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# Valletta

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2018



## Malta – Overview

The Republic of Malta a full EU member since 2004, is strategically located to provide services to the international community. Malta an English speaking country, has built upon the commercial laws of England and now the EU, to position itself as a premier family wealth, corporate and financial services jurisdiction.

With robust, competitive taxation rules, Malta has achieved sustained economic growth. Such growth is not solely the result of Malta's tax and fiscal policies – there are other important factors such as a multilingual workforce, lower labour costs, a strategic location and a sound telecommunications infrastructure.

As a result, there has been an influx of interest from investors, high net worth individuals and corporations, who desire a stable, reputable environment in which to structure their personal and corporate affairs - as well as to reside.

## Lifestyle

Strategically located in the Mediterranean, Malta, composed of three major islands, enjoys an attractive Mediterranean climate with hot dry summers and mild winters. Annual rainfall is 23 inches and falls mostly between October and March.

With a very low crime rate, excellent medical and communications infrastructure and an enviable lifestyle for all ages, Malta is often cited as one of the best places to live or retire in the whole of the EU.

## Key Facts

- Credit Ratings - Moody A3, Fitch A, Standard and Poor BBB
- Mixed common and civil law system – corporate, commercial and trusts laws based upon English statutes and EU
- English - an official language
- Currency: Euro
- 70+ Double Tax Treaties
- OECD & EU compliant & approved jurisdiction
- GDP €9.62 billion
- GDP Growth 2.9% | GDP per Capita €15,300
- Inflation rate 0.8% / EU 0.5%
- Unemployment rate 6.0% / EU 9.8%
- 10<sup>th</sup> Soundest Banking System - World Economic Forum's Global Competitiveness Report 2014-2015
- Single financial services regulatory body – Malta Financial Services Authority (MFSA)
- Flight times: UK - 3, Frankfurt - 2, Dubai - 7



## Estate Planning

### Trusts, Foundations & Family Trust Companies

Both Maltese trusts (based upon the law of Jersey) and Maltese foundations are highly flexible and tax advantageous where non-resident founders, beneficiaries and assets are involved, and may be used for personal and commercial applications alike, as may foundations.

#### Trusts

Uniquely for an essentially civil law jurisdiction, Malta has succeeded, by virtue of the Trusts and Trustees Act 2004, in implementing the common law concept of trusts into its judicial and legislative systems.

Trusts may be established for either private or charitable purposes. Private trusts may exist for a period of 125 years.

In terms of the Trusts and Trustees Act, a trust may be established in a number of ways, although usually by an instrument in writing i.e. deed, or will. A trust may also come into existence by oral declaration, by operation of law, or judicial decision.

Although trust property is settled on trust with the trustee, the trust is not a legal entity and does not have legal personality separate from that of the trustee; compare with the distinct legal personality of a company, foundation, or family trust company.

Maltese law caters for all main types of trust normally found in traditional common law jurisdictions such as:

- Discretionary trusts • Accumulation & Maintenance trusts
- Fixed interest trusts • Spendthrift trusts • Charitable trusts
- Unit trusts

Property transferred or settled on trust effectively constitutes a separate fund owned by the trustee, which is distinct and separate from the personal property and from other trust property held by the trustee.

Maltese legislative law, the regulations of the Malta Financial Services Authority, such as the Trustee Code of Ethics, places emphasis not only on the proper and effective segregation of trust property, but also on the proper and fit conduct of the trustee.

#### Confidentiality

As a highly regulated jurisdiction, Malta has a number of laws such as the Professional Secrecy Act, the Trusts and Trustees Act and the Code of Ethics (Trustees) aimed at protecting the confidentiality of trusts and foundations.

Any necessary disclosure as to the terms of a foundation or trust instrument - for instance so as to satisfy a court judgment, or in respect of the trustee's / administrator's duties towards the settlor or beneficiaries of a trust - is carefully crafted so, if necessary, only the minimum disclosure occurs in order to satisfy any such legitimate interest or order.

#### Recognition of Foreign Trust Law

Malta's trust law allows settlors to establish trusts governed by a foreign law and such foreign trusts are fully recognised.

Malta not only recognises trusts created voluntarily and evidenced in writing as required under the Hague Convention, but also recognises any other trust of property arising under the law of another country, meaning that even constructive or resulting trusts arising under foreign law will be recognised and enforced in Malta.

### Trusts & Foundations - Tax Treatment

Both trusts & foundations may opt for either:

- 1. Tax Transparent & Exempt** - both trusts and foundations may be tax transparent - income is 'looked through' - and is exempt from tax in the hands of non-resident beneficiaries and resident trustees, subject to all of their income arising outside of Malta and all beneficiaries being either not ordinarily resident in and/or not domiciled in Malta; or
- 2. Treated as a Company & Tax Refunds** - for tax purposes both foundations and trusts may opt to be treated like a Maltese company, thereby enjoying the tax refund scheme (i.e. 5% effective corporate tax rate). Additional benefits will apply: access to Malta's 70+ tax treaty network, Malta's participation exemption - ensuring tax efficient extraction of subsidiary income from other jurisdictions.

## Foundations

Maltese Foundations are regulated by the Second Schedule of the Civil Code (Chapter 16 of the Laws of Malta), which was introduced by Act XIII of 2007.

With its own legal personality, distinct and separate from that of its founders, administrators and beneficiaries, foundations are defined as an organisation, constituted by one or more founders, where the assets are either:

- for the fulfilment of a specified purpose i.e. special purpose vehicles for commercial or securitisation transactions; or
- for the benefit of a named person or class of persons – private foundations

Foundations may be established by way of deed or by testamentary will. Purpose foundations can endure for an unlimited time, whilst private foundations are valid for a maximum of 100 years.

The minimum endowment of money or property to set up a private foundation must be at least €1,165, or €233 for social purpose or in respect of non-profit making purpose foundations.

Although the foundation itself cannot trade or carry on commercial activities, it can:

- be endowed with commercial property or a shareholding in a profit making activity, or asset giving rise to income; or
- subject to applicable regulation, be used as a collective investment vehicle, the passive holding of a common pool of assets, the management of which is delegated to a third party, including pension or employee benefit arrangements
- be used as a vehicle for securitisation transactions.

### Segregation of Cells

A foundation may also establish segregated cells within itself in order to achieve particular purposes with particular assets.

When a segregated cell is established, its assets and liabilities constitute a separate patrimony, distinct from all other assets and liabilities of the foundation or other cells.

Trusts	Foundations
No legal personality	Own legal personality
Defined by relationship	Defined by the assets making up the foundation
Protector oversight	Supervisory Council
No purpose trusts	Purpose foundations allowed
Trustee is the legal owner of the assets	Foundation is the legal owner of its own assets

Essentially this means that the assets of such cells are available for the fulfilment of any obligations undertaken by the foundation in relation to that cell, but not for any other liabilities entered into by the foundation itself, or in respect of other cells.



**Acumum Trustees & Fiduciaries Ltd is licensed by the Malta Financial Services Authority (MFSA) in terms of the Trusts & Trustees Act to provide trust, foundation, administration & fiduciary services**

## Family Wealth & Family Trust Companies

Malta is a particularly favourable jurisdiction in which to establish family wealth structures.

Providers of both trusts and foundations in Malta are highly regulated by the Malta Financial Services Authority.

In conjunction with Malta's tax and fiscal rules, the establishment of holding, operating, investment and special purpose vehicles, including trusts and foundations.

### Family Trust Companies

Legislation enacted pursuant to Article 52(3), amending the Trusts and Trustees Act has resulted in the introduction of the concept of Family Trusts Companies - property settled upon trust for the present and future needs of family members and family dependants.

Family Trust Companies offer some very interesting opportunities for HNWI's and families who favour a tailor -made trustee solution in which they can actively take part on a formal or informal basis, especially when compared to the mainstream professional or institutional trustees.

Family Trust Companies that satisfy the prescribed legal requirements are not required to obtain full authorisation, although they must apply for registration with the Malta Financial Services Authority and adhere to on-going compliance and other regulatory conditions.

- set up as a company (Ltd) with objects and activities limited to acting as a trustee to specific settlors in respect of the family estate, for the benefit of the family members
- maximum of 5 settlors
- minimum of 3 board directors - one of which must have knowledge of trust law and administration
- limited to acting as a trustee to specific settlors in respect of the family estate, for the benefit of the family members
- Money Laundering Reporting Officer (MLRO) required

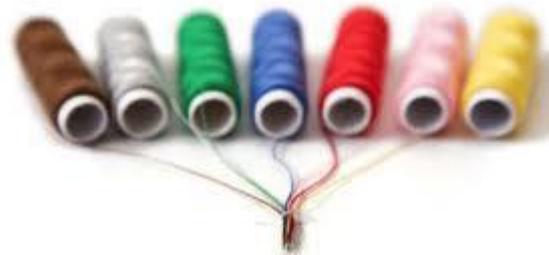


Our essential starting point when advising on establishment, restructuring or re-domiciliation, is to understand the particular circumstances & dynamics of the family & the purposes of the office. This provides the framework for effective & enduring legal & structuring advice.

- Organising the implementation & on-going maintenance of family wealth & investment structures
- Establishment of family trusts / foundations & family trust companies
- Acting as 'knowledgeable' director of family trust companies
- Ensure on-going legal & regulatory compliance
- Regular asset summaries, activity reports & accounts
- Oversight of asset, investment strategies and 3<sup>rd</sup> party providers
- Preparation of management and financial accounts

Our overall aim is to ensure that the operating & tax structures are established & governed sensibly, as well as run efficiently & effectively.

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## Malta Citizenship & Residency Programmes

Malta's citizenship and all residency programmes provide for a cost and time efficient process for individuals and their families to reside in a politically and economically stable European jurisdiction.

Malta's citizenship and residency programmes allow:

- Visa free travel to more than 160 countries
- Schengen EU visa free travel
- Tax planning benefits
- Independence from than one passport
- No wealth tax - No asset reporting - No inheritance tax
- Personal security
- Stable political system
- Excellent quality of life
- Low minimum presence requirement

### Personal Taxation

#### - No World-Wide Taxation -

An individual is typically resident - but not domiciled - in Malta when the individual lives in Malta for more than 183 days in a calendar year.

All citizenship and permanent residency applicants are *subject to tax in Malta only on:*

- income arising in Malta
- income remitted (brought) to Malta

Foreign capital gains (income held for over a year) arising outside of Malta is not taxable in Malta  
- even if received in Malta.

## Maltese Citizenship by Investment - Individual Investor Programme -

The Individual Investor Programme is designed to attract to Malta's shores applicants who can share their talent, expertise and business connections.

Malta's Citizenship by Investment is the first citizenship programme in the EU to be recognized by the European Commission.

### Eligibility & Dependents

Third country nationals (non - EU/EEA/Swiss) with main applicant over 18 years of age, and may include the following, non economically active, dependents:

- Children & adopted children under 18 years
- Unmarried children & adopted children between 18 to 26 years & dependent on main applicant
- Mentally or physically disabled children over 18 years if living with & supported by main applicant
- Parents
- Grandparents

### Financial Commitments

Contribution to the Maltese Government

- Main Applicant €650,000
- Spouses & children €25,000
- Unmarried children 18 to 26 / dependent parents €50,000

Malta property requirement:

- minimum purchase of €350,000, or
- €16,000 rental per annum for 5 years

Returnable investment of €150,000 after 5 years

Individuals are subject to extensive 'due diligence checks.

## Malta Permanent

### Residence & Visa Programme

Malta's Permanent Residency and Visa programme provides a cost effective basis permanent residency can be achieved, subject to due diligence checks and adherence to the rules of the programme.

- Visa-free travel within EU Schengen area
- Right to reside indefinitely in Malta
- EU Long Term Residency Status
- Investment required only for first 5 years
- No minimum residency required
- Tax only on Malta source income & remitted income

### Income or Capital Assets Requirement

As evidenced in an affidavit, the main applicant must have a stable and regular income of (i) either an annual income of €100,000, or (ii) capital assets of €500,000 or more.

### Eligibility & Dependents

Third country nationals (non – EU/EEA/Swiss) with main applicant over 18 years of age, and may include the following dependents, who must be dependent on main applicant and not economically active:

- Spouse/partner & children under 18 years
- Mentally or physically disabled children over 18 years
- Parents & Grandparents

### Financial Commitment

- One - time payment of €30,000
- Investment in Maltese Government bonds of €250,000 - returned after 5 years
- Malta property - purchase of property - Malta €320,000 / Gozo (€270,000); or rental for 5 years (Malta €12,000 / Gozo €10,000)

## Global Residency

### Programme

With a €15,000 minimum annual tax payment - covers the entire family and domestic staff - the Global Residency Programme offers a flexible residency solution with no income or wealth thresholds and low requirements for the rental or purchase of property.

Income arising in Malta is taxed at 15%, whilst income not remitted to Malta and foreign sourced capital gains is not taxed in Malta.

- Schengen Visa free travel within participating EU member states
- Residence in Malta, an EU member state
- Possibility of work permit
- No income or wealth thresholds
- Low requirements for the rental or purchase of property
- No minimum stay requirements

### Eligibility & Dependents

Third country nationals (non – EU/EEA/Swiss) with main applicant over 18 years of age, and may include the following dependents:

- Dependent parents & grandparents
- Unmarried children up to 25 years of age
- Domestic staff

### Financial Commitment

- Minimum tax payment of €15,000 covers the financial obligations of the entire family
- Application fee: Malta - €6,000, or South of Malta & Gozo - €5,500
- Malta property - purchase of property: Malta - €275,000 / South of Malta & Gozo - €220,000, **or**
- rental of property for 5 years Malta - €9,600 / South of Malta & Gozo €8,750

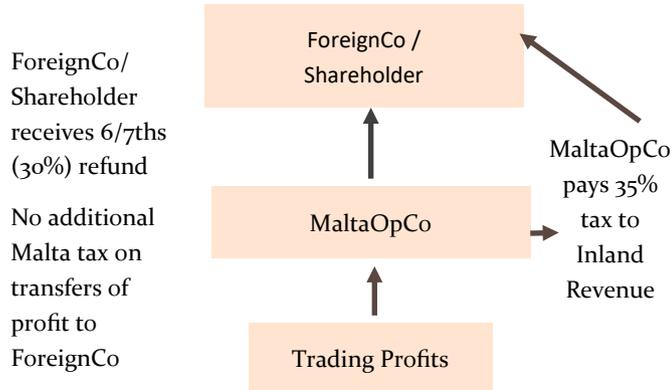
## Maltese Companies

### Effective Corporate Tax Rate of 5%

A Maltese company is considered to be ordinarily resident & domiciled in Malta for tax purposes and is subject to Maltese tax on its worldwide income at an effective corporate rate of 5% for trading income - reduced from the standard rate of 35% by certain tax refunds. 0% taxation is achievable via accounting deductions as well as the remittance scheme. In addition, any overseas tax suffered by a Maltese company is generally eligible for relief as a credit against the Maltese tax liability arising on the corresponding source of income.

#### Corporate Refund System

##### 5% Effective Post Refund Tax Burden



Tax payment & refund can be planned to occur within 2 - 4 weeks of each other

#### Full Imputation System

##### - No Double Taxation -

Malta is one of the few remaining countries to retain a full imputation system - once tax is levied on a Maltese company's profits, no further tax is levied on dividends at the level of the shareholder - thereby completely avoiding double taxation.

## Malta Companies - Salient Features

- Malta Companies Act based upon UK Companies Act 1985
- 5% effective corporate tax rate (6/7th refund)
- 70+ tax treaties
- Min. share capital requirements
  - Ltds - €240 (20% paid up of €1,200)
  - PLCs - €11,750 (25% paid up of €47,000)
- Company Registrar fee - €245 (min. share capital Ltds)
- No local shareholder or director requirements
- Share capital, accounting & tax can be in any foreign currency
- Re-domiciliation of companies in & out
- Trustees can be registered shareholders

## Malta Holding Companies

Businesses that use Maltese holding companies can benefit from the participation exemption, which allows for a tax-efficient extraction of income or gains from a foreign subsidiary as no Maltese tax and no withholding taxes are levied on such income.

Alternatively, a Maltese holding company might include such income or gains as part of its taxable income & pay tax at 35%. Upon the distribution of dividends by that company, its shareholders would then be entitled to a full (100%) refund of the Maltese tax that it had paid; this option might be desirable if the shareholders wish to receive part of the earnings in refunds rather than exclusively in dividends.

#### Benefits of Maltese Companies

No Capital Gains	No Transfer Pricing Rules
No Outbound Withholding Tax on Dividends, Interest or Royalties	No Duty on International Share Transfers
No Controlled Foreign Companies Laws	No Thin Capitalisation Rules

## Aviation

Aviation has been a sector designated by the Maltese Government as one to attract and as such has seen impressive growth in Malta.



Malta's legislation and ratification of the Cape Town Convention, combined with highly attractive tax and fiscal incentives to both plane owners and operators, has made Malta's aircraft registry one of the most attractive in the EU.

- Limited nationality requirements
- Possible to register aircraft still under construction
- Both fractional ownership & use of trusts can be recorded
- Effective security of financiers' & lenders' interests
- EU-OPS certification for commercial operators
- VAT exemptions for operators & lessors of aircraft
- Leasing or operational income for aircraft used for international transport is deemed to arise outside of Malta - not taxed unless received in Malta
- Competitive minimum depreciation periods of aircraft & capital allowances for aircraft lessees
- Tax credits for companies engaged in the repair, overhaul or maintenance of aircraft, engines or equipment
- No taxable fringe benefits from the private use of the aircraft by non-resident individuals being shareholders, employees, officers of companies involved in the international transport of goods & passengers

## Maritime & Yachts

Strategically located in the Mediterranean, Malta has a long maritime tradition. Malta's Merchant Shipping Act of 1973, was originally based upon the UK Merchant Act, established the Malta flag as an 'open' register, the responsibility of which is that of the Malta Maritime Authority.



Malta's shipping registry - now the largest in Europe and 7th largest in the world - allows for the registration, including those under construction, of all types of vessels from super yachts, commercial yachts, shipping tankers, as well as other marine structures such as oil rigs and pontoons.

Companies incorporated, whether to hold private or commercial yachts, or established as shipping companies can be set up swiftly and cost effectively and enjoy a number of income, corporate and vat advantages.

- Income tax exemption for shipping companies & commercial yachts
- VAT exempt - chartering, purchases
- Yacht leasing - reduced 5.4% VAT
- Internationally recognised & reputable flag with a state-of-the-art maritime legal framework
- EU compliant legislation
- Low shipping company incorporation costs - highly competitive registration fees
- Low tonnage tax system
- Reduced compliance requirements for certain types of licensed shipping organisations
- No restrictions on the nationality of the ship owner, master, officers or crew
- Effective mortgage system

## Funds & Financial Services

Gaining in reputation as a premier funds and financial services jurisdiction, Malta has implemented modern legislation and regulations providing a regulated, secure environment in which to structure funds and financial services companies.

Maltese law provides for a number of flexible structures for funds and investment companies:

- SICAV & INVCO
- Incorporated cells
- Contractual funds
- Limited Liability Partnerships
- Unit Trusts
- Trusts & Foundations

An overwhelming majority of funds in Malta are typically in the form of open-ended public, or private limited liability investment companies with variable share capital (SICAVs).

## Professional Investor Funds (PIF)

### - Lighter Regulation -

Malta's has established a lighter regulation regime for PIFs with a limit of 15 investors.

Regulatory fees for such PIFs are highly competitive:

	PIF	Sub-Fund
Application	€1,500	€1,000
Annual	€1,500	€500

## Self-Managed PIFs

Self managed PIFs may be set up with a minimum capital requirement of €125,000, without the need to appoint a third-party manager. Meaning, promoters have the option to use a self-managed fund without the need to have a presence in Malta.

The management of the assets of the fund would be undertaken by an investment committee with the day-to-day management

## Tax Benefits for

### Malta-Domiciled Funds

- An exemption from income tax & capital gains tax at both the fund level & at a non-resident investor level as long as more than 85% of the value of its assets is situated outside Malta
- Investment income received by the fund is not subject to any withholding tax
- No withholding tax is due on dividends paid out to non-residents
- No tax is payable by non-resident investors when they dispose of their investment
- No stamp duty charged on share issues or transfers
- No tax on the net asset value of the scheme

performed by one or more internal and/or external portfolio managers.

Self-managed funds are subject to particular rules regarding the composition of the board members and the investment committee, as well as share capital requirements.

## EU Passporting

Having implemented all relevant EU directives, Alternative Investment Funds (AIFs), UCITS and Non-Retail UCITS in accordance with European legislation can be passported throughout the EU, as can services relating to the Markets in Financial Instruments Directive (MiFID) and MiFID II.

## Brexit

**With Malta's commercial and corporate laws based upon English law, Malta is a particularly apt, easily accessible and English speaking jurisdiction, within the EU, for British financial services firms to access the European financial services market.**

Acumum is an award winning boutique set of legal, tax & accounting firms - with an associated barristers chambers, located in the EU tax & fiscal efficient jurisdiction of Malta. Acumum's senior management of lawyers, accountants & tax advisers, provide expert, trusted & cost efficient, bespoke services to an international clientele: individuals, family offices, corporations, Governments & other service providers.

Believing in long term relationships, we provide holistic, sustainable & practical solutions to clients, whilst being committed to a superb level of client service. Acumum's operations are overseen by Geraldine Noel, an English barrister registered in Malta.

**Specialisms:** [Aviation](#), [Banking & Financial Services](#), [Citizenship & Residency](#), [Gaming](#), [Intellectual Property Insurance](#), [Maritime & Yachts](#), [Personal & Corporate Tax Structuring](#), [Wealth & Estate Planning](#) – [Trusts](#), [Foundations](#), [Family Trust Companies & Fiduciary](#)

**Awards:** IFLR 'Notable Law Firm' 2013/14 | Malta Best in Business 'Best Law Firm' 2015 | Citywealth Powerwomen 2014/15/16



**Geraldine Noel; Head of Legal & Fiduciary**

**Barrister - Registered in Malta; M.A (Hons) (Oxon), LL.M (Fordham)**

Geraldine is a registered lawyer in both Malta & the UK & oversees the operations of Acumum. Geraldine has spent over 25 years working within the legal profession, including managing legal departments of multi-national financial & technology corporations in the UK, Malta, Switzerland, USA & the Cayman Islands. Geraldine has been awarded the accolade Citywealth Powerwoman, 2014, 2015 & 2016



**Christopher Pace; Head of Accounting & Tax**

**Chartered Accountant; B. Accty (Hons), Dip Tax, CPA, AIA, IFSP**

Chris specialises in direct & indirect taxation & is a lecturer for the Association of Chartered Certified Accountants (ACCA) & ICAEW Chartered Accountants (ACA). Chris begun his career with PricewaterhouseCoopers (PwC), Malta, advising both Maltese & international businesses in respect of optimum tax structuring.



Accredited Agents with



Malta Citizenship by Investment

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