

THE USE OF FOUNDATIONS

A foundation is a legal entity combining the benefits of a company and a trust. Since a foundation has a separate legal existence, they are recognised by jurisdictions that do not recognise trusts, making it a useful planning tool. Additionally, in the case of a trust, the trustee becomes the legal owner of the trust's assets. However in foundations, the founder continues to maintain a level of control on the direction of the foundation's assets.

Foundations have a wide variety of uses including estate planning to preserve wealth and confidentiality, asset protection, to take care of persons with special needs, to manage distribution to beneficiaries, philanthropic purposes, tax planning or to hold shares in companies.

Foundations can be set up as 'purpose foundation' or as a 'private foundation'. Purpose foundations are established exclusively for a charitable, philanthropic or other social purpose or as a non-profit organisation. To the contrary, private foundations do not need to have a philanthropic element but are set up for the purpose of beneficiaries.

Maltese foundations can be taxed in various ways:

- Opt to be taxed as a company, where the full imputation and Maltese tax refund system can be applied benefiting from an effective tax rate of 0% or 5%. Foundation distributions are treated as dividends, on which beneficiaries may claim a tax refund.
- Elect to be taxed as a trust and thereby if the beneficiaries are not Maltese resident, then such income is not subject to Maltese income tax.
- Purposes foundations can either be exempt from income tax or subject to progressive rates of tax where the highest rate of tax is capped at 30%.

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Foundations can be converted from an existing trust and vice versa. Foundations are formed through a deed which must be registered with the Registrar for Legal Persons. The founder is the person who establishes the foundation and beneficiaries are the shareholders in companies. Administrators are similar to company directors and are responsible for the management of the foundation for the benefit of the beneficiaries. Minimum endowment for a private foundation and purpose foundation is € 1,164.69 and €232.94 respectively.

For further information on opportunities to use Maltese foundation in structures for tax-efficient business solutions, kindly contact us by email at info@factgroup.net.