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## Doing Business in Malta

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Edition No. 1 / July 2018



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**MSI's guide on Doing Business in Malta provides current information about the financial, regulatory and legal considerations that could affect business dealings within Malta. For further assistance please contact our MSI member firms in Malta.**

## Country overview

### Population

Malta has a total population of over 460,000 inhabitants (2016).

### Government

Malta is a unitary parliamentary republic. The current President, Marie Louise Coleiro Preca, is the Head of State, whilst Joseph Muscat, the current Prime Minister, is the Head of Government.

The Maltese Parliament is the constitutional legislative body and is composed of the House of Representatives made up of 67 representatives, including the Prime Minister, Ministers, Leader of Opposition and all other members of parliament. The President of Malta promulgates laws passed by the Parliament

The President is appointed by a resolution of the House of Representatives for a five-year term however the role is largely ceremonial.

### Languages

The national language is Maltese. However, Malta's official languages are both Maltese and English.

### Currency

The national currency is the Euro.

### Economic summary

GDP (PPP, 2018): €15.94 billion  
Income per capita (GNI, 2016): €28,887  
Inflation (2017): 1.4%

### Main sectors of the economy

The country's favourable economic conditions and sound policies, along with a number of major reforms supported by improved private and

public balance sheets showcase a highly-industrialised, service-based economy with services representing 80%.

Other economic sectors include foreign trade, manufacturing, tourism and financial services. Malta has a strong labour market participation and one of the smallest unemployment figures in the EU. During the past months, significant increases were attributed to the following sectors:

- fintech and financial services.
- professional, scientific and technical activities,
- the arts, entertainment and recreation,
- wholesale and retail,
- transportation and accommodation

Italy, United Kingdom and Germany are the country's main import partners, while Germany, Libya and France are the main export countries (2014).

### EU country/ Non-EU and its impact on businesses and investors

Malta is a member state of the European Union and provides an attractive system for foreign investment and doing business. During the last couple of decades, it has enjoyed political stability and a long period of uninterrupted economic growth. Moreover, Malta offers a transparent administrative and legal framework, skilled workforce, low incorporation and maintenance costs for companies and a highly efficient, EU-approved tax regime.

Due to the EU passporting regime, Malta collective investment schemes can offer their units for subscription throughout the EU + and EEA states.

In 2016, foreign direct investment in Malta stood at €161.4 billion, an increase of €9.5 billion compared to the previous year.

## Setting up a business

Economic activity is primarily undertaken by self-employed individuals (sole trader) or through partnerships, companies, branches of foreign companies or cooperatives.

### Most Common Legal types of business entities

1. Limited liability company
2. Partnership
3. Branch of foreign company

The legal form most commonly chosen by international investors to set up business in Malta is a Private Limited Liability Company (Ltd). A Malta Ltd must have a registered office in Malta and a minimum issued share capital of €1,164.69 or equivalent in any foreign currency, with at least 20% paid up on incorporation. The issued share capital must be subscribed by at least 2 shareholders. However, provided certain conditions are satisfied private companies may have a single shareholder. The company may have individual or corporate directors. Fiduciary shareholders are permitted under Maltese law however bearer shares are not. Company incorporation is a swift process and registration with the Registry of Companies may take place as quickly 48 hours from submission of documentation.

Malta partnerships are also popular vehicles. A partnership en nom collectif is formed by at least two partners, whose liability for the partnership's

obligations is unlimited, joint and several. A partnership en commandite must have at least one 'general partner' with unlimited liability and at least one 'limited partner' with liability limited to the amount contributed to the capital. The capital of a partnership en commandite may or may not be divided into shares.

### **Process of setting up a business**

A limited liability company is set up by means of the Memorandum and Articles of Association, signed in original by the shareholders or their authorised representatives. A company is incorporated by registration of the Memorandum and Articles with the Registry of Companies.

### **Financial year of taxes and financial accounts**

All companies must prepare audited financial statements annually, which statements also form the basis of their tax reporting. A financial year is by default a calendar year. However, companies may choose to have a different financial year if they wish.

### **Economic and fiscal incentives**

Through entities such as Business First and Malta Enterprise, the Maltese government offers a number of incentive schemes in various sectors to support companies in their business operations. These schemes include innovation aid, aid for research and development projects, start-up financing, knowledge transfer schemes, soft loans, capacity building funds, interest rate subsidies, loan guarantees and rent subsidies

Moreover, Malta offers personal tax incentives to attract highly qualified foreign executives in the financial services, gaming and aviation sectors. Such executives may avail of a flat 15% personal income tax rate on income up to €5 million with any income above that figure being tax free.

Formal recognition as a family business grants a number of beneficial fiscal incentives such as a reduction in stamp duty for parents transferring their family business to their children, a reduction of

stamp duty on immovable property when transferring a family business and a beneficial scheme for transfer of shares. Other governance incentives include a number of advisory services, education and training schemes and investment aid.

## **Taxation**

The taxes charged under Maltese law include income tax, capital gains tax, property tax, Value Added Tax, duty on documents and other transfers (stamp duty) and excise tax. Malta does not levy a wealth or inheritance tax.

Malta's income tax acts together with the EU Parent-Subsidiary and the Royalties & Interest Directives promote a pro-business environment for the creation of business value within European shores, offering legal and fiscal certainty within a context of a quality standard of living associated with Euro-Mediterranean states and with the high levels of professional and business services associated with Continental European countries. Malta is compliant with all international tax best practices and initiatives.

The Maltese government has signed over 70 double tax treaties with different countries around the world and continues to seek further collaboration in tax matters with new reputable partners.

### **VAT**

The general VAT rate is 18%. Accommodation and use of sport facilities are charged the rate of 7%, whilst activities such as electricity and medical activities are charged at 5%.

### **Income tax**

The connecting factors for tax purposes are residence and domicile:

1. Individuals who are ordinarily resident and domiciled in Malta are taxable on a worldwide basis. Whilst individuals who are resident but not domiciled are taxed on a more restricted basis and are subject to tax

on source income and capital gains foreign source income remitted to Malta.

2. Domiciled and ordinarily resident individuals are taxed on a worldwide basis.
3. Individuals who are not resident and not domiciled and temporary individuals are taxed on a source basis.

Individuals are taxed at progressive rates of between 0-35%.

### **Corporate Taxation**

Malta resident and domiciled companies are subject to tax on their worldwide income less deductible expenses at a standard corporate income tax rate of 35% on income less deductible expenses including deductions for notional interest on risk capital.

Foreign incorporated companies which are resident in Malta are taxable in Malta on a source and remittance basis. Branches of foreign companies are taxable in Malta on Malta source income attributable to such branch.

Upon receipt of a dividend, the shareholders are eligible to claim a refund of all or part of the tax paid in Malta at the level of the company.

The same would apply to shareholders of foreign companies with a branch in Malta that receive dividends out of branch profits which have been subject to tax in Malta.

The amount of the refund would depend on the type and source of income received. The application of the refund results in an effective tax of 0-10 % in Malta.

Malta is one of the few remaining jurisdictions to operate a full imputation system. The full imputation system provides relief from economic double taxation on dividend income by granting a credit of the tax paid at source on profits by a Malta company to its shareholders upon receipt of dividends with the result that no further tax is due in Malta on the dividend at the level of the shareholders.

### **Participation exemption**

Income or capital gains derived by Malta companies from qualifying participations, the most common of which is an equity holding of 5% in an EU or trading subsidiary may qualify for exemption from tax in Malta in terms of the participation exemption provision.

The participation exemption may also apply to holdings in other entities such as a Maltese limited partnership, a non-resident body of persons which has similar characteristics, as well as a collective investment vehicle where the liability of the investors is limited, provided the criteria for the application of the exemption are satisfied.

### **Re-Domiciliation of Companies**

Malta permits inbound and outbound re-domiciliations. Upon re-domiciliation to Malta, a company is permitted to step up the base costs of its assets to market value at the time of redomiciliation. Once a company has been re-domiciled, it is deemed to be a Malta company for all intents and purposes and therefore taxable on a worldwide basis at the rate of 35%, subject to the deductions, exemption and refund mechanisms mentioned above.

## **HR/ Labour Law**

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### **Employment law**

Under Maltese law employment contracts may be concluded for definite or indefinite terms. Definite term contracts cannot be terminated before the expiration of the term without payment of damages by the terminating party.

Indefinite term contracts may only be terminated by the employer where good and sufficient cause exists or in the case of a redundancy. An indefinite contract may be terminated by the employee without the need to provide any reason, subject to a statutory notice period which is calculated according to the length of the employment being terminated.

The national minimum wage per week of whole-time employees for 2018 is €172.51.

Employees are granted a statutory allowance of 25 days of vacation leave for 2018.

The income tax due by employees on their employment income is deducted at source by the employer under the Final Settlement System and paid to the Commissioner for Revenue on his behalf.

### **Social security**

All employed and self-employed persons who are over the age of 16 and who have not yet attained retirement age of 65 years are obliged to pay weekly Social Security Contributions. Equivalent contributions are also paid by the employer.

The weekly rates payable by each of the employer and employee amount to 10% of gross weekly wage subject to a maximum of €45.48 each. The employee's contribution is deducted from his wages by the employer under the Final Settlement System.

### **Visa and work permits**

Following Malta's accession to the EU, any EU/EEA/Swiss national may enter, reside and work in Malta without the need of a work permit. Such individuals may also be self-employed on the same grounds, and this right is extended, subject to certain restrictions, to accompanying family members, even if from third countries.

All non-EU/EEA/Swiss nationals require a work permit to be able to work in Malta. Employment licenses are generally issued for a maximum period of one year, and the application process takes around two months to be finalised.

## Contact us

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The information provided in this guide cannot be exhaustive and we recommend anyone considering doing business in Malta should seek professional advice from our member firms before making any business or investment decision.

### Contact our member firms in Malta to discuss your requirements:

#### Legal member & Cross border financial services

**Chetcuti Cauchi**  
[www.ccmalta.com](http://www.ccmalta.com)

**Michelle de Maria**  
mdemaria@cclex.com  
+356 2205 6200

**120, St Ursula Street**  
**Valletta VLT 1236**  
**Malta**

#### Accounting member

**FG Audit**  
[www.fgaudit.com.mt](http://www.fgaudit.com.mt)

**Franco Cini**  
[fcini@fgaudit.com.mt](mailto:fcini@fgaudit.com.mt)  
+356 2247 6110

Level 2, No. 3, Armada Building  
Ponsonby Street,  
Mosta, MST 4038  
Malta

MSI Global Alliance  
147-149 Temple Chambers  
3-7 Temple Avenue  
London EC4Y 0DA  
United Kingdom

[www.msiglobal.org](http://www.msiglobal.org)