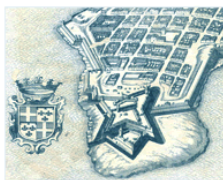




QUBE SERVICES LIMITED

NEWSLETTER

January 2007



QUBE Services Limited is a one-stop-shop provider of a comprehensive range of services to all international business structures, trusts, individuals and the funds industry.

We are a boutique firm, established in Malta, seeking to provide premium quality services in a timely manner to the satisfaction of our selected clients.

Draft Legislation to amend the Maltese Income Tax Act presented in Parliament

A bill to amend the relevant legislation was presented to the Maltese Parliament for approval on 8 January 2007 and should be enacted shortly.

The amendments contained therein reflect the agreement reached with the EU Commission announced on 23rd March 2006 and are in line with the Maltese Government's pre-budget document.

As expected, the proposed changes will :

- be in effect as of 1 January 2007;
- retain the imputation tax system that has been in place since 1948 whereby all or any tax paid by a company is credited to the shareholders upon distribution of profits;
- extend the system of tax accounting;
- extend the current refund system to all shareholders of all Maltese companies;
- introduce a participation exemption regime;
- include new anti-abuse provisions with respect to distributions from non-EU (or situated in low tax jurisdiction) companies, having mainly passive income, which is taxed at less than 5%

in more detail below

Imputation System

The Maltese imputation system is a complete imputation system – company income, tax incentives, tax credits and tax borne are all imputed to the shareholder, at which level the tax burden is finally determined. Once distributed, the company income may be taxed in the shareholder's hands and if his/her personal tax on the income is less than the tax paid by the company on the same income, the excess is refunded to the individual.

Tax Accounts

Within the Maltese system, it is proposed to introduce the notion of an economic rent as well as enhancing the distinction as to how profits are derived, directly or indirectly. Profits from immovable property will be excluded from the tax refund system agreed to with the EU Commission.

As is currently the case, company profits will be allocated to tax accounts starting from those profits, the tax on which will not be available for refund since they are deemed the company's contribution towards an economic rent.

Furthermore, a Maltese company's income (after the above-mentioned economic rent calculation) is to be divided into the "Foreign Income Account" and the "Maltese Taxed



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Account". The Foreign Income Account includes all income and capital gains derived from overseas assets and profits derived from an overseas branch, agency or permanent establishment while the Maltese Taxed Account contains the balance of the taxed income that has not been allocated to the Foreign Income Account.

The segregation of a company's profits into these accounts is necessary since income allocated to the Foreign Income Account may benefit from the flat-rate foreign tax credit method of relieving double taxation and also from the tax refund provisions.

Refunds of tax

All shareholders (resident or non-resident) in receipt of a dividend from a Maltese company's Foreign Income Account will be entitled to a refund that is equal to 6/7^{ths} of the tax paid by the company in respect of the profits distributed.

When the distributing company has claimed double taxation relief on the (distributed) profits, the tax refund will remain at the current level of 2/3^{rds} of the Malta tax paid.

On the other hand, in those cases where the company distributes dividends out of profits derived from a 'participating holding', the shareholder is entitled to a full (as opposed to 6/7^{ths} or 2/3^{rds}) refund of the tax paid by the company on the distributed profit.

Finally, where a Maltese company is in receipt of passive interest or royalty income which is not derived directly or indirectly from a trade or business and which has suffered tax at less than 5%, a distribution will give rise to a refund of 5/7^{ths} of the tax paid.

Anti-Abuse Provisions

With regards to acquisitions of participating holdings made on or after 1 January 2007, where the non-resident company, having mainly passive income, is not resident or incorporated in a tax treaty, EU or EEA jurisdiction which levies a tax on corporate profits at a rate which is equal to at least 50% of the Maltese corporate income tax rate, the following additional conditions must also be satisfied:

- a. the shares in the non-resident company must not be held as a portfolio investment. In any event a participation of at least 25% in the capital of a non-resident company 90% of the assets of which consist of portfolio investments and non-trading financial assets shall be deemed to be a portfolio investment; and
- b. the non-resident company or its passive income must have been subject to tax at a rate which is not less than 5%.

Participation Exemption regime

As from 1 January 2007, Malta is to have a participation exemption regime in place that is similar to that found in other EU member states.

The amendments are fully supported by the Institute of Financial Services Practitioners in Malta and are expected, together with Malta's EU membership and wide network of double taxation agreements to continue to enhance the standing of Malta as a premier financial services jurisdiction.

Another newsletter will be issued when the legislation is enacted.
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