

DOING BUSINESS IN MALTA

2019



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This guide has been prepared to assist those interested in doing business in Malta. It does not exhaustively cover the subjects it treats, but it is intended to answer some of the important questions that may arise in a broad manner. When specific issues arise in practice, it will often be necessary to consider the relevant laws and regulations, and to obtain appropriate professional advice.

ABOUT THIS GUIDE

Considering Malta as a potential location for your business is a smart choice. Malta offers many advantages: a highly qualified workforce, a strategic location in Mediterranean, competitive tax rates, business friendly legislation, significant investment incentives and a cost-effective business environment.

This guide offers you an overview of the main features of Malta as a potential location for your business. This guide is meant to be a practical resource and will be updated regularly. The information in this guide is based on data as of 28 February 2019.

We will be more than happy to provide you with any further information so feel free to contact us.

We are looking forward to welcoming you to Malta!

Mazars Malta



Services

Audit



Advisory



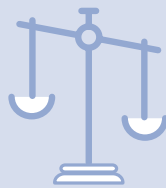
Accounting



Tax



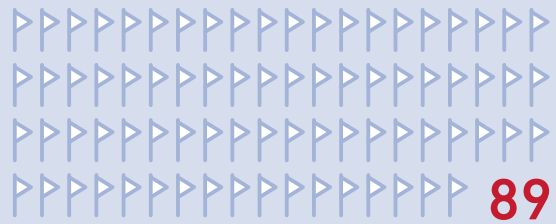
Legal services



Subsidiaries

310

Countries



Mazars worldwide



Turnover

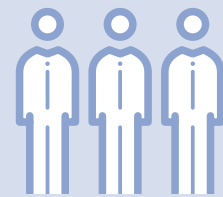
1.600

Billion €

Employees



23,000
Professionals



1,040
Partners

ABOUT MAZARS

A UNIQUELY INTEGRATED FIRM

Specialising in audit, accountancy, tax and advisory services, Mazars is a leading international, integrated, and independent organisation, the international dimensions of which are expanding every year.

Mazars has an international presence through its own offices in 89 countries across all continents, employing more than 23,000 highly qualified professionals. Through its correspondent agreements, joint ventures and representative offices, Mazars can operate in another 16 countries and provide its clients with professional teams, sharing the same commitment to quality, and a common determination to maintain the highest technical and ethical standards. Mazars' continually expanding portfolio of services reflects the Group's ambition to provide its clients - whether international corporates, SMEs or individuals - with tailored and global solutions to help them achieve sustainable growth.

MAZARS IN MALTA

Mazars' roots in Malta go back to 1998, having started its journey as a small firm known as Attard Giglio + Co. Over the years, we have established ourselves as a business advisory-driven firm with a strong reputation for providing a personal service and quality advice.

Today, the firm operates as a one-stop shop with a niche focus on specialist knowledge in advisory, auditing, accounting, tax and corporate services. As an integrated member firm of Mazars, we are also in a position to draw experience and resources from Mazars worldwide.

The source of our success lies in the holistic approach we take towards understanding our clients' business and the integrated manner in which we deliver our range of services. All this would not be possible, however, without the extensive knowledge and diverse experience of our people, which are in turn backed by the tools and expertise of Mazars international.



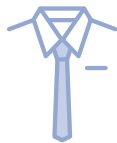
HOW MAZARS CAN ASSIST

Our team can advise you throughout the process of establishing a business in Malta, incorporating aspects such as: business and financial planning, business services such as accounting, payroll, audit and tax.



AUDITING

Our highly skilled audit team can deliver the level of assurance you need to make sure your operations are under control and comply with rules and regulations. Our audit team will be ready to deliver quality services to your company, including financial statements audit, reviews of internal control systems and financial information.



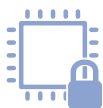
OUTSOURCING SERVICES

Developing a business in a new location requires that you concentrate on the business. Our team will take care of all your administrative burdens allowing you to focus on your business. We can assist you with bookkeeping, payroll, corporate secretarial services and other recurring compliance and management information requirements.



TAX ADVISORY

Our tailor-made approach takes into account your group structure, business model and investment requirements. Furthermore, we can assist you in tax compliance, both corporate and individual, and on income tax and indirect taxes.



TECHNOLOGY & SECURITY

Our team of experienced staff with a strong technical background can provide you with comprehensive technology risk consultancy services including data protection, infrastructure security, IT governance and management information services. We can also assist you in threat, vulnerability & risk assessment, compliance certification, penetration test and IT control review.

1. INFORMATION ABOUT MALTA



Malta, officially known as the Republic of Malta, is a Southern European country consisting of an archipelago situated in the centre of the Mediterranean, 93 km south of Sicily and 228 km north of Tunisia, with the Strait of Gibraltar 1,826 km to the west and Alexandria 1,510 km to the east.

Malta, which became a full member of the European Union in 2004, is a parliamentary democracy and has a President elected by Parliament as its Head of State. Malta's strategic position has made it a hub for international trade, businesses, manufacturing and services that go as far back as the Phoenicians. This commercial tradition has contributed to today's stable commercial climate that, together with a dynamic business environment, makes Malta an ideal location for foreign direct investment.

Over the years, Malta has developed into a reputable financial services centre, supported by a strong regulatory structure, an excellent communication infrastructure and a very competent professional support service. It is also considered to be a cost-efficient jurisdiction. Apart from providing a range of non-fiscal advantages, Malta's fiscal regime is also attractive to companies and individuals interested in investing in Malta. Among others, businesses in Malta can benefit from a tax efficient environment, a full imputation tax system and double taxation treaties with over 70 countries.

THE MALTA FACT FILE

Country's full name: Republic of Malta (Repubblika ta' Malta)

Capital city: Valletta

Population: 475,701 (January 2018)

Official languages: Maltese and English

Currency: Euro (€)

International Dialing Code: +356

Internet domain: .mt

Area: 316 km², 122 square miles

Climate: Mediterranean with hot dry summers and mild winters. Annual rainfall is around 600mm and falls mostly between October and March

Average temperature: The average yearly temperature is around 23°C during the day and 16°C at night (one of the warmest temperature averages in Europe).

1. INFORMATION ABOUT MALTA



BUSINESS ENVIRONMENT

During the past 50 years, the country has registered an impressive record in attracting foreign investment to Malta. This has been achieved by a successful transformation to a knowledge-based industry, and by establishing a favourable industrial climate and pro-business policies on which businesses have built their success.

The key government entities which made this success possible include Malta Enterprise, the Malta Financial Services Authority, the Malta Gaming Authority, the Malta Communications Authority, Finance Malta, Trade Malta, the Malta Tourism Authority and the Malta Digital Innovation Authority. These entities will be your main contacts should you decide to set up shop in Malta. Among others, they are also responsible for licensing operators in their area of competence, where applicable.

- **Malta Enterprise** is the agency responsible for the promotion of foreign investment and industrial development in Malta. Its mission is to sustain Malta's overall competitiveness and to create the right environment for Malta-based enterprises to succeed. It also offers assistance and advice to those who seek to learn more about the multitude of business and investment opportunities available on the island. Malta Enterprise offers investors assistance both when considering Malta as one of their option, as well as once they decide to do business in Malta. Malta Enterprise also administers the incentives and schemes available to industry, including tax credits on investment, soft loans and deductions related to R&D (www.maltaenterprise.com).

- **The Malta Financial Services Authority (MFSA)** is the single regulator for financial services in Malta, including credit institutions, financial and electronic money institutions, securities and investment services companies, regulated markets, insurance companies, pension schemes and trustees. The MFSA also manages the Registry of Companies and has been appointed as the Listing Authority (www.mfsa.com.mt).

- **Finance Malta** promotes the island's financial services brand, both within, as well as outside our shores. Through Finance Malta, the regulator and government are brought together to ensure that Malta maintains a modern and effective legal, regulatory and fiscal framework in which our financial services sector can continue to grow and prosper (www.financemalta.org).

- **The Malta Gaming Authority (MGA)** is the single, independent, regulatory body responsible for the governance of all gaming activities in Malta, both online and land-based. It regulates licensed casinos, lotteries, commercial bingo halls, remote gaming, video lottery terminals and non-profit games (www.mga.org.mt).

- **The Malta Communications Authority (MCA)** was set up to regulate communications services, which include fixed and mobile telephony, Internet and TV distribution services. It also regulates the postal sector and eCommerce services, as well as Malta's radio spectrum resources. The MCA also implements initiatives aimed at ensuring that every business and individual has the competences to benefit from the use of ICT and engage in online activities (www.mca.org.mt).



1. INFORMATION ABOUT MALTA



- **Trade Malta**, a public-private partnership between Malta Enterprise and the Malta Chamber of Commerce, Enterprise and Industry, was launched recently and will be responsible for the promotion of trade and the internationalisation of Maltese businesses (<https://www.trademalta.org>).



- **The Malta Tourism Authority (MTA)** is the tourism industry's regulator and motivator and the country's brand promoter. Its overall remit is to form, maintain and manage meaningful partnerships with all tourism stakeholders. Importantly, the MTA also strives to help strengthen the industry's human resources, ensure the highest standards and quality with regard to the islands' tourism product, and foster relations with local and international media (www.mta.com.mt).



Transport Malta

- **Transport Malta** is the Authority for Transport in Malta as set up by Act XV of 2009. As a public agency, Transport Malta was set up to assume the functions previously exercised by the Malta Maritime Authority, the Malta Transport Authority, and the Department of Civil Aviation. Transport Malta encompasses operational and supporting units and directorates. These include Maritime (ports, yachting and merchant shipping), traffic management, land transportation, roads, infrastructure and civil aviation. (www.transport.gov.mt).



- **The Malta Digital Innovation Authority (MDIA)** is the primary Authority responsible for promoting all governmental policies that promote Malta as the centre for excellence for technological innovation, while setting and enforcing standards that ensure compliance with any other international obligations. The Authority seeks to protect and support all users and also encourages all types of innovations, by allowing for maximum flexibility when it comes to the certification of Innovative Technology Arrangements (<https://mdia.gov.mt>).

INTERNATIONAL RELATIONS¹

Successive Maltese governments have sought to conclude double taxation treaties with important trading partners as well as with emerging countries, in order to encourage the growth of international trade. To date, treaties are in force with over 70 countries and this policy is expected to continue in the future (for an updated list of double taxation treaties, visit the MFSA website at: www.mfsa.com.mt).

Most of Malta's double taxation treaties are based on the Organisation for Economic Co-operation and Development (OECD) model. Once concluded, a taxation treaty becomes law by Ministerial Order and overrides any provisions to the contrary under Maltese domestic tax legislation. Double taxation relief is available in the terms of the relative taxation treaty.

¹ Source: <https://www.financemalta.org/double-taxation-agreements/>

1. INFORMATION ABOUT MALTA



GOVERNMENT INCENTIVES

Malta Enterprise aims at stimulating the business environment in Malta. The schemes, targeted at sectors approved by Malta Enterprise, are available in the following categories:

- **Financial incentives**, mainly to provide funding such as soft loans or loan interest rate subsidies on certain business undertakings, in particular:

- 1. Interest rate subsidies:** loan interest rate subsidies to support new investment projects undertaken by enterprises engaged in manufacturing;
- 2. Micro guarantee:** this scheme provides eligible undertakings with a guarantee of up to 70% on loans required to finance business enhancement, growth and development;
- 3. Soft loan:** enterprises are granted soft loans at low interest rates for part financing investments in qualifying expenditure. Soft Loans are available to manufacturing enterprises and only after Malta Enterprise completes a due diligence exercise on the applicant and the proposed project. Soft Loans, granted by Malta Enterprise, usually cover 33% of an approved project but in any case, may not exceed 75% of the cost of plant, machinery and equipment.

- **Tax incentives**, in the form of tax credits that can be deducted by a company from the tax due on chargeable income, in particular:

- 1. Investment aid tax credits:** Investment Aid Tax Credits are intended to sustain the regional industrial and economic development of Malta. This measure facilitates initial investments by encouraging the setting up of new establishments and the expansion and development of existing businesses. This is implemented by means of a tax credit equivalent to a percentage of the cost of acquisition of plant and machinery or of the wage cost on new employees on the set up of a business venture, or on the expansion of an existing one for businesses operating in a qualifying industry. Qualifying economic activities include manufacturing, IT, call centre activities, research and development, biotechnology, pharmaceuticals, facilities for filming and audio-visual productions amongst others. Tax credits are granted in accordance with the size of the company carrying out the investment, and range between 10% and 30% of the total investment;
- 2. Micro invest:** Support for micro enterprises that, for the year in which the costs were incurred, did not employ more than 50 persons (FTE) and with turnover not exceeding €10 million.

2. SETTING UP BUSINESS IN MALTA



Companies and other forms of commercial partnerships are formed by agreement between shareholders or members. These must be registered at the Registry of Companies, which is housed at the Malta Financial Services Authority (MFSA) offices in Notabile Road, Attard.

One may choose either to conduct his/her business operation as a limited liability company, or to trade in one's own name (as a sole trader), or alternatively to form a partnership with at least one other person.

The limited liability company has an important advantage over other methods ruled above in that the liability of the shareholders is limited to unpaid amounts on calls on share capital.

As in the case of other types of partnerships, a company is a legal person distinct from its shareholders, and the assets and liabilities of the company are separate from those of its shareholders. A company may be formed by one shareholder only (a single member company), who may also be the sole director of the company and its company secretary.

SETTING UP A JOINT VENTURE OR A PARTNERSHIP

Being part of a joint venture is one of the options to set up a business in Malta. A joint venture is not considered to be an entity in itself, and is usually set up through the drafting of a joint venture agreement by the business promoters, with the resulting profits from the business venture being shared between the parties to the agreement.

Under Maltese legislation, a partnership can be either *en nom collectif* or *en commandite* or a civil partnership. All of these would be validly constituted in Malta once a partnership deed is drawn up between the partners. A partnership *en commandite* differs from the other forms of partnerships in that its partners could be limited partners or general partners. The liability of limited partnerships is usually limited to the unpaid contribution of the partner, if any. Conversely, the obligations of the partnership are guaranteed by the unlimited and joint and several liability of general partners.



2. SETTING UP BUSINESS IN MALTA

LIMITED LIABILITY COMPANY

GENERAL PROCEDURE

Limited liability companies are validly constituted once a Memorandum and Articles of Association is drawn up and a certificate of registration is issued by the Registrar of Companies. In view of the accessibility of the local regulatory authorities, the setting up of a business entity in Malta is achievable within a relatively short time frame.

The Memorandum should include all the key details of the company, such as the names of directors and shareholders, as well as procedural details on the issue of new shares, the transfer of shares and directors, appointments amongst others.

DOCUMENTATION

The Memorandum must include:

- The name of the company
- Its status (Private or public)
- Its registered address
- The details of its shareholders
- The objects clause of the company, indicating its operating lines
- The amount of authorised and issued share capital
- The number of shares taken up by each shareholder and the amount paid on each share
- Where shares are divided into different classes, the rights attached to the shares of each class
- The details of the directors and the company secretary
- Information on the persons vested with the legal/judicial representation of the company
- Lease agreement and photocopies of the ID/Passport of the Directors/Shareholders
- The memorandum must be accompanied by the Articles of Association, a document which governs the internal workings of the company.

2. SETTING UP BUSINESS IN MALTA

NAMING YOUR COMPANY

One is free to choose any company name, as long as the name chosen is not the same as very similar to the name of an existing or reserved company. However, the Registrar of Companies may refuse to register a name if it is considered offensive or otherwise undesirable.

The promoters may also reserve a company name for a period of three months in the incorporation process.

CAPITAL

The issued share capital cannot be less than the authorised minimum (€1,165 for private companies), at least 20% of this amount must be fully paid up at the time of incorporation. For public companies the minimum share capital is of €44,588, of which at least 25% has to be paid up.

The relevant amount must be deposited in a bank account under the name of the company in formation. The deposit slip should then be presented to the Registry of Companies as proof of the deposit of capital at incorporation stage.

SHAREHOLDERS

A private company may have a minimum of one shareholder (single member company), and a maximum of fifty shareholders. On the other hand, public companies must have at least two shareholders.

There is no maximum number of shareholders in the case of public companies. Shareholders can be of any nationality; however, one may opt to appoint nominee shareholders as the registered holder of the shares instead.

DIRECTORS

The minimum number of directors in a private company is one and there is no maximum number. The minimum number of directors in a public company is two and again, there is no maximum number.

There is no restriction on directors' nationality or place of residence. Corporate directors may be appointed; however, this is not permissible in single member companies.



2. SETTING UP BUSINESS IN MALTA

COMPANY SECRETARY

Every company has to appoint a company secretary, who must be an individual. The company secretary may not be the sole director unless the company is constituted as a private exempt company.

The role of the company secretary, among others, is to ensure that there are proper communication channels between the board, management and the company's service providers. Being a primary interface with the board, the company secretary should be the corporate governance expert, on whom the chairman and the board can rely on for guidance on corporate matters.

REGISTERED OFFICE

Every company registered in Malta must have a registered office in this jurisdiction.

FEES

On incorporation, a fee is payable to the Registrar of Companies. The fee charged is based on the authorised share capital of the company, with the minimum fee being of €245 and the maximum being €2,250.

ANNUAL RETURN

Companies must prepare an annual return in the prescribed format upon each anniversary of their registration. This return must be filed with the Registrar of Companies within 42 days after the date of registration. A payment of between € 100 and € 1,400, depending on the relevant authorised capital, is to be submitted along with the return.

2. SETTING UP BUSINESS IN MALTA



RE-DOMICILIATION – GENERAL PROCEDURE

The Continuance of Companies Reg. provides the possibility for companies to redomicile to Malta, without the need to wind up the company in the foreign country.

The law provides that in order for a foreign company to re-domicile, it has to be incorporated in an approved jurisdiction, being EU and EEA countries, and OECD member states.

The request to be made to the Registrar has to include:

- A resolution by extraordinary resolution, or as applicable, authorizing the company to be registered as being continued in Malta;
- A copy of constitutive document of the foreign company;
- A certificate of good standing;
- A declaration signed by at least 2 directors confirming general company details, together with the notice given by the foreign company to the authorities of the other country that the company is re-domiciling to Malta;
- A declaration signed by 2 directors or equivalent confirming the solvency of the company;
- List of directors and company secretary;
- Payment of registration fees, which amount depends on the authorized share capital of the company.

Upon receipt of the above documents, the Registrar shall issue a provisional certificate that the company is registered (provisionally) as continuing in Malta, which date shall be deemed to be the date of registration of the company under the Companies' Act, 1995.

Within a period of 6 months from the date of the issue of the above mentioned certificate, the company shall submit documentary evidence to the Registrar that it has ceased to be a company registered under the foreign jurisdiction.

Failure to do so, will grant the Registrar the discretion to either strike the name of the company off the register, or if reasonable cause is shown, the Registrar may allow a further period of 3 months prior to striking the name of the register.

Upon this proof is received, the Registrar shall issue the official certificate of continuation confirming that the company has been registered as continuing in Malta.

What about licensed or public companies?

If the foreign company carries on a licensed activity, it has to provide evidence of the consent of the foreign competent authority that the company can be registered as being continued in Malta. Moreover, a Maltese license to carry on such activities shall be required. In the case of foreign public companies, the most recent prospectus is required together with the consent of the foreign competent authority that the company is allowed to register as being continued in Malta.



2. SETTING UP BUSINESS IN MALTA

REGISTRATION OF A BRANCH – GENERAL PROCEDURE

Overseas companies may also set up a branch or place of business in Malta. Within one month of establishment, the overseas company must deliver a number of documents to the Registrar of Companies. These include a copy of the statute of the company as well as a list of involved parties.

AUDIT REQUIREMENTS

Companies are also required to file a signed copy of their annual accounts. These must be accompanied by a copy of the relative auditors' report, as well as a directors' report. The annual accounts must be approved within 10 months from the year end and are to be filed on an annual basis at the Registry of Companies 42 days after the elapse of 10 months.

Public Interest Companies ("PIEs") and large entities are obliged to maintain proper books of accounts in accordance with International Financial Reporting Standards (IFRS) as adopted by the European Union, whilst small and medium-sized entities must comply with Regulations, 2015 ("GAPSME").

The definition of a small or a medium company is one whereby two of the three following criteria are not exceeded on their balance sheet date, on the basis of two consecutive years:

	Small	Medium
Balance Sheet total	≤ € 4 million	≤ € 20 million
Turnover	≤ € 8 million	≤ € 40 million
Average number of employees during the accounting period	≤ 50	≤ 250

Private companies, which on their balance sheet date do not exceed the limits of two of the three following criteria:

Balance sheet total: € 46,600

Turnover: € 93,000

Average number of employees during the accounting period: 2;

Shall be exempted from the requirements concerning the auditing of accounts. However, the profit & loss account, balance sheet and notes must still be delivered to the Registrar.

3. DIRECT TAXATION



TAXATION OF BUSINESS ENTITIES

Business entities established in Malta are subject to tax at the standard rate of 35%. However, the following incentives may potentially reduce the tax payable in Malta:

A. Full imputation system – all income tax paid by the company is credited in full to the shareholder upon a distribution of profits, thus avoiding double taxation of corporate profits.

B. Refundable tax credit system – shareholders receiving dividends from a Maltese company can claim tax refunds in respect of the Maltese tax paid as follows:

- ◊ 6/7th tax refund – claimed in respect of taxed business profits or foreign passive income; and
- ◊ 5/7th tax refund – claimed in respect of taxed passive interest and royalties; and
- ◊ 2/3rd tax refund – claimed in respect of foreign passive income on which double taxation relief has been claimed.

The word “refund” implies the needs for each taxpayer to pay the corporation tax due. However, tax refunds are remitted to the shareholder within 14 days of tax payment provided that:

- ◊ A valid tax refund claim has been submitted to the Commissioner for Revenue; and
- ◊ Tax due by the distributing company has been settled; and
- ◊ The Maltese company has filed all its tax and VAT returns.

An illustration on the manner of how the tax refundable credit system works in practice is included below:

	6/7	5/7	2/3 limited to Malta tax paid
Business profits	100,000		
Foreign passive interest or royalties		100,000	
Income which has been subject to foreign tax			100,000
Tax charge	35,000	35,000	35,000
Foreign Tax	-	-	20,000
Tax paid	35,000	35,000	35,000
Dividends distributed to shareholder	65,000	65,000	65,000
Refund	30,000	25,000	15,000
Effective tax	5000	10000	20000

3. DIRECT TAXATION

C. Participation Exemption – dividends received from an overseas investment may be exempt from Maltese tax provided that:

- ◇ There is a holding of at least 5%; and
- ◇ The investment is made in an EU subsidiary; or
- ◇ The profits which are being distributed to Malta have been subject to tax of at least 15%; or
- ◇ The profits being distributed are not made up of passive interests or royalties which were subject to an overseas tax rate of less than 5%.

A Maltese company may alternatively charge these dividends to tax at the standard tax rate of 35%, and on a distribution of profits, the shareholder can claim a 100% tax refund of the Maltese tax paid.

D. Double Taxation Relief – Malta has an extensive tax treaty network with more than seventy treaties in force. Malta will grant relief from double taxation suffered, provided proof of tax paid is made available. An updated list of Tax treaties ratified by Malta is available on www.mfsa.com.mt.

E. Flat Rate Foreign Tax Credit (FRFTC) – this is a method of eliminating juridical double taxation which can reduce tax leakage in Malta to 6.25%. It is generally applied to foreign passive income, such as interests and royalties. No proof of foreign tax paid is required.

Below is an example on how FRFTC can be utilised in order to minimise the tax leakage on foreign passive income:

	FRFTC + 2/3
	€
Foreign income received from passive sources	100.00
FRFTC (deemed at 25%)	25.00
Chargeable income	125.00
Tax at 35%	43.75
FRFTC	25.00
Net tax	18.75
2/3 tax refund received by the shareholder on distribution of dividends	12.50
Effective tax	6.25

3. DIRECT TAXATION

F. Advance Revenue Rulings – certainty of the Malta Inland Revenue’s interpretation on the taxability of a company or of its profits can be obtained by requesting an Advanced Revenue Ruling from the Inland Revenue Department. This ruling is usually valid for five years and can be renewed for a further period of five years.

Other benefits

- ◇ No thin capitalisation rules;
- ◇ No specific transfer pricing rules (albeit certain anti-abuse provisions are found in the law);

RECENT DEVELOPMENTS

There were a number of recent developments within the Maltese Tax Legislation, particularly the adoption of the ATAD 1 provisions which have started to apply with effect from 1 January 2019. These include the following provisions:

◇ General Anti-Avoidance Rules (GAAR)

The Income Tax Act already contains a general anti-abuse provision (article 51) that empowers the Commissioner for Revenue to ignore artificial or fictitious transactions aimed to reducing the amount of tax payable by any person. The new regulations add to this anti-abuse provision. The measure applies to arrangements which are not genuine, meaning that they are not put into place for valid commercial reasons that reflect economic reality, and which have been put in place with a main purpose of obtaining a tax advantage that defeats the object or purpose of tax law.

◇ Interest Limitation Provisions

Borrowing costs exceeding 30% of the taxpayer’s earnings before interest, tax, depreciation and amortisation (EBITDA) shall not be deductible in the tax period in which they are incurred. Such limitation shall not apply whereby exceeding borrowing costs does not exceed €3,000,000. The limitation will not apply to financial undertakings, costs on loans used to fund long-term public infrastructure EU projects or loans concluded before 17 June 2016.

◇ Controlled Foreign Companies (CFC) Rules

An entity will be considered a CFC where it is subject to more than 50% control by a parent company that is tax resident in Malta and its associated enterprises and the tax paid on its profits is less than half the tax that would have been paid had the income been subject to tax in Malta. The measure will not apply to a CFC with accounting profits of not more than €750,000 and non-trading income of not more than €75,000 or to a CFC whose accounting profits amount to not more than 10% of its operating costs for the tax period.

3. DIRECT TAXATION

◇ Exit Taxation Provisions

A taxpayer shall be subject to tax on capital gains when a company changes residence, or the moves its assets or its business to another territory. In such a case, tax is charged in the same manner as if it has disposed of its assets. The accrued gains will be calculated by reference to the market value of the asset at the time of the exit. Where the country of the new residence of the taxpayer or of the new location of the assets is another EU Member State, the payment of the tax can be deferred.

No exit tax will be chargeable in the case of a temporary movement of assets that is linked to certain financial transactions as long as the assets are set to revert to Malta within 12 months from exit of such assets. Exit taxation is applicable as from 1st January 2020.

3. DIRECT TAXATION



TAXATION OF INDIVIDUALS

For tax purposes, an individual is considered to be a resident in Malta if he/she declares his/her intention to take a Maltese residency within three months of his/her arrival in Malta. Notwithstanding this, an individual will automatically be considered as a resident in Malta if during a particular year he/she is present in Malta for more than six months in one calendar year.

TAXABILITY OF FOREIGNERS WHO TAKE UP RESIDENCE IN MALTA

Foreign residents in Malta are:

- ◇ Taxed on income and capital gains arising in Malta; and
- ◇ Taxed on income arising outside of Malta that is remitted to Malta; and
- ◇ Not taxed on capital gains accrued outside of Malta, even if such gains are remitted to Malta.

Individuals who are subject to tax on a source and remittance basis (resident but not domiciled) have a minimum tax liability of €5,000. This minimum tax does not apply to individuals whose foreign income is less than €35,000.

Income tax rates applicable to Maltese residents are the following:

Single Rates €		Married rates €		Parent rates €	
0 -9,100	0%	0 -12,700	0%	0 -10,500	0%
9,101 – 14,500	15%	12,701 -21,200	15%	10,501 -15,800	15%
14,501 – 19,500	25%	21,201 -28,700	25%	15,801 -21,200	25%
19,501 – 60,000	25%	28,701 – 60,000	25%	21,201 – 60,000	25%
60,0001 & over	35%	60,001 & over	35%	60,001 & over	35%

3. DIRECT TAXATION

TAXABILITY OF HIGHLY QUALIFIED PERSONS

Individuals who occupy a senior position in a company that is licensed with the MFSA, MGA or undertakings holding an air operators certificate or an aerodrome license issued by Transport Malta or the Office of the Chief Medical Officer to Government, may qualify for a flat tax rate of 15% on their employment income, provided that the annual salary is at least €84,991 for basis year 2019. This is revised annually in accordance with the retail price index published by the National statistics office.

OTHER RESIDENCY SCHEMES

Individuals who take up residence in Malta and acquire property or rent property in Malta may apply for a special tax programme through which they will be subject to tax at 15% flat tax rate, yet subject to a minimum tax payment. The most commonly used programmes are:

- ◇ Residence Programme Rules;
- ◇ Global Residence Programme Rules; and
- ◇ Malta Retirement Programme Rules.

4. INDIRECT TAXATION



Generally, persons or entities carrying out an economic activity and who affect taxable or exempt with credit supplies in Malta for consideration, are required to apply to be registered for VAT purposes in Malta.

Following registration, businesses are typically allocated a three-month VAT reporting period; however, in cases where a business is constantly in a refund position, it may (subject to the approval of the Maltese VAT department) request to be granted a shorter VAT period, for example monthly.

STANDARD VAT RATES IN MALTA

The standard VAT rate in Malta is 18%, with a reduced rate of 7% applicable to supplies of accommodation, generally to tourists and a 5% rate applicable to a number of supplies such as to the supply of electricity, confectionery items and the supply of medical accessories amongst others.

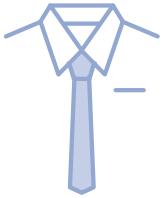
EXEMPTIONS AVAILABLE IN MALTA

In terms of the local VAT Act, a number of supplies are exempt from VAT, with the supplier retaining the possibility to deduct VAT on purchases. Such supplies include: exports of goods, intra-Community supplies of goods, international transport of persons, food, pharmaceutical goods and certain scheduled transport.

There are also a number of supplies which are exempt from VAT, however in relation to which the supplier does not have the right to deduct VAT on related purchases. These include: the letting of immovable property situated in Malta, insurance services credit banking and other services, health and welfare services, and supply of water by the public authority and education services.

These exemptions are subject to certain conditions being satisfied.

5. EMPLOYMENT



CONTRACTUAL AGREEMENT

According to Maltese legislation, the contractual agreement between employer and employee establishes the framework within which the relationship between the two parties is regulated, as long as the statutory conditions of employment are respected.

This provides for a flexible scenario where the parties are free to agree on most employment conditions, even though the basic elements are regulated by law.

This is also the case where collective agreements are concerned. Such an agreement is negotiated between and applied on the basis of a consensus reached by the employer and the respective trade union representing its members.

Contracts of employment may be entered into for a fixed term or for an indefinite term. A fixed term can be renewed up to a maximum period of four years, after which the employee shall start being considered to be under a contract of indefinite duration.

The probation period is usually of six months, unless the parties agree to a shorter term. During the probation period employment can be terminated by either party. No reason need be given, provided that at least 1 week' notice of termination is given by the terminating party to the other party.

DISMISSAL

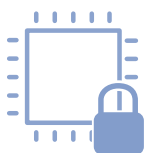
Maltese law establishes three circumstances where an employer may terminate a contract of employment. These include:

- a) The employer having good and sufficient cause. It should be noted that this term has no statutory definition and is subject to interpretation by the industrial tribunal for each case of unfair dismissal brought before it, and is determined on a case by case basis.
- b) Redundancy, or
- c) The employee reaching retirement age.

An employer, intending to terminate the employment of an employee on the grounds of redundancy, is required to terminate the employment of that person who was engaged last in the class of employment affected by such redundancy.

The employee, however, is free to terminate employment of an indefinite term without appointing any specific reason.

6. SOCIAL SECURITY



The welfare benefits system and public health care in Malta are funded through taxation and national insurance contributions from employers, employees, and self-employed persons.

The social security system distinguishes between two classes of contributions: class one paid by employed persons and class two paid by self-employed.

Under the class one system, the rate payable by employees and employers represents 10 percent of the basic weekly wage, subject to a minimum amount of € 17.25 per week, up to a maximum of € 45.58 per week (the maximum amount is € 34,94 per week for employees born up to 31/12/1961).

2019

Category	Basic Weekly Wage ¹ €		Weekly Rate Payable ² €			
	From	To	by Employee	by Employer	Total	Maternity
A	0.10	175.84	6.62	6.62	13.24	0.20
B	0.10	175.84	17.58*	17.58	35.16	0.53
* Or if the employee chooses, 10% of the basic weekly wage. This rate of contribution entitles the contributor to pro-rata contributory benefits.						
Persons born up to 31st December 1961						
C	175.85	356.96	10%	10%	n/a	0.3%
D	356.97	n/a	35.70	35.70	71.40	1.07
Persons born from 1st January 1962 onwards						
C	175.85	465.27	10%	10%	n/a	0.3%
D	465.28	n/a	46.53	46.53	93.06	1.40
E	n/a	n/a	10% Mac,4.38	10% Mac,4.38	n/a	0.3% Mac,0.13
F	n/a	n/a	10% Mac,7.94	10% Mac,7.94	n/a	0.3% Mac,0.24
1 Basic Weekly Wage of the weekly equivalent of the basic monthly salary 2 For percentage rates, the weekly rate payable is calculated to the nearest cent						

6. SOCIAL SECURITY

Under the class two system, contributions are to be paid by all individuals who derive income of more than €910 from an economic activity and who are not employed.

The Social Security Act defines two categories of persons that are required to pay Class 2 Contributions as follows:

Self-Occupied Persons - persons who earn income from Trade, Business, Profession, Vocation or any other economic activity that exceeds €910 per annum.

Self Employed Persons - persons 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.

2019

Category	Annual Net Income €		Weekly Rate	Applies To		
	From	To		Full Time Framers ²	Self Employed	Self Occupied
SP*	1,006	9,024	26.03	n/a	✓	X

* The SP rate applies only to single persons who are not self occupied.

SA	910	10,485	30.25 ¹	20.16	✓	✓
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¹ €30.25 or 15% of the annual net earnings if the person is a part-time self-occupied woman or a full-time student who has not reached the age of 24 who is a part-time self-occupied person or a pensioner who is a part-time self-occupied person whose annual net earnings do not exceed €10,485 (see NOTE 1 at the bottom of the page).

Persons born up to 31st December 1961						
SB	10,486	18,562	15%	10%	✓	✓
SC	18,563	n/a	53.54	35.70	✓	✓

Persons born from 1st January 1962 onwards						
SB	10,486	24,194	15%	10%	✓	✓
SC	24,195	n/a	69.79	46.53	✓	✓

NOTE 1: If the insured person elects to pay a contribution that is less than €30.25, such contribution may, if the person qualifies for a contributory benefit or a contributory pension, result in the payment of a reduced contributory benefit or contributory pension.

2: This reduced rate is applicable for full-time farmers as identified by the Department of Agriculture.

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