

Malta-Ukraine Double Taxation Agreement and Additional Attractive Malta DTAs

A new Double Taxation Agreement between Malta and the Ukraine was ratified in 2017 and was made effective as from 1 January 2018.

By **Jonathan Vassallo**, 23rd March 2022

Background

A new Double Taxation Agreement between Malta and the Ukraine was ratified in 2017 and was made effective as from 1 January 2018.

As a result of this DTA, tax advantages for both countries are available and the Maltese holding company regime may prove attractive to Ukrainian investors. This DTA allows for dividends to be taxed in the country of source, at a withholding tax rate of 5%, if the volume of shares held is greater than 20%.

Taxation of Income

The tax treaty provides a low withholding tax rate on dividends, interest and royalties.

◦ Dividends

Withholding tax for dividends is capped at 15%. A lower rate of 5% applies to dividends received by a company owning at least 20% of the capital of the company paying the dividends.

Due to its full imputation tax system, Malta does not withhold tax on distribution of dividends, irrespective of the nationality, domicile or residence of the beneficial owner

of those dividends.

- *Interest and Royalties*

Interest and royalty income is subject to a maximum 10% withholding tax.

The country of source has a limited primary right to tax the income, while the country of residence has a secondary right, with the obligation to grant relief from double taxation.

According to the Maltese Income Tax Act, interest and royalties received by non-residents is exempt from Malta tax and therefore no tax is withheld on such payments.

Additional Attractive Malta Double Tax Treaties

Malta has a network of over 70 double tax treaties.

In addition to the Ukraine, Cyprus and Switzerland have particularly beneficial double tax treaties with Malta.

Malta-Cyprus Double Tax Treaty

Foreign companies seeking to establish a certain type of entity in Europe, for example a company established for financing activities, should consider establishing a Cyprus company and managing it from Malta. This can result in double non-taxation for the passive foreign sourced income.

- The Malta-Cyprus Double Tax Treaty contains a tie breaker clause that provides that the tax residence of the company is where its effective place of management is. A Cyprus company with its effective place of management in Malta will be resident in Malta and would therefore only be subject to Cyprus tax on its Cyprus source income.

It will not pay Maltese tax on non-Maltese passive source income not remitted to Malta. It is therefore possible to have a Cyprus company resident in Malta that enjoys tax-free profits, as long as the proceeds are not remitted to Malta.

Malta-Switzerland Double Tax Treaty

Malta's holding company regime, coupled with the beneficial Double Taxation Agreement between Malta and Switzerland, provides a number of advantages when a Malta company is used to hold shares in a Swiss subsidiary.

The key features of the Double Taxation Agreement are:

- The standard withholding tax on dividends paid from Switzerland is 35%.
The agreement provides for a withholding tax exemption on dividends from Switzerland to a Maltese company, where the Maltese company directly holds 10% or more of the Swiss company's capital for at least one year. Both companies must be subject to taxation.
- Interest received in Malta is taxed at 35%. However a shareholder can claim a refund from the Maltese tax authorities in respect of a substantial element of the taxation paid by the Maltese company relating to dividend payments to shareholders. This results in low net Maltese taxation on interest, generally an effective Maltese tax rate of 10%.
- There is no withholding tax on royalties. This, coupled with Malta's tax refund regime and unilateral double tax relief, in the form of a flat rate tax credit, results in very low net Maltese tax on royalty income.

Additional Information

If you would like additional information regarding the double tax treaty between Malta and Ukraine, or other Maltese Double Taxation Treaties, please contact Sean Dowden or Jonathan Vassallo at the Dixcart office in Malta: advice.malta@dixcart.com or your usual Dixcart contact.