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The Maltese holding regime

Malta is renowned for offering the most efficient holding structure and is fast becoming the jurisdiction of choice for an increasing number of multinational groups.

Following the introduction of the participation exemption in 2007, Malta has enhanced its position as a premier EU holding company location. The country's 100% participation exemption relieves income tax both on the dividends derived from a participating holding and on gains derived from the transfer thereof.

Recent amendments have significantly extended the participation exemption provisions which now exempt branch profits and income derived from collective investment schemes.

Participating Holding

A participating holding is found where a company resident in Malta holds equity shares in another foreign entity, and the former:

- Holds directly at least 10% of the equity shares in a company, body of persons or collective investment scheme, which holding confers an entitlement to at least 10% to any two of the following rights:
  - Right to vote; or
  - Right to profits available for distribution; or
  - Right to assets available for distribution on a winding; or
- Is an equity shareholder and is entitled to purchase the balance of the equity shares or has the right of first refusal to purchase such shares or is entitled to sit as, or appoint, a director on the Board; or
- Is an equity shareholder which holds an investment of a minimum of €1.164m (or the equivalent sum in another currency) and such investment is held for an uninterrupted period of at least 183 days; or
- Holds the shares or units for the furtherance of its own business and the holding is not held as trading stock for the purpose of a trade.

In order to avail of this exemption, the holding must be an equity holding and excludes the holding in a property company which has, directly or indirectly, any rights over immovable property situated in Malta (subject to some exclusions).

Malta's participation exemption is also extended to holdings in other entities, such as: a Maltese limited partnership (the capital of which is not divided into shares); a non-resident body of persons (with similar characteristics to the Maltese limited partnership); or, a collective investment vehicle that provides for limited liability of investors, provided the above conditions for the application of the participation exemption are satisfied.

Dividend distribution

With respect to dividends, the participating holding has to satisfy **any one** of the following conditions:

- It is resident or incorporated in a country or territory which forms part of the European Union; OR
- It is subject to any foreign tax of at least fifteen per cent (15%); or
- It does not have more than fifty per cent (50%) of its income derived from passive interest or royalties.

Where none of the conditions set out above are satisfied, then both of the following two conditions must be satisfied for the income to be eligible for the participation exemption:

- The equity holding by the company registered in Malta in the body of persons not resident in Malta is not a portfolio investment, and for this purpose the holding of shares by a company registered in Malta in a body of persons not resident in Malta which derives more than 50% of its income from portfolio investments shall be deemed to be a portfolio investment; **and**
- The body of persons not resident in Malta or its passive interest or royalties have been subject to any foreign tax at a rate which is not less than 5%.

Sale of shares in a Malta Company by Non-Residents

Any gains or profits derived by non-residents on a disposal of shares or securities in a company resident in Malta are exempt from tax in Malta, provided:

- The company does not have, directly or indirectly, any rights over immovable property situated in Malta; and
- The beneficial owner of the gain or profit is not resident in Malta and not owned and controlled by, directly or indirectly, nor acts on behalf of an individual/s ordinarily resident and domiciled in Malta.

No withholding taxes

Malta does not levy any withholding taxes on outbound dividends, interest, royalties and liquidation proceeds.

Other tax advantages

Maltese holding companies benefit from the application of all EU directives as well as Malta's growing network of double taxation agreements – more than 67 to date - largely based on the OECD Model Tax Convention. Furthermore, Malta has no net worth/wealth tax or similar taxes on capital, no controlled foreign company (CFC) rules, no thin capitalisation rules and no transfer pricing rules.

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