



## International tax

# Malta Highlights 2012

### Investment basics:

**Currency** – Euro (EUR)

**Foreign exchange control** – No

**Accounting principles/financial statements** – IAS/IFRS/General Accounting Principles for Smaller Entities (GAPSE). Financial statements must be prepared annually.

**Principal business entities** – These are the public and private limited liability company, partnership *en nom collectif* and the partnership *en commandite* (the capital of which may or may not be divided into shares). Trusts and foundations also are available under Maltese law. A Collective Investment Scheme (CIS) and a securitization vehicle may be set up under various forms.

### Corporate taxation:

**Residence** – A company incorporated in Malta is considered both domiciled and resident in Malta. A company not incorporated in Malta is considered resident in Malta if the management and control of its business is exercised in Malta.

**Basis** – Companies resident and domiciled in Malta are subject to income tax on their worldwide income and chargeable gains. Companies that are either resident or domiciled in Malta are taxable in Malta on a source and remittance basis: i.e. on income and chargeable gains arising in Malta and on income arising outside Malta that is received in Malta (such companies are not taxable on income arising outside Malta that is not received in Malta or on capital gains arising outside Malta regardless of whether received in Malta). Companies that are neither incorporated nor resident in Malta are only chargeable to tax in Malta in respect of Malta-source income and chargeable gains, such as the income of a Malta permanent establishment.

**Taxable income** – Taxable income includes gains or profits derived from a trade or business; dividends, premiums, interest or discounts; rents, royalties and other profits

arising from property; any charge, annuity or annual payment; and certain chargeable capital gains. Some categories of income are exempt, including the income of a CIS (other than income from immovable property situated in Malta). Due to specific deductions available to securitization vehicles, any taxable income may be effectively eliminated at the level of such vehicles.

**Taxation of dividends** – A company in receipt of dividend income is subject to tax on such income with the possibility of relief for any underlying tax. The participation exemption may apply in respect of dividend income derived from a participating holding (see “Participation exemption”).

**Capital gains** – Gains on the transfer of capital assets are aggregated with a company's other income and the total income and capital gains is charged to income tax. (Capital assets being defined as (i) immovable property; (ii) securities, business, goodwill, business permits, copyrights, patents, trademarks and trade names; (iii) beneficial interests in trusts that hold property referred to in (i) or (ii); and (iv) an interest in a partnership.) However, where a company transfers immovable property situated in Malta after 22 November 2005, tax is payable at a flat rate of 12% on the higher of the market value or the consideration received for the transfer, less brokerage fees. A participation exemption may apply in respect of gains derived from the disposal of a participating holding (see “Participation exemption”). Nonresident companies are not subject to tax on gains or profits realized on a disposal of units in a CIS, units relating to long-term insurance policies, interest in a partnership and shares or securities in a company, unless the partnership's or company's assets consist wholly or principally of immovable property situated in Malta.

**Losses** – Trade losses may be set off against income of the relevant year and carried forward indefinitely for setoff against income of subsequent years. Losses arising due to depreciation may be carried forward

indefinitely and set off against the profits of the same and continuing trade. The carryback of losses is not permitted. Capital losses may be set off against capital gains of the current and following years.

**Rate** – Companies are taxed at a flat rate of 35%. Relief for economic double taxation upon the distribution of taxed profits by companies is ensured by the application of the full imputation system and the Malta tax payment and refund system. The latter system grants a shareholder the right to claim a refund of all or a part, as the case may be, of the Malta tax paid on the qualifying profits out of which the dividend was distributed and, as a result, may reduce the effective tax rate in Malta to 0% -10%. Certain categories of investment income are taxed at 15% or 10%, and a 12% rate applies to certain transfers of immovable property situated in Malta.

**Surtax** – No

**Alternative minimum tax** – No

**Foreign tax credit** – An ordinary tax credit with per-country and per-source limitations may apply, or a (notional) flat rate foreign tax credit of 25% for companies specifically empowered to receive foreign-source income.

**Participation exemption** – Dividend income or capital gains derived from a participating holding or from the disposal of such a holding (usually a 10% equity shareholding, although a number of alternative tests may apply) are exempt from tax in Malta (or alternatively may be taxed at 35% and the shareholder may, upon a subsequent distribution of the corresponding profits, claim a full refund of the Malta tax paid by the company). In the case of dividends derived from a participating holding acquired after 1 January 2007, the entity also must be resident in the EU or must derive less than 50% of its income from passive interest and royalties or must be subject to tax at a rate of at least 15%. If none of these conditions are satisfied, the holding cannot be a portfolio investment and the entity must be taxed at a rate of at least 5%.

**Holding company regime** – See “Participation exemption.”

**Incentives** – Royalties and similar income derived from patents in respect of inventions, used in a trade/business, are exempt from tax in Malta. In addition, tax and other incentives are granted to, among others, the manufacturing sector, ICT, eco-innovations and waste treatment, R&D and innovation, biotechnology, film, tertiary education in science and technology, private healthcare and freeport activities. Incentives fall under 6 thematic pillars: (1) investment aid; (2) access to finance; (3) R&D and innovation; (4) small and medium-size enterprise development; (5) enterprise support and (6) employment and training.

### **Withholding tax:**

**Dividends** – Malta does not levy withholding tax on outbound dividends (except for certain untaxed dividends where a nonresident person is owned and controlled by, or acts on behalf of, an individual ordinarily resident and domiciled in Malta).

**Interest** – The rate is 0%, provided the recipient is not owned and controlled by, and does not act on behalf of, persons ordinarily resident and domiciled in Malta, and does not carry on a trade/business in Malta through a permanent establishment with which the interest income is effectively connected.

**Royalties** – The rate is 0%, provided the recipient is not owned and controlled by, and does not act on behalf of, persons ordinarily resident and domiciled in Malta, and does not carry on a trade/business in Malta through a permanent establishment with which the royalty income is effectively connected.

**Technical service fees** – The rate is 0%, provided that such fees are not sourced in Malta (e.g. are not attributable to a permanent establishment of a nonresident in Malta).

**Branch remittance tax** – No

**Other** – Non-final withholding may be imposed on certain taxable income paid to nonresident companies.

### **Other taxes on corporations:**

**Capital duty** – No

**Payroll tax** – Income tax is withheld from salaries under the Final Settlement System.

**Real property tax** – There is no real property tax, but tax is generally due on gains derived from the transfer of immovable property (see “Capital gains”).

**Social security** – The employer must pay social security contributions for each full-time employee in an amount generally equal to 10% of the employee's basic weekly wage, subject to a minimum and maximum contribution updated annually on the basis of the government-awarded cost-of-living increase. The employer also must deduct 10% from the basic weekly wages of the employee and pay the entire amount to the government on a monthly basis. The employer's share of the social security contribution is deductible for income tax purposes.

**Stamp duty** – Stamp duty is generally levied on documents evidencing transfers of immovable property at a rate of 5% of the higher of the consideration and the real value; and upon a transfer of marketable securities and/or an interest in a partnership at a rate of 2% of the higher of the consideration and the real value, although a 5% rate applies to transfers of marketable securities in a company and/or an interest in a partnership where 75% or more of the company's and/or the partnership's assets consist of immovable property. An exemption from duty may apply.

**Transfer tax** – No, but see “Stamp duty.”

**Other** – No

### **Anti-avoidance rules:**

**Transfer pricing** – No

**Thin capitalization** – No

**Controlled foreign companies** – No

**Other** – Under a general anti-abuse provision, the Commissioner of Inland Revenue is entitled to disregard, for tax purposes, any artificial or fictitious scheme that reduces the amount of Malta tax payable by a taxpayer and to assess the taxpayer to tax to effectively nullify or modify the scheme and the consequent advantage. There are also a number of anti-abuse provisions addressed at specific activities.

**Disclosure requirements** – No

### **Administration and compliance:**

**Tax year** – Companies are assessed to tax on income derived during the financial year (year of assessment). Company profits are assessable on the immediately preceding accounting year (basis year). A company may use an accounting reference date other than 31 December if consent is granted by, and subject to conditions imposed by, the Inland Revenue Department.

**Consolidated returns** – No, however, group loss relief is available in certain circumstances.

**Filing requirements** – Corporate profits are assessed on the basis of the accounting year immediately preceding the year of assessment. Companies are required to make advance payments of tax during the accounting period (although exemptions from paying provisional tax may apply), and must typically file a tax return together with financial statements within 9 months from the end of the accounting period. A final tax payment is due by the date the tax return is submitted.

**Penalties** – Penalties may be imposed, *inter alia*, for filing an incorrect return.

**Rulings** – An application to the Commissioner of Inland Revenue may be made for an advance ruling on, *inter alia*, the tax treatment of certain transactions. A ruling is binding for 5 years and may be subsequently renewed; however, if relevant changes are made to the law in question subsequent to the ruling, the ruling will remain binding for 2 years from such time.

### **Personal taxation:**

**Basis** – Persons ordinarily resident and domiciled in Malta are subject to income tax in Malta on their worldwide income and chargeable gains. Persons who are resident or domiciled are taxable in Malta on a source and remittance basis, that is, on income and chargeable gains arising in Malta and on income arising outside Malta and received in Malta (i.e. such persons are not taxable on income arising outside Malta and not received in Malta and capital gains arising outside Malta regardless of whether received in Malta).

**Residence** – The extent of a person's tax liability will depend on his/her tax residence status in Malta, and a factual determination must be made whether the person is ordinarily resident and domiciled in Malta or resident or domiciled but not ordinarily resident and domiciled in Malta, etc.

**Filing status** – Spouses are jointly responsible for filing tax returns, whereby one spouse is registered as the taxpayer (responsible spouse), although that spouse can opt to have tax on the other spouse's income computed separately. Any income of the non-responsible spouse is assessable in the hands of the responsible spouse. Where spouses are assessed separately, they are assessed at the rates for single taxpayers.

**Taxable income** – Taxable income includes gains or profits derived, *inter alia*, from a trade or business; profession or vocation; employment or office; dividends, interest or discounts; pensions, annuities or annual payments; rents, royalties, premiums and any other profits arising from property; and certain chargeable capital gains.

**Capital gains** – Gains on the transfer of capital assets are aggregated with a person's other income and the total of income and capital gains is charged to income tax. (Capital assets being defined as (i) immovable property; (ii) securities, business, goodwill, business permits, copyrights, patents, trademarks and trade names; (iii) beneficial interests in trusts that hold property referred to in (i) or (ii); or (iv) interest in a partnership.) However, when a person transfers immovable property situated in Malta after 22 November 2005, tax is payable at the flat rate of: 12% on the higher of the market value or the consideration received for the transfer less any brokerage fees; 7% on the consideration received, less any brokerage fees, if the property was inherited before 25 November 1992; or 12% on the gain, less any brokerage fees and the cost of acquisition, if the property was inherited after 24 November 1992 and before 25 November 2003 or acquired by the transferor by title of donation more than 5 years before the date of transfer. Nonresidents are not subject to tax on gains or profits realized on a disposal of units in a CIS, units relating to long-term insurance policies, interest in a partnership and shares or securities in a company, unless the partnership's or company's assets consist wholly or principally of immovable property situated in Malta.

**Deductions and allowances** – Various deductions are allowed, e.g. certain fees in connection with schools, child care, sports for children and homes for the elderly. Interest paid on money borrowed is deductible from income generated by assets acquired through the application of the loaned funds. Alimony payments are deductible up to the amount of taxable income. No personal allowances are granted under Maltese law.

**Rates** – Rates are progressive from 0%-35%. A flat tax rate of 15% applies to emoluments derived by highly qualified persons employed in a qualifying industry

under a qualifying contract of employment. Additionally, subject to certain conditions, a flat tax rate of 15% applies to income from foreign sources remitted to Malta derived by qualifying high net worth individuals from EU/EEA as well as from third countries (subject to different qualifying requirements).

#### Other taxes on individuals:

**Capital duty** – No

**Stamp duty** – Stamp duty is generally levied on documents evidencing transfers of immovable property at a rate of 5% of the higher of the consideration and the real value (with reduced rates applicable to dwelling houses and transfers *causa mortis*), and upon a transfer of marketable securities and/or an interest in a partnership at a rate of 2% of the higher of the consideration and the real value, although a 5% rate applies to transfers of marketable securities in a company and/or an interest in a partnership where 75% or more of the company's or the partnership's assets consists of immovable property. An exemption from duty may apply.

**Capital acquisitions tax** – No

**Real property tax** – There is no real property tax, but tax is generally due on any gain on the transfer of immovable property (see "Capital gains").

**Inheritance/estate tax** – No, but see "Stamp duty."

**Net wealth/net worth tax** – No

**Social security** – Social security is compulsory for all persons gainfully occupied in Malta between the ages of 16 to 65, including nonresident persons working in Malta. A full-time employee must generally contribute 10% of his/her basic weekly wages (the employer contributes an equal amount) subject to a minimum and a maximum contribution, which are updated annually on the basis of the cost-of-living increase awarded by the government.

#### Administration and compliance:

**Tax year** – Individuals are subject to tax on income arising in a calendar year, i.e. the basis year, which is assessed to tax in the year following the year in which it arises, i.e. the year of assessment.

**Filing and payment** – Individuals are taxed on a preceding year basis. Individuals must

make provisional tax payments, which must be effected before 30 April, 31 August and 21 December, respectively, of each basis year (except for income on which tax was withheld at source, e.g. employment income). The balance must be paid by 30 June of the year of assessment.

**Penalties** – Penalties may be imposed, *inter alia*, for making incorrect returns.

#### Value added tax:

**Taxable transactions** – VAT is levied on the supply of goods and services in Malta, the intra-Community acquisition of goods in Malta and the import of goods into Malta from outside the EU.

**Rates** – The standard rate is 18%; reduced rates of 7%, 5% and 0% apply in certain cases; and some transactions are exempt (e.g. banking and insurance services and the sale and leasing of immovable property).

**Registration** – For VAT purposes, every person who, in the course of a trade or profession, makes taxable and/or exempt-with-credit supplies of goods and services in Malta (with the exception of certain small undertakings) is required to register for VAT in Malta and to charge VAT that might be applicable and is entitled to recover input VAT incurred for the purpose of its supplies. Additional registration requirements apply to businesses supplying and receiving services in a cross-border context.

**Filing and payment** – Input VAT is set off against output VAT, and the balance is accounted for every 3 months (quarterly).

**Source of tax law:** Income Tax Act, Income Tax Management Act, Duty on Documents and Transfers Act, Malta Enterprise Act, VAT Act

**Tax treaties:** Malta has 57 tax treaties currently in force.

**Tax authorities:** Inland Revenue Department

**International organizations:** EU, WTO, UN, Council of Europe and Commonwealth of Nations

**Deloitte contact**  
Malcolm Booker  
E-mail: [mbooker@deloitte.com.mt](mailto:mbooker@deloitte.com.mt)

## **Security | Legal | Privacy**

Deloitte refers to one or more of Deloitte Touche Tohmatsu Limited, a UK private company limited by guarantee, and its network of member firms, each of which is a legally separate and independent entity. Please see <http://www.deloitte.com/about> for a detailed description of the legal structure of Deloitte Touche Tohmatsu Limited and its member firms.

Deloitte provides audit, tax, consulting, and financial advisory services to public and private clients spanning multiple industries. With a globally connected network of member firms in more than 150 countries, Deloitte brings world-class capabilities and deep local expertise to help clients succeed wherever they operate. Deloitte's approximately 182,000 professionals are committed to becoming the standard of excellence.

This publication contains general information only, and none of Deloitte Touche Tohmatsu Limited, its member firms, or their related entities (collectively, the "Deloitte Network") is, by means of this publication, rendering professional advice or services. Before making any decision or taking any action that may affect your finances or your business, you should consult a qualified professional adviser. No entity in the Deloitte Network shall be responsible for any loss whatsoever sustained by any person who relies on this publication.