

## **Income Tax Consolidation in Malta**

Malta has introduced fiscal unity rules which enable tax groups to be formed for Maltese income tax purposes. This follows the issuance of the Consolidated Group (Income Tax) Rules (L.N. 110 of 2019).

A group of companies can now choose to be treated as a single taxpayer, subject to certain statutory conditions. This will begin with the 2020 assessment year for companies, whose accounting periods started in calendar year 2019. This requires the parent company to choose for itself and its subsidiary/ies to form a fiscal unit, a move which would result in the subsidiary/ies being treated as transparent.

Upon successful registration of the fiscal unit, the parent company would be considered the 'principal taxpayer' of the fiscal unit, and the chargeable income of the members of the fiscal unit would be taxable solely in the hands of such principal taxpayer. Furthermore, transactions taking place between persons forming part of the fiscal unit (excluding transfers of immovable property situated in Malta subject to a final tax) are disregarded and fall outside the scope of Maltese income tax legislation.

The primary conditions to be satisfied for a successful registration are that:

- the parent company holds at least a ninety-five percent (95%) shareholding in the subsidiary; and
- the accounting period of the members of the fiscal unit starts and ends on the same date.

The main benefit of choosing to be treated as a fiscal unit is regarding the cash flow advantage compared to the current regime of partial tax refund after the distribution of taxed profits. Thanks to the fiscal unit, the group has an identical effective tax rate without a time lag between the payment of the standard corporate income tax rate (35%) and the receipt of the shareholder refund at the level of the shareholder. This is because the new rules immediately reduce the tax due from the principal taxpayer to the lower effective tax rate

If this is something that may affect your business, please feel free to contact us for any assistance.