



MALTA
INSTITUTE
OF TAXATION

Introduction to Company Law (Part 2)
Dr. Krista Ellul
3rd November 2022

THANK YOU FOR JOINING!
THE MIT LECTURE WILL START SHORTLY.

1

DISCLAIMER

This material is the intellectual property of Malta Institute of Taxation. It is for the sole use of the registered attendee of the MIT Course on Tax Compliance to whom it was made available, exclusively for their educational purposes. The publication, whether in whole or in part, reproduction, distribution and/or editing of the content is prohibited. Likewise, the recording of a lecture in audio or video, including by means of screenshots, is strictly prohibited.

Any views and opinions that may be expressed during the lecture are those of the speaker and may not necessarily reflect or represent the views and opinions of the Malta Institute of Taxation. Any reference to practices, whether past or present, should not be construed as an endorsement thereof.

As this material is intended for educational purposes only, it does not in any way constitute advice and should not be relied upon as such.

The content of this presentation is intended to reflect the Lecturer's understanding of the legislation and/or practices applicable as at the date of first delivery, that is, the date specified below.

Date:



© Malta Institute of Taxation 2021

2

Agenda

- The Annual Return
- Beneficial Ownership Register and Forms
- The Malta Business Registry website
- The Memorandum and Articles of Association (“MAA”)
- An introduction to various company forms
- Allotments for non-cash consideration



3

THE ANNUAL RETURN

4

The Annual Return

Upon each anniversary of the registration of a Company – a form must be submitted in a **set format** showing the matters specified therein and **made up to the date of such anniversary**.

The annual return shall be signed by one director or the company secretary (or any other person duly authorised through the company's MAA or by the board of directors or shareholders) and submitted to the Registry together with the payment of the annual return fee, within **42 days** from when it falls due (being the anniversary of the company registration).

If not submitted, a penalty will be incurred by the officers of the company, and a daily penalty during period in which the default continues.



5

The Annual Return

SEVENTH SCHEDULE
Article 154

Company No: C 57461

CONTENTS AND FORM OF ANNUAL RETURN

Annual Return of TELEPHONE LIMITED

Date to which this return is made up: **1 OCTOBER 2017**
(being the anniversary of the company's date of registration)

1. Address
(Address of the registered office of the company)

307,
ST. PAUL STREET,
VALLETTA, VLT 1213,
MALTA

This form must be completed in BOLD TYPED FORM



6

The Annual Return

2. Summary of Share Capital

All Maltese amounts are to be preceded by the symbol Lm. Symbols used for other currencies are to be indicated (where applicable).

Currency	Symbol
EURO	€

(a) Nominal Share Capital

Nominal Share Capital €1,200 divided into:

(insert number and class)
1,200 ORDINARY shares of €1 each

(b) Issued Share Capital

Number	Class
1,200	ORDINARY shares
Number of shares of each class issued on the date of this return (which number must agree with the total shown on the list as held by existing members).	
Number of shares of each class issued or partly paid up and extent to which each share is so paid up	
Issued or paid up to the extent of €0.1 per share 1,200 ORDINARY shares	

Total number of shares of each class forfeited:

Total amount paid, if any, on shares forfeited:



MALTA
INSTITUTE
OF TAXATION

7

The Annual Return

3. List of Past and Present Members

List of persons holding shares or stock in the company on the date to which this return is made up, and/or persons who have held shares or stock therein at any time since the date of the last return, or in the case of the first return, of the registration of the company.

Folio in register (where containing particulars)	Name Address (in the case of a body corporate, its registered office)	Account of Shares	Remarks
		Number of shares held by existing members at date of return * 0	2,000,000 = 2,000 shares transferred or transmitted since since since the date of the last return, or, in the case of the first return, of the registration of the company by (a) persons who are still members and (b) persons who have ceased to be members **
		Number of registration of transfer	Date of transfer
		(a)	(b)



MALTA
INSTITUTE
OF TAXATION

8

The Annual Return

MARK CAMILLERI (I.D. 1145634)	1,100	ORDINARY SHARES OF €1 EACH (25% PAID-UP)		
ID-DURA, TRIQ IL-KBIRA, MOSTA MALTA				
TOTAL NUMBER OF SHARES HELD BY EXISTING MEMBERS:	1,100			

* The aggregate number of shares held by each member shall be stated, and the aggregate shall be added up to agree with the number of the shares entered in the Secretary of State's Capital and Debentures to have been taken up.

** When the shares are divided into different classes these shares should be sub-divided so that the number of each class ~~shall be stated~~ or transmitted ~~shall be stated~~ may be shown separately. Where any shares have been converted into stock the number of each held by each member shall be stated.

*** The date of registration of each transfer or transmission ~~shall be given as well as the number of shares transferred or transmitted~~ ~~shall be given as well as the number of shares transferred or transmitted~~ may be placed opposite the name of the transferor and not opposite that of the transferee, but the names of the transferee may be inserted in the "Remarks" column immediately opposite the particulars of each transfer. (The word "transferee" shall mean the transferee and the word "transferee" shall mean the lessor or lessee, in the case of transmission ~~shall be given~~.)



MALTA
INSTITUTE
OF TAXATION

9

The Annual Return

4. ~~Particulars of Directors~~

~~Particulars of the persons who are directors of the company at the date of this return.~~

Name (in the case of an individual, name or names and surname. In the case of a body corporate, the corporate name)	Nationality	Usual residential address (in the case of a body corporate, its registered office)
MARK CAMILLERI (I.D. 1145634)	MALTESE	ID-DURA, TRIQ IL-KBIRA, MOSTA MALTA
HELEN MICALIEF (I.D. 1147834)	MALTESE	LOLITA, TRIQ IL-MOSE, KAPPRARA, MALTA



MALTA
INSTITUTE
OF TAXATION

10

The Annual Return

5. Particulars of Company Secretary

Particulars of the person who is company secretary of the company at the date of this return.

Name (in the case of an individual, name or names and surname. In the case of a body corporate, the corporate name)	Nationality	Usual residential address (in the case of a body corporate, the registered or principal office)
MARK CAMILLERI (I.D. 1145636)	MALTESE	ID-OURA, TRIQ IL-KWIRA, MOSTA MALTA

Signed
MARK CAMILLERI
Director/ Company Secretary



MALTA
INSTITUTE
OF TAXATION

11

The Annual Return

Annual Return fees differ in accordance with the amount of authorised share capital of the company and depend on whether the annual return is submitted manually or online.

Set in accordance with Legal Notice 354 of 2008 Companies Act (Fees) Regulations, 2008.



MALTA
INSTITUTE
OF TAXATION

12

The Annual Return

Authorised Share Capital	Manual Submission	Online Submission
EURO	EURO	EURO
Up to 1,500	100	85
Between 1,501-5,000	140	120
Between 5,001-10,000	160	135
Between 10,001-50,000	350	300
Between 50,001-100,000	400	340
Between 100,001-250,000	600	510
Between 250,001-500,000	800	680
Between 500,001-1,000,000	900	765
Between 1,000,001-2,500,000	1,200	1,020
More than 2,500,001	1,400	1,200



13

BENEFICIAL OWNERSHIP REGISTER AND FORMS

14

Register of Beneficial Owners Regulations

- Companies Act (Register of Beneficial Owner) Regulations came into force in December 2017. Several amendments have been made to such regulations since.
- Companies are now required to identify and maintain a register of their ultimate beneficial owners as well as to provide information on their beneficial owners to the Registry which will be keeping its own beneficial owners register.



15

Register of Beneficial Owners Regulations

The term “beneficial owners” shall refer to any **natural persons** having ownership or control of the company through:

- i. the direct or indirect ownership of **25% plus one** or more of the shares in the Company or more than 25% of the voting rights of the Company; or
- ii. having other ownership interests (including through control with other means such as exercise of a dominant influence or the power to appoint and remove the majority of the board of directors) of more than twenty-five 25% in the Company.

Should no individuals satisfy the above criteria, then one is to disclose the senior managing official/s of the company.



16

Annual Beneficial Ownership Obligations

- Upon each anniversary from a company's date of registration, a company shall file a return. This has the objective of:
 - disclosing any change in details on beneficial owners, or
 - otherwise to confirm that no change in details took place.
- The return may be signed by at least one director or the company secretary and shall be delivered to the Registry within forty-two (42) days from the anniversary date.
- The failure to adhere with the afore-mentioned obligations renders a company liable to a penalty of €5,000 as well as a daily penalty of €100 until the infringement is rectified.



17

Beneficial Ownership Forms

Apart from annually notifications, beneficial ownership forms are to be submitted to the Registry in the following instances:

- **B01 Form**
 - always submit upon incorporation of a company
 - can only be signed by one of the new proposed directors of the new company.
 - To divulge either BO or SMO (if the latter, attach a letter signed by director explaining why SMO was identified).
- **B02 Form**
 - to be submitted when a share transfer/issue/change in share capital/ change in voting rights happens after the anniversary of the company in 2018/2019.
- **B03 Form** (only for companies who failed to submit it – replaced by annual confirmation)
 - to be submitted upon the anniversary of the company (therefore with annual return) AND for any share transfer/issue which happens before the anniversary of the company in 2018/2019.



18

Beneficial Ownership Forms

- **BO Change in SMO**
 - to be submitted upon change in senior managing officials within 14 days from the effective date of change.
 - To submit this BO together with Form K when company has a SMO and the change in director was a SMO.
- **BO Change in Details SMO**
 - upon any change in details of senior managing official.



19

Register of Beneficial Ownership Regulations

- Powers of the Registrar.
The Registrar is empowered to:
 - Refuse to register any document of a company if the beneficial ownership information:
 - has not been submitted,
 - is not accurate; or
 - up to date.
 - Restrict new company incorporations wherein the proposed directors are involved in other companies that failed to submit information on their beneficial owners;
 - take the necessary steps and ask for any information he deems necessary to ascertain the veracity of the beneficial ownership information, prior to registering a company.
 - carry out on-site inspections with the aim of verifying that the information submitted to the Registry in relation to beneficial ownership was accurate. If the Registrar forms the opinion that the beneficial ownership information needs to be revised, every officer of the company shall be liable to a penalty not exceeding €100,000.



20

THE MALTA BUSINESS REGISTRY WEBSITE

21

The Malta Business Registry Website

The core responsibilities of the Malta Business Registry arise out of the Companies Act, 1995. These are:

- Registration of new commercial partnerships
- Registration of documents related to commercial partnerships
- Keeping the company and partnership register
- Collection of registration and other fees
- Publication of notices
- Issue of certified documentation
- Issue of good-standing and other certificates
- Reservation of company names
- Imposition and collection of penalties
- Investigation of companies



22

The Malta Business Registry Website

In order to be able to access the information available on the Malta Business Registry website one must register as a new user and create an account.

You do not need to have an account to be able to have access to the different registry forms, publications and other general information (such as circulars issued by the Malta Business Registry).



23

The Malta Business Registry Website

The screenshot displays the Malta Business Registry (MBR) website interface. The top navigation bar includes links for About, Contact Us, Careers, Legislation, and a user profile for DR. DAVID ZAHRA. The main header features the MBR logo and the text 'MALTA BUSINESS REGISTRY'. A left sidebar contains a menu with options like Profile, ROC Services, Status, Penalties, Searches, Online Filing, and Reports. The main content area is titled 'Company Details' and shows information for 'Company Registration Number C 79707 - BLONDE AND GIANT LIMITED'. The details include:

Company Registration Number	C 79707
Company Name	BLONDE AND GIANT LIMITED
Registration Date	Feb 24, 2017
Registered Office	52, 1D DURA TRIGIL KORMA, KAPPAKKA
City/Locality	SAN GWANN SGN 4106
Country	MALTA



24

The Malta Business Registry Website

The screenshot shows the Malta Business Registry (MBR) website. The left sidebar contains navigation links: Profile, ROC Services, Status, Penalties, Searches, Company Search, Reserved Names Search, Previous Names Search, Online Filing, and Reports. The main content area is titled 'Company Share Capital' and includes tabs for Company Details, Authorised Shares, Involved Parties, Beneficial Owners, and Documents. The 'Authorised Shares' tab is selected, displaying the following information:

Company Registration Number C 79707 - BLONDE AND GIANT LIMITED

Company Registration Number: C 79707
 Total No. of Authorised Shares: 1,200 (EUR 1200.00)
 Total No. of Issued Shares: 1,200 (EUR 1200.00)

Authorised Share Capital	Type	Nominal Value Per Share in EUR	Issued Shares
1,200	Ordinary	1.000000	1,200

The URL at the bottom of the browser window is: <https://registry.mbr.mt/ROC/index.jsp#/ROC/companyDetailsRO.do?action=authorisedCapital&companyId=C%2079707>

25

The Malta Business Registry Website

The screenshot shows the Malta Business Registry (MBR) website. The left sidebar contains navigation links: Profile, ROC Services, Status, Penalties, Searches, Company Search, Reserved Names Search, Previous Names Search, Online Filing, and Reports. The main content area is titled 'Involved Parties' and includes tabs for Company Details, Authorised Shares, Involved Parties, Beneficial Owners, and Documents. The 'Involved Parties' tab is selected, displaying the following information:

Company Registration Number C 79707 - BLONDE AND GIANT LIMITED

Directors(2)

Involved Party	Address	Nationality
GIUSEPPE COLEIRO ID Card: 100367M	PLAT 8, CRYSTAL COURT MSIDA CIRCUS MSIDA MSD 1173 MALTA	MALTESE
MARK GAJFA ID Card: 344466M	12, INDUBA, TRIQ IL-KANJICA, KAPPAFA SAN GIVANNI MALTA	MALTISE

26

The Malta Business Registry Website

[←](#)
[→](#)
[↺](#)

[registry.mbr.mt/ROC/index.jsp/ROC/companyDetailsRO.do?action=involvementList&companyId=C%2079707](#)

[☆](#)

[Apps](#)
[Facebook](#)
[Timesheet - David...](#)
[Indigo](#)

Shareholders(2)

Involved Party	Address	Nationality
GIUSEPPE COLDIRO ID Card: 103387M	FLAT 8, CRYSTAL COURT MSIDA CIRCUS MSIDA MSD 1173 MALTA	MALTESE

Shares

Type	Class	Issued Shares	% Paid up	Nominal Value Per Share in EUR
Ordinary		600	30.0	1.000000

Involved Party	Address	Nationality
MARK GALEA ID Card: 344486M	52, ID DURA, TRIQ IL KOKKA, KAPPARA SAN GWANN MALTA	MALTESE

Shares

Type	Class	Issued Shares	% Paid up	Nominal Value Per Share in EUR
Ordinary		600	30.0	1.000000



27

The Malta Business Registry Website

← → ↻ registry.mbr.mt/ROC/index.jsp/ROC/companyDetailsRO.do?action=involvementList&companyId=C%2079707 ☆

Apps Facebook Timesheet - David... Indigo

Legal Representatives(2)		
Involved Party	Address	Nationality
GIUSEPPE COLDIRO ID Card: 103387M	FLAT 8, CRYSTAL COURT MSIDA CIRCUS MSIDA MSD 1173 MALTA	MALTESE
MARK GALTA ID Card: 344486M	52, ID DURA, TRIQ IL KOKKA, KAPPARA SAN GWANN MALTA	MALTESE

Judicial Representatives(2)		
Involved Party	Address	Nationality
GIUSEPPE COLDIRO ID Card: 103387M	FLAT 8, CRYSTAL COURT MSIDA CIRCUS MSIDA MSD 1173 MALTA	MALTESE
MARK GALTA ID Card: 344486M	52, ID DURA, TRIQ IL KOKKA, KAPPARA SAN GWANN MALTA	MALTESE



28

The Malta Business Registry Website

← → ↻ registry.mbr.mt/ROC/index.jsp#/ROC/companyDetailsRD.do?action=involvementList&companyId=C%2079707 ☆

Apps Facebook Timesheet - David... Indigo

Secretaries(1)		
Involved Party	Address	Nationality
MARK GALEA ID Card: 344-B6M	52, ID DURA, TRI Q IL-KOKKA, KAPPARA SAN GWANN, MALTA	MALTESE

Auditors(1)		
Involved Party	Address	Nationality
EDWARD ZAMMIT Warrant Number: 114139	5, SAN SALVATORE, TRI Q ALFRED GALICCI ST. JULIAN'S STJ 1180 MALTA	MALTESE



29

The Malta Business Registry Website

← → ↻ registry.mbr.mt/ROC/index.jsp#/ROC/documentsList.do?action=companyDetails&companyId=C%2079707 ☆

Apps Facebook Timesheet - David... Indigo

Profile	Company Details	Authorised Shares	Involved Parties	Beneficial Owners	Documents																																																																		
ROC Services Status Penalties Searches Company Search Reserved Names Search Previous Names Search Online Filing Reports	Company Registration Number C 79707 - BLONDE AND GIANT LIMITED <table border="1"> <thead> <tr> <th>Date</th><th>Document Archived</th><th>Document In File</th><th>Document Year</th><th>Comments</th><th>Pay Status</th></tr> </thead> <tbody> <tr> <td>Oct 24, 2019</td><td>Accounts</td><td>8.0</td><td>2018</td><td></td><td>None</td></tr> <tr> <td>Apr 27, 2019</td><td>Resignation of an Auditor</td><td>7.0</td><td></td><td></td><td>None</td></tr> <tr> <td>Apr 04, 2019</td><td>Annual Return</td><td>6.0</td><td>2019</td><td></td><td>None</td></tr> <tr> <td>Mar 07, 2019</td><td>Annual Return</td><td>5.0</td><td>2019</td><td></td><td>None</td></tr> <tr> <td>Nov 13, 2018</td><td>Accounts</td><td>4.0</td><td>2017</td><td></td><td>None</td></tr> <tr> <td>Aug 24, 2018</td><td>Annual Return</td><td>3.0</td><td>2018</td><td></td><td>None</td></tr> <tr> <td>Mar 23, 2018</td><td>Annual Return</td><td>2.0</td><td>2018</td><td></td><td>None</td></tr> <tr> <td>Feb 24, 2017</td><td>Unregistered Documents</td><td>N/A</td><td></td><td></td><td>None</td></tr> <tr> <td>Feb 24, 2017</td><td>Memorandum and Articles of Association</td><td>1.0</td><td></td><td></td><td>None</td></tr> <tr> <td>Feb 24, 2017</td><td>Unregistered Documents</td><td>N/A</td><td></td><td></td><td>None</td></tr> </tbody> </table>					Date	Document Archived	Document In File	Document Year	Comments	Pay Status	Oct 24, 2019	Accounts	8.0	2018		None	Apr 27, 2019	Resignation of an Auditor	7.0			None	Apr 04, 2019	Annual Return	6.0	2019		None	Mar 07, 2019	Annual Return	5.0	2019		None	Nov 13, 2018	Accounts	4.0	2017		None	Aug 24, 2018	Annual Return	3.0	2018		None	Mar 23, 2018	Annual Return	2.0	2018		None	Feb 24, 2017	Unregistered Documents	N/A			None	Feb 24, 2017	Memorandum and Articles of Association	1.0			None	Feb 24, 2017	Unregistered Documents	N/A			None
Date	Document Archived	Document In File	Document Year	Comments	Pay Status																																																																		
Oct 24, 2019	Accounts	8.0	2018		None																																																																		
Apr 27, 2019	Resignation of an Auditor	7.0			None																																																																		
Apr 04, 2019	Annual Return	6.0	2019		None																																																																		
Mar 07, 2019	Annual Return	5.0	2019		None																																																																		
Nov 13, 2018	Accounts	4.0	2017		None																																																																		
Aug 24, 2018	Annual Return	3.0	2018		None																																																																		
Mar 23, 2018	Annual Return	2.0	2018		None																																																																		
Feb 24, 2017	Unregistered Documents	N/A			None																																																																		
Feb 24, 2017	Memorandum and Articles of Association	1.0			None																																																																		
Feb 24, 2017	Unregistered Documents	N/A			None																																																																		



30

THE MEMORANDUM AND ARTICLES OF ASSOCIATION

31

MAA

In order to form a company a **Memorandum and Articles of Association** of the Company must be lodged with the Malta Business Registry, together with other relevant documentation such as certified copies of identification documents and references (when required), BO Form, Form K1, registered office consent letter, and evidence of the paid up share capital in the form of a bank deposit slip.

A **fee for registration** must also be paid (which fee depends on the amount of authorised share capital).



32

MAA

A public company must also annex to its MAA:

- The total amount or an estimate of costs payable by the company or chargeable to it by reason of its formation up to the time it is authorised to commence business.
- A description of any special advantages granted prior to the time the company is authorized to commence business to anyone who has taken part in the formation of the company or in the transactions leading to such authorization.



33

MAA

The **MAA** contains the **essential and basic conditions** upon which a company is allowed to be registered, it is the document which informs third parties dealing with the company what are its objects, sphere of activity and capital.

The **Articles of Association ("AOA")** are the regulations for the **management of the affairs of a company and conduct of its business**.

The **Memorandum** proclaims to the world the **external aspects** of the constitution of the company, the **AOA** are concerned with matters of **internal organisation**, which are primarily of interest to its own members and officers.



34

MAA

Whereas the **memorandum** is **essential** to bring the company into existence, it is **not necessary** for the **AOA** to be filed with the Malta Business Registry.

Both the memorandum and AOA, when registered, are deemed **public documents** and are open to inspection by anybody who wishes to view them.



35

MAA

The Malta Business Registry will issue a **certificate of registration** once all requirements at law have been fulfilled and all documents have been delivered.

The company will come into existence as at the date of such certificate which is final and conclusive proof of the effective **birth date** of the company.



36

MAA

The following contents must be included in a Memorandum of a company:

- Whether the company is a public or a private company;
- The name and residence and identification number of each of the subscribers;
- The name of the company;
- Email address
- The objects of the company;
- The authorised share capital;
- The issued share capital;
- Number of directors and their name, residence, and identification number;
- The manner in which the representation of the company is to be exercised and the name of the first person or persons vested with such representation;
- The name and residence of the first company secretary;
- Period (if any) fixed for the duration of the company.



37

MAA

A company shall not be registered by a **name** which:

- Is the **same or similar** (and in the opinion of the Registrar it could create confusion) to that of another company; or
- Is in the opinion of the Registrar **offensive or otherwise undesirable** (having regard to the names of partners, the business, the protection of names of individuals who are not connected with the company);
- **Has been reserved** for registration by another company.



38

MAA

A company shall not be registered by a **name** which:

- The name of a **public company** should end with the words '**public limited company**' or '**plc**'.
- The name of a **private company** should end with the words '**private limited company**'/'limited'/'ltd'.
- **Investment companies with variable share capital – SICAV** (together with plc or ltd)
- **Investment companies with fixed share capital – INVCO** (together with plc or ltd).



39

MAA

Registered office:

- The registered office stated the country in which the company is domiciled.
- It is where the company's statutory registers are to be kept and also where legal notice shall be served on the company.



40

MAA

Authorised Share Capital:

- The authorised share capital is the total amount of capital which the company is authorised to issue by its memorandum.
- The minimum amount of authorised share capital **1,164.69euro** in the case of private companies, and **46,587.47euro** in the case of public companies.



41

MAA

Issued Share Capital:

- The issued share capital is that which is actually being allotted and paid.
- The share capital must be subscribed to **be at least two persons** (except in the case of single member companies).
- The issued share capital shall be **at least 20% paid up** in the case of private companies, and **at least 25% paid up** in the case of public companies.



42

MAA

- The **objects clause** states the activities which the company is permitted to undertake.
- Any attempt by the company to enter into contracts outside the scope of the objects clause is deemed *ultra vires*.
- A company's objects clause may not simply state that the company may conduct any lawful purpose or trade in general.



43

MAA

- Upon incorporation, the promoter can either submit a copy of their AOA or elect to adopt the **First Schedule to the Companies Act** – being a specimen version of a Limited Liability Companies AOA.
- Matters covered in the AOAs usually regulate matters such as appointment of directors, directors' powers, board meeting conduct, calling and conduct of general meetings, payment of dividends, class rights of shares, issue of new shares, transfer of shares, alterations to capital structure.



44

MAA

Any **alterations to the MAA** of the company must be made by means of an **extraordinary resolution**.

However there are **exceptions to this general rule** – including changes to the registered office and company secretary (which can take place by directors resolution), and changes to directors and representation of the company and the issue and allotment of shares (which can take place by ordinary resolution).

-Every time the MAA are amended, the company's directors or secretary must within **14 days** deliver to the Registry a copy of the extraordinary resolutions together with the updated MAA. In the other cases (change in director, company secretary, issue and allotment of shares) – notice is brought to the Registry through the applicable **notification forms**.



45

MAA

Ordinary Resolution

Shall be passed by a member or members having the right to attend and vote holding in the aggregate shares entitling the holder or holders thereof to **more than fifty per cent** of the voting rights attached to shares represented and entitled to vote at the meeting, or such other higher percentage as the MAA may prescribe.

Extraordinary Resolution

First requirement: The resolution has been taken at a general meeting of which notice specifying the intention to propose the text of the resolution as an extraordinary resolution and the principal purpose thereof has been duly given; and

Second requirement: it has been passed by a member or members having the right to attend and vote at the meeting holding in the aggregate not less than **75%** in nominal value of the shares **represented and entitled to vote** at the meeting and at least **51%** or such other higher percentage as the MAA may prescribe, in nominal value of all the shares **entitled to vote** at the meeting. **(Both % tests in the case of public companies, but solely the second in the case of private companies).**



46

AN INTRODUCTION TO VARIOUS COMPANY FORMS

47

Company Forms

Transfer of Shares

- In private companies the right to transfer shares is **limited**.
- AOA usually provide for the **mode by which shares can be transferred**, if not one would refer to the First Schedule of the CA.
- The transfer of shares is restricted in virtue of the **power which is vested in the directors** of the company which may in their absolute discretion and without giving a reason – decline to register any transfer of shares.



48

Company Forms

Transfer of Shares

- Restrictions may also arise out of the MAA which provide for **shareholder qualifications** (i.e. only a certain category of persons can become members of the company).
- The most common way in which the transfer of shares is restricted is through **pre-emption rights**. Procedure in place whereby the person who wishes to transfer his shares has to firstly offer such shares to the other members of the company.



49

Company Forms

Form T

No. of Company C 12456

COMPANIES ACT, 1995
Notice of transfer or transmission of shares
Pursuant to Section 120 (3)

Name of Company Treehouse Limited

Delivered by Company Secretary

To the Registrar of Companies:

⇒ Treehouse Limited hereby gives notice in accordance with Section 120 (3) of the Companies Act, 1995 that (h) 250 Ordinary Shares (100% paid up) having a nominal value of €1.00 per share have been transferred as indicated hereunder.

Name and Address of transferor	Name and Address of transferee	No. of shares transferred / transmitted	Type and Class of shares
CHRISTINE RIZZO (I.D. NO. 2513168M) Suzanne, Zgareja Road, Rabat, Malta.	KEITH ZAMMIT (I.D. NO. 234367M) Doreen, Sirena Gate, Dagon, Majara, Malta.	250	Ordinary Shares (100% paid up)

The above transfer of shares has been registered with the company in the name of the person indicated to be the registered holder on the 14th October 2017.

Signature EDMA GALEA
Director/Secretary/Manager

Dated this 10th day of October of the year 2017

This form must be completed in typed form.
(a) State company name.
(b) State number of shares.
* Delete as necessary.



50

Company Forms

Form I

No. of Company C-34567
Companies Act (CAP. 386)


Notice that a company has become a Single-Member Company
Pursuant to Section 212(4)

Notice that a company has become a Single-Member Company

Name of Company Treehouse Limited
Delivered By Company Secretary

To the Registrar of Companies:

⁽¹⁾ Treehouse Limited hereby gives notice in accordance with 212(4) of the Companies Act, 1995 that with effect from 30th day of September of the year 2018, it has become a single member company through the acquisition of all its shares by ⁽²⁾ Daniel Gatt, 120, Virdis Maroons, Main Street, Rabat, Malta, IDB No. 34796M, as a result of transfer inter vivos/transmission cause mortis*, and that the provisions of Section 212(1) have been complied with.


 Signature
 Andrew Bernard
 Director/Secretary/Manager *

Dated this 30th day of September of the year 2018.

This form must be completed in typed form.
 (1) State company name.
 (2) State name, residence and identification document number.
 * Delete as necessary.



53

Company Forms

Form I(1)

No. of Company C-13678
Companies Act (CAP. 386)

Notice that a company has ceased to be a Single-Member Company
Pursuant to Section 212 (10)

Name of Company Treehouse Limited
Delivered By Company Secretary

To the Registrar of Companies:

⁽¹⁾ Treehouse Limited hereby gives notice in accordance with Section 212 (10) of the Companies Act, 1995 that it has ceased to be a single-member company with effect from the 20th day of April of the year 2017.


 Signature
 Andrew Bernard
 Director/Secretary/Manager *

Dated this 20th day of April of the year 2017.

This form must be completed in typed form.
 (1) State company name.
 * Delete as necessary.



54

Company Forms

Issue of Shares

- Decided upon by an ordinary resolution (if there is enough authorised share capital for such issue to take place, and if not beforehand through an extraordinary resolution the authorised share capital would need to be increased to allow for such issue to take place).
- Issue of Shares can be either for cash or non-cash consideration.



55

Company Forms

Form M

No. of Company: **C-22467**

COMPANIES ACT, 1995

Return of allotments of shares

Pursuant to Section 102 (2) (a) (b)

Name of Company: **Treehouse Limited**
 Delivered by: Company Secretary

To the **Registrar of Companies**:

Dates on which the shares were allotted (complete (a) or (b) as applicable)

a) on **24 September 2017** or

b) **from** _____

A. This section must be completed for allotments made for cash

Description of shares (ordinary/preference/other)	Ordinary	Ordinary A	Preference shares
Number of shares allotted	100	100	100
Nominal value of each share and Premium (if any) on each share	€1	€1	€1
Total amount paid on each share (proportion of nominal value/premium)	€0.20	€2	€1
Amount due and payable (if any) (proportion of nominal value/premium)	N/A	N/A	N/A

B. This section must be completed for allotments made other than for cash

Description of shares (ordinary/preference/other)	Ordinary	
Number of shares allotted	100	
Nominal value of each share and Premium (if any) on each share	€1	
Consideration to which each share is to be issued or paid (proportion of nominal value/premium)	€1.00	
Consideration for which the shares have been allotted	Capitalisation of Shareholder Loans	



56

Company Forms

C. This section must be completed in all cases

Name and Address of the applicant	Number of shares allotted		
	Ordinary	Ordinary A	Preference
MARK GALEA (I.D. 34869) "The Archer" 2000000 Street Valletta Malta	100		100
Moses Holdings Limited (C-45678) 120, 500 45678 Birkirkara Malta		100	
Andrew Bismard (I.D. 34866) 150, Central Street, Malta Malta	100		
TOTAL	200	100	100

Signature
Andrew Bismard
Director

Dated this 20th day of June of the year 2017

This form must be completed in good form.
(a) To be delivered within one month.
Delete as necessary.



MALTA
INSTITUTE
OF TAXATION

57

Allotment for Non Cash Consideration

58

Non-Cash Consideration

- May only consist of **assets capable of economic assessment**, and future personal services and in general any undertakings to perform work or supply services may not be given by way of consideration.
- The full consideration must be transferred within **5 years** from the date of decision to issue the shares.



59

Non-Cash Consideration

- A **report** on any consideration other than in cash must be drawn up before the shares are issued to the investor.
- The report must be drawn up by **one or more experts** who are independent to the company and approved the Registrar, normally the auditors of the company.
- The experts report shall include:
 - A description of each of the assets comprising the consideration
 - The methods of valuation which have been used
 - State whether the values arrived at by the application of these methods correspond at least to the number and nominal value (and to the premium if applicable)



60

Non-Cash Consideration

- The report must be delivered to the Registrar for registration **before the company is registered or before the shares are issued** and if not the Registrar can refuse to register the company or issue the shares and if so the issue shall be considered null and void.
- Following the report - the resolution approving the increase and the Form H are to be submitted.



61

Non-Cash Consideration

A company is prohibited from acquiring within two years of its authorisation to commence business, any asset belonging to a person who subscribed to the company's memorandum or who is a member of the company for a consideration, which is equivalent to at least 1/10th of the issued share capital of the company unless the following conditions are satisfied:

- Asset and consideration have been valued by an expert; (during the 6months preceding the agreement); and
- Agreement must have been approved by an ordinary resolution (before such meeting - report and proposed agreement to have been sent to members entitled to receive notice and Registrar).



62

Non-Cash Consideration

The above conditions would **not** apply if:

- Acquiring the sort of assets is part of the company's ordinary business
- Acquisitions made at instance/under supervision of court
- Stock exchange acquisitions



63

Thank you
krista@davidzahra.com



MALTA
INSTITUTE
OF TAXATION

64