

## MALTA ROYALTY COMPANIES

### GENERAL INFORMATION

Malta is a well regulated and leading international financial services centre located in southern Europe and is a member of the European Union, the Council of Europe, The United Nations and the Commonwealth. With good transport links into many cities in Europe, a good telecommunications infrastructure, and with English being one of the main languages, Malta is well positioned to attract international business.

The Malta Financial Services Authority ('MFSA') is the single efficient regulator for financial services in Malta and provides a flexible and commercial foundation to facilitate business.

Malta has a stable economy and has an extensive network of double tax treaties throughout the world, as well as having many tax advantages for royalty companies.

### KEY FEATURES AND BENEFITS

- The corporate tax rate is 35%, however, due to the imputation system this can be reduced considerably, typically to 10% or less for royalty companies.
- There are no withholding taxes on dividends or royalties paid to non-resident shareholders.
- The VAT rate is one of the lowest in Europe at 18%.
- Only 20% of the issued share capital need be paid up.
- There is a stable and sophisticated banking system without the need for the beneficial owner to visit Malta to open the account.
- Malta's extensive network of double tax treaties results in reduced or no withholding taxes on royalties paid to Maltese companies
- Malta has a robust legal, fiscal and regulatory framework in place, providing effective protection of intellectual property rights
- The main languages in Malta are English and Maltese.
- Malta is on the OECD 'white list'.

### ROYALTY COMPANIES

Royalty structures are used in respect of the ownership and licencing of various patents, copyrights, trademarks etc. as well as intellectual property. The three types of royalty structures are as follows:

- Active Royalties
- Passive Royalties
- Exempt Royalty Company

### ACTIVE ROYALTIES

Royalties are considered as active royalties if they fall under either of the following criteria:

- The royalty income **is derived**, directly or indirectly, from the company's trade or business. In other words the company's business actively exploits various forms of intellectual property.
- The royalty income has suffered overseas tax, directly, by way of withholding taxes or otherwise, at a rate of **at least 5%**.

## PASSIVE ROYALTIES

Royalties are considered as passive royalties if they fall under one of the following criteria:

- The royalty income **is not** derived, directly or indirectly, from the company's trade or business. For example if a Maltese company receives royalties from the exploitation of a patent but it is not actively involved in the business the royalty is considered as passive; or
- The royalty income has suffered overseas tax, directly, by way of withholding taxes or otherwise, at a rate of **less than 5%**.

## EXEMPT ROYALTY COMPANY

A number of initiatives have been developed by the Maltese government to attract business to Malta including incentives to encourage companies to exploit intellectual property through the licensing of patented knowledge. The incentives are administered by Malta Enterprise which was established to promote, encourage and support such business, and to generate economic growth in Malta.

A tax exemption has therefore been introduced resulting in royalty income being free of income tax provided the following conditions are met:

1. The royalties and similar income must be derived from:
  - Patents in respect of inventions
  - Copyrights
  - Trademarks
2. Any invention must be patented under Maltese law. The fundamental research, industrial research or experimental development does not need to have been carried out in Malta.
3. The patent must be used in a productive economic activity, such as manufacturing, software development or data processing.
4. If the intellectual property owner enters into a licensing agreement with linked entities it must be on an arm's length basis.
5. An application for approval of the tax exemption must be submitted to Malta Enterprise, giving details of the applicant, the proposed intellectual property and licensing areas.

If the application is successful the Company will receive an Entitlement certificate valid for three years that will entitle the Company to an exemption from income tax in respect of the royalty income received.

## FULL IMPUTATION SYSTEM

Unlike many other countries, Malta operates a full tax imputation system in respect of corporate profits. Under this system corporate profits are taxed at a flat rate of 35%. When the dividends are distributed to shareholders the dividend carries an imputable tax credit, which can be considered as a payment in advance of the shareholder's own tax liability.

A shareholder's refund can be claimed once the dividend has actually been paid by the Maltese company.

The tax refund from the Maltese revenue authorities is a legally guaranteed payment and is paid within 14 days of the month end in which the reclaim was made.

This refund will only be relevant for active and passive royalties, as exempt royalties are exempt from the requirement to pay any tax in the first place.

## EXAMPLE

### Active Royalty Income Where No Double Tax Relief Has Been Claimed

Taxation at the Maltese Company level	
Taxable income (active)	100,000
Malta tax @ 35%	(35,000)
Profits available for distribution	65,000
Taxation at shareholder level	
Net Dividend Income	65,000
Grossed up with tax paid by Maltese Company	35,000
Gross dividend income	100,000
Malta tax @ 35%	35,000
Imputation Tax credit	(35,000)
Refund of 6/7 <sup>th</sup> 's of the Maltese tax suffered by Malta Co on <b>payment of a dividend</b> (made up of active income). i.e. 6/7 <sup>th</sup> 's of 35,000	30,000
Total income for shareholder	95,000
<b>Effective Malta tax rate</b>	<b>5%</b>

### Passive Royalty Income Where No Double Tax Relief Has Been Claimed

Using the example above, the refund will reduce to 5/7<sup>th</sup>'s of the Maltese tax suffered resulting in the total income to the shareholder of 90,000 and an effective Maltese tax rate of 10%.

In the case where double tax relief is claimed the refund of Maltese tax will reduce to 2/3<sup>rd</sup>'s. The final rate of tax paid is dependent on the rate of overseas tax claimed.

## TWO TIERED STRUCTURE

A Maltese royalty company can be set up in conjunction with a Maltese holding company. The holding company will receive dividends from the royalty company and will also collect the refund due to it under the imputation system.

The main advantage of this is that it allows the holding company to manage the receipt of dividend income and the respective tax reclaim, so that the dividends and the tax reclaim can be paid up to the shareholder in one amount as a dividend. No further Maltese taxation would be due from the holding company as it would be considered as a participating holding and exempt from taxation.

The royalty company shareholder must be formally registered with the Maltese tax authorities in order to be eligible to claim for a refund. Having a Maltese holding/owning company as the shareholder allows a degree of confidentiality.

## HOW MANN MADE CAN HELP

Mann Made Malta Ltd is a company service provider registered to act as such by the 'MFSA'. We can establish the Maltese royalty structure and provide ongoing services to include the provision of corporate services (the provision of officers, registered office etc.), plus on-going administration, tax and VAT registration, bank account opening, tax and VAT compliance, bookkeeping and accounting services and other services if required.

## CONTACT US

For more information concerning the Maltese royalty structure, the services we can provide and our costs, please contact Sue Brown, director of Mann Made Malta Ltd as follows:

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## THE MANN MADE GROUP

Mann Made Malta Ltd is part of the Mann Made Group of companies and has offices in the Isle of Man, United Kingdom, Hong Kong and Malta and is an international group providing corporate and trust structuring and services worldwide. Should you be interested in the services we can provide please visit our website or contact us as follows:

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