

KEY FACTS

A Maltese company can be registered in terms of the Companies Act, 1995 (“the Act”) as a Public Company or a Private Company. A private company is a company whose Memorandum & Articles:

- Restricts the right to transfer its shares.
- Limits the number of its members to fifty.
- Prohibits any invitation to the public to subscribe for any shares or debentures of the company.

A Public Company is one that does not meet the above criteria for classification as a private company.

PRINCIPAL FEATURES OF A PRIVATE COMPANY

- A minimum of two shareholders being natural or legal persons. It is possible to register a Private Company as a single member company however certain restrictions apply.
- Shareholders may be Maltese or non-Maltese resident. Nominee shareholders can also be appointed provided that they are authorised by the Malta Financial Services Authority (“MFSA”) to provide nominee services.
- Minimum of one director, being a natural or legal person, resident or non-resident in Malta.
- A company secretary must be appointed. The company secretary must be a natural person and this office can be held by a resident or non-resident person.
- Minimum authorised and issued share capital of EUR1,165, 20% of which must be paid up upon incorporation.
- A company can have different share classes, with differing rights attached to each share class.
- Free choice of currency of share capital, of functional currency for accounting purposes and for the settlement of any tax payable.
- The company must have a registered office in Malta.
- Every company must hold an Annual General Meeting.
- A company must file audited financial statements (prepared under International Financial Reporting Standards as adopted by the EU) with the Registrar of Companies. Companies may qualify to file abridged audited financial statements should they fall within the size criteria for ‘small’ companies. In addition, a company is required to file an annual return with the Registrar of Companies, within 42 days of the anniversary of incorporation.
- A company must file a tax return together with its audited financial statements with the Commissioner of Inland Revenue.

KEY FACTS
THE BENEFITS OF A MALTESE COMPANY

- Ease of incorporation (in most cases 24 – 48 hours).
- Low minimum capital requirements (minimum of EUR1,165 with 20% being paid-up).
- No corporate tax on holding companies in respect of dividends and gains derived from underlying entities qualifying as participating holdings.
- A Malta tax burden of 5% (and in certain cases possibly less) through a simple tax refunds mechanism that shareholders are entitled to claim, amounting to 6/7ths of the corporate tax rate of 35% incurred at company level. Such refunds are payable to shareholders within 14 days of making a valid refund claim.
- No withholding taxes on dividends, interest and royalties paid out of the Company to non-residents.
- Capital gains on the transfers of shares in a Maltese Company by non-resident shareholders are normally exempt.
- No thin capitalisation rules.
- A very flexible transfer pricing regime.
- No CFC legislation.
- No stamp duty is payable on the issuance of shares upon incorporation. Stamp duty payable upon the issuance of further shares or share transfers in Companies held by non-residents can also be exempt subject to certain conditions being met.
- Extensive use of Malta's double tax treaty network spanning across 57 countries.
- As an EU member, the application of provisions in the Parent-Subsidiary Directive and Interest & Royalties Directive result in further tax planning opportunities for a Malta Company.
- Low registration and low annual return fees. These vary with the authorised share capital and range from EUR245 – EUR2,250 for registration fees (non-recurring) and EUR100 – EUR1,400 for annual return fees.
- Possibility of redomiciling companies to and from Malta and no entry/exit taxes arising from these redomiciliations.
- No exchange controls.
- Tax losses can be carried forward indefinitely.
- Advance revenue rulings can be obtained from the Income Tax Department – valid for five years.
- Dedicated unit at the Income Tax Department dealing with international structures and able to issue guidance on a case by case basis.

KEY FACTS
TAXATION

The following is an overview of the tax treatment of Companies in Malta. This overview is of a generic nature and additional rules may apply depending on the specific circumstances of a proposed structure.

Corporate Taxation

The standard rate of tax applicable for a Limited Liability Company's income and chargeable gains is 35%. However, due to a tax refund system that applies at shareholder level, the effective Malta tax burden ranges from 0% to 5%¹ as explained below.

Malta operates a full imputation system of taxation which means that when a Company distributes dividends out of profits on which it had paid tax, no further tax arises in the hands of the shareholders as a credit for the tax paid by the distributing Company is claimed by the shareholders. No withholding taxes therefore operate on dividends paid to shareholders.

Basis for Taxation

A Company incorporated in Malta is considered to be both resident and domiciled in Malta and subject to income tax on its worldwide income and certain types of capital gains.

A Company that is not incorporated in Malta can be tax resident in Malta if management and control of the Company is carried out from Malta.

A Company that is resident but not domiciled in Malta is taxable on:

- Income arising in/certain capital gains derived from Malta whether or not received in Malta.
- Income arising outside of Malta which is received in Malta.

Capital gains arising outside Malta, whether received in Malta or not, are exempt from taxation in Malta in view of the non-Malta domicile of the Company.

A Company that is non-Malta resident and non-Malta domiciled (for example, a Malta branch of a Company registered elsewhere) would be subject to tax on income and certain types of capital gains arising in Malta only.

Capital Gains

Only certain types of capital gains are taxable under Malta's tax regime and these include the transfer of immovable property, goodwill, patents, trademarks and securities. 'Transfer' includes transfer by sale, donation, sale by installments, partition, distribution, among other forms.

A number of exclusions to the taxation of capital gains apply examples of which are included below:

- No taxation of capital gains arising from transfers of shares in Maltese companies or of an interest in a Maltese regulated collective investment scheme by non-residents
- No taxation of capital gains arising from the disposal, redemption or repayment of debt instruments, derivative instruments as well as equity instruments with no entitlement to participate in the profits of the debtor or whose return is limited to a fixed rate of return (for example, preference shares).

¹ In a limited number of cases, where the income earned by the company is foreign source 'passive' interest or royalties (the income must not derive directly or indirectly from a trade or business and any foreign tax suffered is less than 5%) the applicable refund of the tax (35%) levied in Malta at the company level is 5/7ths. This results in a Malta tax leakage of 10%. Where the conditions for claiming a 6/7ths or 5/7ths refund are not met, in respect of foreign source income, it may be possible to claim a refund of tax amounting to 2/3rds of the Malta corporate rate of 35%.

KEY FACTS
Tax Refunds

- Distributions of profits taxed in the hands of the company qualify the recipient shareholder/s for a refund of the tax paid by the Company.
- The possibility and extent of the refund varies depending upon the type of income (Malta source, foreign source etc.) generated by the Company.
- In many cases, the Malta tax burden (after the application of the refund to shareholders) amounts to 5%.
- A company that is in receipt of foreign source income may reduce its Malta tax burden further through the application of double taxation reliefs – when applied in conjunction with the refund of company tax, the Malta tax leakage can potentially also drop to 0%.
- Tax refunds are payable by the Inland Revenue Department within 14 days from the date on which a valid tax refund claim is made.

Participation Exemption

- Income or capital gains derived by a Malta Company from a non-Maltese holding qualifying as a participating holding (generally a 10% equity holding or partnership interest or alternative tests) are exempt from tax², subject to certain anti-abuse provisions being satisfied. In this instance the income or capital gains generated by the Malta Company through the participating holding has a 0% Malta tax burden.
- The flexible participating regime makes for the use of Malta as a holding company jurisdiction. When combined with the fact that no withholding taxes are applied upon distribution of dividends to shareholders, the vehicle effectively results in no tax leakages at the level of the Malta entity.

² Alternatively the income or gains derived from the participating holding are taxed at 35% at the company level and a refund of 100% claimed by the shareholders, following distributions of dividends to them by the company.

Please contact any Trident Trust office worldwide for further information about our services and fees. Office contact details are included on the following page.

Trident Trust Company (Malta) Ltd
 The Cornerstone Complex
 Level 3 Suite 3
 16th September Square
 Mosta MST 1180, Malta
 Tel +356 21 434 525
 Fax +356 21 434 595
 malta@tridenttrust.com

EUROPE
GUERNSEY

Trident Trust Company (Guernsey) Ltd
 Tel +44-1481-727571
 Fax +44-1481-723162
 guernsey@tridenttrust.com

ISLE OF MAN

Trident Trust Company (IOM) Ltd
 Tel +44-1624-646700
 Fax +44-1624-620588
 iom@tridenttrust.com

JERSEY

Trident Trust Company Ltd
 Tel +44-1534-733401
 Fax +44-1534-727195
 jersey@tridenttrust.com

LUXEMBOURG

Trident Trust Company (Luxembourg) S.A.
 Tel +352-95-05-74-74
 Fax +352-95-91-11
 luxembourg@tridenttrust.com

MALTA

Trident Trust Company (Malta) Ltd
 Tel +356 21 434 525
 Fax +356 21 434 595
 malta@tridenttrust.com

SWITZERLAND

Zurich
Trident Corporate Services AG
 Tel +41-44-396 1080
 Fax +41-44-396 1081
 switzerland@tridenttrust.com

Geneva

Integritas Trust S.A.
 Tel +41-22-715-2760
 Fax +41-22-732-3674
 switzerland@integritastrust.com
 www.integritastrust.com

UNITED KINGDOM

Trident Trust Company (UK) Ltd
 Tel +44-20-7935-1503
 Fax +44-20-7935-7242
 uk@tridenttrust.com

Trident Company Services (UK) Ltd

Tel +44-20-7487-0460
 Fax +44-20-7487-0461
 corpserVICES@tridenttrust.com

THE AMERICAS / CARIBBEAN
BAHAMAS

Trident Corporate Services (Bahamas) Ltd
 Tel +1-242-322-6154
 Fax +1-242-328-1064
 bahamas@tridenttrust.com

Integritas Trust Company Ltd

Tel +1-242-322-2200
 Fax +1-242-322-2030
 bahamas@integritastrust.com
 www.integritastrust.com

BARBADOS

Trident Corporate Services (Barbados) Ltd
 Tel +1-246-431-0760
 Fax +1-246-431-0591
 barbados@tridenttrust.com

BRITISH VIRGIN ISLANDS

Trident Trust Company (BVI) Ltd
 Tel +1-284-494-2434
 Fax +1-284-494-3754
 bvi@tridenttrust.com

CAYMAN ISLANDS

Trident Trust Company (Cayman) Ltd
 Tel +1-345-949-0880
 Fax +1-345-949-0881
 cayman@tridenttrust.com

NEVIS

Meridian Trust Company Ltd
 Tel +1-869-469-1333
 Fax +1-869-469-0968
 nevis@tridenttrust.com

PANAMA

Trident Trust (Panama) S.A.
 Tel +507-302-7494
 Fax +507-302-7497
 panama@tridenttrust.com

UNITED STATES

New York
Trident Corporate Services, Inc
 Tel +1-212-840-8280
 Fax +1-212-944-5923
 nyc@tridenttrust.com

Atlanta

Trident Corporate Services, Inc
 Tel +1-404-233-5275
 Fax +1-404-233-9629
 usa@tridenttrust.com

Sioux Falls

Trident Trust Company (South Dakota) Inc
 Tel +1-605-679-4355
 Fax +1-605-679-4357
 sd@tridenttrust.com

Miami

Integritas, Inc
 Tel +1-305-405-9006
 Fax +1-305-416-3143
 usa@integritastrust.com
 www.integritastrust.com

US VIRGIN ISLANDS

Trident Trust Company (VI) Ltd
 Tel +1-340-774-7322
 Fax +1-340-776-0651
 usvi@tridenttrust.com

ASIA / PACIFIC
HONG KONG

Trident Corporate Services (Asia) Ltd
 and **Trident Trust Company (HK) Ltd**
 Tel +852-2805-2000
 Fax +852-2850-4090
 hongkong@tridenttrust.com

NEW ZEALAND

Trident Trust Company (NZ) Ltd
 Tel +64-9-300-6067
 Fax +64-9-366-1482
 nz@tridenttrust.com

Integritas New Zealand Ltd

Tel +64-9-300-6067
 Fax +64-9-366-1482
 nz@integritastrust.com
 www.integritastrust.com

SINGAPORE

Trident Trust Company (Singapore) Pte Ltd
 Tel +65-6304 3288
 Fax +65-6491 1231
 singapore@tridenttrust.com

MIDDLE EAST / AFRICA
CYPRUS

Trident Trust Company (Cyprus) Ltd
 Tel +357-258-20-650
 Fax +357-253-61-857
 cyprus@tridenttrust.com

Trident Fiduciaries (Middle East) Ltd

Tel +357-253-53-520
 Fax +357-258-18-808
 fiduciariesme@tridenttrust.com

DUBAI

Trident Trust Company (UAE) Ltd
 Tel +971-4-423-9988
 Fax +971-4-450-4411
 dubai@tridenttrust.com

MAURITIUS

Trident Trust Company (Mauritius) Ltd
 Tel +230-210-9770
 Fax +230-210-1266
 mauritius@tridenttrust.com

SEYCHELLES

Trident Trust Company (Seychelles) Ltd
 Tel +248-4-422-000
 Fax +248-4-422-010
 seychelles@tridenttrust.com