



LEGAL SET-UP

There are three main types of companies:

- Public limited liability company (plc)
- Private limited liability company (ltd)
- Public or Private investment companies:
 - a. with fixed share capital (INVCO)
 - b. with variable share capital (SICAV)

REGISTRATION

The registration of a company takes place by filing the company's memorandum and articles of association, with the Registrar of Companies who will, upon registration, issue a certificate of registration (that is, a certificate of incorporation creating the company's distinct legal personality). Evidence that the paid up share capital of the company has been deposited at a bank must also be produced. The Registrar must approve the company name but restrictions are only enforced where the name is similar to that of a company already incorporated or reserved, or where the name is offensive or undesirable. A proposed company name may be reserved in advance, for a period of three months. Documents required to be filed with the Malta Registrar of Companies must be in either the English or Maltese language, although the English language prevails.

Companies are usually incorporated within three days provided we are in receipt of all the required information and documentation.



REGISTERED OFFICE

Companies incorporated in Malta are required to have a registered office in Malta and they are automatically recognised as tax residents, irrespective of the usual test of place of management and control.

SHAREHOLDERS

The shareholders may be either individuals or a body corporate, including either foreign or local entities. There is no requirement that one of the shareholders has to be a Maltese national.

In order to register a Malta company, the requirements are generally a minimum of 2 shareholders. Nevertheless, a company may be incorporated having one sole shareholder, provided its activities are limited to one main trading activity. In order for a company to be a single member company, the shares would need to be held directly by an individual shareholder or held by a private and exempt company. It is possible to hold the shares in trust or use the services of fiduciaries. Foreign based trustees need to appoint a qualifying company (i.e. a locally licenced company) to be responsible for compliance requirements.



DIRECTORS & COMPANY SECRETARY

The management of a company is entrusted to a Board of Directors which answers to and is elected by the shareholders of the company. There is no local requirement for directors and corporate directorship is accepted. However, whilst no local requirements exist, it is advisable that the majority of directors are Maltese residents in order to ensure that the place of effective management and control is Malta and that board meetings take place in Malta. Where the directors are resident outside Malta, board meetings should be held in Malta and tax implications in the country of residence of the directors should be considered. The minimum number of directors required in the case of public companies is two, whereas in the case of a private company one director is sufficient.

Each company is to have a Company Secretary, who is not subject to nationality or residences restrictions, but must be an individual (exceptions apply in the case of investment companies). No specific professional qualification is required to hold this office and this position is therefore usually filled by a person who, in the opinion of the board, is of the necessary experience and expertise.



SHARE CAPITAL

A company can denominate its share capital in any convertible foreign currency. The minimum share capital requirements are:

	Public	Private
Authorised	€46,588	€1,165
Issued	€46,588	€1,165
Paid-up	25%	20%

Government registration fees vary in accordance to the authorised share capital.

Paid up share capital requirements differ according to whether the company to be incorporated is a public or private company. In the case of a public company, not less than twenty five per cent, and in the case of a private company, not less than twenty per cent, of the nominal value of each share taken up shall be paid up on the signing of the memorandum.

The share capital must be deposited in a bank account known as 'company in formation' account prior to the formation of the company. This account is blocked until the company is formed, at which time, the funds may be accessed freely.



DUE DILIGENCE & MALTESE BANK ACCOUNTS

We, the Registry of Companies and the bank with which a bank account is opened in Malta, if any, would be required to carry out the necessary due diligence on the shareholders, directors of the Malta Company and the ultimate beneficial owners. Opening of a Maltese bank account is not compulsory however for substance purposes it is advisable to open a bank account in Malta. Should the signatories on the bank account be different, either from the directors or the shareholders of the company, the bank will also conduct due diligence on the signatory of the account. An organisational chart indicating the structure right up to the ultimate beneficial owners indicating percentage holding will be requested to identify what due diligence documentation would be required.

COMPANY ADMINISTRATION

Every company must hold an annual general meeting in addition to any other meetings in any particular year. However, if a company has its first annual general meeting within the first eighteen months of incorporation it shall not be required to hold another until the next calendar year.

Accounts can be maintained in the same currency used for share capital purposes. Annual financial statements and audits are a statutory requirement in Malta and need to be International Financial Reporting Standards (IFRS) compliant. However, in 2009 Malta amended its Companies Act to allow for the adoption of an alternative accounting framework to IFRS's ie. General Accounting Principles for Small Medium Size Entities, otherwise known as GAPSME.



COMPANY ADMINISTRATION

GAPSME is a standalone set of accounting principles that present major simplifications in measurement and disclosures included in the financial statements of pertinent entities. GAPSME allows the adoption of historical cost for assets and liabilities and provides for significantly reduced disclosure requirements.

This special standard can be used by entities that meet several criteria. It is essential that all Maltese companies have their records audited by a Maltese Auditor or Audit firm irrespective of the accounting framework chosen. Furthermore, accounts are to be filed annually but filing requirements vary according to the company status.

In addition, a further return outlining details regarding the company is to be filed each year. An annual fee is payable on the basis of the authorised share capital, which varies between €100 to €1,400.

A company's accounting year end is normally 31 December but alternative dates may be secured through an application to the Registrar of Companies and the Inland Revenue. Companies which have a January to June accounting year end are required to file their tax return together with audited accounts by the 31 March of the year of assessment. Companies that have an accounting year end other than a January to June year end must file their income tax returns together with audited accounts within 9 months from their accounting reference date.



COMPANY ADMINISTRATION

Provisional tax payments, normally based on the last assessment raised, are due every quarter in advance of the year of assessment and any outstanding tax balance is due upon the submission of the return. Companies whose profits are allocated to the foreign income account, or are involved in international business, however, may settle the tax liability at the earlier of 18 months from the accounting date or the distribution of a dividend. Tax settlements and refunds can be secured in the currency used for incorporation and accounting purposes.

OVERSEAS COMPANY

Within one month of establishing a place of business in Malta, overseas companies are required to deliver to the Registrar of companies an authentic copy, together with an authorised translation in English or Maltese of the incorporation documents and certain other details.

CONTACT

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