

# SETTING UP A COMPANY IN MALTA

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# Setting up a company in Malta

THE LIMITED LIABILITY COMPANY HAS AN IMPORTANT ADVANTAGE IN THAT THE LIABILITY OF THE SHAREHOLDER IS LIMITED TO UNPAID AMOUNTS ON CALLS ON SHARE CAPITAL



IF NO ARTICLES OF ASSOCIATION ARE REGISTERED, IT IS ASSUMED THAT THE MODEL ARTICLES OF ASSOCIATION FOUND IN THE FIRST SCHEDULE TO THE COMPANIES ACT HAS BEEN ADOPTED.

## INITIAL DECISIONS

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 - <http://www.mfsa.com.mt/>).

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 another 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/partners. 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.

## DOCUMENTATION

The deed of constitution of a company is its Memorandum. This 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 may be specified in the memorandum as well as in the articles of association
- 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.



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## NAMING YOUR COMPANY

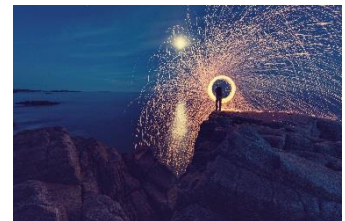
One is free to choose any company name, as long as the name chosen is not the same or very similar to the name of an existing or reserved company. However, the Registrar of Companies may refuse to register a name if it is considered offensive or otherwise undesirable. The promoters may also reserve a company name for a period of three months in the incorporation process.



## SHARE CAPITAL

- Private company: the minimum share capital is of € 1,165 of which at least 20% has to be paid up
- Public company: the minimum share capital is of € 46,588 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.



## DIRECTORS

- Private company: the minimum number of directors is one
- Public company: the minimum number of directors is two

There is no maximum number of directors.

## 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.

## 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.

**EVERY COMPANY  
REGISTERED IN MALTA  
MUST HAVE A REGISTERED  
OFFICE IN THE  
JURISDICTION.**



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## AUDITED ACCOUNTS

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.

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 submitted 42 days after the elapse of 10 months.

The format of the accounts to be submitted depends also on the size of the company.

### Small company

The definition of a "small company" is one whereby two of the three following criteria are not exceeded on their balance sheet date:

- Balance sheet total: €4 million
- Turnover: €8 million
- Average number of employees during the accounting period: 50

In this case it does not need to deliver the Directors' Report to the Registrar but must deliver its full accounts and accompanying auditor's report.

### Private company

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 deliver to the Registrar.



# PROVEN EXPERIENCE

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## In Tax

We provide both national and international tax advice to a diverse global client-base. We work with global owner-managed businesses and European listed companies, but also with local companies, and private individuals. So wherever you are located, we can support you with local and global advice.

Mazars can assist and advise you in a number of other ways. We can help you:

- Determine the most tax efficient way to structure your business;
- Structure the funding of your overseas business, incorporating a country's tax laws;
- Manage an effective tax rate and the timing of your transactions;
- Treaty shopping and relief of double taxation;
- Provide expatriate tax services;
- Estate planning;
- Tax residence;
- Refunds for tax suffered on dividend income.

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