

WHPARTNERS

**THE
CONSOLIDATED
GROUP
(INCOME TAX)
RULES**

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The Consolidated Group (Income Tax) Rules, 2019 were introduced in June of 2019 in Malta through Legal Notice 110 of 2019 and came into effect as from year of assessment 2020 – accounting periods commencing from calendar year 2019 and subsequent years.

The Consolidated Group Rules are an optional regime whereby a group of companies may elect to be treated as one fiscal unit for income tax purposes. The group of companies opting for the Consolidated Group Rules would constitute of a “principal taxpayer”, which would assume all the rights, duties and obligations of

the group under the Income Tax Act in Malta and “transparent subsidiaries” whose rights, duties and obligations under the same Act, except those in relation to Final Settlement System (“FSS”) would be suspended.

The Consolidated Group Rules are effective as from the year of assessment in which an election to avail of the regime is made, unless a tax return for that year of assessment would have already been filed.

The election to benefit from the Consolidate Group regime can result in an easier tax compliance of the





group as any income, outgoings and expenses derived by the transparent companies will be considered as incurred by the principal taxpayer. Additionally, any transactions which take place between the principal taxpayer and the transparent subsidiaries will be disregarded for income tax purposes.

When any income or gains is derived by a transparent subsidiary which is

not resident in Malta, the income or gains will be deemed to be attributable to a permanent establishment of the principal taxpayer situated outside Malta. The principle taxpayer will therefore be responsible to account for such income or gains. The range of the income tax grouping rule is not restricted to any specific sector or industry, however, no entity may form part of more than one fiscal unit.

CONDITIONS FOR APPLICATION

A group of companies may benefit from the Consolidated Group Rules if:

-  The companies opting for the regime have the same accounting periods;
-  The principal taxpayer is a company registered in Malta for tax purposes;
-  The principal taxpayer holds at least 95% of any two of following right in the subsidiary/subsidiaries: (i) voting rights, (ii) profits available for distribution, (iii) assets available for distribution;
-  There is approval of all the minority shareholders where the subsidiary entities are not wholly owned by the principal taxpayer.

CONSOLIDATED GROUP RULES AND REFUND SYSTEM IN MALTA

Where a group of companies forms a fiscal unit, any tax refund due in terms of the Income Tax Management Act to a shareholder of the transparent company, will be taken into account in determining the applicable tax rate of the whole group.

In other words, the principal taxpayer would only pay the combined overall effective tax and need not wait to claim and receive the refund on the tax paid at the level of the transparent entity upon receipt of dividends.



For more information please contact:

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