International Tax

Malta Highlights 2021

Updated January 2021

Recent developments

For the latest tax developments relating to Malta, see Deloitte tax@hand.

Investment basics

Currency: Euro (EUR)

Foreign exchange control: There are no foreign exchange controls.

Accounting principles/financial statements: IAS/IFRS/General Accounting Principles for Small and Medium-Sized Entities (GAPSME) apply. Financial statements must be prepared and filed annually.

Principal business entities: These are the public and private limited liability company, the partnership *en nom collectif*, and the partnership *en commandite* (the capital of which may or may not be divided into shares). Trusts and foundations also are available under Maltese law. A Collective Investment Scheme (CIS) and a securitization vehicle may be set up under various forms.

Corporate taxation

Rates	
Corporate income tax rate	35%
Branch tax rate	35%
Capital gains tax rate	35%

Residence: A company incorporated in Malta is considered both domiciled and resident in Malta. A company not incorporated in Malta is considered resident in Malta if the management and control of its business is exercised in Malta.

Basis: Companies resident and domiciled in Malta are subject to income tax on their worldwide income and chargeable gains. Companies that are ordinarily resident but not domiciled in Malta are taxable in Malta on a source and remittance basis, i.e., on income and chargeable gains arising in Malta and on income arising outside Malta that is received in Malta (such companies are not taxable on income arising outside Malta that is not received in Malta or on capital gains arising outside Malta, regardless of whether received in Malta). Companies that are neither incorporated nor resident in Malta are chargeable to tax in Malta only in respect of Malta-source income and chargeable gains, such as the income of a Malta permanent establishment (PE).

Taxable income: Taxable income includes gains or profits derived from a trade or business; dividends, premiums, interest, or discounts; rents, royalties, and other profits arising from property; any charge, annuity, or annual payment; and certain chargeable capital gains. Some categories of income are, subject to certain exceptions, exempt from tax (such as interest, royalties, and gains on the transfer of shares derived by nonresidents), as is income accruing to certain categories of persons (such as income of a CIS that has at least 15% of the value of its assets situated outside Malta, other than income from immovable property situated in Malta). Due to specific deductions available to securitization vehicles, any taxable income effectively may be eliminated at the level of such vehicles.

Rate: Companies are taxed at a flat rate of 35%. Relief for economic double taxation upon the distribution of taxed profits by companies is ensured by the application of the full imputation and refund system. This system grants a shareholder the right to claim a refund of all or a part of the Malta tax paid on the qualifying profits out of which the dividend was distributed and, as a result, may reduce the effective tax rate in Malta to 0%-10%. Certain categories of investment income are taxed at 10% or 15%; certain categories of rental income are taxed at 15%. Transfers of immovable property situated in Malta are chargeable to an 8% final tax on the transfer value; other rates, mainly 2%, 5%, 7%, 10%, 12%, or 15% may apply in specific cases. The transfer value is the higher of the consideration received or the market value of the property transferred.

Surtax: There is no surtax.

Alternative minimum tax: There is no alternative minimum tax.

Taxation of dividends: A company in receipt of dividend income is subject to tax on such income, with the possibility of relief for any underlying tax. The participation exemption may apply in respect of dividend income derived from a participating holding (see "Participation exemption," below).

Capital gains: Gains on the transfer of capital assets are aggregated with a company's other income, and the total income and capital gains is charged to income tax. Capital gains arise, *inter alia*, upon a transfer of: (i) immovable property; (ii) securities, business goodwill, business permits, copyrights, patents, trademarks, trade names, and any other intellectual property; (iii) interests in a partnership; and (iv) beneficial interests in trusts that hold property referred to above. However, where a company transfers immovable property situated in Malta, final income tax is payable at a rate of 8% on the transfer value; other rates (mainly 2%, 5%, 7%, 10%, 12%, or 15%) may apply in specific cases.

A participation exemption may apply in respect of gains derived from the disposal of a participating holding (see "Participation exemption," below).

Nonresident companies are not subject to tax on gains or profits realized on a disposal of units in a CIS, units relating to long-term insurance policies, interests in a partnership, and shares or securities in a company, unless the partnership's or company's assets consist wholly or principally of immovable property situated in Malta.

Losses: Trade losses may be set off against income or capital gains of the relevant year and carried forward indefinitely to set off against income of subsequent years. Losses arising as a result of depreciation may be carried forward indefinitely and set off against the profits of the same and continuing activities. The carryback of losses is not permitted. Capital losses may be set off against capital gains of the current and subsequent years.

Foreign tax relief: An ordinary tax credit with per-country and per-source limitations may apply, or a (notional) flat rate foreign tax credit of 25% may apply to companies that receive, and are specifically empowered to receive, foreign-source income.

Participation exemption: Dividend income or capital gains derived from a participating holding (usually an equity shareholding of at least 5%, although a number of alternative tests may apply), or from the disposal of such a holding, are exempt from tax in Malta (or alternatively may be taxed at 35% and the shareholder may, upon a subsequent distribution of the corresponding profits, claim a full refund of the Malta tax paid by the company). In the case of dividends derived from a participating holding, the entity also must: (i) be incorporated or resident in the EU; (ii) derive less than 50% of its income from passive interest and royalties; or (iii) be subject to tax at a rate of at least 15%. If none of these conditions are satisfied, the participation exemption may apply if the holding does not qualify as a portfolio investment and the entity is taxed at a rate of at least 5%.

The participation exemption regime also is applicable to profits and gains derived by a Maltese company that are attributable to a PE situated outside Malta, or to the transfer thereof. The profits and gains are to be calculated as if the PE were an independent enterprise operating under similar conditions and at arm's length.

The benefits of the participation exemption are limited by the anti-hybrid mismatch rule and the general anti-avoidance rule introduced into domestic law pursuant to the amendments to the EU parent-subsidiary directive.

Holding company regime: No specific holding company regime is available; however, the participation exemption may apply, as outlined above.

Incentives: Tax and other incentives are granted to the activities including manufacturing, information and communication technology development, call centers, healthcare, pharmaceuticals, biotechnology, aviation and maritime services, education and training, and logistics. Incentives fall under the following support measures: (i) investment aid, which comprises business development and continuity assistance, investment aid tax credits, soft loans, interest rate subsidies, loan guarantees, rent subsidies, and allocation of industrial land and allocation of industrial space for small business activities; (ii) aid for small enterprises, which comprises micro investment tax credits and micro guarantee schemes; (iii) aid for small and medium-sized entity start-ups, which comprises seed funding for start-ups and trade promotion; (iv) aid for research and innovation, which includes research and development tax credits and personal tax incentives; and (v) enterprise support measures, which include business development and continuity grants, investment aid for high-efficiency cogeneration, knowledge transfer grants, business advisory services, business associations grants, Gozo transport grant schemes, network support schemes, and rent subsidies.

Qualifying undertakings established in Malta are entitled to a notional interest deduction (NID) on their qualifying capital (e.g., share capital, share premium, interest-free debt, and positive retained earnings), which is capped at 90% of taxable income, with any excess able to be carried forward to be deducted against taxable income derived in future years.

Owners or holders of exclusive licenses in respect of qualifying intellectual property rights are entitled to a patent box deduction for the purposes of calculating their income tax liability. The patent box deduction is equal to a percentage of the income derived from qualifying intellectual property rights.

Compliance for corporations

Tax year: Companies are assessed to tax on income derived during the financial year. Company profits are assessable in the year (year of assessment) based on the financial year immediately preceding the year of assessment (basis year). A company may use an accounting reference date other than 31 December if consent is granted by, and subject to conditions imposed by, the Commissioner for Revenue.

Consolidated returns: As a general rule, each company must file a separate return. However, a parent company may elect to form a fiscal unit with one or more qualifying subsidiaries, provided that the subsidiaries have the same accounting period as the parent company. Certain ownership/control thresholds must be satisfied to be classified as a qualifying subsidiary.

Members of the fiscal unit, other than the principal taxpayer, are transparent entities for income tax purposes. The principal taxpayer of a fiscal unit is a company within the fiscal unit that is not a transparent subsidiary and is the parent company of one or more transparent subsidiaries. Any income and gains derived by transparent subsidiaries are directly allocated to the principal taxpayer. Similarly, expenditure and capital allowances incurred by transparent subsidiaries are allocated directly to the principal taxpayer. Transactions between members of the fiscal unit are disregarded, except for transfers of immovable property situated in Malta and transfers of property companies.

The fiscal unity regime is optional. Where a fiscal unit is formed, the principal taxpayer is required to prepare a consolidated balance sheet and consolidated profit and loss account each year covering all companies within the fiscal unit. The principal taxpayer also is responsible for filing the tax return of the fiscal unit, with other members of the fiscal unit being exempt from filing their respective tax returns. The members of the fiscal unit are jointly and severally liable for the payment of tax. Apportionment mechanisms are in place for those instances where the transparent subsidiary is not wholly owned by the principal taxpayer or by a parent company.

Where the fiscal consolidation regime is not applied, group loss relief may nevertheless be available in certain circumstances.

Filing and payment: Companies are required to make advance payments of tax during the accounting period (although certain exceptions from paying provisional tax may apply), and typically must file a tax return together with financial statements within nine months from the end of the accounting period. A final tax payment is due by the tax return submission date. Certain exceptions to the above may apply.

Penalties: Penalties may be imposed, *inter alia*, for filing an incorrect return.

Rulings: An application to the Commissioner for Revenue can be filed to obtain an advance ruling on the tax treatment of certain transactions. A ruling is binding for five years and may be subsequently renewed; however, if relevant changes are made to the law in question subsequent to the ruling, the ruling will remain binding for two years from such time. In addition, Malta has implemented EU Council Directive 2015/2376 amending Directive 2011/16/EU requiring automatic exchange of information in the field of taxation in relation to cross-border tax rulings and advance pricing agreements (DAC 3).

Individual taxation

Rates

Individual income tax rate	**Taxable income**	**Rate**	**Deduction**
	Up to EUR 9,100	0%	0
	EUR 9,101–EUR 14,500	15%	EUR 1,365
	EUR 14,501–EUR 19,500	25%	EUR 2,815
	EUR 19,501–EUR 60,000	25%	EUR 2,725
	Over EUR 60,000	35%	EUR 8,725
Capital gains tax rate		Subject to individual income tax rate	

Residence: The extent of an individual's tax liability will depend on the individual's domicile and tax residence status in Malta, and a factual determination must be made to determine whether the person is ordinarily resident and domiciled in Malta, resident but not domiciled in Malta, not ordinarily resident but domiciled in Malta, etc.

An individual is resident in Malta if the individual resides in Malta, except for such temporary absences as may seem to the Commissioner for Revenue to be reasonable and not inconsistent with the claim of residence. An individual typically is considered resident in Malta if the individual is present in Malta for a period equal to six months in a given calendar year, with the intention to establish residence in Malta.

Basis: Individuals ordinarily resident and domiciled in Malta are subject to income tax in Malta on their worldwide income and chargeable gains. Individuals who are ordinarily resident and not domiciled in Malta are taxable in Malta on a source and remittance basis, that is, on income and chargeable gains arising in Malta and on income arising outside Malta that is received in Malta (i.e., such individuals are not taxable in Malta on income arising outside Malta and not received in Malta and on capital gains arising outside Malta, regardless of whether they are received in Malta). Individuals who are: (i) resident or domiciled in Malta and married to an individual who is ordinarily resident and domiciled in Malta; or (ii) long-term residents that hold a permanent residence certificate or a permanent residence card, are subject to tax in Malta on a worldwide basis (and not on a source and remittance basis).

Taxable income: Taxable income includes gains or profits derived, *inter alia*, from a trade or business; profession or vocation; employment or office; dividends, interest, or discounts; pensions, annuities, or annual payments; rents, royalties, premiums, and any other profits arising from property; and certain chargeable capital gains.

Rates: Rates are progressive, ranging from 0% to 35%. The amount of taxable income is multiplied by the applicable rate, and a deduction (depending on the rate) is subtracted from the result. The progressive rates and deductions for a single taxpayer are listed in the table above.

A flat tax rate of 15% applies to emoluments derived by highly qualified individuals employed in a qualifying industry (such as financial services, gaming, or aviation) under a qualifying contract of employment. A 15% withholding tax applies to certain investment income. Additionally, subject to conditions, a flat tax rate of 15% applies to foreign-source income remitted to Malta by individuals benefiting under specific residence schemes. In certain circumstances, an individual ordinarily resident but not domiciled in Malta is liable to a minimum tax of EUR 5,000 per annum.

Capital gains: Gains on the transfer of capital assets are aggregated with an individual's other income, and the total of income and capital gains is charged to income tax. Capital gains arise, *inter alia*, upon a transfer of: (i) immovable property; (ii) securities, business goodwill, business permits, copyrights, patents, trademarks, trade names, and any other intellectual property; (iii) interests in a partnership; and (iv) beneficial interests in trusts that hold property referred to above. However, when an individual transfers immovable property situated in Malta, final tax is payable at a rate of 8% on the transfer value; other rates (mainly 2%, 5%, 7%, 10%, 12%, or 15%) may apply in specific cases. Nonresidents are not subject to tax on gains or profits realized on a disposal of units in a CIS, units relating to long-term insurance policies, interests in a partnership, and shares or securities in a company, unless the partnership's or company's assets consist wholly or principally of immovable property situated in Malta and/or the nonresident person does not act on behalf of an individual or individuals who are ordinarily resident and domiciled in Malta.

Deductions and allowances: Various deductions are allowed, e.g., certain fees in connection with schools, childcare, sports for children, and homes for the elderly. Interest paid on money borrowed is deductible from income generated by assets acquired through the application of the loaned funds. Alimony payments are deductible up to the amount of taxable income. No personal allowances are granted under Maltese law.

Foreign tax relief: Resident individuals may be entitled to claim double taxation relief, either under a relevant income tax treaty or under unilateral relief provisions.

Compliance for individuals

Tax year: Individuals are subject to tax on income arising in a calendar year (i.e., the basis year), which is assessed to tax in the year following the year in which it arises (i.e., the year of assessment).

Filing status: Spouses are jointly responsible for filing tax returns, whereby one spouse is registered as the taxpayer (responsible spouse), although that spouse may opt to have tax on the other spouse's income computed separately. Any income of the nonresponsible spouse is assessable in the hands of the responsible spouse, jointly. Where spouses are assessed separately, they are assessed at the rates for single or parent taxpayers.

Filing and payment: Individuals must make provisional tax payments, which must be made before 30 April, 31 August, and 21 December, respectively, of each basis year (except for income on which tax was withheld at source, e.g., employment income). The balance must be paid by 30 June of the year of assessment (other than tax on part-time work and qualifying rental income, which must be paid by 30 April of the year of assessment).

Penalties: Penalties may be imposed, *inter alia*, for filing late or incorrect returns.

Rulings: Rulings may not be requested.

Withholding tax

Rates

Type of payment	Residents		Nonresidents	
	Company	Individual	Company	Individual
Dividends	0%	Generally 0% (15% where profits are distributed out of the untaxed account)	0%	0%
Interest	0% (15% if interest income qualifies as investment income)	0% (15% if interest income qualifies as investment income)	0%	0%
Royalties	0%	0%	0%	0%
Fees for technical services	0%	0%	0%	0%

Dividends: Withholding tax generally does not apply to dividends paid to a resident individual; however, a 15% withholding tax may apply where profits are distributed to a resident individual out of the payer company's "untaxed account." Malta does not levy withholding tax on outbound dividends (except for certain untaxed dividends where a nonresident recipient is owned and controlled by, or acts on behalf of, an individual ordinarily resident and domiciled in Malta).

Interest: Withholding tax generally does not apply to interest paid to residents; however, a 15% withholding tax may apply where the interest income qualifies as investment income. The rate is 0% on interest paid to nonresidents, provided the recipient is not owned and controlled by, and does not act on behalf of, persons ordinarily resident and domiciled in Malta, and does not carry on a trade/business in Malta through a PE with which the interest income is effectively connected.

Royalties: There is no withholding tax on royalties paid to residents. The rate is 0% on royalties paid to nonresidents, provided the recipient is not owned and controlled by, and does not act on behalf of, persons ordinarily resident and domiciled in Malta, and does not carry on a trade/business in Malta through a PE with which the royalty income is effectively connected.

Fees for technical services: There is no withholding tax on technical services fees paid to residents. The rate for nonresidents also is 0%, provided such fees are not sourced in Malta (e.g., are not attributable to a PE of a nonresident in Malta).

Branch remittance tax: There is no branch remittance tax.

Other: Non-final withholding tax may be imposed on certain taxable income paid to nonresident companies.

Anti-avoidance rules

Transfer pricing - Domestic law does not incorporate formal transfer pricing rules; however, the arm's length principle generally is applied to intragroup transactions.

Interest deduction limitations: An interest deductibility limitation rule based on the EU Anti-Tax Avoidance Directive (ATAD) applies. The deductibility of a company's "exceeding borrowing costs" is limited to 30% of the taxpayer's earnings before interest, tax, depreciation, and amortization (EBITDA) for the tax period. Any excess amount may be carried forward without time limitation. Unused interest capacity may be carried forward for a maximum of five years. There are some exclusions and derogations from the general rule.

Controlled foreign companies: Controlled foreign company (CFC) rules based on the EU ATAD apply where the following tests are met:

- **Control test** (in the case of an entity): The taxpayer by itself, or together with its associated enterprises, holds a direct or indirect participation of more than 50% of the voting rights of an entity, or owns directly or indirectly more than 50% of the capital or is entitled to receive more than 50% of the profits of that entity; and
- **Low-taxation test** (in the case of an entity or a PE): The actual corporate tax paid by the entity/PE is less than 50% of the tax that would have been "charged" on the entity or PE under Malta's Income Tax Act.

If an entity or PE is treated as a CFC, certain undistributed income of the entity or PE arising from "nongenuine arrangements" (those that have been put in place for the essential purpose of obtaining a tax advantage) will be included in the tax base of a taxpayer that meets the control test. There are certain exclusions to the application of the rules.

Hybrids: Anti-hybrid rules based on ATAD 2 entered into force as from 1 January 2020. However, rules regarding reverse hybrid mismatches will apply as from 1 January 2022. These rules apply to Malta taxpayers, including PEs of nonresident companies, and to all entities treated as transparent for tax purposes in Malta. Their aim is to correct mismatch outcomes that result from the implementation of hybrid mismatch arrangements. For the corrective mechanisms to apply, the rules require two factors to subsist contemporaneously:

- A mismatch outcome; and
- A hybrid mismatch.

Furthermore, the "mismatch outcome" must be a direct result of the "hybrid mismatch."

Corrective mechanisms where a hybrid mismatch results in a mismatch outcome comprise a primary rule and a secondary rule. The secondary rule is triggered only to the extent the primary rule is not applied. In addition, special corrective mechanisms apply where mismatch outcomes occur as a result of reverse hybrid mismatches and tax residency mismatches.

Economic substance requirements: There are no economic substance rules.

Disclosure requirements: Malta has adopted country-by-country (CbC) reporting. A Malta resident parent company of a multinational enterprise must file an annual CbC report with the Commissioner for Revenue if the consolidated turnover of the group exceeds EUR 750 million. The report covers each jurisdiction in which the multinational group conducts business activities and must include, *inter alia*, information on revenue, profit or loss before tax, income tax paid, the number of employees, stated capital, and accumulated earnings.

Furthermore, Malta has implemented EU Council Directive 2018/822 amending Directive 2011/16/EU regarding mandatory automatic exchange of information in the field of taxation in relation to reportable cross-border arrangements (DAC 6). In accordance with DAC 6, intermediaries are required to file information that is within their knowledge, possession, or control on reportable cross-border arrangements to the Commissioner for Revenue. A cross-border arrangement is considered reportable for purposes of the rules if it contains at least one of the hallmarks listed in annex IV of the rules. A “hallmark” means certain characteristics or features that present an indication of a potential risk of tax avoidance. The regulations apply as from 1 July 2020. Intermediaries and/or taxpayers are required to collect the relevant information in connection with reportable cross-border arrangements where the first step was implemented on or after 25 June 2018. The original reporting deadline for reportable cross-border arrangements whose first step was implemented between 25 June 2018 and 1 July 2020 was 31 August 2020 but Malta decided to defer this reporting deadline by six months, following the European Council’s adoption of EU Council Directive 2020/876 amending Directive 2011/16/EU in response to the COVID-19 pandemic.

Exit tax: Exit tax rules apply as from 1 January 2020. A taxpayer is subject to tax on capital gains if Malta loses its taxing rights on the capital gains resulting from a transfer under any of the following circumstances:

- A taxpayer transfers assets from its head office in Malta to its PE in another EU member state or third country;
- A taxpayer transfers assets from its PE in Malta to its head office or another PE in another EU member state or third country;
- A taxpayer transfers its tax residence from Malta to another EU member state or third country; or
- A taxpayer transfers the business carried on by its PE from Malta to another EU member state or third country.

The term “transfer of assets” is defined as “an operation whereby Malta loses the right to tax the transferred assets, while the assets remain under the legal or economic ownership of the same taxpayer.”

General anti-avoidance rule: There are several general anti-avoidance provisions under domestic law. The Commissioner for Revenue is entitled to disregard for tax purposes any artificial or fictitious scheme that reduces the amount of Malta tax payable by a taxpayer, and to assess tax on the taxpayer to nullify or modify the scheme and the consequent tax advantage.

Under the EU’s general anti-abuse provision, as transposed into Malta law, taxpayers must ignore any arrangements or series of arrangements that have been put into place for the main purpose or one of the main purposes of obtaining a tax advantage that defeats the object or purpose of the applicable tax law. An arrangement or series thereof will be regarded as nongenuine to the extent that it is not put into place for valid commercial reasons that reflect economic reality.

There also are other anti-abuse provisions targeting specific activities.

Value added tax

Rates	
Standard rate	18%
Reduced rate	0%/5%/7%

Taxable transactions: VAT is levied on the supply of goods and services in Malta, the intra-Community acquisition of goods in Malta, and the import of goods into Malta from outside the EU.

Rates: The standard rate is 18%; reduced rates of 0%, 5%, and 7% apply in certain cases; and some transactions are exempt (e.g., banking and insurance services and the sale and leasing of immovable property).

Registration: For VAT purposes, every person that in the course of a trade or profession makes taxable and/or exempt-with-credit supplies of goods and services in Malta, is required to register for VAT in Malta and to charge VAT that may be applicable, and is entitled to recover input VAT incurred for the purpose of its supplies. Small undertakings may opt to register under a simplified registration category, and these undertakings do not charge or reclaim VAT. Additional registration requirements apply to businesses supplying and receiving services in a cross-border context.

Filing and payment: Input VAT is set off against output VAT, and the balance is accounted for every three months (quarterly).

Other taxes on corporations and individuals

Unless otherwise stated, the taxes in this section apply both to companies and individuals.

Social security contributions: Social security is compulsory for all individuals gainfully occupied in Malta between the ages of 16 and 65, including nonresident individuals working in Malta, under certain conditions. The employer must pay social security contributions for each employee, of an amount generally equal to 10% of the employee's basic weekly wage for a full-time employee, subject to a minimum and a maximum contribution updated annually based on the cost-of-living increase awarded by the government. The employer also must deduct 10% from the basic weekly wage of the employee in respect of the employee’s contribution and pay the entire amount to the government on a monthly basis. The employer's share of the social security contribution is deductible for income tax purposes.

Payroll tax: There is no payroll tax.

Capital duty: There is no capital duty.

Real property tax: There is no real property tax.

Transfer tax: There is no transfer tax.

Stamp duty: Stamp duty generally is imposed on documents evidencing transfers of immovable property at a rate of 5% of the higher of the consideration or the real value. It also applies on a transfer of marketable securities and/or an interest in a partnership, at a rate of 2% of the higher of the consideration or the real value; however, a 5% rate applies to transfers of marketable securities in a company and/or an interest in a partnership where 75% or more of the company's and/or the partnership’s assets consist of immovable property. Certain transactions may be exempt from duty. Stamp duty also is imposed on certain specified documents where no transfer of property takes place, such as insurance policies.

Net wealth/worth tax: There is no net wealth tax or net worth tax.

Inheritance/estate tax: There is no inheritance tax or estate tax.

Tax treaties: The OECD multilateral instrument (MLI) entered into force for Malta on 1 April 2019. For information on Malta's tax treaty network, visit Deloitte International Tax Source.

Tax authorities: Commissioner for Revenue

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