

Tax Treatment of The Trust in Malta

Carmelo Grillo

Pegaso International, Malta
gricom@libero.it

Abstract

The Trust in Malta is regulated by the Trusts and trustees Act and incorporates the International Hague Convention of 01 July 1985 on the law applicable to trusts and the Law (Jersey) of 1984.

The competent authority to authorize the creation and supervision of trusts is the Malta Financial Services Authority (MFSA).

The Trust can be used for "asset segregation", succession and generational transfers, protection of incapacitated persons, resolution of divorce problems, etc.

Who will manage the assets will be the trustee who, according to Maltese law, is a regulated subject, with strict reporting and segregation obligations of his own assets from those entrusted to him in trust.

The tax regime in force provides that the taxation of Maltese trusts is regulated by the Income Tax Act, Chapter 123, Income Tax Management Act, Chapter 372 and the Duty and Documents and Transfers Act, Chapter 364.

In Malta, trusts are typically considered fiscally transparent and if all the beneficiaries of the trust are not resident in Malta, the trust is tax-free. The income attributable to the trust not distributed to the beneficiaries will instead be taxed by the Trustee.

An authorized Malta resident trustee may choose to subject the trust to the tax treatment provided for companies resident (35%) and domiciled in Malta and taxed at the same tax rate. Similarly as provided for companies, the law recognizes the non-resident beneficiary the right to request reimbursement of taxes paid by the trust. The law requires that the trust's accounts be verified by an official Maltese auditor.

Keywords: Tax, treatment, of, the, trust, in, Malta