

Expert.
Trusted.
Independent.

A Malta located set of boutique legal, tax & fiduciary firms, with associated barristers chambers



REGISTER NOW AND SEE US THERE

#### Malta - Overview

The Republic of Malta a full EU member since 2004, is strategically located to provide services to the international community. Malta an English speaking country, has built upon the commercial laws of England and now the EU, to position itself as a premier family wealth, corporate and financial services jurisdiction.

With robust, competitive taxation rules, Malta has achieved sustained economic growth. Such growth is not solely the result of Malta's tax and fiscal policies - there are other important factors such as a multilingual workforce, lower labour costs, a strategic location and a sound telecommunications infrastructure.

As a result, there has been an influx of interest from investors, high net worth individuals and corporations, who desire a stable, reputable environment in which to structure their personal and corporate affairs - as well as to reside.

### Lifestyle

Strategically located in the Mediterranean, Malta, composed of three major islands, enjoys an attractive Mediterranean climate with hot dry summers and mild winters. Annual rainfall is 23 inches and falls mostly between October and March.

With a very low crime rate, excellent medical and communications infrastructure and an enviable lifestyle for all ages, Malta is often cited as one of the best places to live or retire in the whole of the EU.

# **Key Facts**

- Credit Ratings Moody A3, Fitch A, Standard and Poor BBB
- Mixed common and civil law system corporate, commercial and trusts laws based upon English statutes and EU
- English an official language
- Currency: Euro
- 70+ Double Tax Treaties
- OECD & EU compliant & approved jurisdiction
- GDP €9.62 billion
- GDP Growth 2.9% | GDP per Capita €15,300
- Inflation rate 0.8% / EU 0.5%
- Unemployment rate 6.0% / EU 9.8%
- 10<sup>th</sup> Soundest Banking System World Economic Forum's Global Competitiveness Report 2014-2015
- Single financial services regulatory body Malta Financial Services Authority (MFSA)
- Flight times: UK 3, Frankfurt 2, Dubai 7



# **Estate Planning**

# **Trusts, Foundations & Family Trust Companies**

Both Maltese trusts (based upon the law of Jersey) and Maltese foundations are highly flexible and tax advantageous where non -resident founders, beneficiaries and assets are involved, and may be used for personal and commercial applications alike, as may foundations.

### **Trusts**

Uniquely for an essentially civil law jurisdiction, Malta has succeeded, by virtue of the Trusts and Trustees Act 2004. in implementing the common law concept of trusts into its judicial and legislative systems.

Trusts may be established for either private or charitable purposes. Private trusts may exist for a period of 125 years.

In terms of the Trusts and Trustees Act, a trust may be established in a number of ways, although usually by an instrument in writing i.e. deed, or will. A trust may also come into existence by oral declaration, by operation of law, or judicial decision.

Although trust property is settled on trust with the trustee, the trust is not a legal entity and does not have legal personality separate from that of the trustee; compare with the distinct legal personality of a company, foundation, or family trust company.

Maltese law caters for all main types of trust normally found in traditional common law jurisdictions such as:

Discretionary trusts • Accumulation & Maintenance trusts
Fixed interest trusts • Spendthrift trusts • Charitable trusts

Unit trusts

Property transferred or settled on trust effectively constitutes a separate fund owned by the trustee, which is distinct and separate from the personal property and from other trust property held by the trustee.

Maltese legislative law, the regulations of the Malta Financial Services Authority, such as the Trustee Code of Ethics, places emphasis not only on the proper and effective segregation of trust property, but also on the proper and fit conduct of the trustee.

# Confidentiality

As a highly regulated jurisdiction, Malta has a number of laws such as the Professional Secrecy Act, the Trusts and Trustees Act and the Code of Ethics (Trustees) aimed at protecting the confidentiality of trusts and foundations.

Any necessary disclosure as to the terms of a foundation or trust instrument - for instance so as to satisfy a court judgment, or in respect of the trustee's / administrator's duties towards the settlor or beneficiaries of a trust - is carefully crafted so, if necessary, only the minimum disclosure occurs in order to satisfy any such legitimate interest or order.

# **Recognition of Foreign Trust Law**

Malta's trust law allows settlors to establish trusts governed by a foreign law and such foreign trusts are fully recognised.

Malta not only recognises trusts created voluntarily and evidenced in writing as required under the Hague Convention, but also recognises any other trust of property arising under the law of another country, meaning that even constructive or resulting trusts arising under foreign law will be recognised and enforced in Malta.

# **Trusts & Foundations - Tax Treatment**

Both trusts & foundations may opt for either:

- 1. Tax Transparent & Exempt both trusts and foundations may be tax transparent income is 'looked through' and is exempt from tax in the hands of non-resident beneficiaries and resident trustees, subject to all of their income arising outside of Malta and all beneficiaries being either not ordinarily resident in and/or not domiciled in Malta; or
- 2. **Treated as a Company & Tax Refunds -** for tax purposes both foundations and trusts may opt to be treated like a Maltese company, thereby enjoying the tax refund scheme (i.e. 5% effective corporate tax rate). Additional benefits will apply: access to Malta's 70+ tax treaty network, Malta's participation exemption ensuring tax efficient extraction of subsidiary income from other jurisdictions.

### **Foundations**

Maltese Foundations are regulated by the Second Schedule of the Civil Code (Chapter 16 of the Laws of Malta), which was introduced by Act XIII of 2007.

With its own legal personality, distinct and separate from that of its founders, administrators and beneficiaries, foundations are defined as an organisation, constituted by one or more founders, where the assets are either:

- for the fulfilment of a specified purpose i.e. special purpose vehicles for commercial or securitisation transactions; or
- for the benefit of a named person or class of persons private foundations

Foundations may be established by way of deed or by testamentary will. Purpose foundations can endure for an unlimited time, whilst private foundations are valid for a maximum of 100 years.

The minimum endowment of money or property to set up a private foundation must be at least €1,165, or €233 for social purpose or in respect of non-profit making purpose foundations.

Although the foundation itself cannot trade or carry on commercial activities, it can:

- be endowed with commercial property or a shareholding in a profit making activity, or asset giving rise to income; or
- subject to applicable regulation, be used as a collective investment vehicle, the passive holding of a common pool of assets, the management of which is delegated to a third party, including pension or employee benefit arrangements
- be used as a vehicle for securitisation transactions.

# **Segregation of Cells**

A foundation may also establish segregated cells within itself in order to achieve particular purposes with particular assets.

When a segregated cell is established, its assets and liabilities constitute a separate patrimony, distinct from all other assets and liabilities of the foundation or other cells.

Trusts	Foundations
No legal personality	Own legal personality
Defined by relationship	Defined by the assets making up
Protector oversight	Supervisory Council
No purpose trusts	Purpose foundations allowed
Trustee is the legal owner of	Foundation is the legal owner of

Essentially this means that the assets of such cells are available for the fulfilment of any obligations undertaken by the foundation in relation to that cell, but not for any other liabilities entered into by the foundation itself, or in respect of other cells.



Acumum Trustees & Fiduciaries Ltd is licensed by the Malta Financial Services Authority (MFSA) in terms of the Trusts & Trustees Act to provide trust, foundation, administration & fiduciary services

### Family Wealth &

# **Family Trust Companies**

Malta is a particularly favourable jurisdiction in which to establish family wealth structures.

Providers of both trusts and foundations in Malta are highly regulated by the Malta Financial Services Authority.

In conjunction with Malta's tax and fiscal rules, the establishment of holding, operating, investment and special purpose vehicles, including trusts and foundations.

# **Family Trust Companies**

Legislation enacted pursuant to Article 52(3), amending the Trusts and Trustees Act has resulted in the introduction of the concept of Family Trusts Companies - property settled upon trust for the present and future needs of family members and family dependants.

Family Trust Companies offer some very interesting opportunities for HNWI's and families who favour a tailor -made trustee solution in which they can actively take part on a formal or informal basis, especially when compared to the mainstream professional or institutional trustees.

Family Trust Companies that satisfy the prescribed legal requirements are not required to obtain full authorisation, although they must apply for registration with the Malta Financial Services Authority and adhere to on-going compliance and other regulatory conditions.

- set up as a company (Ltd) with objects and activities limited to acting as a trustee to specific settlors in respect of the family estate, for the benefit of the family members
- maximum of 5 settlors
- minimum of 3 board directors one of which must have knowledge of trust law and administration
- limited to acting as a trustee to specific settlors in respect of the family estate, for the benefit of the family members
- Money Laundering Reporting Officer (MLRO) required



Our essential starting point when advising on establishment, restructuring 7 re-domiciliation, is to understand the particular circumstances & dynamics of the family & the purposes of the office. This provides the framework for effective & enduring legal & structuring advice.

- Organising the implementation & on-going maintenance of family wealth & investment structures
- Establishment of family trusts / foundations & family trust companies
- Acting as 'knowledgeable' director of family trust companies
- Ensure on-going legal & regulatory compliance
- Regular asset summaries, activity reports & accounts
- Oversight of asset, investment strategies and 3<sup>rd</sup> party providers
- Preparation of management and financial accounts

Our overall aim is to ensure that the operating & tax structures are established & governed sensibly, as well as run efficiently & effectively.

Acumum Trustees & Fiduciaries Ltd is licensed by the Malta Financial Services Authority (MFSA) in terms of the Trusts & Trustees Act to provide trust, foundation, administration & fiduciary services



### **Malta Residency Programmes**

## Personal Taxation - No World-Wide Taxation -

An individual is typically resident - but not domiciled - in Malta when the individual lives in Malta for more than I83 days in a calendar year.

All citizenship and permanent residency applicants are subject to tax in Malta only on:

- 1. income arising in Malta; and
- 2. income remitted (brought) to Malta
- Foreign capital gains income held for over a year arising outside of Malta is not taxable in Malta, even if received in Malta.

## Malta Permanent Residence Programme

Malta's Permanent Residency and Visa programme provides a cost effective basis permanent residency can be achieved, subject to due diligence checks and adherence to the rules of the programme.

- Visa-free travel within EU Schengen area
- Right to reside indefinitely in Malta
- EU Long Term Residency Status
- Investment required only for first 5 years
- No minimum residency required
- Tax only on Malta source income & remitted income

## **Capital Assets Requirement**

As evidenced, the main applicant must have capital assets of €500,000 or more, of which 150,00 must be in liquid assets i.e. cash, bonds or the like.

# **Eligibility & Dependents**

Third country nationals (non – EU/EEA/Swiss) with main applicant over 18 years of age, and may include the following dependents, who must be dependent on main applicant and not economically active:

- Spouse/partner & children under 18 years
- Mentally or physically disabled children over 18 years
- Parents & Grandparents

#### **Financial Commitment**

- Make a one time payment of €40,000 and if applicable an additional €7,500 for each additional adult dependant (except for the spouse)
- Rent a property for a minimum of €10,000 in the South of Malta/Gozo or €12,000 in the rest of Malta; or purchase a property for a minimum value of €300,000 in the South of Malta/Gozo or €350,000 in the rest of Malta—to be held for 5 years
- Pay a Government contribution of €28,000 if purchasing a property or €58,000 if leasing a property
- Make a donation of €2,000 to a local philanthropic, cultural, scientific, artistic, sport or animal welfare NGO registered with the Commissioner of Voluntary Organisations
- Have a sickness insurance policy of cover all risks across Malta
- Take out travel insurance when travelling across Schengen

# **Nomad Residency Permit Eligibility**

Third country nationals (non – EU/EEA/Swiss) with main applicant over 18 years of age, Applicants must prove they can work remotely and fall within 1 of the following 3 categories:

- Work for an employer registered in a foreign country and have a contract of work;
- Conduct business activities for a company registered in a foreign country and of which applicant is partner/ shareholder; or
- Offer freelance or consulting services, to clients whose permanent establishments are in a foreign country, and with whom the applicant has contracts. The applicant must show a gross monthly income threshold of EUR 2,700. Should additional eligible family members be included in the application, additional income thresholds will apply.

## Malta Start-Up Residency Programme

Launched in October 2020, the Start Up Residency Programme provides a 3 year residency permit, with renewals of 5 year terms for up to 6 co-founders. Core employees and founder family members can also be included. With a particular focus on start-ups operating in the manufacturing, software development, industrial services i.e manufacturing, health, biotech, pharmaceuticals, and life sciences, or eco industries. Start-ups operating in other innovative economic activities, enabled through knowledge and technology and which provide services or products which are not readily available in the relevant market, or which shall be provided through a novel process may also fall within the remit of the programme.

### Entrepreneurs need to show:

- A concrete intention to develop and/or expand their business in Malta
- is the co/founder of an enterprise, which has been registered for not more than seven (7) years anywhere globally (including Malta), which fulfils the following:
- It has not taken over the activity of another enterprise, it has not yet distributed profit, it has not been formed through a merger.

The start-up must be fully incorporated and registered in Malta, and must not be registered outside of Malta for more than seven years.

#### **Financial Commitment**

The start-up either needs to place €25,000 in tangible investments or have a paid-up share capital of €25,000 or more. For 4 to 6 co-founders, the start-up must have an additional €10,000 in either tangible investment or paid-up share capital per additional founder.

### Applicable fees:

€750 for each adult applicant / dependant;

 €82.50 to Identity Malta Agency for the issuance of the residence card, covering a 3- year permit.

# Malta Companies

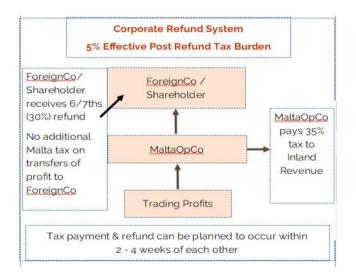
### Maltese Companies Effective Corporate Tax Rate of 5%

A Maltese company is considered to be ordinarily resident & domiciled in Malta for tax purposes and is subject to Maltese tax on its worldwide income at an effective corporate rate of 5% for trading income - reduced from the standard rate of 35% by certain tax refunds. 0% taxation is achievable via accounting deductions as well as the remittance scheme. In addition, any overseas tax suffered by a Maltese company is generally eligible for relief as a credit against the Maltese tax liability arising on the corresponding source of income.

## Full Imputation System - No Double Taxation -

Benefits of Maltese Companies	
No Capital Gains	No Transfer Pricing Rules
No Outbound Withholding Tax on Dividends, Interest or Royalties	No Duty on International Share Transfers
No Controlled Foreign Companies Laws	No Thin Capitalisation Rules

Malta is one of the few remaining countries to retain a full imputation system - once tax is levied on a Maltese company's profits, no further tax is levied on dividends at the level of the shareholder - thereby completely avoiding double taxation.



**New Fiscal Unit Rules** - treatment of group companies into one unit for fiscal purposes, resulting in a direct 5% tax payment.

## **Malta Holding Companies**

Businesses that use Maltese holding companies can benefit from the participation exemption, which allows for a taxefficient extraction of income or gains from a foreign subsidiary as no Maltese tax and no withholding taxes are levied on such income.

Alternatively, a Maltese holding company might include such income or gains as part of its taxable income & pay tax at 35%. Upon the distribution of dividends by that company, its shareholders would then be entitled to a full (100%) refund of the Maltese tax that it had paid; his option might be desirable if the shareholders wish to receive part of the earnings in refunds rather than exclusively in dividends.

## Malta Companies - Salient Features

- Malta Companies Act based upon UK Companies Act 1985
- 5% effective corporate tax rate (6/7th refund)
- 70+ tax treaties
- Min. share capital requirements
  - Ltds €240 (20% paid up of €1,200)
  - PLCs €11,750 (25% paid up of €47,000)
- Company Registrar fee €245 (min. share capital Ltds)
- No local shareholder or director requirements
- Share capital, accounting & tax can be in any foreign currency
- Re-domiciliation of companies in & out

## **Energy - Oil & Gas | Renewables**

Acumum is a leading firm in and with a passion for the energy sector. Acumum's involvement with a number of EU Renewable Research Centres - Groningen, Oslo, Aberdeen & Copenhagen, means that we are at the cutting edge of a relatively new and ever evolving area of the law.

The Energy Team is headed by Geraldine Noel, a barrister of England & Wales, Ireland, registered in Malta, whose interests lie in all forms of



Middelgrunden Wind Farm

energy, corporate structuring and project finance.

Our extensive experience spans from advising governments, sponsors, developers and suppliers to the energy industry, both within the European Union, UK, Africa and USA.

Our experience encompasses advising clients from the very start of a project through to acquisition, financing, construction, regulation, commissioning and connecting to the grid.

Our clients include Malta & international located:

- Multi-national solar and renewable companies,
- Oil & gas upstream & infrastructure
- FutureTech service companies



Danish Energy Agency Oct. 2022

#### **Aviation**

Aviation has been a dynamic sector that has seen impressive growth in Malta. Malta's legislation and ratification of the Cape Town Convention, combined with highly attractive tax and fiscal incentives to both aircraft owners and operators,



has made Malta's aircraft registry one of the most attractive in the  ${\sf EU}.$ 

- Limited nationality requirements
- Possible to register aircraft still under construction
- Private or commercial registration
- Visibility of interest-holders and right-holders upon request
- Both fractional ownership & use of trusts can be recorded
- Effective security of financiers' & lenders' interests through registration of mortgages
- EASA standard certification for commercial operators (IR-OPS)
- VAT exemptions for operators & lessors of aircraft
- Leasing or operational income for aircraft used for international transport is deemed to arise outside of Malta and is not taxed unless received in Malta · Competitive minimum depreciation periods of aircraft & capital allowances for aircraft lessees
- Tax credits for companies engaged in the repair, overhaul or maintenance of aircraft, engines or equipment
- No taxable fringe benefits from the private use of the aircraft by non-resident individuals being shareholders, employees, officers of companies involved in the international transport of goods & passengers

#### **Maritime & Yachts**

Strategically located in the Mediterranean, Malta has a long maritime tradition. Malta's Merchant Shipping Act of 1973, originally based upon the UK Merchant Shipping Act, established the Malta flag as an 'open' register, the



responsibility of which is that of Transport Malta.

Malta's shipping registry - now the largest in Europe and 6th largest in the world - allows for the registration, including those under construction, of all types of vessels from super yachts, commercial yachts, shipping tankers, as well as other marine structures such as oil rigs and pontoons. Malta also claims to have the world's largest superyacht registry.

Companies incorporated, whether to hold private or commercial yachts, or established as shipping companies can be set up swiftly and cost effectively and enjoy several income, corporate and tax advantages.

- VAT exempt only charters within EU waters are liable for VAT (conditions apply).
- Registration under bareboat charter and of vessels under construction
- Internationally recognised & reputable flag with a state-ofthe-art maritime legal framework
- EU compliant legislation + compliance with major international shipping conventions
- Low shipping company incorporation costs highly competitive registration fees
- Low tonnage tax system
- No restrictions on the nationality of the ship owner, master, officers or crew
- Effective mortgage system

Founded in 2010, Acumum is an award-winning boutique set of legal, tax & fiduciary firms with associated barristers' chambers, located in the EU tax & fiscally efficient jurisdiction of Malta, with representative offices in the UK and Ireland.

We provide a full range of services including Aviation, Corporate, Energy, Intellectual Property, Maritime and Private Clients, focusing on robust structures and tax optimisation within an ever-evolving world of regulation. Believing in long term relationships, we provide holistic, sustainable & practical solutions to clients, whilst being committed to a superb level of service. Acumum's senior management of lawyers, accountants & tax advisers provide expert, tailored and cost-efficient services to an international clientele: individuals, family offices, corporations, governments & other service providers.

**Specialisms:** Aviation, Banking & Financial Services, Citizenship & Residency, Gaming, Intellectual Property Insurance, Maritime & Yachts, Personal & Corporate Tax Structuring, Wealth & Estate Planning – Trusts, Foundations, Family Trust Companies & Fiduciary

Awards: IFLR 'Notable Law Firm' 2013/14 | Malta Best in Business 'Best Law Firm' 2015, 2021 | Citywealth Powerwomen 2014 to 2021







Geraldine Noel
Director,
Barrister



Director,

Dr. Geraldine Spiteri



Michael Satariano

Director of Compliance
and MLRO



Dunstan Farrugia
Tax Accountant



Benedict Popo
Private Client
Advisor

+356 2778 1700 | <a href="mailto:www.acumum.com">www.acumum.com</a> | info@acumum.com | Skype: Acumum 260 St Alberts Street, Gzira, GZR 1150, Malta

Licensed by the Maltese Government to manage all Citizenship & Residency Programmes Regulated by the Malta Financial Services Authority - Trusts, Foundations, Fiduciary & Company Services Individual advocates & barristers regulated by Chamber of Advocates (Malta) | Ministry of Justice (Malta)















