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Malta's Tax Refund System

Malta's tax refund system is one of the key contributors which classify Malta amongst the lowest effective tax jurisdictions in the EU.

Malta operates a full imputation system of taxation which completely avoids the economic double taxation of corporate profits by imputing (crediting) onto shareholders the underlying corporate tax attaching to dividends. This system thus allows the shareholder to claim a full credit for any tax paid by the company on profits distributed as dividends, therefore avoiding double taxation.

Basis of Malta taxation

Corporate income tax in Malta is governed by the Income Tax Act ('ITA') and the Income Tax Management Act ('ITMA') together with their respective subsidiary legislation.

Tax arises on the two main concepts of residence and domicile. Malta incorporated companies are both resident and domiciled in Malta and are therefore subject to Maltese tax on their worldwide income at the standard rate of 35%. On the other hand if the company is domiciled outside Malta but the tax residency is in Malta, it is taxed in Malta on income arising in Malta and on income remitted to Malta. In this case, foreign sourced income not remitted to Malta will not be taxed in Malta.

Tax Accounting

A Malta registered company is required to allocate its distributable profits to the following five accounts depending on the source and nature of the profits:

- **Final Tax Account (FTA)**
  A company would allocate tax exempt profits (exempt at shareholder level upon distribution) and profits subject to final tax;
- **Immovable Property Account (IPA)**
  A company would allocate income derived directly or indirectly from immovable property situated in Malta;
- **Foreign Income Account (FIA)**
  A company would allocate income derived directly from investments situated outside Malta;
- **Maltese Taxed Account (MTA)**
  The company will allocate any profits which were not allocated to the FTA, IPA or FIA;
- **Untaxed Account (UA)**
  A company would allocate the difference between total distributable profits/accumulated losses and those amounts allocated to any of the other tax accounts.

Tax Refunds

The shareholders of a Malta company need to be duly registered to be entitled to claim a refund of the Malta tax charged on profits allocated to the FIA or MTA. The rate of tax refund depends on the income nature of the underlying profits and the application of any double taxation relief by the Malta Company on such profits.

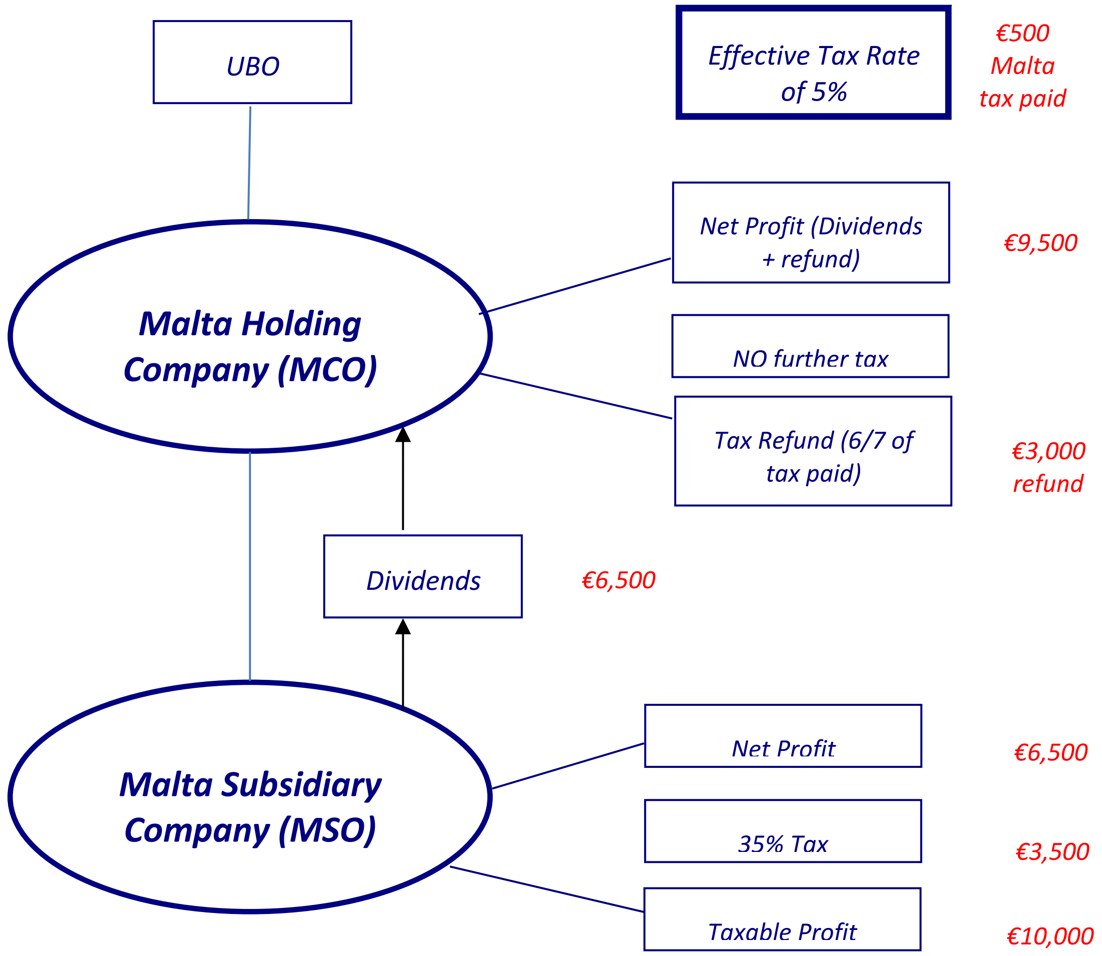
The most common tax refund is 6/7th of the Malta tax suffered, resulting in a net effective Malta tax charge of 5%. This refund rate is applicable where the activity of the underlying company is of a trading nature. The rate varies in the following cases:

- **Passive interest or royalties**
  If the underlying profits out of which a dividend is distributed are derived from interest or royalties the refund is reduced to 5/7th of the Malta tax suffered on those profits
- **FIA profits subject to a claim of double taxation relief**
  A tax refund of 2/3rd of the Malta tax would apply to dividends distributed out of profits allocated to the FIA in respect of which the distributing company has claimed a double tax relief.
- **Participating Holding**
  A company in receipt of dividends derived from an investment which qualifies as a participating holding may apply the participation exemption which would fully exempt such income/gains from Malta tax. Please refer to the Participating Holding Fact Sheet http://www.tmf-group.com/en/media-centre/news-and-insights/november-2013/participation-exemption-makes-malta-attractive-for-eu-holding-companies

The ITMA stipulates that the registered shareholder can reclaim the tax refund within 14 days of valid application being submitted and processed. Typically, the refund to shareholders is granted between 2 and 4 months after tax has been paid by the underlying company.

So as to defer the personal receipt of dividends and tax refunds to a future date, ultimate beneficial owners typically incorporate a 2-company Malta structure, with a Maltese Holding company and Maltese subsidiary (active) company. In this way, dividends and refunds on tax paid by the Maltese subsidiary company are received by the Malta Holding company, and no further tax is suffered. Clients then have the option to retain the funds in the Malta Holding company, re-inject the funds in the Malta subsidiary, or distribute as dividends to ultimate beneficial owners as may be required.

An organigram describing the tax refund system follows:


UBO
Effective Tax Rate of 5%
€500 Malta tax paid
Net Profit (Dividends + refund)
€9,500
Malta Holding Company (MCO)
NO further tax
Tax Refund (6/7 of tax paid)
€3,000 refund
Dividends
€6,500
Malta Subsidiary Company (MSO)
Net Profit
€6,500
35% Tax
€3,500
Taxable Profit
€10,000