

# TAXATION OF MALTA HOLDING COMPANIES

Holding Companies Taxation

## TAX SYSTEM

EU Approved

## CAPITAL DUTY

None

## CAPITAL GAINS EXEMPTION

On certain transfer of shares & immovable property

## DOUBLE TAX TREATY

Extensive double tax treaty network

## EU

Member of the EU & Eurozone

## WORKFORCE

Well qualified, multilingual workforce

## NO WITHHOLDING TAX

On outbound dividend, interest or royalties





## MALTA

Malta holding companies can be set up in order to hold shares and securities and business assets in any form such as real estate, fixed assets, aircraft, investments, bank accounts and intellectual property as well as personal assets including any luxury items such as yachts, residential property, works of art. Although there is no specific holding company regime, the domestic tax treatment afforded to the different types of income received by such companies as well as the participation exemption introduced in 2007 and typically available in holding company regimes make the setting up of Malta holding companies a very attractive option.

## LEGAL BASIS

Whilst Malta does not have a specific holding company regime, the principles for the taxation of Malta holding companies are derived from the Malta Income Tax Act and the Malta Income Tax Management Act.

The Income Tax Act regulates the tax treatment of income, such as by outlining the manner by which profits or dividends are to be taxed. It also provides for the tax treatment of capital gains, such as gains deriving from the transfer of immovable property situated in Malta. The Malta tax refund system, along with other formalities are then regulated by the Income Tax Management Act.

## TAXATION OF MALTA HOLDING COMPANIES

Where the participation exemption as outlined below does not apply, or where the company does not opt for the exemption, a Malta holding company would be subject to tax on income less deductible expenses at the corporate income tax rate of 35%. Upon receipt of a dividend, the shareholders would be eligible to claim a refund of all or part of the tax paid, depending on the type and source of income received. The shareholder of the Malta company would be eligible to receive refunds as follows:

- Full refund of the Malta tax paid where income or gains are derived from an investment which qualifies as a Participating Holding (PH) and in the case of dividend income, where such PH falls within the safe harbours or satisfies the anti-abuse provisions as detailed below.
- 5/7ths of the Malta tax paid, where the income received by the company is passive interest or royalties or income from a PH which does not fall within the safe harbours or satisfy the anti-abuse provisions
- 2/3rds of the tax payable in Malta, where income has benefited from double taxation relief.
- 6/7ths of the Malta tax in all other cases.

## BENEFITS



Reputation of an EU jurisdiction



Participation exemption regime



No restrictions to holding activities. May also carry out trading activities.



No WHT on outbound dividends



Gains on disposal of shares by non-residents are exempt from tax in Malta



## REQUIREMENTS FOR THE PARTICIPATION EXEMPTION

Income or capital gains derived by Malta companies from qualifying “participating holdings”(PH) may be exempt from tax in Malta at the option of the company. An investment qualifies as a PH where a Malta company is an equity shareholder in another company and:

(a) holds directly at least 5 percent of the equity shares of such company, which holding confers an entitlement to at least five percent of any two of the following (“equity holding rights”):

- right to vote;
- profits available for distribution;
- and assets available for distribution on a winding up; or

(b) is entitled at its option to call for and acquire the entire balance of the equity shares not held by that equity shareholder company to the extent permitted by the law of the country in which the equity shares are held; or

(c) is entitled to first refusal in the event of the proposed disposal, redemption or cancellation of all of the equity shares of that company not held by that equity shareholder company; or

(d) is entitled to either sit on the Board or appoint a person to sit on the Board of that company as a director; or

(e) holds an investment representing a total value, as on the date or dates on which it was acquired, of a minimum of one million, one hundred and sixty-four thousand euro (€1,164,000) (or the equivalent sum in a foreign currency) and that investment is held for an uninterrupted period of not less than 183 days; or

f) such shares are held for the furtherance of its own business and the holding is not held as trading stock for the purpose of a trade.

Equity shares refers to a holding of the share capital in a company which entitles the shareholder to at least any two of the following three rights: the right to vote, the right to profits available for distribution to shareholders and the right to assets available for distribution on a winding up of the company.

Capital gains derived from the disposal of such PH may be exempt from tax in Malta. Where Malta holding companies receive dividend income from a participating holding such income may also be exempt from tax in Malta provided that the company in which the PH is held falls within one of the following safe harbours:

- Resident or incorporated in the EU
- Subject to any foreign tax at a rate of at least 15%
- Less than 50% of its income is derived from passive interest or royalties

## REQUIREMENTS FOR THE PARTICIPATION EXEMPTION



Resident or incorporated in the EU;



Subject to any foreign tax at a rate of at least 15%



Less than 50% of its income is derived from passive interest or royalties



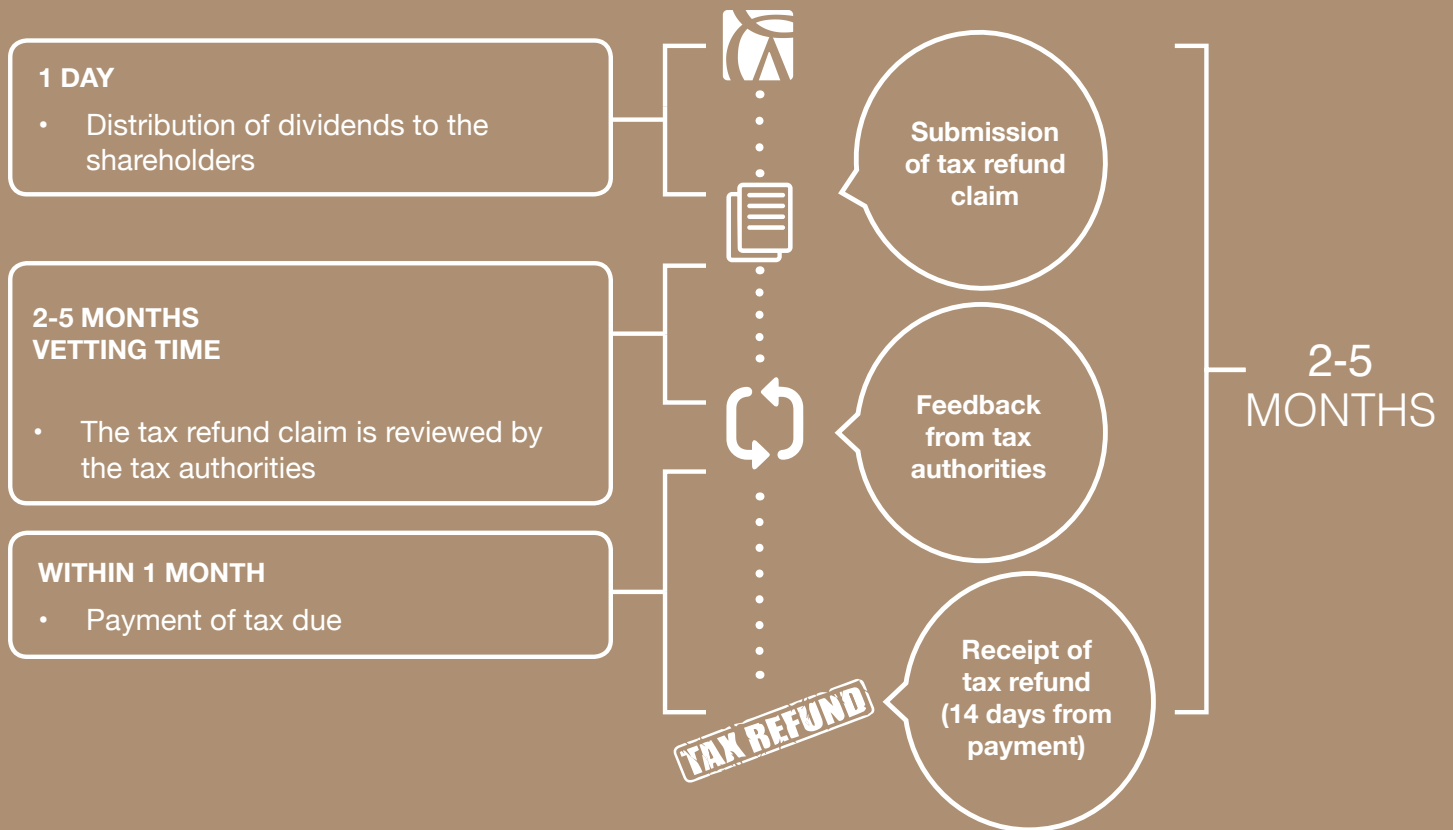
The equity shares held in the non-resident company do not represent a portfolio investment



Non-resident company or its passive interest or royalties have been subject to tax at a rate which is not less than 5%

# TAXATION OF MALTA HOLDING COMPANIES

## Tax Refund Timeline (Financial year end 31/12)



## WHY WORK WITH US?



Problem Solving,  
Integrity, Honesty



Multi-Disciplinary:  
Legal, Tax & Corporate



We're lawyers:  
Maximum secrecy  
guaranteed



Commercially Aware,  
Results Oriented



Lawyers,  
Tax advisors,  
Fiduciary staff: 100



Our Ethos:  
Big firm expertise  
Small firm personal



**CHETCUTI CAUCHI**  
ADVOCATES

Malta



**Dr Jean-Philippe Chetcuti**

Managing Partner,  
Residency & Citizenship, Tax  
jpc@ccmalta.com