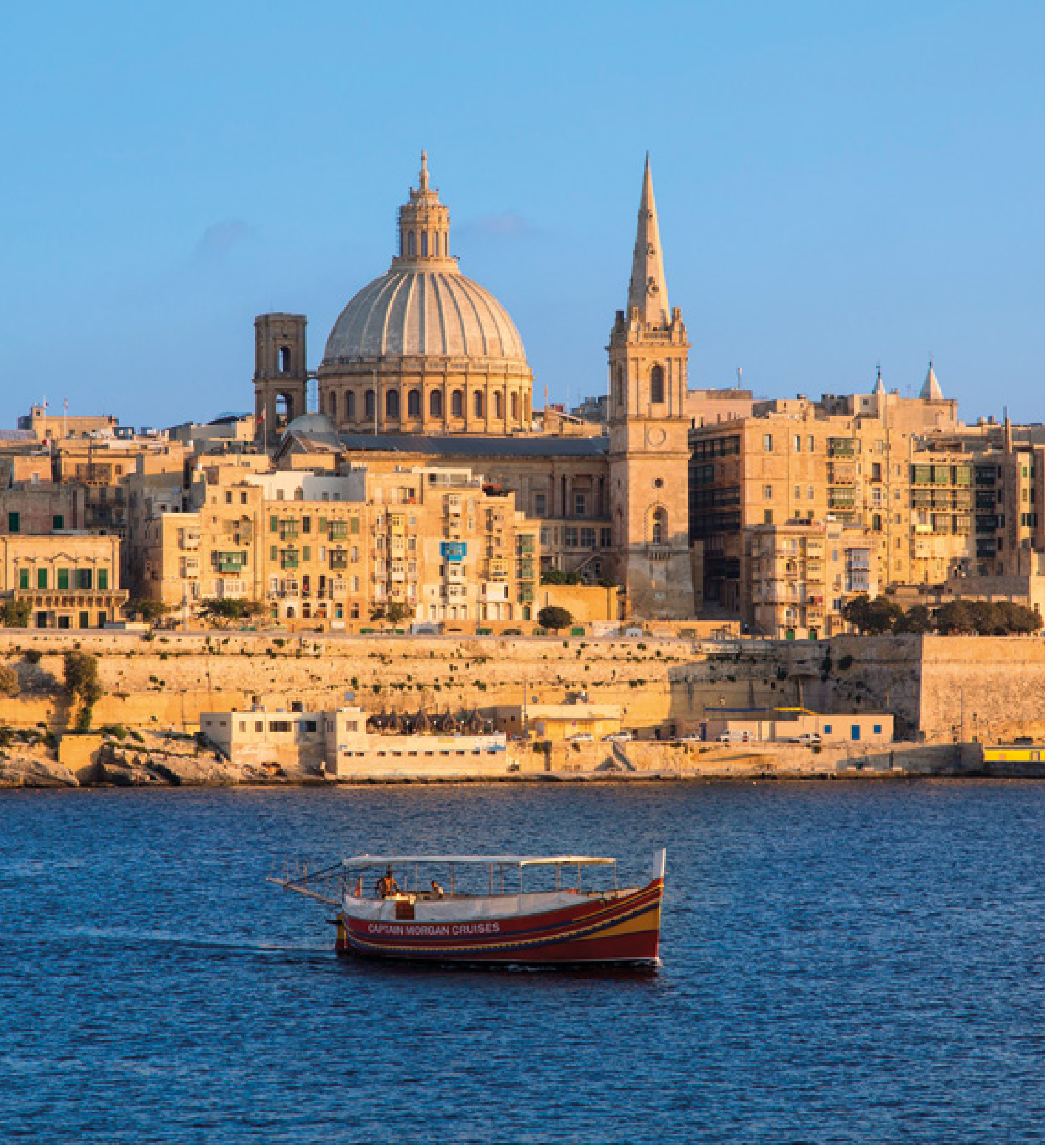

Doing business in Malta
2016

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Contents

Introduction

This guide to doing business in Malta will provide foreign investors with an insight into the key aspects of undertaking business and investing in Malta. The country's geographical location, modern infrastructure and skilled and flexible labour supply make it especially attractive for overseas investors. Furthermore, Malta is a safe investment environment and provides a number of incentives to encourage and assist investors.

Malta's GDP is highly dependent on foreign trade, manufacturing and tourism. The economy also possesses a growing services sector which includes a strong financial services division. Malta experienced continuous economic growth following its accession to the EU in 2004 and, before the financial crisis, was one of the fastest growing economies in the Eurozone. However, as many countries, it experienced a period of contracted growth in 2009. Malta's economy fared better than many within the Eurozone and has had growth in every year since the crisis. This is expected to continue through 2016 and 2017; the EU has predicted growth rates of 3.6 per cent and 3.2 per cent, respectively.

Alongside a number of government incentives for investment, Malta offers the following competitive advantages for investors:

- A safe investment environment
- A strategic geographical location, ideally placed to approach both the European and North African markets
- A stable political environment
- Highly regarded education system
- A well-established economic environment, highly credited for its growing strength in financial services
- A strong legal system which is in line with EU regulations
- Highly educated and skilled workforce
- High standard of living
- Widespread use of English language and, to a lesser extent, other languages

While this guide makes reference to some of the most common issues investors might face, it must be noted that certain industries, such as the financial services sector, are subject to special regulation and therefore companies wishing to invest in this area should seek legal advice.

The information in this publication is current at January 2016

Country profile

Capital City	Valletta
Area	316 sq. km
Population	425,799
Language	Maltese and English
Currency	Euro
International dialling code	+ 356
National Holidays 2016	1 January – New Year's Day 10 February – Feast of St Paul's Shipwreck 19 March – St Joseph 25 March – Good Friday 31 March – Freedom Day 1 May – Worker's Day 7 June – Sette Giugno 29 June – Feast of St. Peter and St. Paul 15 August – Feast of the Assumption 8 September – Feast of Our Lady of Victories 21 September – Independence Day 8 December – Feast of the Immaculate Conception 13 December – Republic Day 25 December – Christmas Day
Business and Banking hours	08:30 to 17:30 hours
Stock exchanges	Malta Stock Exchange
Political structure	Republic and parliamentary system
Doing Business rank 2016	80

Ease of Doing Business

Topics	2016 rank	2015 rank	Change in rank
Starting a business	132	129	-3
Licenses and Permits	83	77	-6
Getting Electricity	86	73	-13
Registering property	96	94	-2
Financing	174	171	-3
Protecting Investors	36	33	-3
Paying Taxes	25	25	No change
Trading Across Borders	39	39	No change
Enforcing Contracts	61	61	No change
Resolving Insolvency	83	83	No change

Source: World Bank Group (Doing Business)

Legal overview

Political and legal system
Malta is a parliamentary democracy. The parliament is the supreme political power; the President is the Head of State. The government is formed from the House of Representatives by the political party that wins the most seats in a general election. General elections are held at least once every five years.

Malta has been a member of the EU since May 2004. Malta is a member of the Eurozone and has therefore adopted the single currency. Malta's external commercial policy in now conducted primarily through the EU.

Maltese law is based on the civil-law pattern of Continental Europe, although most administrative, financial and fiscal legislation is based on British laws. There are three judicial jurisdictions: civil, criminal and voluntary. There is one court of appeal for all jurisdictions and the Constitutional Court is the ultimate competent court for judgments on the conformity of laws.

Maltese law also includes European Union legislation. Some EU laws (Regulations) are automatically applicable; others (Directives) have to be transposed into local law by legislative authorities.

Data protection
The right to privacy is established in the Constitution of Malta. The enforcement of this right is facilitated by the protection of data from abuse. Data protection provisions can be found in the EU Data Protection Directive and the Maltese Data Protection Act which was enacted in 2001.

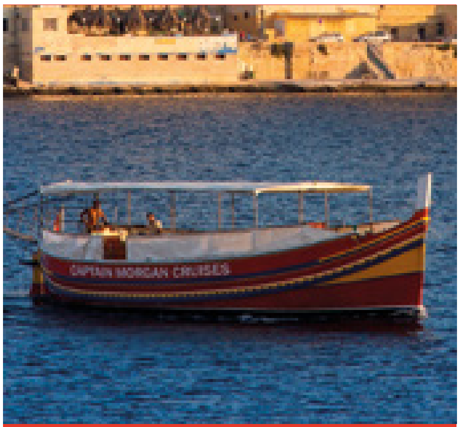
The Data Protection Directive and Malta Data Protection Act are based on the following key principles:

- Personal data is processed fairly and lawfully
- Personal data is always processed in accordance with good practice
- Personal data is only collected for specific, explicitly stated and legitimate purposes
- Personal data is not processed for any purpose that is incompatible with that for which the information is collected
- Personal data that is processed is adequate and relevant in relation to the purposes of the processing
- No more personal data is processed than is necessary having regard to the purposes of the processing
- Personal data that is processed is correct and up to date
- All reasonable measures are taken to complete, correct, block or erase data to the extent that such data is incomplete or incorrect, having regard to the purposes for which they are processed
- Personal data is not kept for a period longer than is necessary, having regard to the purposes for which they are processed

Companies must notify the Office of the Information and Data Protection Commissioner if they are processing personal data. This involves filing certain information relating to the processing operations carried out by the data controller and paying a fee of EUR23.29 on an annual basis.

Stronger legal protection is available for more sensitive information such as ethnic background, political opinions, religious beliefs, health, sexual health and criminal records.

Businesses that fail to comply with these rules and principles can face enforcement action by the Office of the Information and Data Protection Commissioner. A data



Malta's external commercial policy in now conducted primarily through the EU.

controller that is in breach of the data protection rules may be liable to an administrative fine by the Commissioner of Data Protection, an order to pay compensation to the data subject or a criminal fine or term of imprisonment. The maximum administrative fine that can be imposed is EUR23,300 for each violation with an additional EUR2,500 fine for each day that the violation continues. Criminal penalties depend on the offence but the maximum penalty is EUR23,300 and/or a term of imprisonment of not more than six months.

Businesses incorporated in Malta must comply with the EU data protection regime which is currently undergoing a major overhaul. The proposed General Data Protection Regulation seeks to harmonise data protection laws across EU Member States. Although this legislation is significantly more prescriptive than the current Directive (95/46 EC), the reforms are expected to clarify the obligations in the processing and monitoring of personal data regardless of the entity presence in the EU.

Money laundering regulations

In Malta there are, at present, no exchange control restrictions affecting inward or outward investment, the repatriation of income or capital, the holding of currency accounts or the settlement of current trading transactions. Nevertheless, there are strict money laundering regulations.

Malta's anti-money laundering provisions can be found in the Maltese Prevention of Money Laundering Act and the Prevention of Money Laundering and Funding of Terrorism Regulations. The Prevention of Money Laundering Act establishes the Financial Intelligence Analysis Unit (FIAU). The FIAU is responsible for the collection, collation, processing, analysis and dissemination of information related to suspected money laundering or terrorist financing. The FIAU also issues Implementing Procedures which regulate Subject Persons and which are enforceable as if legislation.

Money laundering offences may be committed by any person intentionally undertaking the following activities:

- Converting or transferring property, with the knowledge that such property is derived from criminal activity or participation in such activity, for the purpose of concealing or disguising the origin of the property or assisting a person involved in criminal activity
- Concealing or disguising the true nature, source, location, disposition, movement, right over or the ownership of property with the knowledge that such property is derived from criminal activity
- The acquisition, possession or use of property with the knowledge that such property is derived from criminal activity or any participation therein
- Retaining, without reasonable excuse, property knowing or suspecting that such property is derived or originated directly from criminal activity
- Acting as an accomplice in any of the above activities

Any person found guilty of a money laundering offence is liable to a maximum fine of EUR2,500,000 and/or a term of imprisonment for up to 18 years. Non-compliance with the regulations may lead to a fine of up to EUR50,000 and/or imprisonment for up to two years.

The legislation imposes a number of duties on 'subject persons', such as identification and customer due diligence, internal record keeping, internal and external reporting and appropriate employee training. 'Subject persons' must also designate a reporting officer who will decide whether any facts reported to them raise a suspicion of money laundering. Furthermore, all records and identities of business transactions carried out by 'subject persons' must be kept for a minimum of five years from the date that the activity was undertaken.

Intellectual Property Rights

In Malta and the EU, protection is generally granted for registered, and sometimes unregistered, Intellectual Property Rights. These include: patents, trademarks, copyright and designs.

In Malta, intellectual property matters are dealt with by the National Intellectual Property Office of Malta which manages the trademark, registered design and patent directorate. Malta is a member of the Convention for the Protection of Industrial Property and also adheres to the World Intellectual Property Organisation and the Berne Convention for the Protection of Literary and Artistic Works.

In the EU, patents can be prosecuted through the European Patent Office in Munich (Germany). Community trademarks and registered community designs in the European Union are registered by the Office for Harmonisation of the Internal Market in Alicante (Spain).

COPYRIGHT

Copyright can protect: literary work, dramatic works, musical works, artistic works, layouts and typographical arrangements, recordings and broadcasts. Copyright works receive statutory protection automatically once they are placed in the public domain.	
Protection granted	Copyright is granted to eligible work automatically; there is no need for registration under Maltese law. Copyright does not protect ideas for work, it is only when the work itself is fixed that copyright automatically protects it. Copyright provides the owner with reproduction, distribution and performance rights. The law of copyright and its related rights in Malta can be found in the Copyright Act.
Infringement	Copyright is infringed by any person who, without permission from the owner, reproduces, distributes or performs the material in question. There are two classes of infringement: primary and secondary. Primary relates to when a person performs any of the aforementioned acts. Secondary infringement is where someone distributes articles that have already breached copyright. Infringement can also be direct or indirect; the former is the imitation of the material in its original form and the latter is the copying of the work in a form that is easily recognisable from the original.
Duration	For literary, musical or artistic works and databases – 70 years after the end of the year in which the author died, irrespective of the date when the work is lawfully made available to the public. For audio-visual works – 70 years after the end of the year in which the last of the following person dies: the principal director, the author of the screenplay, the author of the dialogue and the composer of music specifically created for use in the audio-visual work.

PATENTS

Patents protect inventions which can be applied in an industrial environment. For a patent to be granted, the invention must be new, have an inventive step which is not obvious to someone with experience in the subject and capable of being used in some kind of industry. Pure discoveries and scientific or mathematical formulae cannot be patented.	
Protection granted	A patent gives its owner the ability to take legal action to stop others from the making of a product or the use of a process, which is the subject-matter of the patent, selling anything incorporating the subject-matter of the patent or inducing third parties into any of the above, without the inventor's permission.
Infringement	Infringing a patent means manufacturing, using, selling or importing patented products or processes without the owner's permission. It is not necessary to show that the infringer has knowledge of the patent protecting the invention for infringement to be made out. The infringer, on conviction, may be liable to a fine of not less than EUR232.94 and not more than EUR11,646.87.
Duration	Design rights are protected for a period of five years from the date of filing of the application. The holder of a design right can renew the term for one or more periods of five years, up to a total term of 25 years from the date of filing.
European Patent Convention	Applying for a patent in Malta does not provide protection elsewhere in Europe. To protect a patent in more than 30 countries in Europe, the application can be made using the European Patent Convention. This is processed as a single application, but once granted, a national patent will be granted in each of the EPC signatory countries. It is also possible to get international protection using the Patents Cooperation Treaty through the World Intellectual Property Organisation (WIPO).

TRADE MARKS

A trademark must be a sign capable of distinguishing goods and services of one undertaking from those of another undertaking. Those signs can be: words, personal names, figurative elements, letters, numerals or the shape of goods or their packaging.	
Protection granted	The owner can obtain protection in Malta by registering the trademark at the National IP Office or it can register a Community Trade Mark (CTM) that grants protection in all EU Member States. The proprietor of a registered trademark has exclusive rights in the trademark.
Infringement	Some examples of infringement of a trademark are: • Using an identical or similar trademark for identical or similar goods and services to a registered trademark creating a likelihood of confusion on the part of the public • Where a mark has a reputation, infringement may arise from the use of the same or a similar mark which damages or takes unfair advantage of the registered mark It is a criminal offence for any person to make unauthorised use of a trademark. A person guilty of such an offence may be liable, on conviction, to a term of imprisonment not exceeding three years and/or to a fine of not more than EUR23,293.73. When an action for infringement is brought in the competent European jurisdiction, it is possible to obtain an injunction to avoid the use of the trademark in all EU Member States.
Duration	10 years (registration can be renewed for further periods of 10 years).

DESIGNS

A design is legally defined as being the “appearance of the whole or a part of a product resulting from the features of, in particular, the lines, contours, colours, shape, texture and, or materials of the product itself and, or its ornamentation”.	
Protection granted	Registering a design gives the owner a property right over the design; it is protected if the design in question is new and has individual character. Holding a design right provides the owner the exclusive right to use it and to prevent any third party using it without consent. The owner of a registered design cannot prohibit the use of a product that features the design if the product has been put on the market by themselves or if this was done with their consent.
Infringement	A design right is infringed by an unauthorised person making an article exactly or substantially similar to the protected design or by making a design document for the purpose of making unauthorised copies.
Duration	Once obtained, a design right is protected for a period of five years from the date of filing of the application. It can then be renewed for one or more periods of five years up to a total term of 25 years.

Conducting business in Malta

Business entities

Any foreign company or individual wanting to do business in Malta will need to decide under which form they want to operate. The types of business entities that an organisation can choose are set out in Malta's Company Act of 1995. This is principally based on English company law and is in conformity with EU Directives. The various business entities available in Malta are described below.

Branch

An overseas company can set up a place of business without forming a Maltese subsidiary by using the branch form. A branch is not a separate legal entity; the overseas parent will therefore be directly responsible for any liabilities incurred by the Maltese establishment.

Those wishing to set up a branch in Malta must register with the Registrar as an overseas company by delivering the following:

- An authentic copy of the instrument of constitution
- Details of the directors and secretary
- A return containing: the name under which the branch is carrying out its activities if different from the name of the overseas company, the local address of the branch, the activities carried out, the names and addresses of the individuals resident in Malta representing the company, the extent of these individuals' responsibilities, the legal form of the overseas company, the identity of the register in which the overseas company is registered and number with which it is registered

A foreign entity with a Maltese establishment will usually be required to continuously display the following at its places of business: its name and the country in which it is incorporated. This information must also be displayed in all prospectuses inviting subscriptions of its shares or debentures.

An overseas company is required to comply with rules on financial statements applicable to Maltese companies. Where the accounting requirements of place of origination differ from those of Malta, the Registrar may accept the accounts, providing that full details of the operations in Malta are delivered.

Limited Liability Company

Formation

Organisations wishing to set up business in Malta are permitted to use a Private Limited Liability Company or Public Limited Liability Company form. A qualifying Private Limited Liability Company may also have the status of a private exempt company which is less strictly regulated but contains different provisions in the Memorandum and Articles of Association.

The process of formation for a limited liability company in Malta comprises the submission of the Memorandum of Association and Articles of Association to the Registrar of Companies. These must be submitted alongside a bank deposit slip proving the deposit of at least the amount of initial paid-up capital into a bank account titled "Company Name – Company Formation".

The company may adopt any name, subject to approval by the Registrar of Companies. The Registrar may reject a name that is offensive or too similar to that of another company. The name of a private company must be followed by the words 'Private Limited Company' or 'Limited' or the abbreviation 'Ltd', while a public company must be followed by ' Public Limited Company' or 'Plc'.

A Limited Liability Company must have at least two members, unless the company qualifies as a private exempt company, wherein it can be incorporated as a single member company. In order to qualify, a private exempt company must: restrict the number of people holding debentures of the company to a maximum of 50 and prohibit any corporate bodies from acting as a director for the company. The directors and shareholders of a Maltese company can be of any nationality.

Once the documents are submitted, the Registrar will register the company and issue a certificate of registration; the company then comes into existence and is capable of undertaking business. This usually takes a few days from the date of submission; the cost ranges from EUR245 to EUR2,250 depending on the company's authorised share capital. A discounted rate for formation will apply if completed online.

Capital requirement

The authorised and issued share capital of a private company cannot be less than EUR1,164.69, while that of a public company cannot be less than EUR46,587.47. When the authorised share capital is at the minimum allowed, it must be fully subscribed in the Memorandum of Association. When it is more than the minimum, at least the minimum must be subscribed.

For private companies, at least 20 per cent of the value of each share must be paid upon the signing of the memorandum.

No less than 25 per cent of the nominal value of each share taken up must be paid on the signing of the memorandum for a public company.

Constitution
The constitution of the company is set out in the Memorandum of Association and Articles of Association. The Memorandum of Association must contain the following information:

- Whether the company is a public company or a private company
- The name and residence of each of the subscribers
- The name of the company
- The company's registered office in Malta
- The objects of the company
- The amount of share capital with which the company proposes to be registered, the division thereof into shares of a fixed amount, the number of shares taken up by each of the subscribers and the amount paid up in respect of each share and, where the share capital is divided into different classes of shares, the rights attaching to the shares of each class
- The number of the directors, the name and residence of the first directors and, where any of the directors are a corporate body, the name and registered or principal office of the corporate body; the manner in which the representation of the company is to be exercised and the name of the first person or persons vested with such representation
- The name and residence of the first company secretary or secretaries
- The period, if any, fixed for the duration of the company
- In respect of each shareholder, director and company secretary, the number of an official identification document should also be given

Filing requirements
Every company registered in Malta must prepare an annual return to the Registrar of Companies on the date of the anniversary of registration. This must be signed by one of the directors or by the company secretary and include the following details: the registered office of the company, a summary of share capital and debentures, a list of shareholders and certain information on directors. The fee for the annual return is based on the authorised share capital of the company and ranges from EUR100 to EUR1,400. Companies can also choose to file returns online at a discounted rate.

Partnerships
Firms wishing to establish a partnership in Malta have the option of a Partnership en nom collectif or a Partnership en commandite. The fees to set up a partnership, alongside annual return fees, are the same as those applicable to Limited Liability Companies.

Partnership *en nom collectif*
A Partnership en nom collectif is a partnership formed of two or more partners, whereby all partners have unlimited and joint and several liability for the obligations of the firm, not merely to the amount of their contribution. Every Partnership en nom collectif must have a registered office in Malta.

The partnership is formed by drawing up a Deed of Partnership, which is then registered with the Registrar of Companies and must include: the name and residence of each partner, the partnership's name, the registered office of the partnership in Malta, the objects of the partnership, the contribution of each of the partners and the period, if relevant, fixed for the duration of the partnership.

Partnership *en commandite*
A Partnership *en commandite* is a partnership comprised of at least one unlimited (general) partner and other limited partners. The firm has its obligations guaranteed by the unlimited and joint and several liability of one or more general partners and by the limited liability of one or more limited partners. There has to be at least one general partner and at least one limited partner. As for the Partnership en *nom collectif,* a deed of partnership must be drawn up and registered; this should state which of the partners are general partners and which are limited. The capital of a Partnership *en commandite* may be divided into shares.

Re-domiciliation (continuation) of Companies

Under Maltese company law (the Continuation of Companies Regulations), a company can relocate from a foreign jurisdiction to Malta, and vice versa, without being wound up. In order to qualify for re-domiciliation, the company must be formed and registered under the laws of an approved jurisdiction, must be similar in nature to companies registered under the laws of Malta and the process should be permissible under the laws of the country in which the company is currently registered. This does not create a new legal entity or affect the property of the company. Once the request for continuation is submitted to, and accepted by, the Registrar of Companies, the company is treated as if it had been incorporated in Malta.

Tax system

Malta's tax system follows certain aspects of the UK tax system and shares a number of common principles. The main taxes in the country are: income tax, Value Added Tax (VAT), duty on documents and other transfers, customs duty and excise tax.

The key government departments responsible for coordinating the tax system are the Department of Inland Revenue, the Value Added Tax Department and the Customs Department.

Income Tax

The primary laws governing income tax are the Income Tax Act and Income Tax Management Act. Malta has also adopted all EU Tax Directives.

Any person or company that resides and is domiciled in Malta is liable for tax on their world-wide income and capital gains. There is no separate income tax system for businesses. Any person that is resident but not domiciled in Malta (and not a permanent resident in Malta), and companies that are resident but not domiciled in Malta, pay tax on foreign income remitted to Malta (remittance basis). Additionally they pay income and capital gains arising in Malta, excluding gains on capital assets situated outside Malta even if proceeds are remitted to Malta.

Tax deductions are available for expenses and outgoings wholly or exclusively incurred in the production of income including the following items: expenses and outgoings, bad debts, leasing costs (excluding leased motor vehicles), expenditure on scientific research, expenditure on patents and intellectual property, expenditure on marketing and cost of emoluments.

Interests, discounts, premiums or royalties received by a non-resident are not taxable in Malta, providing these are not attributable to a permanent establishment in Malta of the non-resident person. Where the non-resident person is a company or other legal entity, the exemption will not apply if the entity is owned and controlled, directly or indirectly, or acts on behalf of an individual or individuals ordinarily resident and domiciled in Malta.

Every person or firm that is governed by Maltese law must register with the Inland Revenue and file an annual income tax return (including a self-assessment of their tax liability). Penalties exist for late returns or omissions.

Corporate Income Tax

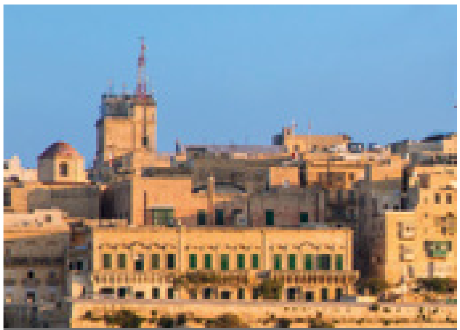
Scope

Maltese residents and domiciled companies are subject to corporation tax on their worldwide income and capital gains. The headline rate of corporation tax is 35 per cent.

A company is resident and domiciled in Malta if it has been incorporated in Malta or re-domiciled to Malta. A company is resident but not domiciled in Malta if its central management and control is in Malta but it is incorporated in another country. If the company is a dual resident, the relevant tax treaty may in some cases determine the ultimate residence.

A company resident but not domiciled in Malta is taxed on income and gains arising in Malta and foreign income remitted to Malta. Foreign capital gains are not subject to taxation even if proceeds are remitted to Malta.

Malta has four types of relief for the elimination of double taxation: treaty relief, commonwealth relief, unilateral relief and flat rate foreign



A company is resident but not domiciled in Malta if its central management and control is in Malta but it is incorporated in another country.

tax credit. Malta has an extensive tax treaty network, most of which are based on the OECD Model Tax Convention.

Some of the treaties include tax incentives for foreign businesses looking to set up manufacturing establishments in Malta.

Companies must file their tax return by the end of the ninth month after their accounting year end date. Where the accounting year end falls between 1 January and 29 June the return is to be filed by the 31 March of the calendar year following the accounting date. Entities must make a number of provisional tax payments; on the 30 April, 31 August and 21 December. These provisional payments are credited against their tax liability on their total income. Any outstanding payments become payable on the tax due date, being the return date.

Preferred corporate structure

Overseas companies may trade in Malta through limited liability companies or branches. Partnerships are sometimes used, particularly in joint venture situations or with professional partnerships. While partnerships possess a separate legal entity, they are not generally treated as companies for Maltese income tax purposes. The partnership income is therefore deemed to be the income of the partners, in proportion to their respective interest.

Nevertheless, any partnership or European Economic Interest Grouping (EEIG) shall be entitled to make an application in writing to be treated as a company for all purposes of the Income Tax Acts. Such an application shall be made on such form and under such conditions as may be prescribed and shall be effected not later than sixty days after the date of setting up of the partnership or EEIG as the case may be.

A Partnership en commandite with its capital divided into shares will be treated as a company for income tax purposes. Partners will also have to pay stamp duty at a rate of two per cent on transfers of their partnership interest; this rises to five per cent in a number of specified cases.

A subsidiary company incorporated in Malta will be taxed on its worldwide income. Trading through a branch situated in Malta incurs tax on the income generated in Malta and may mean that these profits are taxable in the territory of residence of the parent company as well.

The choice between a Maltese subsidiary and a branch will often depend on commercial issues, as well as tax considerations in the territory of residence of the overseas company. Operating via a subsidiary is more common, not only are they easier to administer but they offer better litigation protection and commercial advantages. Nevertheless, branches can sometimes offer tax advantages, particularly if the operation is expected to be loss-making in the start-up period.

Capital gains

With effect from 1 January 2015, the capital gains tax systems was, with minor exceptions, fully replaced by the tax on property transfer system. The new final withholding tax will be eight per cent on the value of the property transferred. There are four exceptions, as follows:

- In the case of individuals who do not carry on the business of property trading, the applicable final withholding tax rate shall be five per cent if the property is transferred less than five years after the date of its acquisition
- In the case of properties acquired by any person (individuals and companies) before 1 January 2004, the applicable final withholding tax rate shall be 10 per cent of the value of the property transferred
- A two per cent withholding tax applies on a transfer of property that was, immediately before the transfer, owned by an individual, who declared that the property had been acquired for the purpose of constructing their sole ordinary residence and the transfer is made no later than three years after the date of acquisition
- A five per cent final withholding tax applies when it is a transfer of property situated in Valletta, that was acquired before 31 December 2018 and such property has been restored and/or rehabilitated after the date of acquisition, and on completion the works are certified as satisfactory by the Malta Environment and Planning Authority. The transfer of property must be made no later than five years from 31 December 2018

Groups

Limited liability companies and partnerships en commandite, with their capital divided into shares, are treated as separate legal entities for tax purposes, responsible for their own returns and payments. The Income Tax Act contains provisions allowing Maltese resident companies to form a group for tax purposes. This is permitted when one company is more than 50 per cent the subsidiary of another or two companies are both more than 50 per cent subsidiaries of another company. All companies must be resident in Malta.

Group relief provides for the off-set of certain current year tax profits and losses within a group. However, capital losses do not qualify for group relief.

Capital assets can be transferred within a group without incurring any tax. In this case a group can be defined as above or where two companies are controlled and owned directly or indirectly by more than 50 per cent of the same shareholders. Where the capital asset transferred consists of immovable property in Malta or shares in a company which owns or has real interest in immovable property in Malta, the exemption only applies if the companies involved are owned to the same extent by the same ultimate beneficial owners, saving a percentage variation of 20. This exempted gain will be subject to a claw back provision if the transferee company leaves the group within six years of the transfer (degrouping charge). This is providing that the assets transferred were immovable property situated in Malta or shares in a company which owned or had real interests in immovable property and the said asset was still owned by the group at the time the degrouping occurred. Furthermore, the exempted gain will also be clawed-back if the asset is then transferred out of the group.

Losses

Trading losses may be set off against total profits (including interest, rental income and capital gains) of a company in the same accounting period and carried forward for relief against future profits and capital gains without time limit.

Capital losses can only be offset against capital gains arising in the same company in the same accounting period or future accounting periods.

The loss utilisation rules are complex. Managing the utilisation of tax losses to maximise cash-tax savings is critical, particularly in the start-up period of a company.

A number of rules exist such that where a company undergoes a change of ownership the carry forward losses may be restricted. Careful consideration should be given to the implications of this for losses arising prior to the change.

Dividend income

The taxation of dividends depends on the tax account out of which the distribution is made. Companies must allocate their distributable profits to the 'final tax account', 'immovable property account', 'foreign income account', 'the Maltese taxed account' or the 'untaxed account'.

Typically, dividends from the 'final tax account', 'immovable property account', 'foreign income account' and 'Maltese taxed account' are not subject to further taxation in the hands of the shareholders in view of the full imputation system of company taxation.

Dividends paid out of the 'untaxed account' to resident shareholders are subject to a withholding tax of 15 per cent. Dividends paid out of 'the untaxed account' to a non-resident shareholder are not subject to withholding tax.

Shareholders are entitled to claim a refund of six-sevenths of the tax paid by the company out of which the dividend is paid, when it is distributed out of profits allocated to the 'Maltese taxed account' and 'foreign income account' (where double taxation relief is not claimed). The shareholders may also claim a two-thirds refund of the tax paid by the company out of which the dividend is paid, when it is distributed out of the profits allocated to the 'foreign income account' and double taxation relief is claimed. The tax refund is reduced to five-sevenths when the dividend is sourced out of passive interest and royalties.

Withholding tax

Withholding tax is charged on the following types of income:

- Payment to non-resident entertainers – 10 per cent final withholding tax
- Payments to non-resident persons other than companies – 25 per cent
- Investment income – 15 per cent final withholding tax
- Part-time employment income – 15 per cent
- Transfers of immovable property – eight per cent on the value of the property transferred, subject to certain exceptions

Malta does not generally impose any withholding taxes on interest, royalties, dividends, management and technical fees paid to non-residents. However, there are some anti-avoidance rules which technically lead to the taxation of such income, ie taxation of dividends to a non-resident company which is directly owned by companies or individuals who are, in turn, residents of Malta.

Participation exemption provisions

Dividends received from a participating holding – a holding of at least 10 per cent of the issued equity (although other parameters are allowed) – in a foreign company are exempt from tax when certain conditions are satisfied. A similar provision exempts foreign branch profits from taxation in Malta.

Gains on the disposal of a foreign branch and a participating holding are exempt from tax.

Specific industry provisions

Insurance: A 15 per cent withholding tax is levied on payments to insured Maltese-residents on the maturity of their policy; exemptions apply. Non-residents qualify for exemptions from withholding or any other tax on long-term insurance business policies.

Shipping and air transport: Companies incorporated in Malta, owning EU/EEA ships qualify for a number of tax incentives, including exemption from Maltese tax. Additionally, any profits derived from the calls of ships in Malta are also exempt. On the other hand, a company that is resident but not domiciled in Malta deriving income arising from ownership, leasing or operation of an aircraft or aircraft engine arising in Malta, will be deemed as income arising outside Malta and will only be taxable if remitted to Malta.

Industrial activities: Companies involved in industrial activities may qualify for incentives. Examples of these include: investment tax credits, research and development tax credits and cash grants for undertakings that contribute to the economic development of Malta.

Seed Investment Programme - The Seed Investment Scheme (SIS) is designed to help small, early-stage companies to raise equity finance by offering a tax benefit in the form of a tax credit to individual investors who purchase new shares in those companies. SIS is intended to recognise the particular difficulties which very early stage companies face in attracting investment, by offering tax relief to individual investors. SIS applies for shares issued on or after 1 January 2015.

Transfer pricing

There are no specific transfer pricing rules but inter-company pricing may be scrutinised under the general anti-tax avoidance powers of the Department of Inland Revenue.

Controlled foreign companies (CFC)

There is no anti-controlled foreign company legislation.

Personal Income Tax (PIT)

Scope

Maltese residents and domiciled individuals are subject to tax on their worldwide income, including capital gains. Individuals are not usually required to report dividends received from Maltese resident companies. They may also opt to receive investment income without withholding tax, whereby they will be required to report this income in their tax returns and be taxed at their personal rates.

Following amendments introduced in 2014, it has been clarified that permanent residents in terms of the Free Movement of European Union Nationals and their Family Members Order, and long-term residents in terms of the Status of Long-term Residents (Third Country Nationals) Regulations are also subject to tax on their worldwide income.

If the individual is resident but not domiciled in Malta and not a permanent resident nor a long-term resident in Malta, he is subject to tax only on foreign income received in Malta and income arising in Malta. Capital gains arising outside Malta are not subject to taxation even if received in Malta.

Individuals are taxed on an annual basis on the income gained from the preceding calendar year.

Tax treatment of rental income

The 2014 budget brought in changes to the taxation system applicable to income from the letting of immovable property in Malta for residential purposes. The tax on rental income applies to any person renting immovable property, being a tenement leased as a residence or garage, to an individual or individuals. A tenement can be defined as:

- A dwelling house or part thereof which is to be occupied or is occupied as a home or residence by the occupier or a garage
- Not a commercial tenement

Such tenements exclude property which, for the purpose of the said letting, is required to be licensed by virtue of the Malta Travel and Tourism Services Act.

One can opt to be taxed at the rate of 15 per cent of the gross rental income received without any right to deductions. If this option is exercised, the tax shall be final and notwithstanding any other provision of the Income Tax Act, no set-off or refund shall be granted to any person in respect of the tax so charged.

The budget proposals for 2016 announced the extension of this final withholding tax system to commercial properties, with the introduction of an anti-abuse mechanism for companies forming part of the same group.

Individuals liable to Maltese tax

An individual's exposure to Maltese tax depends on whether the individual is resident in Malta or not. A person who is resident and domiciled in Malta is subject to tax on his/her worldwide income whereas individuals who are resident but not domiciled in Malta are taxed on income and gains arising in Malta as well as foreign income remitted to Malta excluding foreign capital gains even if remitted to Malta. Individuals are generally considered tax resident in Malta if present in Malta for 183 days or more per annum or are regularly physically present in Malta as part of one's regular life. The English law definition of domicile is applied, and though a difficult concept to define, is basically the country which is considered by law to be one's permanent home.

Temporary residents must only pay tax for income arising in Malta. A temporary resident is defined as an individual who has no intention to reside in Malta and has not resided in the country for a period equal to six months in a calendar year.

The income of a married couple is treated as the income of one taxpayer unless they opt for separate taxation; spouses are jointly and severally liable for their tax obligations and liabilities. Parents are also subject to an amended tax rate.

Residency Programmes
Malta offers a number of programmes available to individuals who would like to reside in Malta. One need to apply under any of the below residency programmes but may also take up ordinary residency by simply informing the local authorities within three months of moving to Malta.

Highly Qualified Persons Regulations
The scheme aims to attract highly qualified persons to occupy an 'Eligible Office' with companies licensed and/or recognized by the Malta Financial Services Authority (MFSA), the Lotteries and Gaming Authority or companies holding an air operator's certificate (AOC). The Regulation lists specific positions with the said companies that qualify as an 'Eligible Office'. In the event a person qualifies under this scheme, employment income will be subject to tax at the advantageous flat rate of 15 per cent.

Malta Retirement Programme
Malta offers a scheme for citizens of any EU Member State, Iceland, Norway, Liechtenstein or Switzerland wishing to retire to Malta. Income remitted to Malta, including pension income is taxable in Malta at the rate of 15 per cent. The pension income must constitute at least 75 per cent of the applicant's income taxable in Malta. A minimum tax of EUR7,500 is due and a qualifying property must be purchased or rented.

Residence Programme
Introduced in 2014, the Residence Programme is aimed at EU, EEA and Swiss nationals who are not permanent residents. Foreign source income remitted to Malta will be taxed at a flat rate of 15 per cent. Malta source income is charged at the standard residency tax rates. A minimum tax of EUR15,000 is due annually and a qualifying property must be purchased or rented. An application fee is also due.

Global Residence Programme (GRP)
The GRP was introduced in 2013 to attract individuals who are not nationals of the EU, EEA or Switzerland and who are not long-term residents. Foreign source income remitted to Malta will be taxed at a flat rate of 15 per cent. Malta source income is charged at the standard residency tax rates. A minimum tax of EUR15,000 is due annually and a qualifying property must be purchased or rented. An application fee is also due.

Malta also has beneficial tax rate programmes in place for returned migrants and those who make an extraordinary contribution to the Republic of Malta. It is also possible to obtain Maltese citizenship by making extraordinary contributions to the Republic of Malta and meeting certain criteria.

United Nations Pension Programme
As part of the Budget 2015, the Maltese government introduced the United Nations Pension Programme which has been designed to attract foreign pensioners retiring from international organisations to reside in Malta. This outlines the tax treatment of UN pension income of Widow's/Widower's Benefit as the case may be, received in Malta (at least 40% of which must be received in Malta), following the granting of the special tax status. Beneficiaries of this programme include any individual who is not a citizen of Malta and who is in receipt of a UN pension and who has been granted special tax status in accordance with the rules. To be eligible, beneficiaries must also purchase or rent qualifying property, subject to minimum conditions. Under the scheme, income tax will be fixed at 15 per cent, with a minimum tax liability of EUR7,500 per annum.

Individual responsibilities in relation to Maltese tax
The Final Settlement tax system utilised by Malta is an elaboration of the Pay as You Earn System found in the UK. It requires employers to deduct tax from the salaries of their employees alongside the necessary social security contributions. The tax rate will be based on the employee's wages for the year, which will include the value of any emoluments (fringe benefits); this is likely to be adjusted on a monthly basis to take into account any variations. A number of specific benefits are exempt from taxation.

It is the employer's responsibility to account for all necessary withholding taxes and make all relevant returns of the same to the Inland Revenue Department by the last day of the following month.

Self-employed individuals account for their tax by making provisional tax payments during the year and accounting for any balance by the tax return date.

Individual Investor Programme (IIP)
The IIP allows for the granting of citizenship by a certificate of naturalisation to individuals and their families who contribute to the economic and social development of Malta. Subject to a stringent vetting and diligence process, including thorough background checks, the applicants and their dependents are granted citizenship in exchange for such contribution.

Tax rates – 2016

Single rates			
Chargeable Income (EUR)			
From	To	Rate	Subtract (EUR)
0	9,100	0%	0
9,101	14,500	15%	1,365
14,501	19,500	25%	2,815
19,501	60,000	25%	2,725
60,001	–	35%	8,725

Married rates			
Chargeable Income (EUR)			
From	To	Rate	Subtract (EUR)
0	12,700	0%	0
12,701	21,200	15%	1,905
21,201	28,700	25%	4,025
28,701	60,000	25%	3,905
60,001	–	35%	9,905

Parent rates			
Chargeable Income (EUR)			
From	To	Rate	Subtract (EUR)
0	10,500	0%	0
10,501	15,800	15%	1,575
15,801	21,200	25%	3,155
21,201	60,000	25%	3,050
60,000	–	35%	9,050

Tax returns
Individuals whose annual income has all been subject to tax at source do not need to submit an income tax return. In this case, the Commissioner of Inland Revenue will issue a statement containing the details of any tax due. Individuals who have earned income not subject to tax at source (eg self-employed and individuals who have received investment income without withholding tax) must submit an income tax return together with the self-assessment and calculation of tax due by 30 June of the assessment year.

Other taxes

Value Added Tax

VAT is a transaction tax, the cost of which ultimately falls on the end customer. The majority of transactions involving the supply of goods, the provision of services and importations will be subject to this tax.

Broadly, VAT is levied on the value added at each stage of the production and distribution supply chain. Registered businesses act as collection points for the Value Added Tax Department.

Not all transactions are subject to the tax, and those that are may be subject to different rates. In addition, not all of the VAT incurred by a business can be reclaimed.

Making taxable supplies
A taxable person for the purposes of VAT can be an individual (sole trader) in business, a Partnership (including a Limited Liability Partnership), a Trust, an incorporated business or a Branch of an overseas corporate entity.

VAT must be paid on the import of goods into Malta, on every intra-community acquisition into Malta by VAT-registered persons and on every supply of goods or services made in Malta in the course of business, subject to certain exemptions.

VAT registration
Registration is compulsory for any person who has made a taxable or exempt transaction with credit supply, within 30 days of said transaction. Businesses established outside Malta are required to register if they make taxable supplies in Malta and for which they become liable for the payment of VAT in Malta. Persons who are not established in an EU Member State and who make distance sales to Malta with a value exceeding EUR35,000 annually are obliged to register for Maltese VAT.

Businesses whose annual turnover is less than the statutory thresholds can register as an 'exempt person'. An exempt person does not charge VAT but is not permitted to deduct input VAT. The table below shows the thresholds for VAT registration for small undertakings.

Category	Entry Threshold (EUR)	Exit Threshold (EUR)
Economic activities consisting principally in the supply of goods	35,000	28,000
Economic activities consisting principally in the supply of services with a relatively low value added	24,000	19,000
Other economic activities	14,000	12,000

Administration
Typically, VAT-registered businesses will submit their VAT returns online and pay any VAT due electronically.

VAT returns are generally filed on a quarterly basis, although exporters and other business that are regularly entitled to VAT refunds will qualify for one month tax returns. The VAT returns, together with payment of any tax due, must be submitted within six weeks after the end of the relative tax period. Late payments of tax are subject to interest at 0.75 per cent per month and there are penalties for late filing of returns.

Applicable rates
The standard rate of VAT is 18 per cent.

The supply of accommodation in hotels and holiday premises are subject to a reduced rate of seven per cent. A reduced rate of five per cent exists for certain supplies which are generally regarded as having a social benefit.

The 2016 budget proposed a reduced VAT rate of seven per cent on sports activities, eg gym membership fees.

Some supplies are exempt from VAT. These are typically financial and insurance transactions, as well as certain supplies of land. Also included are most supplies of education, health and welfare. Exempt transactions preclude the recovery of VAT on related purchases. As such, exempt transactions can lead to a restriction of VAT recovery and result in an absolute cost for businesses.

Import Duty
Goods imported from outside the EU are subject to VAT at the rate which would be applicable if they were sold in Malta (general rate of 18 per cent but five per cent in respect of the above-mentioned goods). The tax is collected at the time and place of entry into the country by the Comptroller of Customs on behalf of the Value Added Tax Department, alongside the relevant import duties.

Relief from VAT may be available where goods are intended to be placed under a customs duty suspension regime or re-imported goods which are re-imported unaltered.

Customs Duty
Along with import VAT, Custom Duty is levied on goods brought into Malta from outside the EU. The level of duty is determined by the Customs tariff classification and will vary subject to what is being imported and the origin of the goods. When the country of origin of the goods exported to Malta is not part of the European Union, customs duties are calculated Ad Valorem on the CIF value of the goods, in accordance with the Common Customs Tariff (CCT).

Since its accession to the European Union in 2004, Malta has adopted the EU Common External Tariff. As a result, any goods imported in Malta that have originated in the EU will be free from customs duties.

Excise Duty
Certain items such as tobacco, alcohol and fuel oils are liable to Excise Duty. Generally, the duty liability is due prior to the goods being released for retail sale. An excise duty is also levied on mobile telephony services.

Stamp Duty
A duty is levied, under provisions of the Duty on Documents and Transfers Act, on documents relating to the transfers of property, marketable securities, insurance policies or an interest in a partnership.

Type of transfer	Duty
Transfers and inheritance of immovable property, rights over immovable property	5%
Transfer of shares in property companies	5%
Transfer of other shares	2%
Emphyteutical grants	Between 12 - 100% of the annual ground rent, depending on the duration of the grant
Life insurance policies	0.1% of the sum assured
Other insurance policies	10% of the premium
Auction sales	2.6%
Credit sales	EUR16.3 per annum

A number of exemptions apply, including an exemption from the duty on transfers of immovable property between companies of the same group and the transfer of securities upon restructuring of holdings within a group.

Labour

The right of all citizens to work and the state's role in promoting the conditions to make this right effective can be found in Malta's 1964 Republican Constitution. This upholds the basic principles of workers' rights.

The main law regulating employment relations is the Employment and Industrial Relations Act, which deals with a number of issues, including: conditions of employment, protection of wages, termination of contracts of service and discrimination.

One of the core components of the Act is the prohibition of discrimination, whether on sexual, social or other grounds, in connection with recruitment, pay or dismissal.

Under the Occupational Health and Safety Authority Act, employers must grant protection against risks and accidents at work.

Employment contract
In Malta, employment is governed by the contractual agreement entered into between employer and employee, provided that the relevant statutory conditions are met.

If a period of employment exceeds one month, and workers work more than eight hours per week, the employer must provide the employee with either a written contract of employment or a written statement of minimum conditions. This must be provided within eight working days from the commencement of employment and should include:

- Normal rates of pay
- Overtime rates
- Hours of work
- Leave entitlement

Types of contract
Contracts can either be fixed term or indefinite. Fixed term contracts can be renewed for up to four years, upon which the contract becomes indefinite, unless there are justifiable reasons for not doing so. A fixed term contract will also become indefinite if the contract expires and no renewal is produced within 12 days of this date.

If either party (employer or employee) terminates a fixed contract prior to expiration, they will usually have to pay a penalty equal to half the wages that the employee would have earned in the remaining period.

Minimum wage
In 2016, the National Minimum Wage related to a normal working week is:

- Aged 18 years and old: EUR168.01
- Aged 17 years: EUR161.23
- Aged below 17 years: EUR158.39

Part-time employees should have their wages calculated pro-rata by an hourly rate not below one fortieth of the applicable weekly rate shown above.

Working time and leave
The Constitution of Malta sets out that all workers must receive one day of rest per week, as well as the provision of paid leave. While the Constitution sets out that national legislation shall stipulate the maximum stated number of working hours, no national defined 'working week' exists. Generally, the normal hours of work (excluding overtime) should not exceed a maximum of an average of 48 hours a week spread over a reference period of 17 weeks. Specific working time patterns and arrangements may be negotiated and included in collective agreements.

The Constitution of Malta sets out that all workers must receive one day of rest per week, as well as the provision of paid leave.

In a number of sectors, as a rule, overtime is paid at time-and-a-half on weekdays and Saturdays and double time for Sundays and public holidays.

By law, an employee is entitled to four working weeks and four days of paid leave. If an employee has been in employment for less than 12 months, s/he shall be entitled to a proportionate amount of annual leave. There are also 14 days of public holiday a year. Employees have certain rights to time off work for specific reasons, including maternity, paternity or to deal with an emergency involving a dependant.

In Malta, pregnant women are entitled to maternity leave for an uninterrupted period of 14 weeks with full pay. The employee has the right to extend her maternity leave for up to 18 weeks. As from 1 January 2015, these extended weeks will be paid at a rate equivalent to the National Minimum Wage.

Healthcare and benefits

Many large employers provide employees with fringe benefits such as free or subsidised meals, transport and health insurance. Employees holding a managerial position may also be entitled to subsidised telephone bills and a company car. All fringe benefits are subject to income tax on their value.

Private pensions are uncommon as employees qualify for a retirement pension under the Social Security Act in terms of their social security contributions.

Probation

The typical probation period of an employment contract is six months, unless a shorter time is agreed between the employer and employee. Exceptions to this exist when there is a provision in a collective agreement or when the employee holds a technical/executive/administrative/managerial position with exceptional responsibility and its wages are more than double the minimum wage. In this case, a one year probation period may apply. During probation, employment can be terminated with no reason, giving one week's notice if the employment has exceeded one month.

Dismissal

Under Maltese law, the grounds upon which an employee can be dismissed are subject to strict regulation. While an employee can terminate the employment contract at any time with no reason, an employer can only do so if:

- There is a good and sufficient cause: In this case, the employer is not required to give notice or pay any wages for the remaining period. However, there must be a compelling reason, especially if no warning is given. Two written warnings over a reasonable period of time prior to dismissal would demonstrate prudence on behalf of the employer should the dismissal be disputed
- On ground of redundancy: In the case of redundancy, an employer is required to utilise the 'last in, first out' method. However, if the employer and last employed are related by consanguinity or affinity up to the third degree, they are able to terminate the employment of the employee who is next in line
- The employee has reached retirement age

If both parties agree to terminate a contract, the employment can be terminated by mutual consent. This is usually incorporated into a settlement agreement signed by both parties.

Where the employer or employee is terminating an indefinite term contract, advance notice must be given. This is calculated considering the period for which the worker has been employed

Duration of Employment	Advance Notice Required
One to six months	One week
Six months – two years	Two weeks
Two – four years	Four weeks
Four – seven years	Eight weeks
More than seven years	An additional week is added for each subsequent year, up to a maximum of 12 weeks

Longer notice periods can be agreed for posts of significant responsibility whereby a longer hand-over process is required.

There is no statutory provision for severance payments for dismissal.

Protection from termination

Employers cannot use the following reasons for the termination of an employee's contract:

- Member of a trade union
- Employee has filed a complaint or brought proceedings against the employer
- Whistle-blowers
- Employee has had a change in marital status
- The business has undergone a transfer of ownership

Furthermore, a number of statutory provisions exist to protect employees on maternity leave from termination.

Collective redundancies

EU Directive 98/59/EC applies in collective redundancies whereby:

- More than 10 people are made redundant in a firm of 20 - 99 employees
- 10 per cent or more of employees are made redundant in a firm of 100 - 299 employees
- 30 or more employees are made redundant in a firm of 300 + employees

In these cases, the employer must:

- Consult with the employee representative covering the ways of avoiding the collective redundancies or reducing the number of employees affected
- Provide the Employee Representative or Director of Labour with a written statement explaining the reason why the collective redundancy is occurring, the number of employees affected, the criteria for selection, the payments due and the dates upon which the redundancy will become effective.

Collective redundancies only become effective within 30 days from the above written statement being presented to the Director of Labour and Employee Representative, unless this is altered by the Director of Labour.

Social security

In Malta, the social security system covers residents over the age of 18, employees and employers in Malta and students in certain work-study programs. Social security contributions amount to 10 per cent of an employee's gross salary, payable by both the employee and employer, subject to a maximum annual amount payable of EUR2,213.64. Those that are self-employed pay 15 per cent of their income up to a maximum annual amount of EUR3,320.72.

Employment of non-resident employees

EU/EEA/Switzerland

Since Malta's accession to the EU in 2004, any EU/EEA/Swiss citizen may take up employment and self-employment in Malta and shall enjoy equal treatment with Maltese nationals.

When EU/EEA/Swiss citizens want to take up employment in Malta, they do not require a work permit but must register for residence as an employee in terms of the Free Movement of EU nationals and their Family Members Order (LN191 of 2007). This application must be accompanied by the original and a copy of their passport as well as their employment contract. The employee and any family members residing in Malta will then be also entitled to claim a residence card. The employer must register the employee with the Employment and Training Corporation (ETC).

Third Country Nationals

For third country nationals, employment is regulated by the Immigration Act. Third country nationals may be permitted to enter Malta for no longer than three months, provided they hold a valid passport and visa and have submitted documents substantiating the purpose of their visit before entry.

Third country nationals must obtain a license to work in Malta. This is done by means of the single purpose application procedure, whereby the individual applies for a work permit and residence via the same application form. The application is submitted by the individual but must be endorsed by his (prospective) employer. The Director of the ETC reviews the application and must issue a decision no later than four months from the date of application. Once approved, the third country national will then be issued with a residence permit that allows him to work in Malta. The employment licence is valid for one year.

Dispute resolution

In Malta, the tribunal system exists with the competence to settle trade disputes and to consider and decide on cases of unfair dismissal, discrimination, breach of equal pay and allegations of victimisation and harassment. Any claims must be presented to the tribunal system within four months of the alleged breach.

Trade unions

Trade unionism and collective agreements are common in Malta. Trade union recognition is referred to, but not defined at law. Typically, if a trade union can command the support of a majority of the workforce, it can be reasonably expected to claim to represent them. Employers must then recognise them for the purposes of collective bargaining.

Collective agreements function in the same way as statutory provisions, binding the employer and the trade union members to the agreement. Individuals do not necessarily need to belong to a trade union to be governed by a collective agreement. An agreement normally has a duration of three years. They may then be extended or remain valid if no amendments are suggested.

An employer can withdraw the recognition of a trade union if the majority support is lost.

Strikes

Pursuit of industrial action is protected and defined in the Employment and Industrial Relations Act. It is legitimate and sanctioned by law if undertaken by a registered trade union or concerning stipulations in a collective bargaining agreement.

Audit

All companies incorporated under the Companies Act in Malta must file annual financial statements and a director's report to the Registrar of Companies. Partnerships and sole traders are under no obligation to prepare annual accounts or have them audited. The financial statements must show a 'true and fair view' of the company's results and financial position. Generally, companies must comply with the International Financial Reporting Standards (IFRS) unless they meet certain criteria, under which they can adopt the General Accounting Principles for Smaller Entities (GAPSE).

Accounting standards

IFRS

Generally, all companies must adopt the International Financial Reporting Standards.

GAPSE

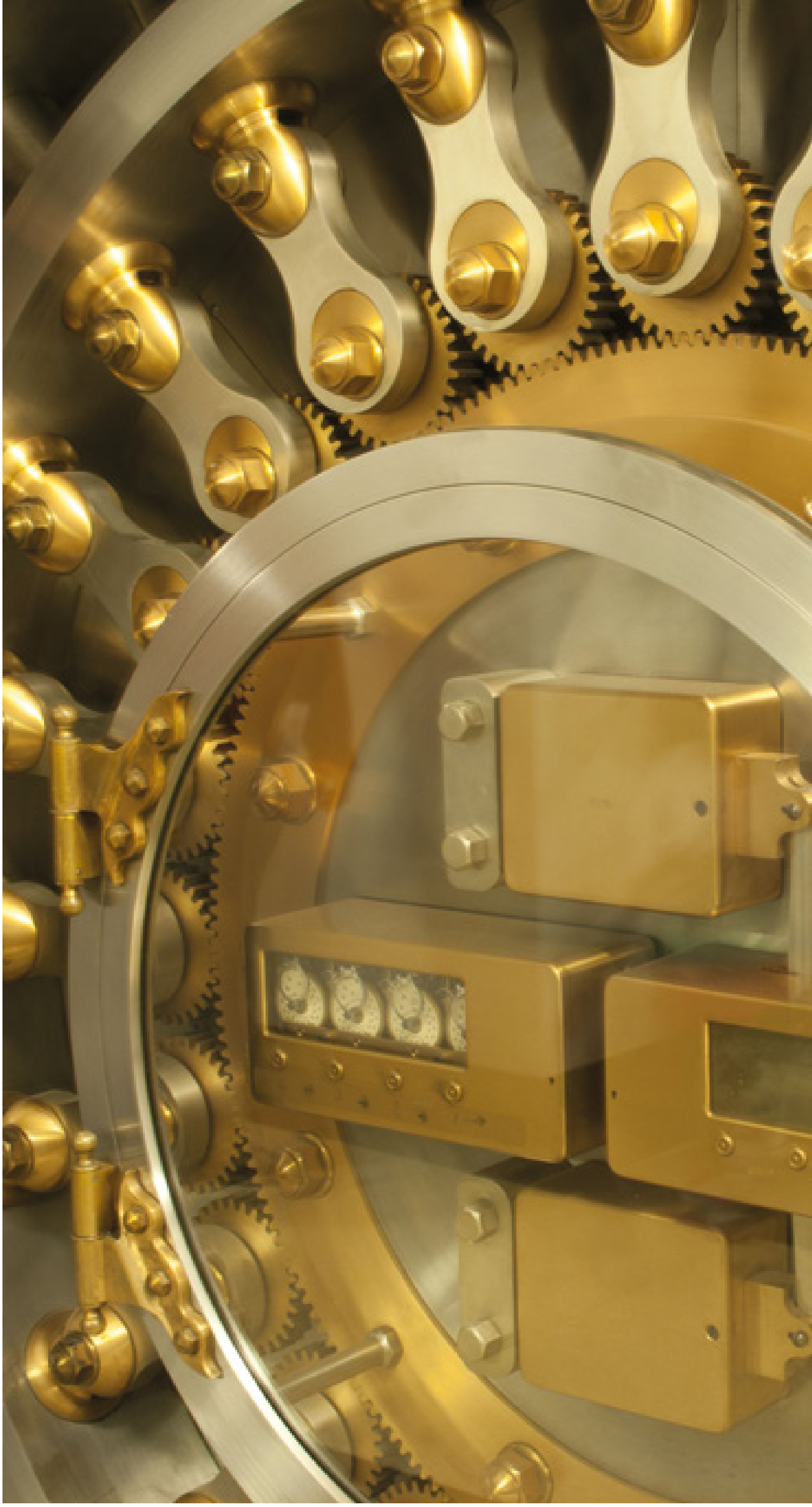
GAPSE is a set of accounting principles for smaller entities that contains a number of measurement simplifications and disclosure relaxations. For example, all assets may be measured at cost less impairment.

Entities will qualify for the adoption of the GAPSE if they do not exceed the following:

- Balance sheet total – EUR17.5 million
- Total revenue – EUR35 million
- 250 employees

However, GAPSE cannot be applied if:

- A shareholder holding at least 20 per cent of the entity's shares has served notice at least six months before the year end to apply IFRSs as adopted by the EU
- The entity's securities are listed
- The entity is a guarantor of the principal or interest on the securities that are listed
- The entity is a public company
- The entity holds a licence or other authorisation by the Malta Financial Services Authority



GAPSME (General Accounting Principles for Small and Medium-sized Entities)

For financial reporting periods commencing on or after 1 January 2016, an entity shall prepare financial statements in accordance with GAPSME unless the Board of Directors of a company or, in the case of an entity other than a company, its governing body, has resolved to prepare financial statements in accordance with IFRS as adopted by the EU for that financial reporting period or the entity does not satisfy the requirements set out below.

Entities which on their balance sheet dates do not exceed the limits of at least two of the three following criteria are classified as 'Small' entities and will benefit the most from the less stringent requirements provided by GAPSME:

- Balance sheet total: EUR4,000,000
- Total revenue: EUR8,000,000
- Average number of employees during the financial year: 50.

Entities which are not small entities and which on their balance sheet dates do not exceed the limits of at least two of the three following criteria are classified as 'Medium' entities and will benefit from less stringent requirements provided by GAPSME:

- Balance sheet total: EUR20,000,000
- Total revenue: EUR40,000,000
- Average number of employees during the financial year: 250

Statements and reports

A firm's directors must prepare the following reports and present them to the shareholders annually at a general meeting: director's report, statement of financial position, income statement, statement of comprehensive income, statement of changes in equity, statement of cash flows and any notes providing supplementary information and disclosures. Corresponding amounts for the preceding financial year must be shown for all items included.

Companies that satisfy certain conditions may be treated as 'small' and allowed to draw up abridged accounts.

The accounts should be sent to the shareholders at least 21 days before the annual general meeting. The general meeting must be held within 10 months after the end of the relevant accounting period; seven months for public companies.

A copy of the above signed accounts and reports, alongside the auditor's report, must then be filed with the Registrar of Companies within 42 days of the general meeting.

A company that possess subsidiaries must submit separate group accounts, generally in the form of consolidated accounts, unless they can avail of one of the exemptions from the preparation of consolidated accounts

Accounting records

Under provisions contained in the Companies Act, all firms must keep accounting records that include: all sums of money received and expended, all sales and purchases of goods and all assets and liabilities.

Accounting records will usually be kept at the firm's registered office in Malta but may be kept somewhere else, at the discretion of the directors. These records must be kept for 10 years. If there is a situation whereby the accounting records are kept at a place outside Malta, all accounting records must be kept at a place in Malta within six months.

These financial statements and returns must disclose, with reasonable accuracy, the financial position of the company at intervals not exceeding six months.

Audit requirements

Companies incorporated under the Companies Act in Malta must appoint an independent auditor to audit their financial statements. Branches of foreign companies are also required to have their branch's accounts audited.

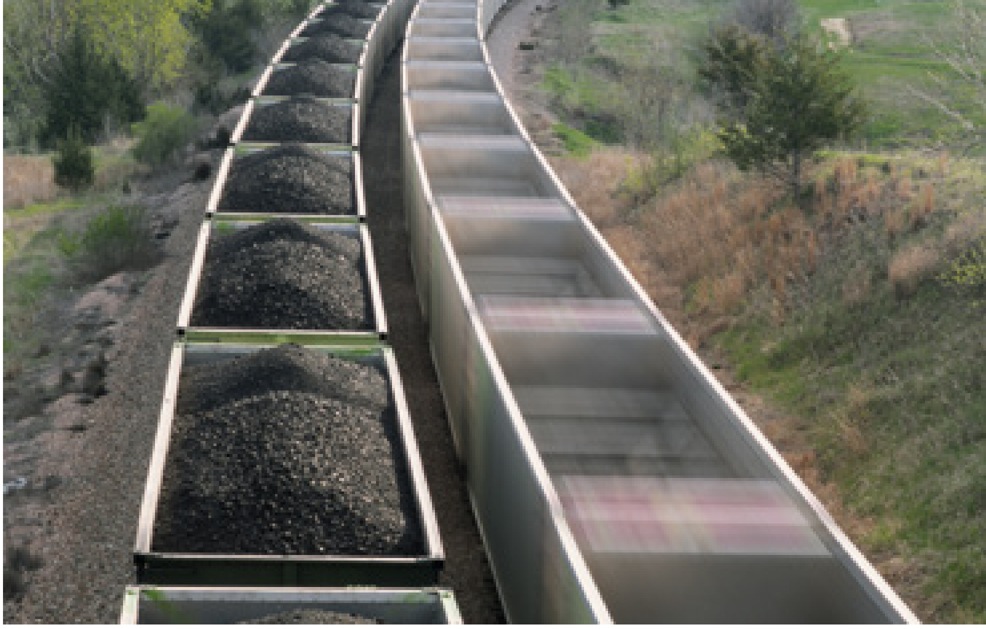
The person appointed as auditor must be qualified under the terms of the Accountancy Profession Act and cannot be the officer of a company or related to (spouse, sibling, parent or child) an officer of the company. The accounting profession is regulated by the Accountancy Profession Act and most accountants will be a member of one or more of the following groups: The Malta Institute of Accountants, the Associated of Chartered Certified Accountants or the Institute of Chartered Accountants in England and Wales.

Once appointed, auditors have the right of access to the accounting records and documents of the company at all times. They are entitled to attend all general meetings of shareholders.

Auditors must report to the shareholders on every set of financial statements provided at a company's annual general meeting; this report must be drawn up in accordance to the International Standards of Auditing (ISA), issued by the International Federations of Accountants (IFAC).

The auditor's report must include whether the accounts have been prepared in accordance with the Companies Act and IFRSs as adopted by the EU, or GAPSE, as applicable, and whether these accounts give a true and fair view of the affairs and results of the company.

Trade



Foreign Direct Investment
Thanks to its liberal investment policy, there are very few restrictions on foreign ownership of businesses or property. Malta is often perceived as very attractive for foreign investment. This may be due to a number of factors but primarily: the relative ease of incorporation of businesses, tax efficiency, stamp duty exemptions, no exchange controls, modern and efficient infrastructure and a number of government incentives to qualifying industries.

Although there are no general restrictions on Foreign Direct Investment, the purchase of real estate by non-residents is governed by the Immovable Property Act. Non-residents must generally apply for a permit to acquire immovable property and this is subject to fulfilling a number of conditions.

Government incentives
Tax and other incentives for investment have existed since the late 1950s in Malta. This was partly to encourage industrial activity in the country following its independence from Britain. These incentives were largely based around tax holidays, low labour costs and favourable double taxation treaties.

Currently, most investment incentives come under the Malta Enterprise Act or the Business Promotion Act. The incentives are primarily targeted at businesses undertaking manufacturing or industrial activities. Aside from manufacturing, incentives exist for the following sectors: computer software, electronic systems, research and development, waste treatment biotechnology and film production.

The government has announced that EUR50 million in EU funds will be made available through grants aimed at overcoming challenges faced by the local manufacturing industry. The funds will go towards supporting SMEs and start-ups, and research and development.

Malta Enterprise Act
Malta Enterprise (ME) is a government agency created by the Malta Enterprise Act to support the development of enterprises in Malta. Any industrial incentives must be approved by the agency. To be eligible for an incentive, the investment company must be incorporated in Malta and carry out qualifying trade, largely within Malta.

The main incentives can be categorised into the following six groups:

Investment Aid: companies engaged in specific activities can benefit from tax credits on capital investment and job creation.

SME Development: grants targeting the creation and development of innovative start-ups, and the development of forward looking small and medium-sized enterprises.

Enterprise Support: assistance to businesses to support them in developing their international competitiveness, improving their capabilities and networking with other businesses.

R&D and Innovation Programme: incentives are offered to stimulate innovative enterprises to engage in research & development.

As of the 2016 budget, businesses that employ people that hold a doctorate or are studying towards a doctorate in science, information technology, or engineering are entitled to a tax credit of up to EUR10,000, providing the employee is retained for a minimum of 12 months.

Access to Finance: companies may be assisted through loan guarantees, soft loans, loan interest subsidies or royalty financing in the case of highly innovative projects.

Employment and Training (ETC Incentives): these incentives are administered by the Employment & Training Corporation. Enterprises are supported in recruiting new employees and providing them with sufficient training.

Business Promotion Act
The Business Promotion Act has been in force since 2001 and succeeded by the Industrial Development Act in attracting foreign investment into Malta. Key provisions include:

Incentives
Investment Aid Tax Credits:
assistance in the setting up of new establishments and expansion and development of existing businesses. Tax credits are calculated based on investment in tangible and intangible assets or wages deriving from such an investment. The size of the aid is directly related to enterprise size.

Certification: assistance on the attainment of industrial certification and quality standards. Fifty per cent of the eligible qualifying expenditure is provided as a tax credit up to a maximum of EUR25,000 for the duration of the incentive.

Qualifying Employment in Innovation and Creativity (Personal Tax): individuals employed in eligible employment in industrial research and experimental development and/or product development benefit from a flat income tax rate of 15 per cent for a three year period.

Access to Finance: Malta Enterprise can assist enterprises engaged in the manufacturing industry either through a soft loan, a loan guarantee or subsidies on the interest rate payable on new loan facilities taken out from financial institutions to finance new investments in qualifying expenditure.

Research and Development: assistance granted on the carrying out of R&D feasibility studies calculated on the cost of personnel and the acquisition of knowledge with assistance provided as a grant capped according to enterprise size.

Further assistance may be provided to undertakings carrying out R&D projects classified as Industrial Research or Experimental Development. Assistance is provided either as a tax credit or a cash grant if the project is approved through the EUREKA network or in the Eurostars Joint Programme or is deemed by Malta Enterprise as having the potential to increase employment or economic growth in the region.

Business START (B.Start): B.Start offers seed funding for start-ups. This is intended to support Small Start-up undertakings that have a viable business concept and are in the early stage of its development. Initiatives that are deemed to be economically viable can be supported through a grant of up to EUR25,000.

Industrial space: Malta Enterprise provides assistance to prospective investors to find suitable premises for factories.

Trade Promotion: assistance through a grant for the participation in trade events and the development of a Market Preparedness and Development plan.

Enterprise Europe Network: the network in Malta helps businesses make the most of business opportunities in the EU and beyond. Through the service portfolio, assistance is provided primarily to SMEs to commercialize their innovation; support to entrepreneurs interested in tapping international markets; and to help companies find a commercial partner abroad.

The network operates with a database of over 6,000 technology, research and business opportunities which is essentially the world's largest support network for SMEs with international ambitions, with 600 member organizations in over 53 countries.

Imports

The European Union is a single trading area, this means that all goods (subject to narrow exceptions), whether made in an EU Member State or imported from outside, can circulate freely. Although Member States' customs authorities have the right to check goods at the border, there is a unified customs law in the EU which removes all fees and barriers within the Union.

There is an external tariff for goods imported from outside the EU. While there are certain minor differences in interpretation and administration, the tariff was supposed to be applied and interpreted uniformly.

The Community Customs Code contains all the general rules and procedures applicable to the trade of goods between EU and non-EU countries. The code is supplemented by a detailed Customs Regulation which is directly applicable in all Members States. In Malta, the national customs authority is the Department of Customs.

Import restrictions

Imports to Malta are not subject to any volume-based quotas or restrictions, except those established by the European Commission. Furthermore, there are no restrictions on trade with any country except for restrictions sanctioned by the Security Council of the United Nations and restrictions that may be imposed by the European Commission on imports to the European Union. Import licences are required in the case of certain items such as motor vehicles, pharmaceuticals, chemicals, detergents, textiles and steel. Importation is restricted for explosives, firearms, ammunition and also animals, plants and items which could be deemed as dangerous to health, safety or public morals. Goods that may not be sold in Malta, such as goods that are in breach of the law on trademarks or copyright, or that do not satisfy safety regulations, will not be released and must be re-exported.

Most categories of goods can be imported without restriction but business importers may need an import license. This import license, alongside a VAT registration number, must be presented to the customs authorities before any goods can be released.

Finance

Capital markets
The only Recognised Investment Exchange in Malta is the Malta Stock Exchange. It is regulated by the Malta Financial Services Authority (MFSA) but entrusted to the Stock Exchange Council. Trading is carried out daily by licensed stockbrokers on behalf of their clients. The Stock Exchange also provides facilities for new issues of commercial and government securities.

The Official List is the Malta Stock Exchange's principal market for listed companies. To register for the Official List, a company needs to satisfy the Listing Rules. The Malta Stock Exchange can accept the admission of a company to its Official List with its by-laws after the Listing Authority has authorised it. Companies may go to the Official List to raise funds from the public through:

- Admitting existing securities to trading
- An initial public offering (IPO)
- A placing

If a company is unable to meet the requirements for the Official List, the Malta Stock Exchange offers a listing on the Secondary Tier Market where requirements are less onerous. This market provides emerging companies, regardless of size or past performance, access to equity or loan capital. For both listing options, companies must appoint a sponsor, who is a broker on the approved list of sponsors, to guide and advise them through the process.

Banking system
The Central Bank of Malta, or Bank Centrali ta' Malta, has two core purposes: maintaining price stability and a sound financial system.

Its other responsibilities include: controlling the issue of bank notes, providing banking services to banks and the government, managing foreign exchange reserves and advising the government on monetary and economic policy.

The banking system comprises over 29 licensed foreign or privately owned credit institutions and 42 financial institutions.

Finance (short and long-term borrowing) can be easily obtained from the banks or other financial institutions in Malta. Banks are generally flexible in the consideration of applications for finance and there are currently no restrictions on foreign investors' access to finance.

There are three types of deposit facilities (current, savings and term) and these are available in euro or other major foreign currencies. No tax at source is liable on interest earned by non-residents. Banks also offer a broad range of foreign exchange facilities and standard lending services (overdraft, term loans and trade finance).

The Malta Financial Services Authority (MFSA) is the primary regulator for the supervision of banks and financial institutions taking deposits from the public. The local regulatory framework is in line with all relevant EU Directives.

All new businesses wishing to operate in Malta will likely need a bank account. The set up process will vary according to the bank but will include the relevant on-boarding and Know Your Customer (KYC) obligations. Firms may be required to present the Memorandum of Association, Articles of Association or proof of address of the directors.

Finance (short and long-term borrowing) can be easily obtained from the banks or other financial institutions in Malta.

Insurance industry

The Maltese insurance sector is growing in both number of companies operating and volume of business. While traditionally comprised of domestic insurance companies, the industry now features a number of non-resident companies and operates across all the EU Member States. Firms operating in the sector include commercial insurance companies undertaking both general and life insurance business, subsidiaries of major insurance and reinsurance businesses, affiliated insurance companies (captives) and insurance management companies.

There are four main types of insurance that are critical for businesses operating in Malta: vehicle insurance, personnel insurance, public liability insurance and building and contents insurance.

The industry is regulated by the Malta Financial Services Authority (MFSA) under the Insurance Business Act and Insurance Intermediaries Act. Furthermore, the legislation is aligned to standards set in EU Directives such as the Insurance Mediation Directive and the Reinsurance Directive. The MFSA is also in compliance with the International Association of Insurance Supervisors (IAIS).

Investment management industry

Over the past decade, the investment management industry has seen material growth in both the number of funds and the number of fund managers setting up operations in Malta. There are currently over 645 funds/ sub-funds domiciled in Malta. This can largely be attributed to its esteemed regulator, sophisticated regulatory and tax regime and quality service providers.

The industry is regulated by the MFSA under the Investment Services Act. Furthermore, the legislation is aligned to standards set in EU Directives such as the Alternative Investment Fund Managers Directive (AIFMD).

Infrastructure

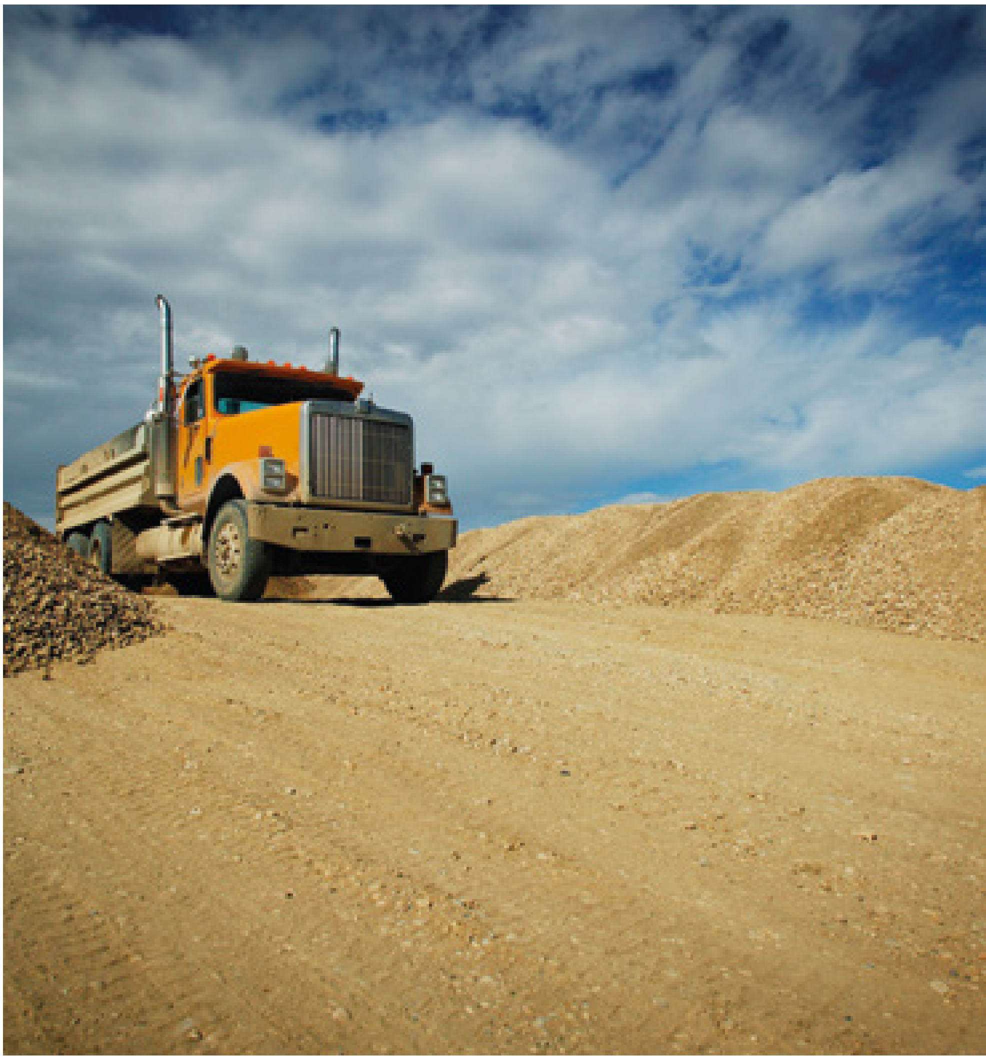
The overall quality and reliability of infrastructure is a critical factor for businesses across all sectors.

Malta has one of the most sophisticated and reliable Information and Communication Technology (ICT) infrastructures in Europe. This has been established following a significant amount of investment and consolidation within the ICT sector. Furthermore, the Smart City Project, due to be finished in 2021, is creating a state-of-the-art technology and media city in Kalkara. The aim of the project is to make Malta a centre for ICT excellence.

The Maltese IT infrastructure meets the key requirements of international companies including:

- In the 2015 Global Competitiveness Report, Malta ranked 23/140 in technological readiness
- The Smart City project represents a EUR220 million investment into Malta's ICT infrastructure
- In 2014, the Prime Minister launched the Digital Malta Strategy; a policy to guide the country in attaining the EU's 2020 vision of prospering as a digitally-enabled nation in all sectors of society. Projects will include incentivising entrepreneurs within the IT sector and making Malta one of the first Wi-Fi enabled countries in the world

Malta's transportation system is small but extensive; there is one major airport at Gudja and three large natural harbours that provide for excellent maritime transport. The country's primary method of public transport is the bus service. This was temporarily nationalised at the beginning of 2014 but, as at October



2014, Autobuses Urbanos de León had been chosen as the preferred bus operator for the country. Malta's transport system also includes ferry, bus and harbour links to the island of Gozo.

The main advantages of the Maltese transport system include:

- Malta's airport, ranked fourth best in Europe, according to the 2014 Airport Service Quality awards, offers direct flights to 37 major centres in Europe, North Africa and the Middle East
- Malta's road system connects towns, villages, industrial and business centres, and holiday resorts; all factories are located within 30 minutes of a harbour and the airport
- Connection to over 165 ports across all continents; the country has the largest ship registry within the EU and one of the largest worldwide
- Malta Freeport is the third largest logistics centre in the Mediterranean region, moving 2.3 million Twenty-Foot Equivalent Units (TEUs) annually