

# Malta



 **Capital city:**  
Valetta

 **Language:**  
Maltese/English

 **GDP/capita**  
2015:  
USD 22 596

 **Telephone code:**  
+356

 **Superficy:**  
316 km<sup>2</sup>

 **Political system:**  
Parliamentary  
republic

 **Currency:**  
Euro

 **National day:**  
September 21st

 **Population:**  
429 344 M.

 **ISO Code:**  
MLT



## 1. Corporate taxation

### 1.1 Types on entities

A limited liability company incorporated in Malta may have the status of a public or a private limited liability company. A private company may be incorporated as a private exempt company and would, as a result, be subject to less stringent regulation (primarily as regards accounting and reporting requirements). In addition, a private exempt company may be set up as a single member company provided that, *inter alia*, the single member is an individual or is itself a private exempt company.

A private or public limited liability company may also be set up as a collective investment scheme in the form of an investment company with variable share capital (that is, an open-ended “SICAV”). A SICAV can issue shares having no par value such that the actual value of the paid-up share capital of the company is at all times equal to the value of the company’s assets after deduction of its liabilities. Furthermore, a public limited liability company may be set up as a collective investment scheme in the form of an investment company with fixed share capital (that is, a closed-ended “INVCO”).

Finally, a private company set up to own and/or operate one or more ships and/or to undertake certain shipping activities may be set up as a shipping company.

Malta does not impose a separate system of corporate taxation. As such, companies (and other bodies of persons) are subject to the same Income Tax as individuals.

### 1.2 Residence and non-residence

A limited liability company incorporated in Malta would be deemed to be ordinarily resident and domiciled in Malta for tax purposes. Such companies are, accordingly, liable to tax in Malta on a worldwide basis.

On the other hand, a company incorporated outside Malta would be deemed to be domiciled in its country of incorporation (in view that the legal system of that country gives the company its legal personality at law). However, a company incorporated outside Malta may nevertheless be deemed to be resident in

Malta for Malta tax purposes if the control and management of that company's business is exercised in Malta. The relevant control and management in this context is that exercised at the level of the company's board of directors or other such administrators. The residence status of a non-domiciled company is, accordingly, a question of facts. Such resident companies are liable to tax in Malta on chargeable income and gains arising in Malta and on chargeable income (not gains) arising outside Malta to the extent that such income is received in Malta.

A company not resident in Malta is subject to tax in Malta only on income arising from sources in Malta.

### **1.3 Tax year and filing**

A company is required to prepare and submit a tax return within 9 months from the end of its financial year end or on the 31 March of the year of assessment (that is, the year immediately following the tax basis year), whichever is the later. Together with its tax return, a company registered in Malta is also required to submit a balance sheet and profit and loss account accompanied by a report made out by a certified public auditor.

Tax is payable on the tax return date (that is, 9 months from the end of its financial year end or on the 31 March of the year of assessment, whichever is the later). A company carrying on a trade or business would, however, be required to make provisional tax payments in the tax basis year. The provisional tax liability and obligations of a company are identical to those applicable in respect of individuals (see above).

Nevertheless, a company which proves to the local tax authorities that it carries on business, or intends to carry on business, or that it has, or intends to have, business interests to the extent of more than 90% outside Malta, would have no provisional tax liability and may, additionally, opt to pay tax on the lapse of 18 months from the end of its financial year end (unless dividends are distributed prior to that date).

### **1.4 Types of income**

A company's financial statements (prepared in accordance with International Financial Reporting Standards – IFRS or the General Accounting Principles for Small Entities – GAPSE) represent the starting point for the computation of that company's chargeable profits and/or allowable losses for tax purposes. Accounting profits are, however, subject to adjustments prescribed by local Income Tax rules. Such adjustments often require the claw-back of provisions and amortizations whilst accounting depreciation must be added back to be replaced by capital allowances. In addition, the accruals basis used for accounting purposes is also accepted for tax purposes.

Capital allowances are available in the form of deductions to compensate for wear and tear of plant and machinery and industrial buildings or structures (including a hotel). Deductions for wear and tear are available to a company which uses or employs qualifying assets in the production of income and bears the resulting burden of wear of tear. Rates vary from 25% for computer and software to 2% for industrial buildings.

Specific rules restrict the availability of capital allowances in respect of certain motor vehicles such that the same are computed by reference to a maximum cost of acquisition of EUR 14.000.

Deductions for wear and tear are only allowable against the source of income in the production of which the relevant asset was used. Unabsorbed capital allowances may be carried forward indefinitely to be set-off against the same source of income arising in subsequent years.

An additional capital allowance is available in the form of an initial allowance equivalent to 10% of capital expenditure in respect of an industrial building or structure first brought into use. Such initial allowances essentially represent a form of accelerated depreciation insofar as the same, together with wear and tear allowances, cannot exceed the cost of the relevant asset. As a result, assuming entitlement to deduct wear and tear and initial allowances in respect of an industrial building, the capital cost of the building would be written off, for tax purposes, over a minimum period of 45 years (12% initial and annual allowance in the first year and 2% annual allowance for 44 years thereafter).

In addition to capital allowances, the following expenses are also deductible insofar as they are wholly and exclusively incurred in the production of income:

- interest payable on capital employed in acquiring income;
- rent paid for the occupation of premises used in the production of income;
- remuneration paid to employees and directors' fees (to the extent that such remuneration and/or fees would have been correctly reported under the domestic Final Settlement System);
- expenses incurred for the repair of premises, plant or machinery employed in acquiring income;
- expenses incurred for the renewal, repair or alteration of any implement, utensil or article employed in acquiring income;
- bad debts incurred in any trade, business, profession or vocation;
- expenditure on patents and patent rights incurred by a company engaged in a trade or business to the extent that such expenditure is proven to have been incurred for the use and benefit of the trade or business;
- expenditure of a capital nature on intellectual property rights incurred by a company engaged in a trade or business to the extent that such expenditure is proven to have been incurred for the use and benefit of the trade or business;

- expenditure incurred by a company engaged in a trade or business on promotion, market research, obtaining market information, advertising, providing samples and participating in fairs and exhibitions;
- pre-trading expenses incurred in staff training, salaries and/or wages and advertising.

## 1.5 Group income and grouping arrangements

Unabsorbed trading losses may also be available for surrender to a group company. Two companies are considered to be members of a 'group' if both of them are resident in Malta and not resident for tax purposes in any other country, and where one company is the 51% subsidiary of the other or both companies are 51% subsidiaries of a third company resident in Malta and not resident for tax purposes in any other country. A company is deemed to be a 51% subsidiary of another company:

- if, and for so long as, more than 50% of its ordinary share capital and more than 5% of its voting rights are owned directly or indirectly by that other company; and
- if that other 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; and
- if that other company would be beneficially entitled either directly or indirectly to more than 50% of any assets of the subsidiary available for distribution to its ordinary shareholders on a winding-up.

## 1.6 Capital gains on property other than Immovable Property

Capital gains are treated as part of normal income and taxable under the Income Tax Act.

## 1.7 Immovable Property Transfer Tax

A final withholding tax rate of 8% of the property's value in the case of all transfers of immovable property applies except in the following cases:

- when a property is acquired before the 1 January 2004 (i.e. any property acquired by the 31 December 2003) - in this case, a final withholding tax of 10% of the property's value will be applicable in case of a transfer;
- when a transferor, who does not habitually trade in property, transfers an immovable property within 5 years from the date of its acquisition - in such a case, a final withholding tax of 5% of the property's value is applicable in case of a transfer.

## 1.8 Losses

The amount of a loss incurred by a company in any trade or business may be set-off against chargeable profits of the same company (whether derived from other trading activities or other income streams or capital gains) provided that the loss, had it been a profit, would have been chargeable to tax. In computing the amount of any loss, a company would take all allowable deductions into account (except for wear and tear and initial allowances otherwise available).

Unabsorbed trading losses (that cannot be set off against other income and/or capital gains arising in the same year) may be carried forward indefinitely and set off against chargeable income accruing to the same company in subsequent years. Capital losses may be set off against other capital gains realised in the same and/or in subsequent years until the full loss is absorbed. Capital losses may not be set off against other income streams.

## 1.9 Exemptions

No Malta tax is chargeable on dividends received from another Malta company. In addition, no tax is chargeable on dividends (or capital gains) received by a Malta company from a non-resident company to the extent that the Malta company's investment in the non-resident company represents a qualifying participating holding for tax purposes.

By virtue of Malta's full imputation system, no Malta tax is effectively levied or withheld on outbound dividends distributed by a Malta company. Furthermore, upon a distribution of dividends by a Malta company in favour of its shareholder/s and out of qualifying profits (generally active or trading income or foreign source passive income) the recipient shareholder/s are entitled to claim a refund of six-sevenths (6/7) of the Malta tax suffered at the level of the Malta company on its qualifying profits thus reducing the combined overall effective Malta tax rate applicable in respect of such profits to a maximum 5%. However, if the Malta company has claimed relief for double taxation in respect of foreign source qualifying profits and out of which dividends were distributed, its shareholder/s are entitled to a refund of two-thirds (2/3) of the Malta tax paid by the Malta company on the said profits.

## 1.10 Rates

Companies are taxable on chargeable profits and gains at the flat rate of 35% regardless as to whether such profits or gains are distributed or retained.

## 1.11 Double tax relief

Double tax relief may be claimed domestically in the form of treaty relief (58 double tax treaties currently in force) or unilateral relief. Such relief is available as an ordinary credit (subject to per-country and per-income limitations) equivalent to the Malta tax chargeable on income arising outside Malta or the foreign tax suffered on that income, whichever is the lesser.

Relief may also be available in the form of the flat rate foreign tax credit. The credit is a notional credit for foreign tax deemed to have been suffered on qualifying foreign source income. The notional tax credit is equivalent to 25% of the relevant foreign source income.

# 2. Personal income taxation

## 2.1 Taxes on income

Individuals who are ordinarily resident and domiciled in Malta are taxable in Malta on a worldwide basis.

A person who is not resident in Malta is subject to tax in Malta only on income and/or gains arising from certain sources in Malta. A non-resident person is also, however, taxable in Malta on foreign source chargeable income (not gains) received in Malta if the person is domiciled in Malta.

## 2.2 Residence and non-residence

Whether a person is resident or ordinarily resident in Malta or otherwise is a question of facts. Still, a person would generally be deemed to be resident in Malta when he is actually physically present in Malta at one or more times for a period equal in the whole to 183 days in a year. In addition, a person may be deemed to be resident in Malta, notwithstanding a shorter physical presence in Malta, if he stays in Malta for a purpose which is not merely temporary only and/or if he is in Malta with an intention to establish its residence in Malta.

A person may be deemed to be ordinarily resident in Malta if he is habitually resident in Malta or resident in Malta year after year or resident in Malta in the ordinary or regular course of its life.

The “domicile” of an individual is essentially the country in which that individual has its home and where the individual intends to live permanently. Domicile is a universal and unitary concept.

## 2.3 Tax year and filing

The tax year is the calendar year.

An individual with a tax liability is required to complete and submit a self-assessment tax return by no later than 30 June of each year of assessment (that is, the year immediately following the tax basis year).

However, an individual resident in Malta who only derives employment income and/or other income which was subject to tax at source in a given year would not typically be required to submit a tax return but would, alternatively, receive a notice from the local tax authorities containing details of his/her income and the tax paid thereon as known to the said authorities. In the circumstances, the taxpayer would only be required to submit a return should the amount of his/her said income and/or the tax paid thereon be different from that reflected in the relevant notice.

## 2.4 Types of income

Income Tax is chargeable on the following categories:

- trading, business or professional income;
- employment income and pensions;
- income from savings and investment;
- income from property;
- income from transfers of immovable property situated in Malta;
- capital gains realised upon a disposal of chargeable assets (including securities, immovable property and certain IP);
- miscellaneous income.

Tax payable on certain income may be deducted at source. As such, tax on employment income is generally deducted at source. Final withholding taxes may also apply in respect of profits derived from any transfer of immovable property situated in Malta and in respect of certain investment income (including bank interest) although a recipient may be entitled to elect to receive such profits or income gross of any tax deduction – in which case such profits or income would be aggregated to the recipient's other chargeable income.

## 2.5 Capital Gains

Chargeable capital gains realised by an individual pursuant to a disposal of one or more chargeable assets (other than immovable property) would be aggregated to that individual's other income derived in the same year and would be taxed accordingly at his/her marginal rate. Malta does not, as such, impose a

separate and/or dedicated capital gains tax.

Transfer of immovable property in Malta falls within a different category. As a general rule, an 8% final withholding tax on the property values applies. Please refer to section 1.7.

## 2.6 Losses

Losses incurred in a trade or business may be set off against other trading or income streams and capital gains derived by the same taxpayer. Any such losses that cannot be set off against income or capital gains arising in the same year may be carried forward indefinitely.

Capital losses incurred may only be set off against other capital gains. Such capital losses may however, be carried forward indefinitely and set off against capital gains realised in subsequent years of assessment.

## 2.7 Exemptions

There are no significant exemptions.

## 2.8 Allowances and rates

Three sets of progressive rates apply in respect of individuals insofar as married residents may opt to pay tax at married or single rates whilst a third set of progressive rates applies in respect of non-residents.

All taxable income derived in a calendar year from the various categories identified above would be aggregated (excluding income which has suffered tax at source or final withholding tax) and would be subject to tax at applicable progressive rates. Personal deductions or allowances are no longer available domestically. However, certain expenses (even personal expenses) may be deductible, in whole or in part.

Such allowable expenses include:

- expenses wholly and exclusively incurred in the production of the income (including interest payable on capital employed in acquiring income, rent paid for the occupation of premises used in the production of income and wear and tear allowances in respect of plant and machinery, industrial buildings or structures);
- bad debts incurred in any trade, business, profession or vocation;
- trading losses (see below);
- alimony payments;
- school fees;
- fees paid for residence in a private home for elderly;
- sports fees.

## 2.9 Social security

Both the employer and the employee pay social security contributions of 10% of the salary up to a maximum contribution of EUR 42,57 per week.

## 2.10 Expatriates

For qualifying wealthy individuals coming into the country there are two special facilities divided between one programme for the incoming EU/EEA/Swiss nationalities and one programme for incoming individuals who do not have an EU/EEA/Swiss nationality.

The 2014 Residence Programme (TRP), is aimed to attract wealthy individuals seeking to take up tax residence, to Malta.

EU/EEA/Swiss nationals taking up residence in Malta may benefit from a special and favourable Malta tax status and treatment as follows:

- (i) income arising outside Malta which is received in Malta is chargeable to tax in Malta at the flat rate of 15%;
- (ii) income arising in Malta and capital gains realised in Malta is taxable in Malta at the higher rate of 35%;
- (iii) no Malta tax is chargeable on income arising outside Malta which is not received in Malta;
- (iv) no Malta tax is chargeable on capital gains realised outside Malta even if these are received in Malta.

A beneficiary is also entitled to relief from double taxation otherwise suffered on income arising outside Malta which is received in Malta. Such relief would be available in the form of unilateral relief (in terms of the Malta Income Tax Act) or, alternatively, under a treaty in force between Malta and the country of source of the relevant income.

However, after taking any double tax relief claimed into account, an EU/EEA/Swiss national would be required to make an annual minimum Malta Income Tax payment of at least EUR 15,000.

The 2013 Global Residence Program (GRP), is aimed to attract wealthy individuals seeking to take up tax residence to Malta.

Individuals who are not a national of an EU, EEA country or of Switzerland who take up residence in Malta may benefit from a special and favourable Malta tax status which is similar to that for the TRP.

For both the TRP and the GRP the individual must comply with a number of conditions including the fact that he must not be a Maltese national, must hold a qualifying property, must have sufficient resources to maintain himself and his dependents and must be considered a fit and proper person.

If property is purchased it must have a cost of at least EUR 275,000 (EUR 220,000 in Gozo and the South of Malta) and if it is rented the rent must exceed EUR 9,600 or EUR 8,750 in Gozo and the South of Malta.

There are also special rules for highly qualified persons who are employed to fill senior positions with companies licensed by the Malta Financial Services Authority and the Lottery and Gaming Authority. Such employees may opt to pay tax at the flat rate of 15% on employment income derived in respect of work or duties carried out in Malta and in respect of any period spent outside Malta in connection with such work or duties. The individuals concerned must hold senior positions. Their remuneration should be at least EUR 78,207. The rules apply for a maximum of five years in the case of EEA and Swiss nationals and four years in the case of other nationals.

There is also a citizenship program which is available to qualifying individuals who acquire a property with a minimum value of EUR 350,000 and retain it for a period of at least five years or who lease a property in Malta with a minimum annual rent of EUR 16,000 and retain it for a period of at least five years. A further investment of EUR 150,000 must be made in approved financial instruments, also for five years. A contribution to the National Development and Social Fund of EUR 650,000 is required with additional amount for dependents.

## 2.11 Options

Stock or share options are taxed as fringe benefits if provided to and exercised by employees. In fact, the benefit derived by an employee from a stock or share option is taxable as employment income. Such income is derived when the option is exercised and its value is limited to 42.85% of the excess, if any, of the market value of the shares on the date of such exercise less amounts paid upon the acquisition or exercise of the option. As a result, any stock or share option exercised by an employee would be subject to tax at an effective rate not exceeding 15% (since 35%, the highest marginal rate applicable in respect of individuals as aforesaid, of 42.85% results in an effective tax rate of 14.9975%).

## 2.12 Partnerships

Income accruing to a civil or commercial partnership (other than a partnership en commandite the capital of which is divided into shares) are fiscally transparent for Malta tax purposes. In fact, whilst profits derived by a partnership are assessed separately, such profits are then attributed to the partners and taxed in their hands.

## 2.13 Pensions

Pensions are subject to normal tax. Pension contributions are deductible.

# 3. Inheritance and Gift Tax

Malta does not levy inheritance or gift taxes.

# 4. Wealth Tax

Malta does not levy estate or wealth taxes.

# 5. Value Added Tax

## 5.1 Rates

VAT is levied at a standard rate of 18% for certain goods. A reduced rate of 7% VAT is generally applicable to letting of or the provision of accommodation in any premises licensed for the purposes in terms of applicable domestic legislation. A reduced rate of 5% applicable to supplies of:

- electricity;
- confectionery and similar items specified by reference to combined nomenclature (CN) codes;
- medical accessories specified by reference to CN codes;
- printed matter specified by reference to CN codes;
- items for the exclusive use of the disabled specified by reference to CN codes;
- works of art, collectors' items and antiques;
- minor repairs of bicycles, shoes and leather goods, clothing and household linen;
- domestic care services, such as home help and care of the young, elderly, sick or disabled; and
- admission to museums, art exhibitions, concerts and theatres.

## 6. Other taxes

Duty on documents and transfers (stamp duty) are basically chargeable on inter vivos or causa mortis transfers of immovable property or marketable securities. Duty is chargeable on the consideration or real value, whichever is the higher, of immovable property or marketable securities.

Immovable property and marketable securities are generally subject to 5% tax. However under certain conditions a tax rate of 2% applies in respect of marketable securities.

Malta does not levy tax on any outbound interest or royalties paid to a non-resident provided that:

- such interest or royalties are not effectively connected with a permanent establishment situated and maintained in Malta by the non-resident; and
- the non-resident is not owned and controlled by, directly or indirectly, nor acts on behalf of an individual or individuals who are ordinarily resident and domiciled in Malta.

## 7. Foreign income

The Maltese system for double tax relief provides for four types of relief from double taxation of foreign-source income and they basically take the form of a tax credit.

The flat rate foreign tax credit (FRFTC) is only available to companies. Broadly, this is a credit for notional tax of 25% where other double taxation relief is not available.

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