Founded on Experience
Focused on the Future

Guidance note:

The Malta Trading Company

Abie International

Guidance note on the Malta Trading Company

This Guidance note is designed to provide some basic information about Maltese companies and to highlight some of the key considerations in the use of a Malta company for the purpose of structuring trading activities.

Located strategically within Europe and a member of the EU since 2004, Malta is well positioned to provide commercial benefits to HNWI's and Corporate Groups alike that wish to conduct trading operations in Malta.

Malta's political stability, steady economic growth and its highly skilled multi-lingual work force has provided an ideal platform for foreign direct investment into Malta.

The constitution of a Malta trading company can be drafted to provide full flexibility enabling the company to carry out its intended activity. In terms of its capital structure it can also be set up to cater for specific features of debt and equity instruments.

OTHER FEATURES AND BENEFITS OF A MALTA TRADING COMPANY INCLUDE:

- Ease of incorporation.
- Low minimum capital requirements (minimum of €1,165 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.
- No withholding taxes on dividends, interest and royalties paid out of the Company to non-resident individuals or entities, within or outside of the EU.
- Extensive use of Malta's double tax treaty network with in-excess of 70 countries.
- Capital gains on the transfers of shares in a Maltese company by non-resident shareholders are normally exempt.
- A flexible transfer pricing regime.
- 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.
- 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.
- Possibility of redomiciling companies to and from Malta.
- No exchange controls.
- Tax losses can be carried forward indefinitely.
- No capital, inheritance or wealth taxes.

STRUCTURING OPPORTUNITIES USING A MALTA TRADING COMPANY

1. A Malta trading company is taxable on its worldwide income at 35%, however, a shareholder refund more commonly calculated at 6/7ths of the Malta tax paid reduces the tax cost to between 0-5% as further explained hereunder.

   The numerical example below illustrates the mechanics of the 6/7ths tax refund:

COMPANY	EUR
PROFITS GENERATED FROM TRADING OPERATIONS	1,000
CHARGEABLE INCOME	**1,000**
TAX AT 35%	
MALTA TAX PAYABLE	**350**
SHAREHOLDER	
REFUND ON DISTRIBUTION (6/7THS OF GROSS TAX)	300
EFFECTIVE TAX	50
EFFECTIVE RATE OF TAX ON NET INCOME	5.00%

The tax refund mechanism is represented below by applying it to a Malta Holding Company ("HoldCo") owned by a non-resident shareholder which in turn holds 100% of the shares issued by a Malta Trading Company ("Malta OpCo")

1. Malta OpCo receives trading profits of EUR1,000.

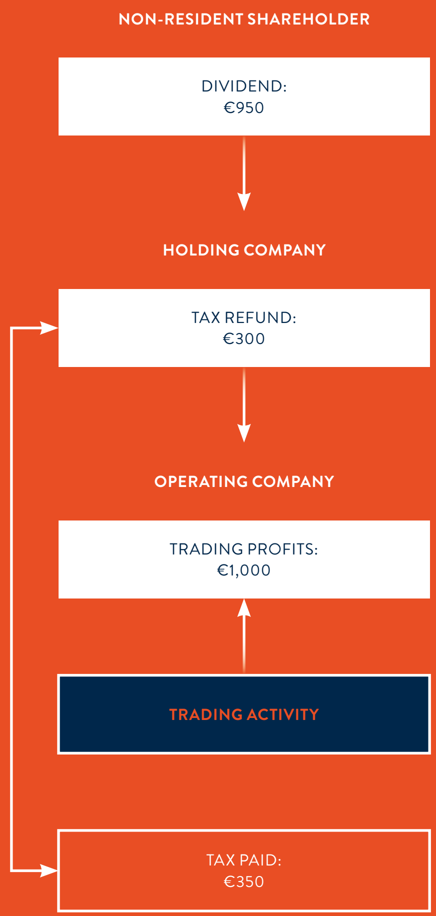
2. Malta OpCo suffers Malta tax at 35% amounting to EUR350.

3. Malta OpCo distributes a dividend of EUR650 to Malta HoldCo. Malta HoldCo pays no further tax on dividend received from Malta OpCo.

4. Malta HoldCo is entitled to a 6/7ths refund of the Malta tax paid by Malta OpCo on distributed profits and receives EUR300 from the Maltese tax authorities.

5. The non-resident shareholder can receive a dividend of EUR950 (EUR650+EUR300) from Malta HoldCo which means that the Malta tax burden on the trading arising in Malta OpCo is 5%.

No withholding tax applies at any level in the structure upon the upstreaming of dividend.



2. An alternative to the tax refund mechanism referred to above is to elect to structure a Malta registered parent company and its Malta subsidiaries (held at least as to 95%) as a fiscal unit which is then assessed on its chargeable income on a consolidated basis.

A parent company means a company holding shares in another company and satisfying two of the following conditions:

- The parent company holds at least 95% of the voting rights in the subsidiary company;
- The parent company is beneficially entitled to at least 95% of any profits available for distribution to the ordinary shareholders of the subsidiary company;
- The parent company would be beneficially entitled to at least 95% of any assets of the subsidiary company available for distribution to its ordinary shareholders on a winding up.

Where the abovementioned election is made, each 95% subsidiary in respect of which the election is made forms part of the same fiscal unit of its parent company, with such subsidiaries being referred to as transparent subsidiaries with any income/gains derived by the transparent subsidiaries allocated to the parent company as the principal tax payer.

In comparison to the refund mechanism discussed above, the election for treatment as a fiscal unit offers groups a cash flow advantage by not incurring a cash outflow arising between the timing of settlement of the standard corporate tax rate of 35% and the receipt of the tax refund.

The fiscal unit files a single tax return and corporate tax is paid by the principal tax payer (i.e. the parent company) on behalf of all the members of the group.

Our team will be pleased to discuss this further with you.

For further information please contact

Nissim Ohayon

nohayon@abieinternational.com.mt
T. +356 2149 1068

This Guidance Note has been prepared for general information purposes only and is not intended to provide legal or professional advice neither does it represent a substitute for taking such advice. No responsibility is accepted for any direct, indirect or consequential loss which may arise from reliance on this Guidance Note.

Although we endeavour to provide accurate and timely information there can be no guarantee that such information is accurate as of the date it is received or that it will continue to be accurate in the future. We do not accept any responsibility for any damage which may result from a change in the law or from a different interpretation or application of the local law by the authorities or the local courts.

Abie International

The Watercourse
Central Business District – Zone 2
Mdina Road
Birkirkara CBD 2010
Malta

T. +356 2149 1068
nohayon@abieinternational.com.mt