Deloitte Malta
Tax & Legal

Tax Alert
Malta's tax treaty with Ukraine and other treaty developments

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Malta-Ukraine tax treaty

On 4 September 2013 Malta and Ukraine signed a tax treaty which is the first agreement of this kind between the Contracting States. The main features of the treaty are summarised below.

Dividend withholding tax:	The tax that may be levied at source is restricted to the following rates: a) 5% on dividends paid to a company (other than a partnership) that holds directly at least 20% of the capital of the distributing company; and b) 15% in all other cases.
Interest withholding tax:	The tax that may be levied at source is restricted to 10% (and 0% in certain specific instances).
Royalty withholding tax:	The tax that may be levied at source is restricted to 10%. The term does not cover payments for the use of, or the right to use, industrial, commercial or scientific equipment, such as operating lease payments.
Capital gains:	The source state may tax gains derived by a resident of the other state from the alienation of shares deriving more than 50% of their value, directly or indirectly, from immovable property situated in the source state. However, this provision does not cover gains derived from the alienation of an interest in a partnership.
Limitation of benefits:	The article 21 of the treaty contains a general limitation of benefits provision which, however, is not applicable where *'a company is engaged in substantive business*

	operation in the Contracting State of which it is a resident and the relief from the taxation claimed from the other Contracting State is with respect to income that is connected with such operations'.
Elimination of double taxation:	The Contracting States generally apply the ordinary credit method.
Protocol:	The protocol to the treaty specifies that the article 8 of the treaty ('international transport') shall not apply to persons entitled to an exemption or any other special benefit under the Maltese laws regulating merchant shipping, except for persons that are subject to the normal Malta income tax. In addition, the protocol further clarifies the computation of the gross amount of the dividends and the availability of any underlying tax relief with respect to the article 10(3) of the treaty.
Entry into force:	The treaty will enter into force on the date of the second country giving a notice that its internal ratification procedures have been completed. The treaty will apply in: • Ukraine: in respect of taxes withheld at source on amounts paid on or after 1 January or other taxes for taxable years or periods beginning on or after 1 January, in the calendar year next following that in which the treaty enters into force. • Malta: in respect of taxes on income derived during any calendar year or accounting period beginning on or after 1 January immediately following the date on which the treaty enters into force.

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Other treaty developments

In addition, a brief overview of other recent developments of Malta's treaty network is presented below.

- On 30 May 2013 Malta and Macau SAR signed a tax information exchange agreement.
- On 13 June 2013 the Malta-Turkey tax treaty entered into force and its provisions are applicable from 1 January 2014.
- On 28 June 2013 the protocol to the Malta-Singapore tax treaty entered into force and its provisions are applicable from the same date. The protocol amends the article 25 of the treaty dealing with the exchange of information between the Contracting States.

- On 11 July 2013 the protocol to the Malta-Luxembourg tax treaty entered into force and its provisions are applicable from 1 January 2014. The protocol amends the article 26 of the treaty dealing with the exchange of information between the Contracting States.
- As from 1 September 2013 the Convention on Mutual Administrative Assistance in Tax Matters is applicable in Malta.

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