

Financial Institutions in Malta

Background

Malta's strength as a hub for financial institutions is based on the country having a sound business structure, EU compliant legislation, a secure banking system, a relatively low-cost base, an attractive fiscal regime and a highly skilled multilingual workforce. Over time, the business of financial institutions appears to have shifted from traditional loan arrangements to the provision of increasingly flexible terms of lending to meet borrowers' needs whilst also engendering complex and specific financial instruments to hedge and mitigate for any financial risk exposure.

Regulatory Framework

Financial services in Malta are regulated and supervised by a single regulator, the Malta Financial Services Authority (MFSA). The single regulator provides the benefit of uniform procedures and interpretation of applicable financial services legislation, rules and guidelines coupled with lesser bureaucracy across the board.

A company which regularly or habitually carries on, in or from Malta, the business of a financial institution (including lending, financial leasing, the provision of payment services), but which is not funded through the taking of deposits or other repayable funds from the public, must nevertheless be licensed by the MFSA in terms of the Malta Financial Institutions Act.

Still, notwithstanding that the activities of a group finance company would typically comprise certain activities (such as lending, financial leasing and the provision of payment services) which would normally be licensable under the Malta Financial Institutions Act, such a company should not be deemed to be a financial institution and as such should not require a license pursuant to the Malta Financial Institutions Act to the extent that such company:

- Belongs to a group of companies and provides any of its otherwise licensable services to companies, which are not banks or financial institutions, and which belong to the same group of companies; or
- Provides any of its otherwise licensable services to other undertakings, which are not banks or financial institutions, and all such undertakings are controlled directly or indirectly by the same person; or
- Provides any of its otherwise licensable services to a person, which is not a bank or financial institution, that directly or indirectly controls it.

The Malta Financial Institutions Act defines and sets out the extent to which a company would be deemed as belonging to a group of companies or otherwise as being controlled by another person. In any case, in the event of reasonable doubt as to whether a company would require that a licence be issued in its favour pursuant to the Malta Financial Institutions Act, the matter would be conclusively determined by the MFSA.

Malta Tax Treatments

Profits accruing to a Malta group finance company would be taxable in Malta at the flat rate of 35%. However, the company would generally be entitled to claim relief for foreign tax suffered on foreign source income earned. In turn, by application of Malta's full imputation and refundable tax credit systems, the combined overall effective Malta tax rate applicable in respect of a finance company's income may be further reduced to a rate ranging between 0% and 6.25%.

The actual combined overall effective Malta tax rate achievable should be driven by several variable factors including:

- Whether the finance company is deemed to be actively engaged in a trade or otherwise undertaking one or more transactions insufficient to constitute a trade;
- Whether any overseas tax is incurred on in- come;
- The rate at which any such overseas tax may be incurred;
- The extent of the company's deductible expenses.

Malta has a broad network of approximately 70 Double Taxation Treaties and additionally, a Malta group institution should, by virtue of Malta's membership of the European Union, be entitled to access the benefits of the EC Interest and Royalties Directive.

Services supplied by a group finance company would generally represent exempt without credit supplies in terms of the Malta VAT Act. Such exempt without credit supplies would not, therefore, be subject to VAT but a finance company would not be entitled to recover input VAT incurred on goods or services acquired and attributable to such supplies.

How Zeta Can Help

Zeta's team provides clients with extensive experience in the licensing of financial services. Through a pro-business regulatory environment and Zeta's guidance, we will collaboratively be able to find a structure that fits your needs.

For more information on how Zeta can assist you please contact our Business Development department on bd@zeta-financial.com.

Get in touch

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