

## The Importance of Demonstrating Substance in Malta and a Dixcart Solution to Make the Process as Straight Forward as Possible

By **Jonathan Vassallo**, 22nd February 2021

### **Background**

Many international organizations, such as the OECD, European Council and European Commission, are driving changes as to how businesses operate, with a focus on substance. The international arena is changing, and with the implementation of Base Erosion and Profit Shifting legislation (BEPS) measures, it is becoming increasingly important to demonstrate real substance and genuine activity. Emphasis is placed on the requirement for an operation to have substance in the country or countries where activities are carried out.

Within international tax planning, substance has become an important consideration when setting up a new corporate structure and/or when restructuring an existing corporate structure.

### **Substance Considerations in Malta**

There are no specific economic substance rules in Malta, but there are a number of recommendations that you should consider when setting up a company, to ensure that the company will remain tax resident in Malta.

- o Members of the board of directors – a minimum 50% of the board members should be Maltese resident;

- The decisions of the board of directors should be taken in Malta and the minutes recorded locally through regular board meetings;
- Creation of economic substance in Malta, by renting an office and employing personnel.

### **Factors that Assist in Establishing Substance in Malta**

There are a number of factors that assist companies to meet the recommended substance requirements in Malta:

- There is a large, well-educated pool of English speaking individuals available for employment. In recent years, in particular, there has also been an increase in affordable flexible working spaces.
- Malta's geographical location makes it an ideal jurisdiction, as a base to travel to Europe and further afield.
- There are several financial assistance packages available to companies that set-up 'real' operations in Malta. A number of benefits relate to tax credits whilst other programmes reimburse successful applicants with up to 40% of their capital expenditure.

### **Benefits Available to Tax Resident Maltese Companies**

Companies that are tax resident in Malta benefit from Malta's full imputation system of taxation that allows generous unilateral relief and tax refunds.

- Companies operating in Malta are subject to a corporate tax rate of 35%. However, non-Maltese resident shareholders enjoy low effective rates of Maltese tax, as Malta's full imputation system of taxation allows generous unilateral relief and tax refunds:
- **Active income** - in most instances shareholders can apply for a tax refund of 6/7ths of the tax paid by the company on the active profits used to

pay a dividend. This results in an effective Maltese tax rate of 5% on active income.

- **Passive income** - in the case of passive interest and royalties, shareholders can apply for a tax refund of 5/7ths of the tax paid by the company on the passive income used to pay a dividend. This results in an effective Maltese tax rate of 10% on passive income.
  
- Holding companies - the dividends and capital gains derived from participating holdings are not subject to corporate tax in Malta.
  
- There is no withholding tax payable on dividends.
  
- Advance tax rulings can be obtained.

## **Summary**

Meeting the substance requirements increases costs for a company, but the potential risk of being challenged by the tax authorities, for a lack of substance, would definitely be far more costly and onerous, for the company to deal with.

## **How Can Dixcart Help and the Dixcart Business Centre in Malta**

Dixcart Management Malta Limited provides a comprehensive range of incorporation, secretarial and management services for companies registered in Malta, including companies and international companies that are managed through the Dixcart Malta office.

[Dixcart Malta has a Business Centre](#) within our office building, and this Business Centre offers serviced offices and a productive work environment. It can be a cost-effective option for organisations with international interests, wishing to operate from Malta.

The Dixcart Business Centre is located in the prime area of Ta'Xbiex, close to the capital, Valletta. The building is iconic and has been faithfully restored to retain its boat like shape. It incorporates a delightful roof terrace and a unique and memorable bespoke chandelier in the reception area. An entire floor is dedicated to serviced

offices. There are nine serviced offices in total, accommodating between one and nine people, there is a kitchen and a boardroom is available for meetings.

### **Additional Information**

If you would like further information regarding companies and substance in Malta, please speak to Jonathan Vassallo: [advice.malta@dixcart.com](mailto:advice.malta@dixcart.com), at the Dixcart office in Malta or to your usual Dixcart contact.