

# The Perks of Doing Business in Malta

Legal and Tax Opportunities



**Dr Charles Cassar**



CHETCUTI CAUCHI

Legal | Tax | Corporate

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# Overview

- About the Firm
- Business Environment
- Legal basics
- Tax Considerations
- Highly Qualified Persons Rules



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## About the Firm

Business Environment

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HQP Rules



## About the Firm



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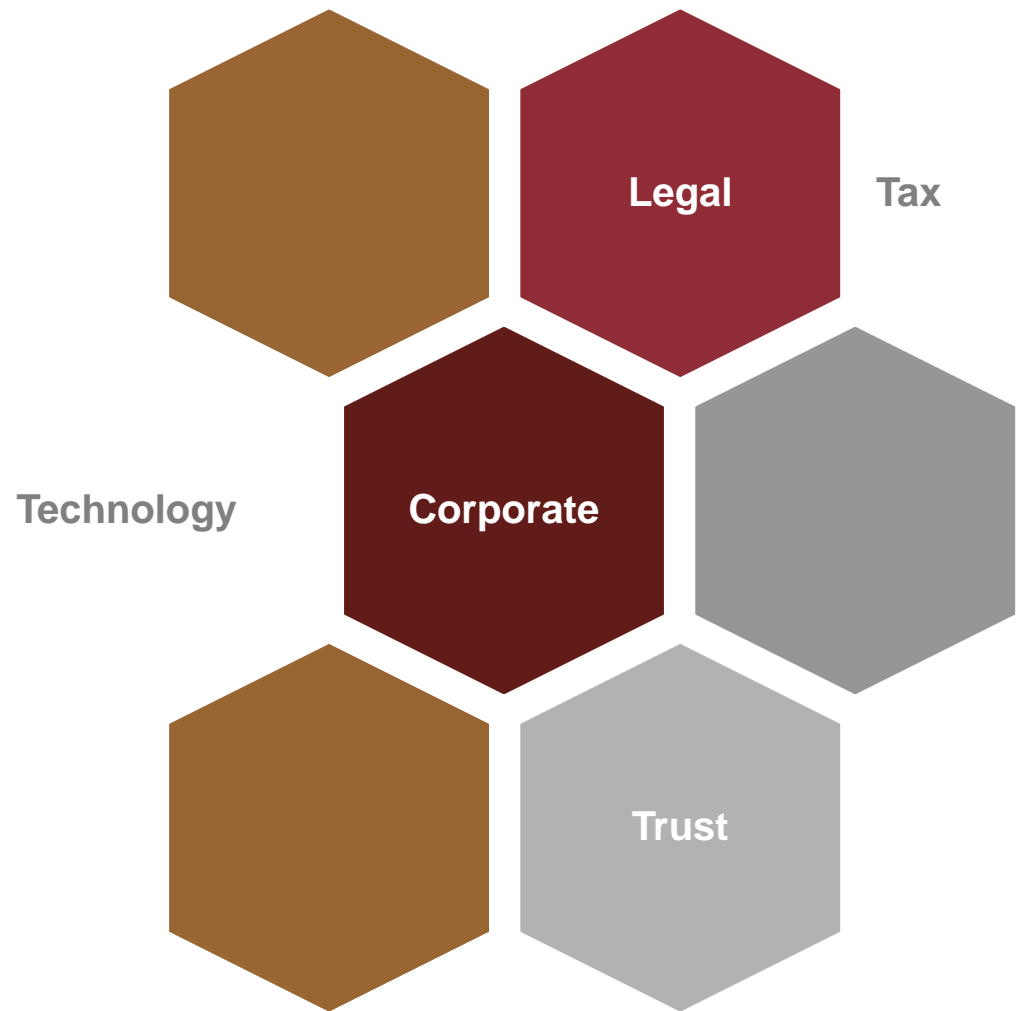
# About the Firm

## *Truly multi-disciplinary*

- Lawyers
- Accountants
- Tax Advisors
- Trustees
- IT Advisors

## Offices

- Valletta, Malta
- London, UK



## Offices:

### Valletta & London

#### ■ Legal Practice Groups:

- Financial Services
- Tax, Immigration & Estates
- IP, ICT & Gaming Law
- Maritime & Aviation
- Corporate & Commercial

#### ■ Corporate Services

- Company Formation
- Accounting & Payroll
- Tax & VAT Compliance
- ICT & Web Services

#### ■ Private Clients

- Relocation
- Trusteeship





About the Firm

**Business Environment**

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## Business Environment



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# Malta Jurisdiction Overview: World Economic Forum *Global Competitiveness Report 2012-13*



# Malta Jurisdiction Overview: Other

**Top 5** FDI Performance  
in the EU

**100%** Quality of Life  
League  
International Living

**12%  
GDP** Finance & Admin  
Services

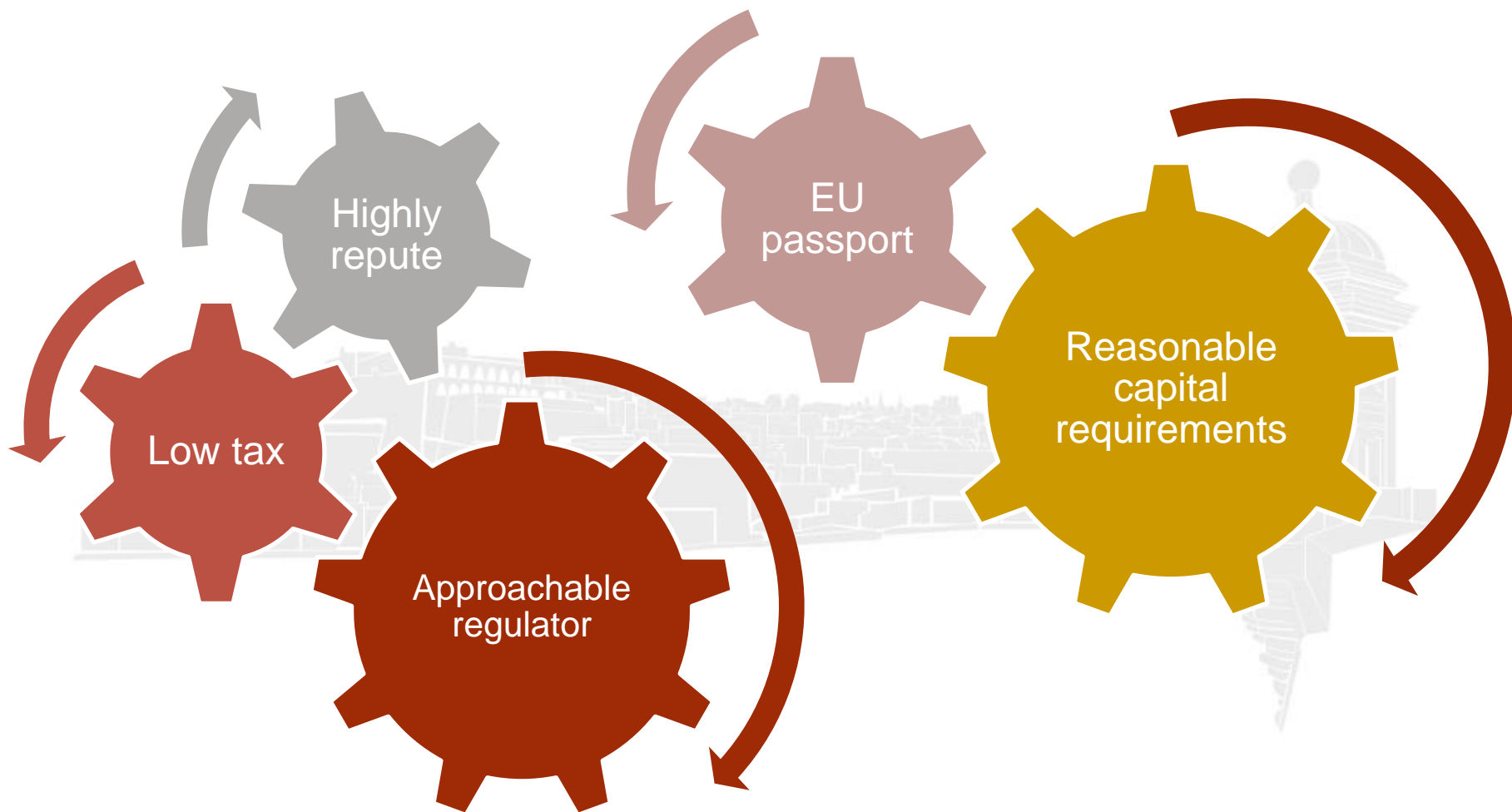
**100%** Safety & Freedom  
International Living

**Top 5** Financial Centres to  
grow in importance  
*City of London FS Index*

**12th** Press Freedom Index  
Freedom without  
Borders



# Financial Services: Why Malta?



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## Legal Basics



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# Malta Jurisdiction Overview: Reputable

## Onshore

- Offshore laws revoked in 1994
- EU compliant
- OECD + FATF compliant
- Not on Blacklists

## UK Heritage

- Tax: *Income Tax Act, 1948*
- Legal: *Companies Act, Trust & Trustees Act*

## European

- EU Member since 2004, Eurozone since 2008
- Access to EU Funding
- Access to EU Tax Directives: P-S, Mergers, I&R

## International Business: Company Facts

Minimum capital	€1,250	Corporate Directors	Yes
Minimum paid up capital	€ 250	Nationality of Directors	Any
Currency of Capital	Any	Fiduciary Shareholders	Yes
EU VAT Registration	Yes	Corporate Shareholders	Yes
Refunds within	14 days	Time to Register	48 hours

## International Business: Company Facts (Continued)

Single Member Companies	Yes
Minimum number of directors (private companies)	One
Minimum number of directors (public companies)	Two
Nationality of shareholders	Any
Bearer shares	No

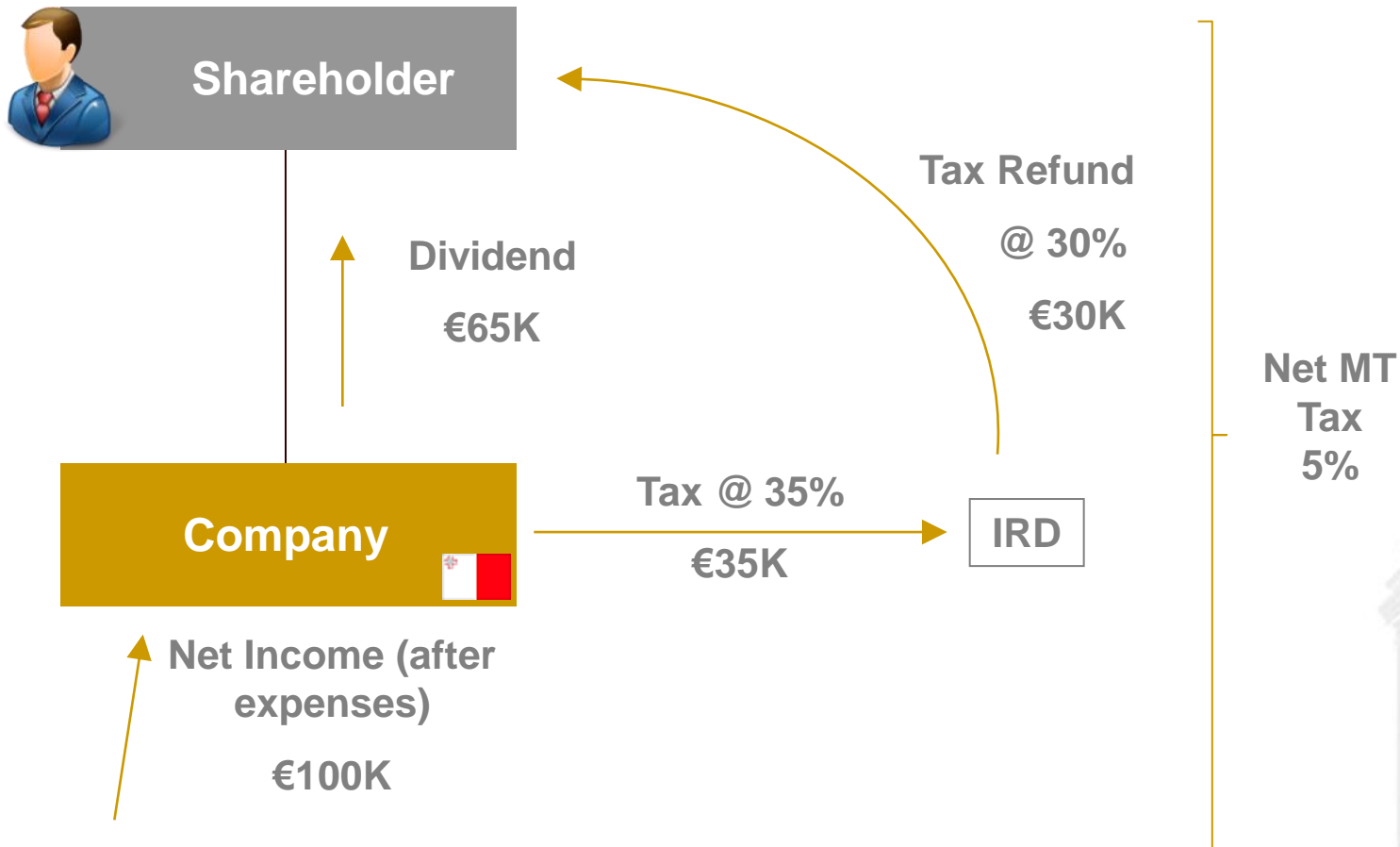
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## Tax Considerations



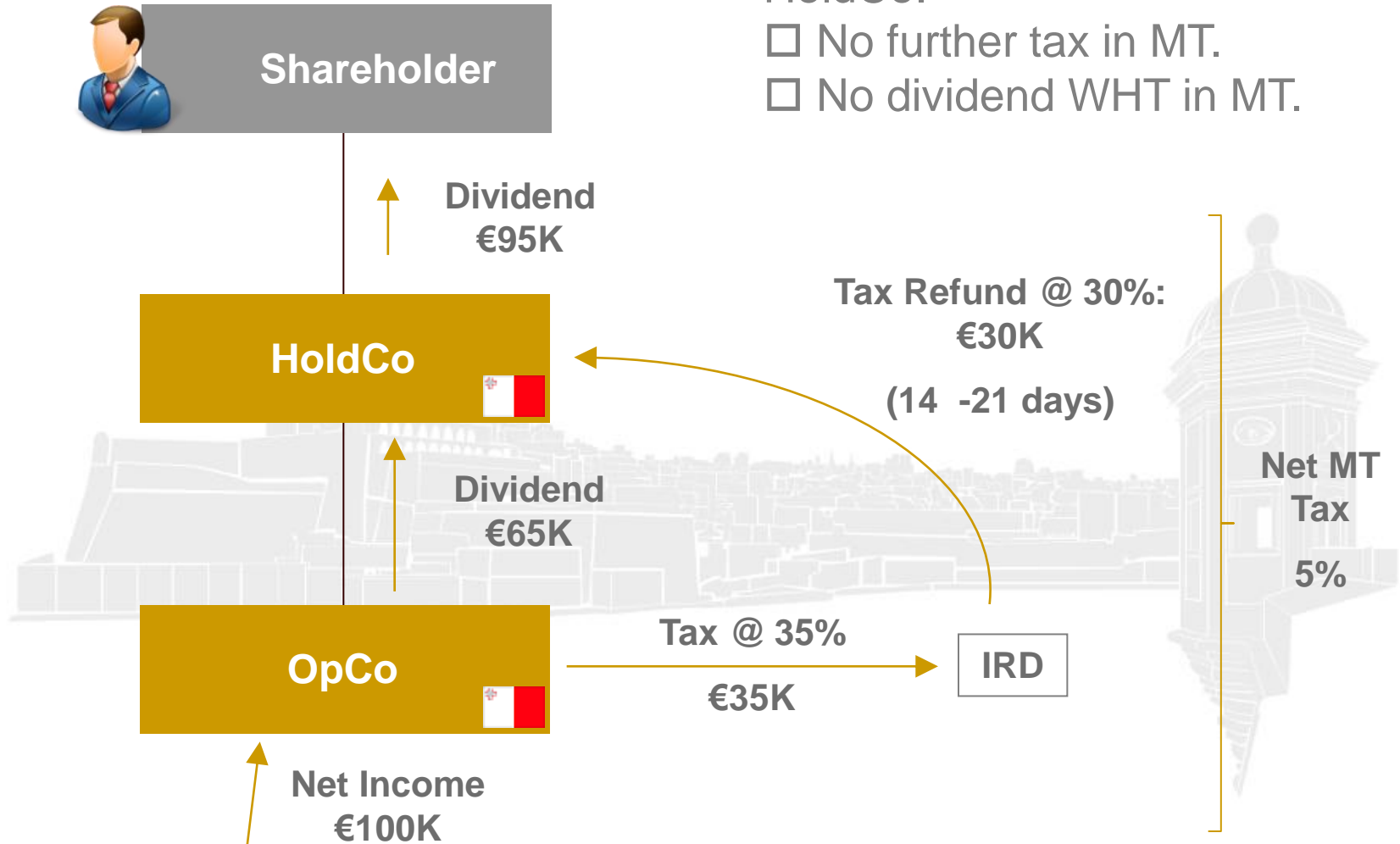
# Malta Trading Structures



# Two-Tier Structures 1/2



- Dividend & Refund mixed in HoldCo.
- No further tax in MT.
- No dividend WHT in MT.



# Two-Tier Structures 2/2



Shareholder

HoldCo



Business Assets

Personal Assets

Business Premises

Companies

Bank Accounts

Boats

Jet

Car

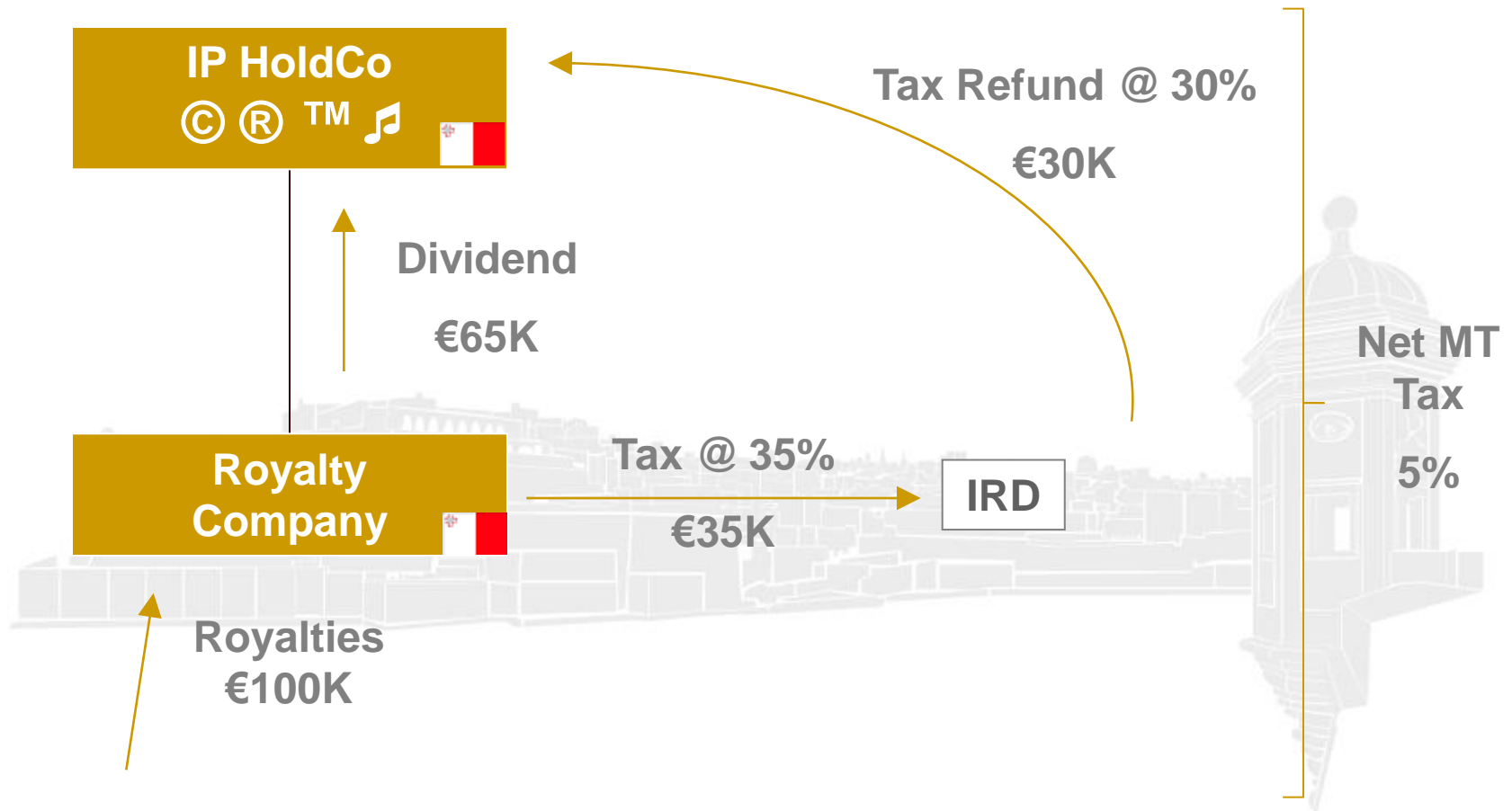
Home

OpCo





# International Business: Intellectual Property Royalty Routing Structure + Malta IP HoldCo

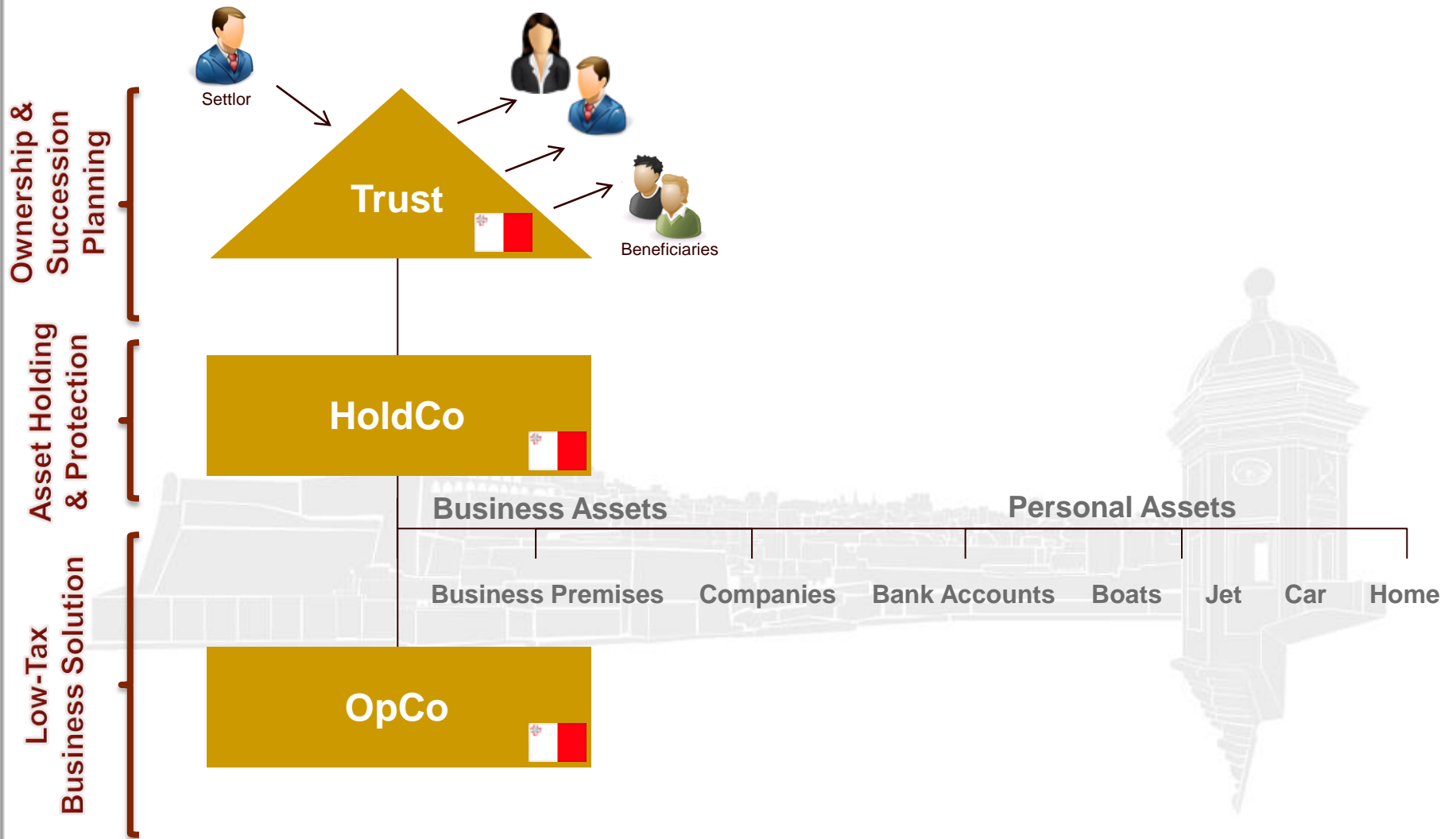


# International Business: Intellectual Property Summary

Refund portion	6/7ths	5/7ths
Trading Royalties	✓	
Passive Royalties		✓
<b>Net Tax Result</b>	<b>5%</b>	<b>10%</b>



# 5. Three-tier Structures: Test Case





# International Business: Trading Companies

## Double Tax Relief Systems

### Treaty Relief

- > 60 Double Tax Treaty Partners
- Max Credit = Malta tax on double taxed income.

### Unilateral Relief

- Credit inc. relief on a multi-tier basis for underlying taxes

### Flat-Rate Foreign Tax Credit (FRFTC)

- Notional Credit = 25% of net foreign-source income
- No proof of foreign tax is required.



# International Business: > 60 Double Tax Treaties

Albania	France	Latvia	San Marino
Australia	Georgia	Lebanon	Serbia
Austria	Germany	Libya	Singapore
Barbados	Greece	Lithuania	Slovakia
Belgium	Hong Kong	Luxembourg	Slovenia
Bulgaria	Hungary	Malaysia	South Africa
Canada	Iceland	Montenegro	Spain
China	India	Morocco	Sweden
Croatia	Ireland	Netherlands	Switzerland
Cyprus	Isle of Man	Norway	Syria
Czech Republic	Italy	Pakistan	Tunisia
Denmark	Jersey	Poland	United Arab Emirates
Egypt	Jordan	Portugal	United Kingdom
Estonia	Korea	Qatar	United States of America
Finland	Kuwait	Romania	<i>...others on the way</i>

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## Highly Qualified Persons Rules



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## Highly Qualified Persons Rules: FS & I-Gaming

- The employment income is taxed at a **flat rate of 15%**
- An option for an individual:
  - not domiciled in Malta, and
  - employed under a qualifying employment contract
- Applicable:
  - Where salary exceeds €75,000
  - as of year of assessment 2011,
  - consecutive period of 5 years for all EU member state nationals (incl. Norway, Iceland, Liechtenstein and Switzerland)
  - Consecutive period of 4 years for third country nationals
- Where the employment income exceeds €5,000,000, income in excess of €5,000,000 is exempt from tax.

## Highly Qualified Persons Rules: Eligible Offices

- The employment income must arise under employment contracts with companies licensed and/or recognized by the Competent Authority (MFSA or LGA) where the position is one of the following:
  - Chief Executive Officer, Chief Commercial Officer
  - Chief Financial Officer,
  - Head of Marketing (including Head of Distribution Channels),
  - Senior Analyst or Trader,
  - Fraud and Investigations Officer,
  - Odds Compiler Specialist,
  - Chief Commercial Officer;
  - Head of Research and Development (including Search Engine Optimisation and Systems Architecture.
  - Head of Distribution Channels



# Highly Qualified Persons Scheme: Digital Games

## ■ Requirements:

- Hold a qualifying contract of employment
- Hold an eligible office
- Malta Enterprise approval
- Minimum annual income of EUR 45,000 (exclusive of fringe benefits)





# HQP Digital Games: Eligible Offices

- Chief Executive Officer
- Chief Technical Officer
- Chief Creative Officer
- Head of Writing
- Lead in-World Writer
- Lead Game Programmer
- Software Engineer Director
- Game Developer
- Director of Online Community
- Head of Art Design and Visualisation
- Art Director, Digital Artist



## HQP Digital Games: Eligible Offices (Continued)

- Commercial Director (Digital Licensing)
- Head of Game Design
- Game Director
- Game Designer
- Audio Director
- Video Director
- Producer and
- Head of Marketing.



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Case Study



## Highly Qualified Persons Rules

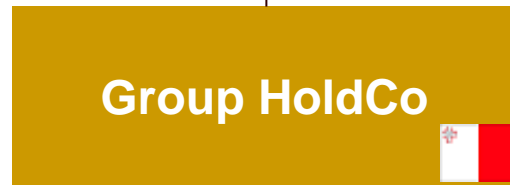
# Case Study: Proposed

## 360° service:

- International Tax Advice
- Corporate Setup
- Personal Trusts
- EU / Int. TM Registration
- Transfer of IP
- Drafting of Contracts.
- Ongoing Accounting
- Recruitment & Payroll
- FSA Clearance of FinanceCo



Shareholders



- Malta tax refunds
- Group corporate governance;
- Collective ownership.



- IP: TMs, Software Code
- Transfer of IP from original Startup Company.
- IP Ownership & Protection
- Licensing to group / third companies

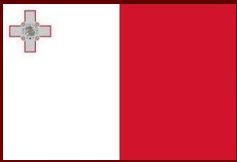


International Group financing activities (tax efficient intra-group loans)



- Active trading:
- Marketing, Support
  - Community Management
  - Payment processing

Office Locations:



UK Desk:



**Thank you!**

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in Malta



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