CORPORATE ESTABLISHMENT IN MALTA

Taxation

The Republic of Malta is an independent democracy state since 1964 and an EU Member State since May 2004. Through the years it has developed into a reputable financial centre of choice and offers an attractive and competitive environment for international business and investment. Originally developing an offshore regime in the 1980s Malta introduced a favourable and competitive tax system for foreign owned companies and through the years has developed an extensive double taxation treaty network.

Today, due to international pressure, the Maltese Government has dropped the offshore regime but retained the fiscal incentives for foreign shareholders by introducing a system of selected taxation of different beneficiaries of local onshore companies. Companies registered or resident in Malta are subject to income tax on chargeable income at a standard rate of 35%. However, in view of Malta's full imputation system of taxation any income tax paid by the company is credited in full to the shareholder upon a distribution of profits, so as to avoid any double taxation of corporate profits.

The full imputation system, which has been utilised since 1948 and which is fully compliant with EU directives and ECJ case law, ensures that both resident and non-resident shareholders are entitled for a refund of any tax paid by the company which is in excess of the shareholder's income tax liability.

Tax accounting and tax refunds

The income tax system utilises different tax accounts for different sources of income. These accounts are the Final Tax Account (FTA), the Immovable Property Account (IPA), the Foreign Income Account (FIA), the Maltese Taxed Account (MTA) and the Untaxed Account (UA).The attribution of chargeable income to the different tax accounts is an essential aspect of the Maltese tax system as this determines the possibility of tax refunds upon a distribution of profits. It is through this system of refunds that the tax exposure is remarkably reduced.

Distributions from the FTA, the IPA and the UA do not give rise to any tax refunds in the hands of the shareholders, however, a distribution from the Foreign Income Account and Maltese Taxed Account entitles the shareholder to claim a refund which is equivalent to either 2/3rds, 5/7ths, 6/7ths, or 100% of the company income tax. The refund is equivalent to 6/7ths in the case of trading income and to 5/7ths in the case of certain passive interest and royalties. A company deriving foreign source income may also utilize the Flat Rate Foreign Tax Credit (FRFTC) by increasing the net foreign source income or gains by 25% and then deducting the FRFTC from the Malta tax. Upon a distribution of such foreign

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source income a shareholder may avail himself of a 2/3rds refund of the Malta tax. Income tax is paid in the same currency as the company's share capital, which is also the currency in which the company prepares and submits its audited financial statements. The tax refund is also paid in the same currency, thus eliminating any currency exchange risks. In terms of the provisions of the income tax legislation, a tax refund must be paid by the Inland Revenue Department within 14 days from the end of the month in which it falls due.

A tax refund is considered to fall due when the company's audited financial statements (showing the dividend distribution) and a complete and correct income tax return are submitted to the tax authorities, the tax liability is paid in full and an application for refund on a prescribed form, together with the dividend certificate is submitted by the shareholder or his attorney/representative.

The above is intended to provide a brief guide only. It is essential that appropriate professional advice is obtained.