

Participation Holding Exemption: One of the Reasons Why Maltese Holding Companies are so Popular

If you are looking for a way to enhance your company's CSR profile, we can provide an opportunity for your team to make a positive change...

By **Jonathan Vassallo**, 14th April 2023

Overview

Malta has become a popular choice for an increasing number of multinational groups seeking an efficient holding structure. In the article below we examine the Participation Holding Exemption and how it could be of benefit to you, should you consider setting up a Holding Company in Malta.

What is the Maltese Company Participation Holding Exemption?

Participation Holding Exemption is a tax exemption available to Maltese companies that hold more than 5% of the shares or voting rights in a foreign company. Under this exemption, dividends received from the subsidiary company are not subject to taxation in Malta.

Malta's participation exemption relieves 100% of the tax on both the dividends derived from a participating holding and on gains derived from the transfer thereof. This exemption is designed to encourage Maltese companies to invest in foreign companies and to promote Malta as an attractive location for holding company structures.

Participating Holding: Definition

A participating holding is where a company resident in Malta holds equity shares in another entity and the former:

a. Holds directly at least 5% of the equity shares in a company, and this confers an entitlement to at least two of the following rights:

i. Right to vote;

ii. Right to profits available on distribution;

iii. Right to assets available for distribution on a winding up; **OR**

b. Is an equity shareholder and is entitled to purchase the balance of the equity shares or has the right of first refusal to purchase such shares or is entitled to sit as, or appoint, a director on the Board; **OR**

c. Is an equity shareholder who holds an investment of a minimum €1.164 million (or the equivalent sum in another currency), and such investment is held for an uninterrupted period of at least 183 days; or the company can hold the shares or units for the development of its own business, and the holding is not held as trading stock for the purpose of a trade.

For a holding in a company to be a participating holding, such a holding must be an equity holding. The holding must not be in a company holding, directly or indirectly, immovable property situated in Malta, subject to a few minor exclusions.

Other Criteria

With respect to dividends, the Participation Exemption is applicable if the entity in which the participating holding is held:

1. Is resident or incorporated in a country or territory which forms part of the European Union; **OR**
2. Is subject to tax at a rate of at least 15%; **OR**
3. Has 50% or less of its income derived from passive interest or royalties; **OR**
4. Is not a portfolio investment and has been subject to tax at a rate of at least 5%.

Tax Refunds for Participating Holding Entities

Where the participating holding relates to a non-resident company, an alternative to Malta's participation exemption is a full 100% refund. The respective dividends and capital gains will be taxed in Malta, subject to double tax relief, however, on dividend distribution, the shareholders are entitled to a full refund (100%) of the tax paid by the distributing company.

In summary, even when Malta's participation exemption is not available, Maltese tax may be eliminated through application of the 100% refund.

Domestic Transfers

Malta's Participation Exemption also applies with respect to gains derived from the transfer of a participating holding in a company resident in Malta. Dividends from companies 'resident' in Malta, whether participating holdings or otherwise, are not subject to any further taxation in Malta in view of the full imputation system. For further information please speak to Dixcart: advice.malta@dixcart.com

Sale of Shares in a Malta Company by Non-Residents

Any gains or profits derived by non-residents on a disposal of shares or securities in a company resident in Malta are exempt from tax in Malta, provided:

- The company does not have, directly or indirectly, any rights with regards to immovable property situated in Malta, **and**

- the beneficial owner of the gain or profit is not resident in Malta, **and**

- The company is not owned and controlled, directly or indirectly by, nor acts on behalf of an individual/s ordinarily resident and domiciled in Malta.

Additional Benefits Enjoyed by Maltese Companies

Malta does not levy withholding taxes on outbound dividends, interest, royalties and liquidation proceeds.

Maltese holding companies also benefit from the application of all EU directives as well as Malta's extensive network of double taxation agreements.

Dixcart in Malta

The Dixcart office in Malta has a wealth of experience across financial services, and also offers legal and regulatory compliance insight. Our team of qualified Accountants and Lawyers are available to set up structures and to manage them efficiently .

Additional Information

For further information about Maltese companies matters please contact Jonathan Vassallo, at the Dixcart office in Malta: advice.malta@dixcart.com.

Alternatively, please speak to your usual Dixcart contact.