

Answer-to-Question-_1_

Although GML was incorporated outside Malta (in Cyprus), we must consider the fact that it runs its affairs from a Maltese head office, its directors are Maltese resident and the board meets in Malta. Due to these circumstances, the company should be treated as Maltese tax resident.

I will review each item in turn.

Dividend from Bahamas

As GML holds over 5% of equity in Teal Waters Ltd, it will qualify as a 'participating holding' as per Art 2(1) ITA. Therefore can apply the participation exemption to the income. However if the Bahamas is considered a 'blacklisted' country, the anti abuse conditions will not have been met, so the dividend will still be subject to tax. It would be subject to the usual withholding tax rate (35%) and the shareholders could apply for the 6/7ths refund.

Dividend from MTA of MIL

This dividend has already been taxed in the hands of MIL and as it was paid from the MTA, no further tax is due. GML could claim under the full imputation system (which is only applicable to dividends paid between Maltese companies).

Trading income

This income would again be applicable to the participation exemption at Art 12(1)(u)(2) ITA. We would need to review the Malta/Italy DTA to review the taxing rights on the income, however this would be allocated to the Untaxed Account. The tax in this account is final and no refund would be due. FRFTC?

lump sum payment

Reviewing Article 5 ITA, it is unlikely this income would constitute a gain so therefore no tax would be due.

rental income

rental income (Maltese warehouse)

Salaries and wages

If the salaries are being incurred from duties that generate income for the company then these could be claimed as an allowable deduction.

Bills

If these are incurred for the business and not for private use then these could be an allowable deduction.

Property taxes

It is not clear if these are incurred for the PE located in Italy and therefore linked to the business. If so, then may be allowable, if for a private use property, then this would not be allowable as a deduction.

Lawyer's fees

Interest

Under Art 14(1)(a), this would constitute a allowable deduction as the original loan was taken out to buy a warehouse to be used in 'the production of income'. The interest could also benefit from the Notional Interest deduction which is allowable.

Wear and Tear

The allowable deduction for wear and tear is contained in Article 14(1)(f). This would apply as long as it was incurred wholly and exclusively in the production of income as per Art 14(1).

Mr Globlas ('Mr G') can be considered ordinary resident for tax purposes in Malta, but assumed to be not domiciled in Malta. Therefore only his Malta sourced income and income remitted to Malta will be subject to tax.

Issues may also arise if the US/Malta Double Taxation Agreement holds the 'savings clause'. However as this has not been provided, I will not make reference to any US taxation caveats.

1) This would not be taxable in Malta as it has not been remitted to Malta.

2) This portion of the retirement benefit has been paid by a Maltese source so therefore would be deemed to have arisen in Malta and is taxable in Malta.

3) This would only be taxable in Malta if remitted there. Currently no tax is due.

4) Although this income is not remitted to Malta, Mr G did perform the duties in Malta. As they were carried out in Malta, we would need to review the Malta/Switzerland DTA for the taxing rights. It is likely this income will be taxable in Malta due to the location of the performance of his duties.

5) As these have not been remitted to Malta they would not be taxable in Malta.

6) This income has been remitted to Malta so will be subject to tax. If Italy's dividend rate is higher than Mr G may be entitled to tax relief. Art 82 ITA provides the information required regarding dividends distributed by a company not resident in Malta. If paragraph (a) and (b) apply then Mr G would be able to claim a tax credit (unilateral relief). Unilateral relief is only applicable if double taxation relief and Commonwealth relief are not available.

7) Arising in Malta therefore Mr G will be taxable.

8) Dividend taxable as remitted to Malta.

9) This has not been remitted to Malta therefore is not taxable.

10) This income has not been remitted to Malta so not tax is due. However depending on the type of pension, the Malta/US DTA may need to be reviewed for taxing rights as this could be a private or public service pension.

11) Coins and medals are not specifically listed at Art 5(1) ITA. Therefore this is not a chargeable gain and no tax is due.

12) I believe that Art 5(1)(a)(ii) ITA applies to this royalties income as intellectual property. Bitcoin is a form of cryptoasset

13) This income meets the point at Art 5(1)(a)(i) which includes cessation of rights on a property. Therefore tax will be chargeable on this gain at a rate of

Answer-to-Question-_6

The Anti Tax Avoidance Directive (ATAD) was transposed into Maltese law in 2016 which included 5 measures to tackle aggressive tax planning. One of the measures- the Switchover rule was not taken forward as it was deemed too controversial.

The EU wanted to tackle corporation tax avoidance within the EU and create a fairer environment.

The Measures

CFC Rules

The introduction of CFC rules was new for Maltese law. These prevent the tax avoidance from assigning profits to subsidiaries in lower tax

jurisdictions. There is the Control Test and Low Tax Test. Malta excludes entities or permanent establishments with trading profits of less than 750,000 euros in an attempt to still remain attractive to corporations for tax purposes.

Interest Limitation Rules

The Maltese ITA has a rules regarding restrictions on interest deductions. The ATAd affects Malta by introducing a cap on the 'borrowing costs' that can be claimed as a deduction. The borrowing costs can't exceed a certain % of the EBITDA. Malta is able to use local domestic law to define 'groups', 'entities' within scope.

General Anti Abuse Rule -GAAR

This rule has not had a great deal of impact on Malta. Art 51 ITA contains tax avoidance provisions which (for the benefit of Malta) were widened with the transposition of ATAD- includes the rule of 'obtaining a tax advantage'. By the widening of the scope, Malta can apply a wider avoidance provision and potentially capture more tax.

Exit taxation

This is triggered when a taxpayer moves assets or their tax residence outside Malta. There will be a charge when a taxpayer does this at the value of the deemed gain. This was new for Malta so expands the scope of taxation and should prevent corporations moving to lower tax jurisdictions.

Answer-to-Question-7_

The EU Minimum tax directive imposes Pillar 2 of 'BEPS 2.0', a global minimum tax rate. It is aimed at preventing base erosion and a race to the bottom and is effectively a 'top-up' tax. Pillar 2 brings countries closer to both Capital Import Neutrality and

Capital Export Neutrality.

The domestic element of Pillar 2 is GloBE rules which ensure large MNEs pay a minimum of 15% tax on income arising in all the jurisdictions that they operate in.

The Directive is supposed to be transposed fully however Malta has opted to delay the introduction as is allowed per the Directive as they wish to see how the world reacts to this and takes it further. It may not help that the USA has withdrawn its support of Pillar 2 currently.

Malta's corporation tax rate is already 35% so the main impact will be on tax refunds, incentive schemes and international groups using Malta. The rules only apply to MNEs with over 750million euros in revenue and Malta does have a high number operating in its jurisdiction.

Malta will remain competitive for tax for large corporations.

Answer-to-Question-_3_

IGL as a Maltese incorporated company will be subject to worldwide taxation. I will review each point in turn.

1) This is a disposal and may be subject to capital gains tax under Art 5 ITA. However as the shareholder is non dom and non res, it may be exempt. Transfer Pricing rules would need to apply to ensure the arm's length principle is applied.

2) If this is considered to be a participating holding, then Article 12(1)(u)(ii) participation exemption will apply and the dividend will be exempt from Maltese tax. If not, it will be allocated to the Foreign Tax Account and can claim the 6/7ths refund.

3)Malta would tax the transfer of shares under Art 5 ITA, however if the participation exemption applies, there would be no tax due. If not met, would be subject to 35% tax, but could apply for refund.

4)Under subsidiary legislation, the company will be redomiciled and would need to submit documentation to the Business Registry. The merger would mean it is a Maltese company for tax purposes and subject to corporation rate of 35%.

5)At liquidation, the Maltese sub would (deemed) dispose of assets, the movement of immovable property would be a capital gain of the market value.

6)

7)

8)

9)Will be subject to Property Transfers Tax which would be 8% of the market value. It doesn't matter if shareholder is resident or not. Would be taxed as a deemed transfer.

10)