

KEY FACTS

REFUNDABLE TAX CREDIT SYSTEM

ONE OF THE MAINSTAYS OF MALTA'S TAX SYSTEM IS THE FULL IMPUTATION SYSTEM, UNDER WHICH THE ECONOMIC DOUBLE TAXATION OF COMPANY PROFITS IS COMPLETELY ELIMINATED. UNDER THE FULL IMPUTATION SYSTEM CORPORATE PROFITS ARE ONLY TAXED ONCE AT THE LEVEL OF THE COMPANY, MEANING THAT SHAREHOLDER/S IN RECEIPT OF DIVIDENDS FROM THE COMPANY ARE ENTITLED TO A TAX CREDIT EQUAL TO THE TAX BORNE ON THE PROFITS OUT OF WHICH THE DIVIDEND IS PAID.

Given that the tax rate of 35% applicable to companies is also the highest tax rate in Malta, shareholders will not suffer any additional tax on the receipt of dividends. Furthermore, where the shareholder's tax on the dividend is lower than 35%, the amount by which the tax credit exceeds the tax on the dividend will be refunded to the shareholder if the shareholder includes the dividend in his tax return.

TAX ACCOUNTS

Companies subject to Malta tax are required to allocate their distributable profits to any of the following five tax accounts (depending on the nature and source of said profits): the Final Tax Account (**FTA**), the Immovable Property Account (**IPA**), the Foreign Income Account (**FIA**), the Maltese Taxed Account (**MTA**), and the Untaxed Account (**UA**).

The applicability of the full imputation system and tax refunds depend on the nature of the company's income.

TAX REFUNDS

Fully registered shareholders of Maltese companies are entitled to claim refunds of tax charged on profits solely allocated to the FIA and the MTA. Generally, the rate of tax subject to a refund depends on the income earned as well as the implementation of any double taxation relief by the Maltese company on such profits. Shareholders are entitled to apply for one of the following refunds:

- > 6/7ths of Malta tax;
- > 5/7ths of Malta tax;
- > 2/3rds of the tax payable in Malta;
- > A 100% full tax refund payable in Malta.

THE 6/7THS REFUND

A shareholder in receipt of a dividend paid by a company registered in Malta from profits which do not comprise passive interest or royalties, and which are allocated to its FIA or MTA, and which aren't covered by the 5/7ths refund, 2/3rds refund, or 100% refund, may claim a refund of 6/7ths of the tax paid by the distributing company.

This refund does not apply when the dividend is paid out of profits allocated to the FIA for which relief from double taxation has been claimed (in this case only the 2/3rds refund, as explained below, can be claimed).

The 6/7ths refund is the most common form of refund and typically, as a result thereof, the net effective tax leakage to the shareholder is only that of 5%.

TRIDENT TRUST COMPANY (MALTA) LIMITED IS AUTHORISED BY THE MALTA FINANCIAL SERVICES AUTHORITY TO ACT AS A TRUSTEE AND TO PROVIDE OTHER FIDUCIARY SERVICES IN TERMS OF THE TRUSTS AND TRUSTEES ACT. THE COMPANY ALSO PROVIDES THE BUSINESS OF COMPANY SERVICE PROVIDER IN TERMS OF THE COMPANY SERVICE PROVIDERS (EXEMPTION) REGULATIONS S.L. 529.02.

THE 5/7THS REFUND

This refund applies to dividend distributions from profits derived from passive interest or royalties which were allocated to the MTA or FIA. Similar to the 6/7ths refund, this refund does not apply when the dividend is paid out of profits allocated to the FIA for which relief from double taxation has been claimed (once more, in this case only the 2/3rds refund, as explained below, can be claimed).

Typically, this type of refund results in an effective Malta tax rate of 10%.

THE 2/3RDS REFUND

A 2/3rds refund of the Malta tax suffered will apply where the profits out of which the dividend is distributed were allocated to the FIA and have been subject to double taxation relief. The manner in which this refund is calculated would depend on the type of double tax relief claimed on the profits that are being distributed.

The 2/3rds refund results in an effective Malta tax rate ranging from 6.25% - 11.67%.

THE 100% REFUND

A company is entitled to apply the participation exemption in respect of income that it derives from an entity which qualifies as a participating holding or gains that it derives from the transfer of such a holding provided certain conditions are met. However, a company is merely entitled, rather than required, to claim the participation exemption. Accordingly, the company may thus choose to nonetheless pay the corporate tax on said income and gains (at the standard rate of income tax for companies of 35%), which would then entitle its shareholder/s to claim a 100% refund of such tax paid, upon the distribution of a dividend out of such income/gains.

HOW WE CAN ASSIST

For more information, please contact Albert Cilia, Managing Director of our Malta office, at acilia@tridenttrust.com, or either of our Trustee and Corporate Services Directors, Josianne Cascun Montebello at jcascunmontebello@tridenttrust.com or Janice Copperstone at jcopperstone@tridenttrust.com.

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