authority and certifies DLT platforms. This law focuses on internal governance arrangements and outlines the duties and responsibilities of the Authority to certify DLT platforms to ensure credibility and provide legal certainty to users wishing to make use of a DLT platform.



Malta is the first country to provide a regulated environment to operators in the blockchain, cryptocurrency and DLT space.

The second law, known as the Innovative Technology Arrangement and Services

Act, deals with DLT arrangements and certifications of DLT platforms. This bill is primarily concerned with the setting up of exchanges and other companies operating in the cryptocurrency market.

The third law is known as the Virtual Financial Assets Act and establishes the regulatory regime governing ICOs, cryptocurrency exchanges, wallet providers, etc.

This comprehensive and unique legal framework coupled up with Malta's tax system are set to establish Malta as the global capital of blockchain technologies and virtual currencies.



6.3

Shipping

Malta has developed a strong shipping specific legal and regulatory platform that enabled the Maltese Shipping Flag to become an established reputable International Ship Register which is now one of the largest in the world.

Among the various aspects which made the Malta Flag the choice of many ship-owners, the most attractive one is represented by the Malta Tonnage Tax Rules.

The Rules exempt from income tax in Malta:

- **the income of shipping organisations, to the extent that such income is derived from shipping activities; and**
- **any income, profits or gains of a shipping organisation derived from the sale or other transfer of a tonnage tax ship which had been acquired and sold whilst under the tonnage tax system or from the disposal of any rights to acquire a ship which when delivered or completed would qualify as a tonnage tax ship.**

The Maltese tonnage tax model only imposes on the ship owner the obligation to pay an amount of tax that is linked directly to the tonnage operated.



6.4

Aviation

Malta's attraction as a location for aircraft activities is not so much based on tax considerations but mainly on the collective service-offering that Malta offers. However, ensuring tax neutrality and removing undue tax burdens is part of Malta's commitment towards providing the best possible deal and service to investors.

Income derived from the ownership, operation or leasing of an aircraft used in international aviation business is deemed to arise outside Malta irrespective of whether the aircraft calls at or operates from Malta and the country of registration of the aircraft or engines. This means that income derived by a company from the said aviation activities should not be subject to tax in Malta in terms of domestic law unless such company is incorporated in Malta (and therefore subject to tax in Malta on a worldwide basis) or managed and controlled in Malta and receives the income in Malta.





6.5

Incentives under the Malta Enterprise Act

Malta Enterprise is the country's economic development agency, tasked with attracting new foreign direct investment as well as facilitating the growth of existing operations.

Malta Enterprise provides incentives for enterprises demonstrating commitment towards growth, an increase in value added and employment. Enterprises engaged in manufacturing, ICT development activities, healthcare, pharmaceuticals, biotechnology, aviation and maritime services, education and training, logistics and more may benefit from a variety of incentives.



ARQ Group is a Malta-based professional services firm that delivers reliable advice based on deep acumen with consistent high quality work to support business leaders to run their business and face the future with confidence. Our consulting solutions span critical areas such as tax advisory, regulated industries, risk & compliance, accounting & auditing, economic intelligence, legal affairs and corporate structures. We are well-established in supporting private clients through citizenship, residency and tax planning. As a Group, we are committed to attracting and developing a diverse workforce of professionals that share the common value of collaboration.

As an advisory entity, we believe that by teaming together, with each other, and our clients, we can see beyond the surface of changes and problems organisations face in this fast changing and disruptive world to discover opportunities others might miss and face the future with greater confidence.



Annex 1 Tax treaties in force

ALBANIA	GEORGIA	LIECHTENSTEIN	SERBIA
ANDORRA	GERMANY	LITHUANIA	SINGAPORE
AUSTRALIA	GREECE	LUXEMBOURG	SLOVAK REPUBLIC
AUSTRIA	GUERNSEY	MALAYSIA	SLOVENIA
AZERBAIJAN	HONG KONG	MAURITIUS	SOUTH AFRICA
BAHRAIN	HUNGARY	MEXICO	SPAIN
BARBADOS	ICELAND	MOLDOVA	SWEDEN
BELGIUM	INDIA	MONTENEGRO	SWITZERLAND
BULGARIA	IRELAND	MOROCCO	SYRIA
CANADA	ISLE OF MAN	NETHERLANDS	TUNISIA
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