



**Malta Uncovered –
Private Clients**

Malta, attractive financial services centre

- E.U.
- HSBC, Fortis, ...
- **Civil Code Jurisdiction**
- The Maltese Government's objective:
« *Place Malta on the world map as a financial centre – for banking, insurance, trusts, investment services and funds.* »

Fact : privacy – it is in the Maltese blood

- And the Criminal Code: disclosure is punishable by a EUR 50 000 fine and/or 2 years imprisonment
- And the Professional Secrecy Act: binds all state employees and ALL professionals
- Disclosures ordered by the Court
 - when there is an express provision of law
 - remain « in camera »: accessible to the court and the parties

The name of the game: integrity

Again, for ALL professionals with whom you are in contact: advocates, accountants, bank, trustees, protectors, ... (all are per se « fiduciairies »)

Article 1124A Civil Code:

- a) the fiduciary is to act as a bonus pater familias
- b) to avoid conflict of interest
- c) not to receive undisclosed profit

Tax deferral

For any type of income

- Trusts
- Partnerships
- Professional Investor Funds (PIF)

Professional Investor Funds (PIFs)

Neutral for Maltese income tax

- Collective investment scheme
- Qualifying investor: net worth **USD 1 million**
- No restrictions on investments or borrowing

Asset Protection Strategies

1. Confidentiality: « If the information is protected, so are the assets »
2. Time limits to bring suit
3. Integrated and balanced strategies

Section 38A Malta Trusts and Trustees Act

- (2) Any decree or judgement of the Court shall preserve the confidentiality of the proceedings and shall only reveal such facts as may be necessary to make the same intelligible and enforceable by the parties and the trustees.

- (3) All applications, responses, affidavits, opinions, statements and other documents or evidence shall be kept by the Registrar of the Court in a confidential manner and no access shall be given thereto except with the written consent of the Court.

Non-Maltese trusts

Article 8(2) of the Trusts and Trustees Act :

When the trust instrument contains a provision granting jurisdiction to the courts of the country the law of which expressly governs the trust, the Courts in Malta shall, on demand of any party to the proceedings stay proceedings which may be instituted in Malta in favour of the chosen forum.

What your client may like about Malta

- An individual may act as a private trustee in Malta if he (i) is related to the settlor by consanguinity or affinity, or (ii) has known the settlor for 10 years.
- Trustees cannot be beneficiaries.
- Protectors have obligations as fiduciaries (article 1124A Civil Code).

Private Foundations (Bill 79)

21. (4) When a legal person is converted into a trust, the Trustee shall succeed to all rights and obligations of the legal person and it shall not be required to dissolve and wind up the legal person as required by the applicable law. The legal person shall be struck off from the register in which it is registered.

Conclusions

Malta almost picks itself.

He that has right fears, he that has wrong hopes.