

## TAKING UP RESIDENCE IN MALTA

**Please Note:**

*These notes are based on the provisions of Maltese law as in force on 15 February 2008. They are not intended to be a definitive or comprehensive analysis of the subject and should not be acted upon without prior consultation with a Partner or Senior Consultant of the firm. For further details please contact:*

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### General Information

The Maltese Islands, consisting of Malta, Gozo and Comino, cover an area of about 320square kilometres and have a population of about 400,000. The islands are located in the centre of the Mediterranean just south of Sicily, and enjoy a mild climate with temperatures ranging from an average of about 12° Celsius in winter to an average of about 26° Celsius in summer.

Malta has a rich European historic and cultural heritage. This is reflected in its Catholic religion dating from the time of St. Paul, its architecture, and in all major aspects of business, government and social activities. The British and Italian influences are particularly strong, given the country's proximity to Italy and the fact that Malta formed part of the British Empire from 1801 to 1964. Malta is today an independent Republic within the Commonwealth and became a full member of the EU on 1 May 2004. As from 1 January 2008, the unit of local currency is the Euro (€).

English is, with Maltese, an official language and is spoken by practically everyone. Laws are published in English and Maltese, and business correspondence is usually conducted in English.

More than 1 million tourists visit Malta every year. Summer is the peak season, when the sun and the sea are the main attractions. Longer stays will enable the visitor to enjoy the mild winter and the hospitality of the Maltese, and to experience a leisurely way of life with its colourful folklore and moderate cost of living.

Owning and maintaining immovable property in Malta is not particularly expensive by European standards. A number of reputable estate agents will readily provide detailed information and professional assistance in this regard.

## Maltese income tax payable by a holder of a Residence Scheme Certificate

An individual qualifying for the scheme may take up residence permanently or indefinitely in Malta on obtaining the certificate issued under the Residents Scheme Regulations, 2004. The certificate entitles the holder to a flat income tax rate of 15%, subject to a minimum annual tax liability (after taking into account any double taxation relief) of €4,193. The tax is calculated on chargeable income and capital gains arising in Malta and on foreign income (excluding capital gains) remitted to Malta.

## Double Taxation Relief

Double taxation relief is available to a certificate holder in respect of tax levied outside Malta on any income remitted to Malta which is subject to tax in Malta. Relief is normally granted under the ordinary credit method. This means that the foreign tax is first added to the income remitted to Malta and the grossed up amount is subject to tax in Malta at the rate of 15%. The foreign tax paid is then granted as a credit against the Malta tax, up to the Malta tax payable (i.e. 15%), so however that the extent of tax paid cannot be reduced below the minimum of €4,193 referred to above.

In terms of a number of treaties concluded by Malta certain foreign income remitted to Malta qualifies for a reduced withholding rate of foreign tax (typically to dividends, interest and royalties) or is exempt from foreign tax (typically to private pensions and to certain capital gains). The provisions of each particular treaty entered into by Malta should naturally always be consulted to determine the treatment of each item of income or gains in each particular case.

Malta has concluded double taxation treaties with the following countries:

Albania	Denmark	Jordan*	Pakistan	Sweden
Australia	Egypt	Korea (Republic of)	Poland	Switzerland***
Austria	Estonia	Kuwait	Portugal	Syria
Barbados	Finland	Latvia	Romania	Thailand*
Belgium	France	Lebanon	Russia*	Tunisia
Bosnia*	Germany	Libya	San Marino	Turkey*
Bulgaria	Greece*	Lithuania	Serbia & Montenegro*	Ukraine*
Canada	Hungary	Luxembourg	Singapore*	United Arab Emirates*
China	Iceland	Malaysia	Slovakia	United Kingdom
Croatia	India	Morocco	Slovenia	USA**
Cyprus	Ireland*	Netherlands	South Africa	
Czech Republic	Italy	Norway	Spain	

\*Not yet in force      \*\* Restricted to profits derived from the operation of ships or aircraft in international traffic

\*\*\* The current treaty with Switzerland is restricted to profits derived from the operation of ships or aircraft in international traffic but a new comprehensive treaty was initialled in 2006

When income is derived from a country with which Malta does not have a double taxation agreement in force, double taxation relief may be available under the unilateral relief provisions of the Income Tax Act.

### **Other tax considerations**

There is no estate duty in Malta. Duty on Documents and Transfers (stamp duty) is however payable on the transfer, (whether on death or otherwise), of immovable property situated in Malta and shares in Maltese companies, unless the respective companies are quoted on the Malta Stock Exchange or are otherwise exempted from stamp duty. Duty on the acquisition of immovable property is levied at 5% (with a reduced rate being possible on part of the value in certain instances).

For persons transferring their residence from a country outside the EU to Malta, used household and personal effects, car, furniture and other domestic articles (unless subject to excise duty, e.g. on alcohol) may be imported free of duty and VAT if imported within 12 months of the certificate holder's arrival in Malta, subject to the relevant conditions. Private motor vehicles should be subject to a motor vehicle registration tax.

For persons transferring their residence from a country in the EU to Malta, no import duty or VAT should be chargeable on used household and personal effects, cars (which are more than 6 months old and have travelled more than 6,000 kilometres), furniture and other domestic articles (unless subject to excise duty, e.g. on alcohol). Private motor vehicles should be subject to a motor vehicle registration tax.

### **Eligibility**

Any non-Maltese citizen is eligible to apply for a residence scheme certificate and qualify for the particular tax treatment outlined above, if he or she:

- **Either** owns assets outside Malta worth at least €349,000 **Or** has an annual income of at least €23,000 arising from outside Malta

The application form, (the official version only will be accepted), duly completed and signed, should be submitted to the Inland Revenue Department together with the following supporting documents:

- (a) A certificate issued by a relevant institution or professional, e.g. banker or accountant, confirming that the applicant has (i) an annual income equivalent to at least €23,000 arising outside Malta, or (ii) capital equivalent to at least €349,000. The certificate must also state the applicant is able to import into Malta a minimum annual income of €13,950 plus €2,300 per dependant

- (b) A conduct certificate, in respect of the applicant and any dependant over 18 years of age appearing on the application. Such certificate should also indicate whether the applicant/dependant is currently subject to any ongoing criminal proceedings. British citizens/residents must submit a Subject Access Enquiry Certificate, which can be obtained from the Data Protection Officer at Police Headquarters (together with the declaration on oath described below)

If the certificate issued by the police authorities does not contain any information regarding ongoing criminal proceedings, the applicant/dependant must also make a declaration on oath in front of a Maltese Commissioner of Oaths (i.e. a Maltese notary or certain Maltese embassy officials) attesting whether they ever had any criminal convictions or whether they are subject to any ongoing criminal proceedings

- (c) A copy of the applicant/dependant's birth certificate (full version) and marriage certificate (if applicable)
- (d) A copy of the applicant/dependant's valid passport
- (e) Three passport size photographs of each applicant/dependant
- (f) A copy of either a deed of purchase or a lease/rent agreement if the applicant already owns or leases/rents property in Malta.

In terms of the application form as made applicable by the Residents Scheme Regulations, 2004, the documents listed in points (a) to (c) above must be certified original documents and a warranted notary public of the country of nationality of the applicant must attest that the information contained therein is correct. Furthermore, all documents must be legalised by an official at the Malta Diplomatic Mission in the country of nationality (or the Malta Diplomatic Mission accredited to the country of nationality) of the applicant.

The Residents Scheme Regulations, 2004, further require the application form, together with the supporting documents, to be deposited in person, by the applicant, at the residents Maltese Diplomatic Mission in the country of nationality of the applicant. Where Malta has no resident Diplomatic Mission in the applicant's country of nationality, the application form and supporting documents may be sent to the Malta Diplomatic Mission accredited to the said country of nationality, or directly to the Maltese Commissioner of Inland Revenue.

Depending on the country of nationality of the prospective applicant, different legalisation procedures than the ones indicated above may be applicable in practice. We shall be glad to provide further information in this regard upon request.

A non-refundable administration fee of €115 (or equivalent in foreign currency) is charged for the processing of the application.

The processing of an application for a residence scheme certificate typically takes around 3 months from the date of the application.

Once an application is approved, the applicant will be notified of the approval and will be obliged to pay €4,193 to the Commissioner of Inland Revenue by not later than 30 days from such notification. The payment will be available as a credit against the applicant's Maltese tax liability for the year in which he takes up residence in Malta.

The residence scheme certificate will be issued by the Inland Revenue Department within 30 days from the payment of the €4,193. The certificate will be withdrawn if the applicant does not take up residence within 12 months from the date of issue, and the applicant will be entitled to a refund not exceeding €3,030 from the initial payment made.

"Dependant" means, for the purposes of the Residents Scheme Regulations, 2004, a spouse, son and daughter under 21 years of age and a parent or grandparent of the applicant who is financially dependant on him/her.

### **Conditions**

Once in possession of a residence scheme certificate, the holder must:

- Within 12 months from the issue date of the certificate, take up residence in Malta and make a declaration on a prescribed form at the offices of the Inland Revenue Department within 15 days of arriving in Malta
- Within 12 months from taking up residence in Malta either purchase a residence in Malta at a cost of at least €116,000 for a house or €69,000 for a flat, or lease/rent a residence in Malta at a rent of at least €4,150 per annum. A copy of the deed of purchase or lease/rent agreement must be furnished to the Inland Revenue Department
- Have an annual income equivalent to at least €23,000 arising outside Malta or at all times capital equivalent to at least €349,000
- Remit to Malta (and not re-transfer out of Malta) at least €13,950 plus €2,300 per dependant annually
- Not engage in any gainful occupation or any form of business activities in Malta. This also applies to any involvement in political activities except for involvement in local council activities

At the end of the first year of residence and subsequently at the end of every calendar year, a certificate holder will be required to complete an annual income tax return showing any remittances of income to Malta for the particular year, and an annual declaration together with specific attachments (including copies of bank statements) confirming that the certificate holder has fulfilled the conditions pertaining to the permit.

A certificate holder who is a citizen of the EU as defined in the Immigration Regulations, 2004, may at any time opt to renounce the certificate and apply for a residence permit (see below) , and if such option is exercised, the minimum tax liability of €4,193 is still payable for that particular year.

A residence scheme certificate will be deemed to have been withdrawn with immediate effect if the holder of the certificate is issued with a residence permit for EU/EEA nationals as outlined below. Furthermore, the certificate conditions are monitored by the authorities and the certificate will be considered withdrawn if the certificate holder infringes any condition stipulated in the Residents Scheme Regulations, 2004.

The residence scheme certificate does not subject the holder thereof to any statutory minimum periods of presence in Malta.

#### **Residence permit (EU/EEA nationals)**

A citizen of the EU has the right to enter, remain and reside in Malta. Where a person intends to reside in Malta for a period longer than 3 months, he is obliged to apply for a residence permit.

An application form for long-term residence (the official version only will be accepted), duly completed and signed, should be submitted to the Principal Immigration Officer together with the following supporting documents:

- Evidence of cover by sickness insurance in respect of all risks in Malta
- Evidence of sufficient resources (i.e. higher than the level of the Maltese minimum social security pension), such as documents confirming the receipt of a pension or bank statements showing annual income
- A copy of the applicant/dependant's birth certificate (full version) and marriage certificate (if applicable)
- A copy of the applicant/defendant's valid passport
- Two passport size photographs of each applicant/dependant

### **Maltese income tax payable by a holder of a Residence Permit (EU/EEA national)**

An individual holding a residence permit (EU/EEA nationals) and qualifies as resident in Malta for Maltese income tax purposes, is subject to the normal income tax rules and rates applicable for every Maltese resident person. Maltese-resident individuals are taxed at progressive rates going up to 35% and the tax is calculated on chargeable income and capital gains arising in Malta and on foreign income (excluding capital gains) remitted to Malta, for as long as the individual is deemed not to be domiciled in Malta for Maltese income tax purposes.

### **Returned Migrants**

Individuals born in Malta who are not Maltese nationals and who take up residence in Malta will, if they so elect, qualify for the same tax rate of 15%, subject to a minimum annual tax liability (after taking into account any double taxation relief) of €2,325, provided that they satisfy the eligibility requirements and the conditions set out above for the expatriates applying for a residence scheme certificate. The tax is calculated on chargeable income and capital gains arising in Malta and on foreign income (excluding capital gains) remitted to Malta.

Individuals born in Malta, whether Maltese nationals or not, who have been absent from Malta for at least 20 years in aggregate during the last 25 years prior to their return to Malta, will, if they so elect, also qualify for the same tax treatment. They will be required to remit to Malta annually at least €14,000 plus €2,400 per dependent, but the other conditions listed above will not apply.

The election, once made, may be withdrawn but may not then be taken up again.

Returned migrants may engage in gainful occupation but any income derived from such occupation will be taxed at the standard resident rates without any tax-free portion.

### **Documents and information required**

In addition to the specific documents and information set out above relating to the application for a residence scheme certificate, residence permit (EU/EEA nationals) or returned migrants, we need the following in terms of the prevention of money laundering regulations:

- Two references (one from a bank of international standing and one from a professional services provider) addressed to "PricewaterhouseCoopers" confirming character and reputation\*
- Brief details of previous business/occupation history and background
- Copy of a recent utility bill confirming residential address

\* The reference letters may be worded along the following lines:

*“PricewaterhouseCoopers*

*This is to confirm that Mr/Mrs.....of.....holder of .....Passport no..... has been our client/customer since ..... The client/customer has always conducted his/her affairs with us to our satisfaction and, to the best of our knowledge and belief, is honest, trustworthy and has never been convicted of any crime or been declared bankrupt.*

*We are not aware of any information which would preclude you from entering into a business relationship with our client/customer.”*

Further information may be required according to particular circumstances.