

# Taxation Newsflash

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## Focus on Hedge Funds

Malta was one of the first European jurisdictions to introduce a specialised regime for professional investor funds in 2000. In 2005 alone the number of licence applications received by the Malta Financial Services Authority was more than double the number of licences it had issued in the previous four years. Over the past few years, the hedge funds industry has experienced explosive growth, with Eurohedge reporting US\$ 279.6 billion in assets under management in Europe as at June 2005. Those who chose Malta as the base for their fund could benefit from the efficiency and flexibility of the Malta Financial Services Authority, EU membership, local and international stock exchange listing options, low set-up and maintenance costs and **an exemption from income tax and capital gains tax at fund level and at non-resident investor level.**

The Maltese regime for professional investor funds (PIFs) recognises two types of funds: those targeting qualifying investors (QIFs) and those targeting experienced investors (EIFs). QIFs are suitable vehicles for hedge funds, with no investment or borrowing restrictions and a minimum entry level of US\$ 100,000 or equivalent. EIFs, unlike QIFs, need to appoint a custodian and cannot borrow and the minimum investment is US\$ 20,000.

As at September 2005 the MFSA reported that 46 applications for QIF licences were being processed. Moreover PIFs accounted for 30% of all collective investment scheme licences issued since 1995, with 63% of PIFs have a foreign-based fund administrator, the majority of which are based in Ireland, while 77% of PIF prime brokers or custodians are based outside Malta such as the UK, Switzerland and Jersey.

For more information on redomiciling a hedge fund to Malta please refer to an article published in the Hedge Funds Review of September 2005, a copy of which is available at: <http://www.cdf.com.mt/pages/doc.pdf>

## New Malta-Spain Double Taxation Treaty

On 8<sup>th</sup> November 2005 Malta and Spain have signed a much awaited agreement on double taxation. The treaty is awaiting ratification by the Spanish Parliament. When it comes into force there will be significant opportunities for the use of Maltese companies for Spanish operations. Dividends paid by a company which is a resident of a Contracting State to a resident of the other Contracting State may be taxed in that other State. However, such dividends may also be taxed in the Contracting State of which the company paying the dividends is a resident and according to the laws of that State, but: (a) When the dividends are paid by a company which is a resident of Spain to a resident of Malta who is the beneficial owner thereof, the Spanish tax so charged shall not exceed 5 per cent of the gross amount of the dividends, which goes down to zero if the Maltese company holds directly at least 25 per cent of the capital of the company paying the dividends; (b)

Where the dividends are paid by a company which is a resident of Malta to a resident of Spain who is the beneficial owner thereof, Malta tax on the gross amount of the dividends shall not exceed that chargeable on the profits out of which the dividends are paid, i.e. 35%. However in the latter case the shareholder will be eligible for a substantial refund of Malta tax. For further information please visit <http://www.cdf.com.mt/pages/taxplanning.htm>, which is also available in Spanish: by clicking here: <http://www.cdf.com.mt/pages/spanish/taxplanning.htm>

## IFLR1000

CDF Advocates has been featured in the International Financial Law Review's Top 1000 financial law firms for the third consecutive year.

For more information please visit:

<http://www.iflr1000.com/?page=29&CH=3&CountryID=51>

Also in this issue: Property Investments by Non-Residents

## Property Investments by Non-Residents

Apart from certain designated areas, non-residents are not allowed, directly or indirectly, to purchase immovable property in Malta. EU citizens are however allowed to purchase a first residence as well as a second residence. Nevertheless, irrespective of EU citizenship, non-residents are allowed to have up to 25% shareholding in a Maltese company which owns property in Malta. In September 2005, Fitch stated that "In recent years, property prices have shown an accelerating upward trend, with house prices rising 20% last year. This is stimulating new construction but, in view of the dense population and scarcity of available land, it is too early to talk of overheating of property prices". As from 1<sup>st</sup> December 2005 the new Budget has established a final withholding tax of 12% when a property is sold. Please contact us for further information on how to diversify your property portfolio with a Maltese investment.

For those wishing to make Malta a permanent home, the Permanent Residence Permit programme should also be considered. Permanent residents are taxed at the rate of 15% on all income arising outside Malta and remitted to Malta. The minimum tax is Lm1,800 per annum. Investment income arising in Malta can be charged a final withholding tax of 15%. For more information please visit <http://www.cdf.com.mt/pages/permanantresidenceinmalta.htm> also available in German and Spanish.

## New Office in Valletta

As from 1st September 2005 CDF Advocates has moved its main office to Valletta after extensive refurbishment. The office is situated at the heart of the capital a few metres away from the Law Courts.

# CDF

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