

# MALTA: SMART ONSHORE



Fenech & Fenech  
Advocates

## ABOUT MALTA

In 2008 the Global Finance Services Index published by the City of London ranked Malta in 4<sup>th</sup> place as the financial services centre most likely to increase in importance in the next few years, and in 5<sup>th</sup> place as the centre where most organizations are likely to begin new operations in the next 2 to 3 years. Malta's banking system and finance sector generally have weathered the current financial crisis well, a recent survey amongst business leaders carried out for the World Economic Forum ranking Maltese banks as the 10<sup>th</sup> soundest and scoring 6.6 points out of a possible total 7 points following Canada (6.8), Sweden, Luxembourg, Australia, Denmark and the Netherlands (6.7). More recently, the G20 summit of finance ministers in London published a 'White List' of fully OECD-compliant, 'clean' financial centres', which list included Malta.

A member of the EU since 2004 and of the eurozone as of 2008, the Maltese islands lie midway between Sicily and Libya. Malta is a democratic republic with a population of just over 400,000. The official languages are English and Maltese and a number of other languages are widely spoken.

Over the last two decades, Malta has built on its strategic location and its highly educated, multi-lingual, flexible and cost-effective work force to become one of the most attractive financial centres and investment locations in the region, having a sound regulatory regime and enjoying an excellent reputation internationally.

Malta is also well on the way to becoming an important location for ICT business, with the new SmartCity Malta project (a US\$300 million investment by Dubai's Internet City's Tecom Investments) currently underway expected to accelerate the process.

## Why choose Malta?

There are many other reasons for considering Malta as a base for international operations. These include:

- a stable political situation;
- a modern legal and tax framework and over 50 double tax treaties;
- accessible and flexible regulators;
- a strong industrial relations record;
- a 'can do' attitude;
- an excellent telecommunications infrastructure;
- a convenient European time zone;
- a reasonably priced labour force having an excellent work ethic.

## SOME TAX HIGHLIGHTS

### An attractive corporate tax regime

*Basis for taxation:* Companies ordinarily resident and domiciled in Malta are subject to income tax on their worldwide income and on some chargeable capital gains.

Companies that are either resident or domiciled in Malta but not ordinarily resident and domiciled in Malta are chargeable to tax in Malta on (a) income and chargeable gains arising in Malta, (b) income arising outside Malta and remitted to Malta.

*Residence:* A company incorporated in Malta is considered to be resident and domiciled in Malta. A company incorporated outside of Malta is considered to be resident in Malta only if the management and control of its business is exercised in Malta.

*Rates of tax:* The standard rate of tax on income and chargeable gains is 35% (in line with the highest personal tax rate) - flat rates of tax are payable, by way of exception, on certain categories of income such as investment income, certain transfers of

immovable property in Malta. The amount of tax payable by a company may be reduced via various forms of double tax relief, such as the Flat-Rate Foreign Tax Credit providing relief at a rate of 25%.

*Malta operates a full imputation system of taxation:* When a company distributes dividends out of profits on which it had paid tax, no further tax is due by the shareholders and a credit for the tax paid by the distributing company is available to the shareholders.

*Allocation of profits:* Companies are to allocate distributable profits to one or more of 5 tax accounts, depending on the nature/source of the profits: Foreign Income Account (FIA), Maltese Taxed Account (MTA), Final Tax Account (FTA), Immovable Property Account (IPA), and Untaxed Account (UA).

*Tax refunds:* Distributions of profits from either of the FIA or the MTA trigger refunds of Malta tax paid by the company. The effective tax rate after refund will generally range from 0% to 10%. The standard refund (e.g. generally for business profits) is 6/7 of the Malta tax (grossed up with any relieved foreign tax – subject to certain conditions – in relation to the MTA), going up to 100% in the case of profits derived from a participating holding and down to 5/7 on profits derived from passive interest and royalties. Where the company has claimed double tax relief on profits allocated to the FIA, a tax refund of 2/3 of the Malta tax paid (grossed up with any relieved foreign tax – subject to certain conditions) on the distributed profits may be claimed. Tax refunds are Malta tax exempt and payable within a statutory deadline of a few weeks.

*Non-resident companies' branches:* A non-resident company with a Maltese branch may allocate the profits from the



## Fenech & Fenech Advocates

branch activities to the various tax accounts, thus enabling the company's shareholders to operate the tax refund regime.

**Participation Exemption:** Income deriving from a participating holding (generally a 10% equity holding or partnership interest – there are alternative tests) in a non-resident entity or from the disposal thereof are exempt from tax (alternatively they may be taxed at 35% and the shareholder may, following distribution, claim a full refund of the Malta tax paid by the company thereon) – subject to certain anti-abuse provisions being satisfied. **Malta's holding company regime** may thus offer an effective Malta tax rate of 0% either through the workings of the tax refund regime or, alternatively, at the level of the holding company through the Participation Exemption.

**Withholding tax (WHT):** There is (a) no WHT on outbound dividends, (b) no WHT on interest payable to non-residents (subject to certain conditions being satisfied), (c) no WHT on royalties (subject to certain conditions being satisfied), (d) no branch remittance tax.

**Anti-avoidance rules:** There are some general anti-abuse provisions. There are currently no thin capitalisation, transfer pricing or controlled foreign companies rules in force.

**General:** (a) no duty/tax is levied on the issue of shares; (b) duty exemptions relative to transfers of marketable securities may be obtained; (c) there are no wealth or capital taxes in force.

### Personal taxation

**Basis of taxation:** Persons ordinarily resident and domiciled in Malta are subject to income tax in Malta on their worldwide income and some

chargeable gains. Persons who are resident or domiciled but not ordinarily resident and domiciled in Malta are chargeable to tax in Malta on (a) income and chargeable gains arising in Malta, (b) income arising outside Malta and remitted to Malta.

**Rates of tax:** Individuals are charged to tax at progressive rates of 0%-35%. A reduced flat 15% rate on remitted foreign sourced income (capital gains being exempt) is available to certain residence permit holders.

### FENECH & FENECH ADVOCATES

Fenech & Fenech Advocates is one of Malta's largest and longest established law firms with a predominantly international clientele.

The firm's Tax Department, one of the longest established fully fledged tax departments locally, is composed of partners, associates and (drawing on the firm's corporate services group) accountants, many of whom have trained with Big Four audit firms.

This area of the firm's practice has grown extensively over the last 25 years. The firm's tax team is actively involved in assisting clients choosing Malta as their residence or as a base for their holding, investment and trading activities, trusts and foundations, as well as in relation to other matters.

This Department has extensive experience and expertise in handling all aspects of taxation law, having garnered extensive expertise over the years in advising in the context of tax efficient cross-border structures with a focus on inbound investment, restructuring projects and tax planning structures, cross-border mergers, group restructuring, domestic and international taxation, advice to high net worth individuals on personal tax and

financial issues and related companies, trusts and foundations. The firm's Tax Department is also responsible for immigration law, advising clients in relation to residence permits, visas (schengen visas included), employment permits and citizenship.

Drawing on the Fenlex Group, its corporate services group, our organisation may provide the full range of services relative to the incorporation and maintenance of Maltese companies and other entities. Services provided include: registered address, fiduciary shareholder, directorship services, company secretarial services, corporate maintenance and administration services, accountancy services, banking support, income tax and VAT compliance, amongst others.

Three teams of professionals, organised into the Corporate Services Department, the Accounts Department and the Operations Department, have been servicing international business clients for over 25 years and accordingly our organisation has the necessary experience and expertise required to provide clients with a 'one-stop shop' service, together with any legal advice and assistance that the client may require in relation to its local operations.

### For more info kindly contact:

Fenech & Fenech Advocates  
Tax Department

Dr. Rosanne Bonnici - Tax Partner  
Email: [rosanne.bonnici@fenlex.com](mailto:rosanne.bonnici@fenlex.com)

Dr. Ramona Azzopardi - Associate  
Email: [ramona.azzopardi@fenlex.com](mailto:ramona.azzopardi@fenlex.com)

Fenech & Fenech Advocates, 198 Old Bakery Street, Valletta VLT1455, Malta  
Tel: (+356) 2124 1232 • Fax: (+356) 2599 0692 • E-Mail: [f.f@fenlex.com](mailto:f.f@fenlex.com) • Web: [www.fenechlaw.com](http://www.fenechlaw.com)