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Award in Taxation
2026/2027
Module A - Lecture 8

Taxation of Companies
– Tax Shareholder
Refunds
Roderick Borg

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Date: 27th October 2026



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AGENDA

- Introduction
- MTA – Shareholder –Refunds
- FIA – Shareholder -Refunds



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Legislation

- a) Income Tax Act – Article 2
- b) Income Tax Management Act – Article 48(4) and 48(4A)
- c) Tax Refunds and Registration Procedure Rules – SL 372.25



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Dividend – Article 2

‘Dividend’ includes –

- a) Bonus shares
- b) Any distribution made by a company, to its partners or shareholders, as the case may be, and any amounts credited to them as partners or shareholders as the case may be; and
- c) Any distribution made by a co-operative society to its members and any amount credited to them as members, including any patronage refund, bonus certificate or bonus shares, made, paid or allotted in accordance with the law regulating such societies for the time being in force in Malta;



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Dividend Certificate– Article 59(5)

Every company shall upon payment of a dividend whether tax is deducted therefrom or not, furnish the shareholder with a dividend certificate:

Provided that a dividend certificate in respect of a dividend paid out of profits earned in the accounting period in which the dividend is paid need not be furnished at the time of payment of a dividend but shall be so furnished as soon as practicable after the end of the accounting period in which the dividend is paid and in any such event shall be furnished by not later than the tax return date of the year of assessment relative to that accounting period



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Dividend Certificate– Article 59(5)

Following information:

The gross taxed amount of the distributed profits, in respect of each taxed account, before deduction of any tax chargeable in the company in respect of such distributed profits

The total tax chargeable on the company showing separately:

- a) the Malta tax payable after all reliefs of double taxation have been given and all tax credits deducted
- b) the foreign tax in respect of which relief of double taxation has been given under the double taxation has been given under the double taxation relief, relief in respect of Commonwealth income tax, and unilateral relief provisions;
- c) the amount which has been set off against Malta tax pursuant to a claim for relief of double taxation under the FRFTC provisions;
- d) the amount and description of tax credits deducted from the tax chargeable on the company;



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Dividend Certificate– Article 59(5)

The amount of the distributed profits from each taxed account

The tax payable on distribution pursuant to articles 62,67,67a which shall be shown separately

The net amount of the dividend paid to the shareholder

Where the tax paid or payable by the company on the profits so being distributed is affected by relief of double taxation, the rate, hereinafter in this Act referred to as "the net Malta rate", of the tax paid or payable by the company after taking relief of double taxation into account

Where the profits being distributed have been exempt from tax and the distribution of such profits by the company is exempt from tax in the hands of the shareholder, a note quoting the relevant law giving such exemption;



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Dividend Certificate– Article 59(5)

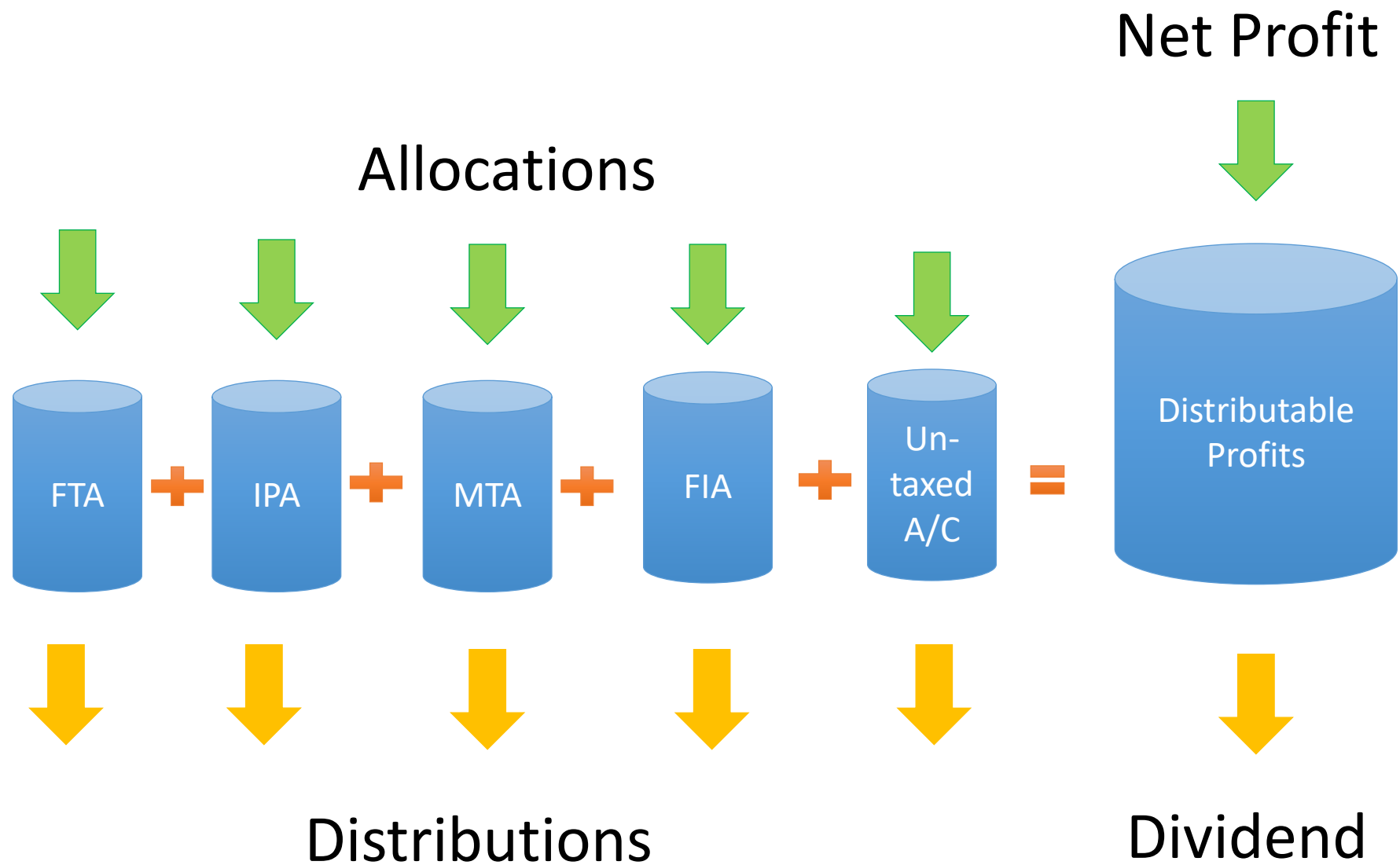
where the profits being distributed by a company(the first company) include a dividend received from another company (the second company), in respect of which the first company is entitled to make a claim for a refund under article 48(4) of the Income Tax Management Act, in respect of the tax paid thereon by the second company, a statement declaring that the first company is entitled to make such a claim in respect of those distributed profits

an analysis of the profits out of which the dividend is paid distinguishing between:

- (1) profits which are chargeable to tax in the year of assessment 2007 and previous years of assessments; and
- (2) profits which are chargeable to tax in the year of assessment 2008 and subsequent years of assessment showing separately the amount of such profits pertaining to each such year of assessment

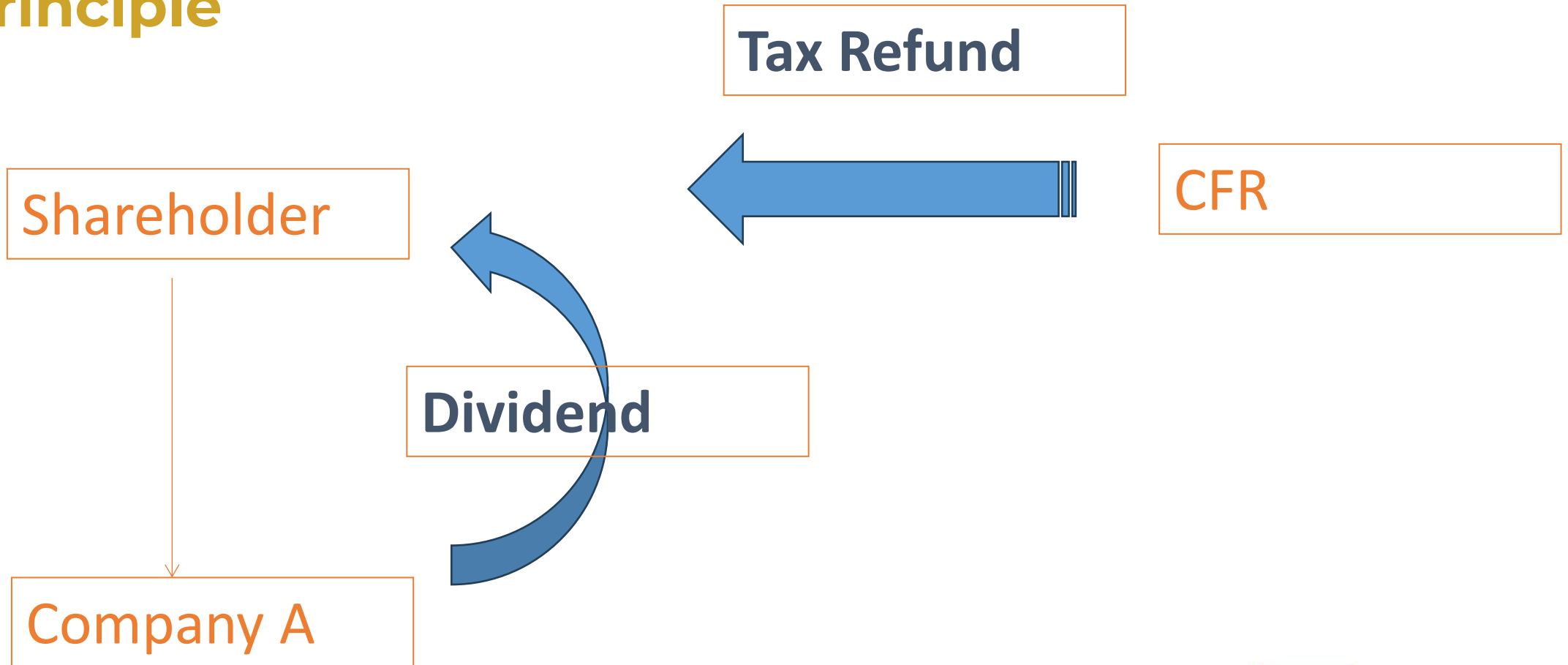


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Principle



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Tax Refund

- Depends on the tax account out of which profit is distributed
- Depends on whether double tax relief has been claimed
- Depends on the tax treatment adopted i.e. PEX
- Calculation may vary depending on type of double tax relief claimed
- Applicable to MTA and FIA dividend distributions
- Depends on the nature of the underlying profits distributed i.e.. 'passive interest or royalties'



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Passive interest or royalties – Article 2

- Shall mean interest or royalty income which is not derived, directly or indirectly, from a trade or business, where such interest or royalties have not suffered or suffered any foreign tax, directly, by way of withholding, or otherwise, at a rate of tax which is less than five per cent (5%)
- Cumulative test – trade + foreign tax

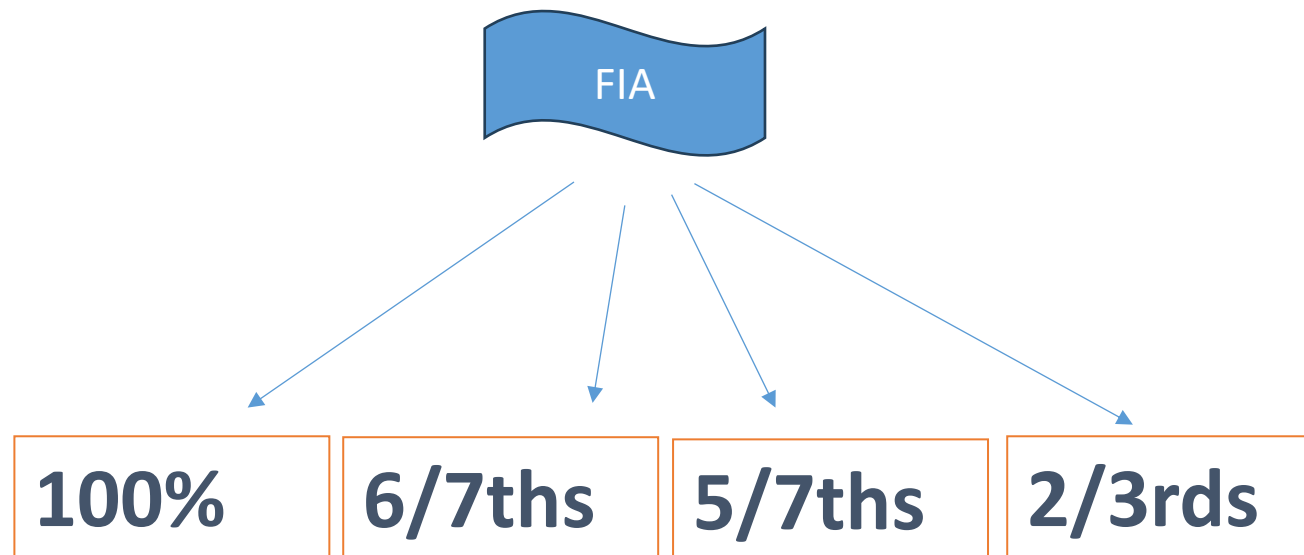
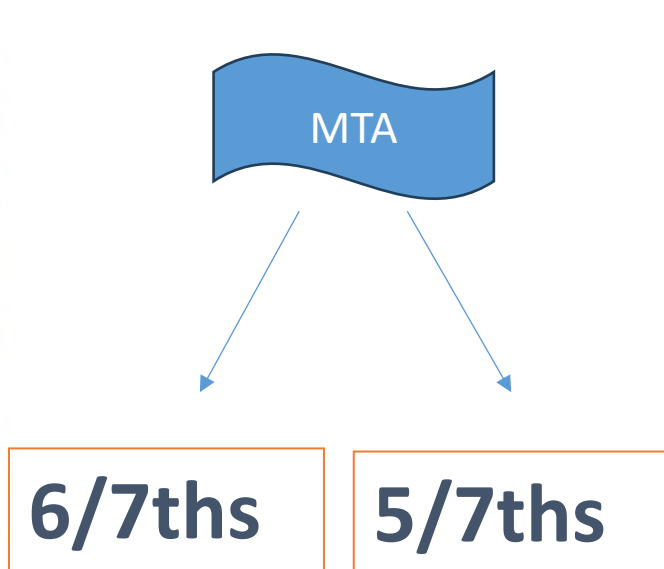


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MTA & FIA

Shareholder refunds

Refunds



MTA & FIA – Shareholder Refunds – Article 48(4A) – 6/7ths Refund

- With effect from 1st January 2007 a person, in receipt of a dividend paid to him by a company registered in Malta from profits allocated to the Maltese taxed account or its foreign income account, may claim a refund of six-sevenths of the Advanced Company Income Tax pertaining to those profits distributed to him by way of such dividend, provided that such person is for such purpose registered in such manner as may be prescribed



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MTA & FIA – Shareholder Refunds – Article 48(4A)-5/7ths Refund

- Provided that where the dividend is paid out of profits:-
 - (i) consisting of passive interest or royalties **or** dividends received from a participating holding in a body of persons which does not satisfy the conditions referred to in the proviso to article 12(1)(u) of the Income Tax Act the rate of refund shall be of five-sevenths of the said Advance Company Income Tax



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MTA & FIA – Shareholder Refunds – Article 48(4A)-5/7ths Refund

- Provided that where the dividend is paid out of profits:-
 - (ii) allocated to the foreign income account and in respect of which profits the company has claimed relief of double taxation no claim for refund may be made under this sub-article



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MTA & FIA – Shareholder Refunds – Limitation

- a tax refund payable in terms of this sub article shall in no case exceed the amount of tax actually paid by the company to the Commissioner on the profits distributed out of the Maltese taxed account or the foreign income account



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Advanced Company Income Tax – Article 42B

- Upon the payment of a dividend from profits allocated to the foreign income account or the Maltese taxed account the tax which a company is entitled to deduct in terms of article 59 of the Income Tax Act in respect of such dividend together with any additional tax payable in terms of article 44(1)(a), after deducting any tax credits relative to the profits out of which the dividend is paid excluding any tax credits relative to a claim for relief of double taxation under the articles referred to in articles 74(a), (b) and (c) of the Income Tax Act, shall be referred to as Advance Company Income Tax:
- Provided that with effect from year of assessment 2015, the Advance Company Income Tax shall be determined before deducting tax credits which such company may deduct from its tax otherwise payable other than the tax credit referred to in article 74(d) of the Income Tax Act.



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MTA

Shareholder refunds

MTA- Tax Refund

- Double taxation relief taken into account
- The concept of passive interest or royalties relevant
- The effective tax can be zero



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MTA- Tax Refund – 6/7th Refund

<u>Profit and Loss</u>				<u>Tax Accounting</u>							
						FTA	IPA	MTA	UA		R/E
Income	100										
Tax	35			Direct Allocation		0		65			65
Profit after tax	65										
							0	0	65	0	
Tax refund 6/7	30										
Tax effect	5%										



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MTA- Tax Refund – 6/7th Refund

<u>Profit and Loss</u>		<u>Tax Accounting</u>							
				FTA	IPA	MTA	UA		R/E
Income	100								
Tax chargeable	35		Direct Allocation	0		65			65
DTR	10								
Tax payable	25								
Profit after tax	65								
				0	0	65	0		65
Tax refund 6/7	25								
Tax effect	0%								



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MTA- Tax Refund - 5/7th Refund

<u>Profit and Loss</u>		<u>Tax Accounting</u>					
			FTA	IPA	MTA	UA	R/E
Income	100	Direct Allocation					
Tax	35		0		65		65
Profit after tax	65						
			0	0	65	0	65
Tax refund 5/7	25						
Tax effect	10%						



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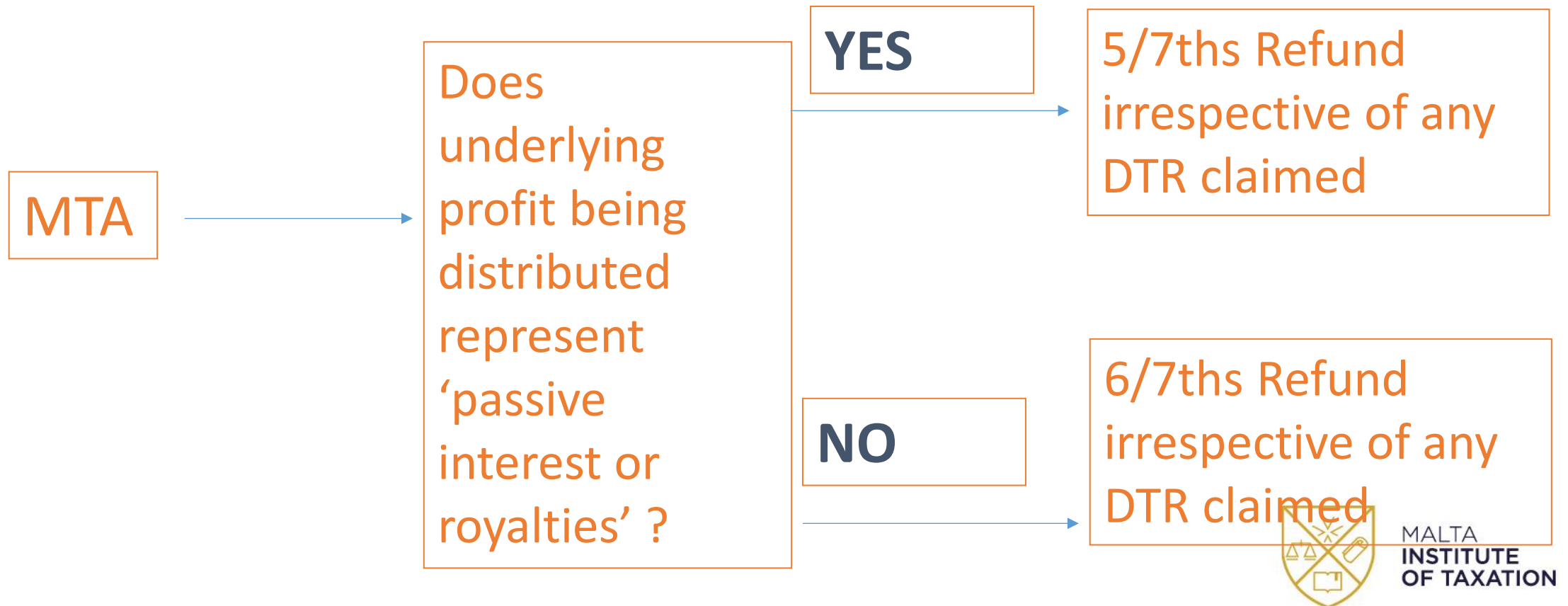
MTA- Tax Refund – 5/7th Refund

Profit and Loss		Tax Accounting							
				FTA	IPA	MTA	UA		R/E
Income	100								
Tax chargeable	35		Direct Allocation	0		65			65
DTR	10								
Tax payable	25								
Profit after tax	65								
				0	0	65	0		65
Tax refund 5/7	25								
Tax effect	0%								



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MTA- Tax Refund - Summary



FIA

Shareholder refunds

FIA - Tax Refund – Article 48(4) – 2/3rds refund

- A person in receipt of a dividend paid to him from profits allocated to the foreign income account....may claim a refund of two thirds of the Malta tax paid by the company in respect of those profits distributed to him by way of such dividend...



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FIA - Tax Refund – Article 48(4) – 100% refund

- ...where profits distributed as aforesaid out of the foreign income account derive from a participating holding or from the disposal of such holding, a claim may be made a refund of all the Malta tax paid in respect of those profits:



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FIA - Tax Refund – Article 48(4) – 100% refund

- Provided that with respect to a claim for refund relative to dividends derived from a participating holding acquired on or after 1 January 2007 the refund contemplated by this paragraph shall only be due when the conditions set out in either paragraph (i) or paragraph (iii) below are satisfied
- (i) and (iii) = anti avoidance provisions



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FIA - Tax Refund – Article 48(4)- ‘Malta tax paid’

- The tax actually paid by the company to the Commissioner on the profits distributed out of the foreign income account
- Provided that as regards claims made relative to the payment of dividends from profits allocated to the foreign income account and brought to charge to tax in year of assessment 2008 and subsequent years of assessment the expression ‘Malta tax paid’ shall for the purpose of determining the amount of the refund, mean the tax actually paid by the company to the Commissioner on the profits so allocated **plus the amount, if any, by which such tax has been reduced by a claim of relief of double taxation under the articles referred to in articles 74(a), (b) and (c) of the Income Tax Act.**

Treaty, Unilateral and Commonwealth
relief



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FIA - Tax Refund – Article 48(4) - Limitation

- Provide further that notwithstanding the previous proviso, a tax refund payable in terms of this sub-article shall in no case exceed the amount of tax actually paid by the company to the Commissioner on the profits distributed out of the foreign income account.....



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Refund calculated on the tax chargeable or the tax payable in Malta?

- Where the distributing company that paid Maltese tax claimed the FRFTC, the refund is 2/3rds of the tax actually paid in Malta
- Where the distributing company that paid Maltese tax claimed any double tax relief other than the FRFTC, the 2/3rds 5/7ths and 6/7ths is calculated on the Malta tax chargeable – the amount before deducting the DTR
- Refund cannot exceed the Maltese income tax paid by the distributing company



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FIA- Tax Refund – DTR – 2/3rd Refund

<u>Profit and Loss</u>		<u>Tax Accounting</u>					
			FTA	IPA	FIA	UA	R/E
Income	100.00	Direct Allocation					
			0		65		65
Chargeable income	100.00						
Tax	35.00						
DTR	10.00						
Tax Payable	25.00		0	0	65	0	65
Profit after tax	65.00						
Tax refund (2/3 rds)	23.33						
Tax effect	1.67%	Foreign tax		10%			



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FIA- Tax Refund – No DTR – 2/3rd or 6/7th Refund

<u>Profit and Loss</u>		<u>Tax Accounting</u>						
				FTA	IPA	FIA	UA	R/E
Income	100.00							
			Direct Allocation	0		65		65
Chargeable income	100.00							
Tax Payable	35.00							
				0	0	65	0	65
Profit after tax	65.00							
Tax refund (2/3 rds)	23.33							
Tax refund (6/7ths)	30.00							
Tax effect (2/3rds)	11.67%							
Tax effect (6/7ths)	5%							



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FIA- Tax Refund – No DTR – 2/3rd or 5/7th refund

<u>Profit and Loss</u>		<u>Tax Accounting</u>					
			FTA	IPA	FIA	UA	R/E
Income	100.00	Direct Allocation	0		65		65
Chargeable income	100.00						
Tax Payable	35.00						
			0	0	65	0	65
Profit after tax	65.00						
Tax refund (2/3 rds)	23.33						
Tax refund (5/7ths)	25.00						
Tax effect (2/3rds)	11.67%						
Tax effect (5/7ths)	10%						



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FIA- Tax Refund – FRFTC– 2/3rd refund

<u>Profit and Loss</u>			<u>Tax Accounting</u>					
				FTA	IPA	FIA	UA	R/E
Income	100							
FRFTC	25							
Chargeable income	125							
Tax	43.75		Direct Allocation			81.25		81.25
FRFTC	25							
Tax payable	18.75							
Profit after tax	81.25			0	0	81.25	0	81.25
Tax refund (2/3rds)	12.50							
Tax effect	6.25%							



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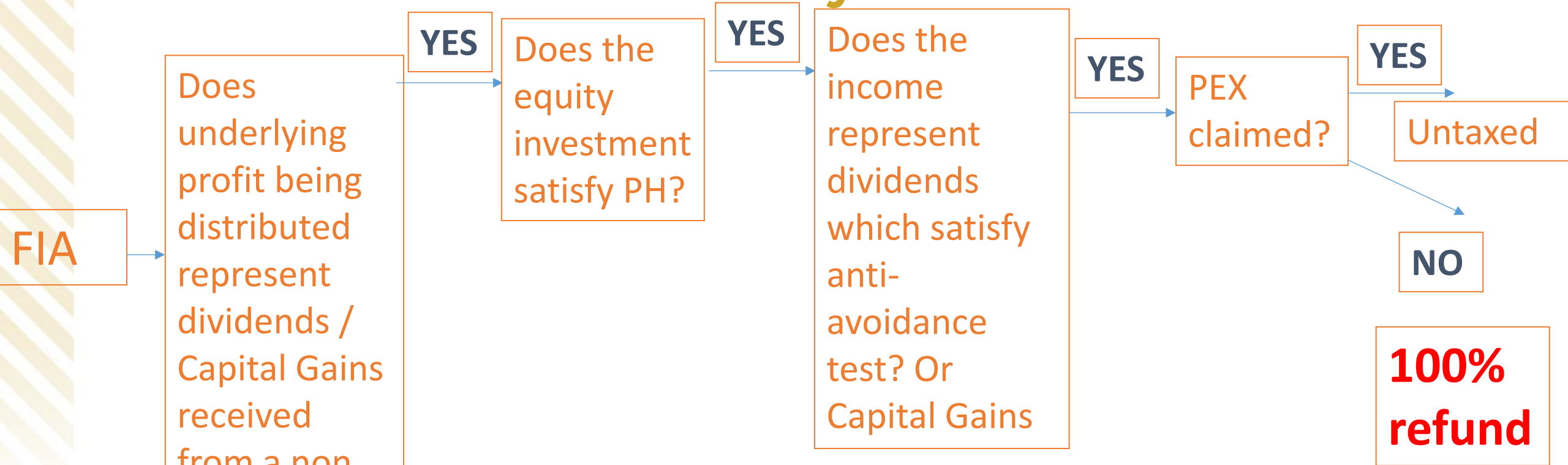
FIA- Tax Refund – FRFTC– 2/3rd refund

<u>Profit and Loss</u>		<u>Tax Accounting</u>					
			FTA	IPA	FIA	UA	R/E
Income	100.00						
FRFTC	21.17						
	121.17						
Expenses	50.00						
Chargeable income	71.17						
Tax	24.91	Direct Allocation			46.26		46.26
FRFTC	21.17						
Tax payable	3.74						
Profit after tax	46.26		0	0	46.26	0	46.26
Tax refund (2/3rds)	2.49						
Tax effect	2.49%						



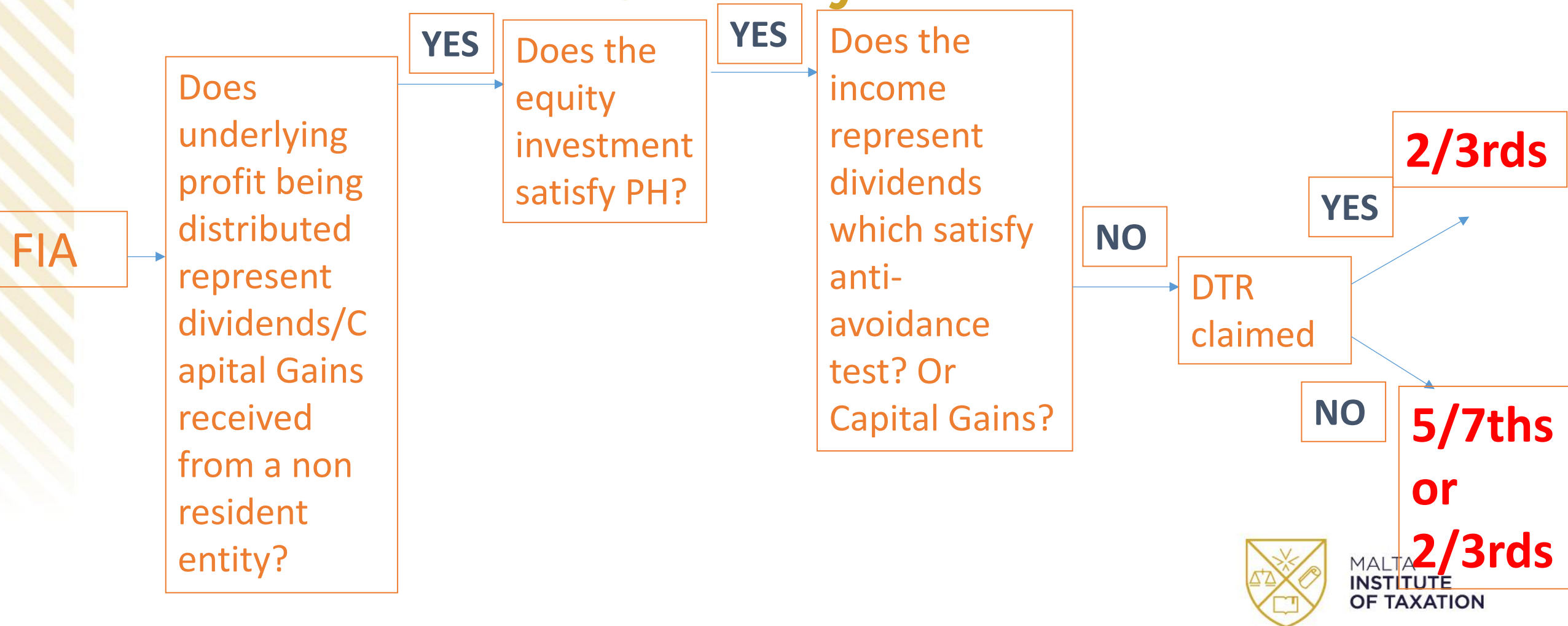
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FIA- Tax Refund - Summary



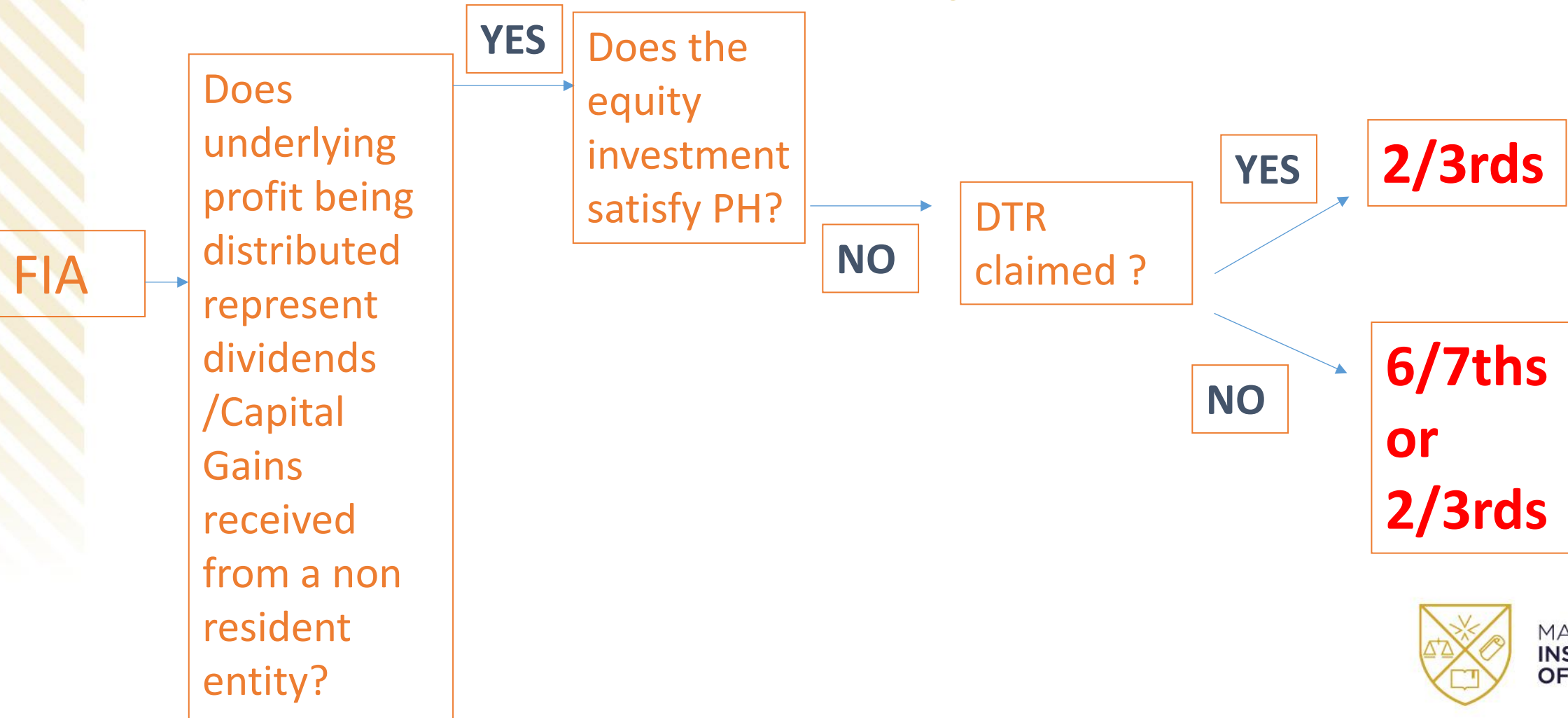
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FIA- Tax Refund - Summary



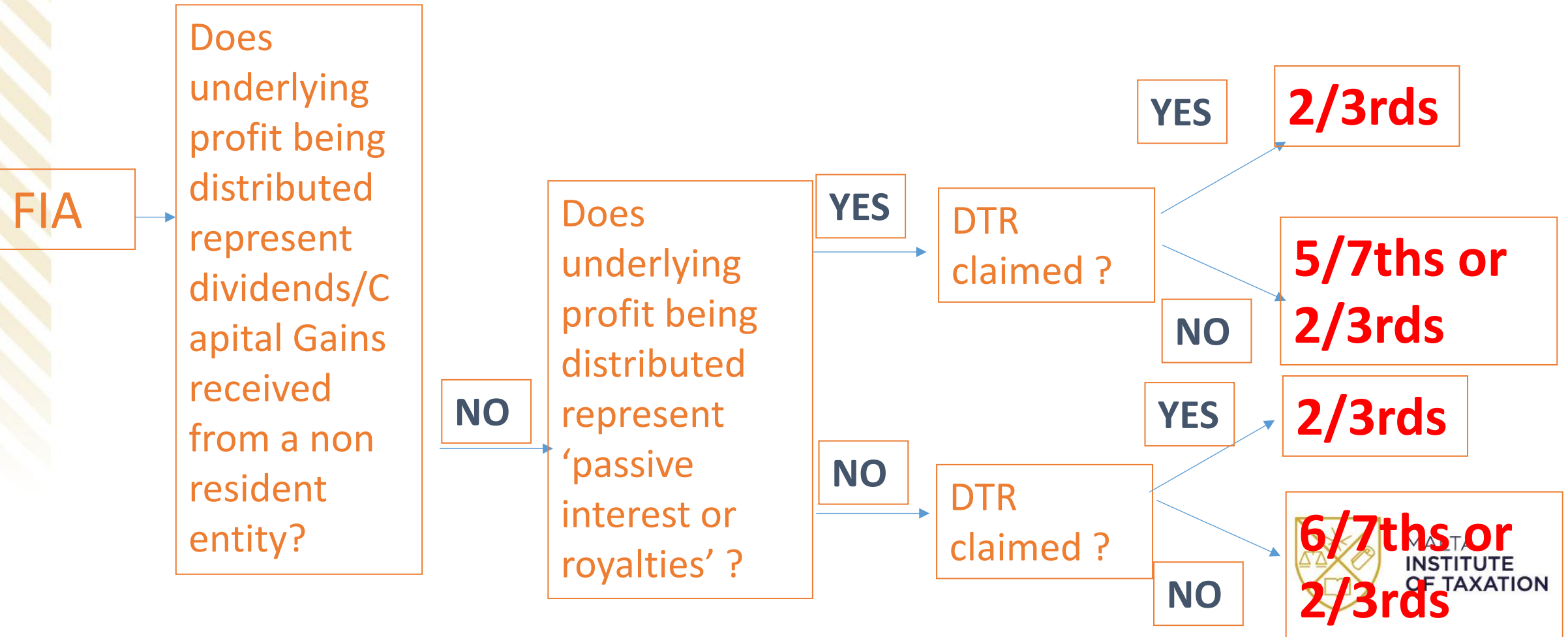
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FIA- Tax Refund - Summary



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FIA- Tax Refund - Summary



Administration

Shareholder refunds

Timing – Article 48(5)

- A claim for refund pursuant to subarticle (4) or sub-article (4A) shall be made not later than four years from the date from which the amount of tax is eligible for refund



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Dividend Certificate and Non taxation of refund – Article 48(6)

- The Commissioner make payment of the refund under sub-article (4) or sub-article (4A) on being satisfied as to the correctness of the claim made and upon receipt of a certificate issued by the company paying the dividend under the provisions of article 59(5) of the Income Tax Act. Such refund, unless otherwise provided in the Income Tax Acts shall not be taxable



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Shareholder refund and other refund – Article 487(a)/(c)

- (a) Where claim for refund has been made under the provisions of sub-article (4) and sub-article (4A) in respect of Malta tax paid on distributed profits as properly shown in the relevant dividend certificate, no person shall be entitled to a further refund under those sub-articles or to a refund under any other provisions of the Income Tax Acts in relation to the Malta tax paid on such distributed profits:
- (c) where a claim for refund of the Malta tax paid has been made under sub-article (1) in respect of the Malta tax paid on distributed profits as properly shown in the relevant dividend certificate, no person shall be entitled to a further refund under the provisions of sub article (4) or sub article (4A) in relation to the Malta tax paid on such distributed profits.



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Shareholder refund and other refund – Article 48(7)(b)

- (b) Where a claim for refund has been made under the provisions of sub article (4) and sub-article (4A) in respect of Malta tax paid on distributed profits as properly shown in the relevant dividend certificate, notwithstanding the provisions of article 60 of the Income Tax Act, such Malta tax paid which a company had deducted or is entitled to deduct under article 59 from such dividend, shall when such dividend is included in the chargeable income of any person, including a company receiving the said dividend or a person holding directly or indirectly shares in such company which receives a dividend out of such profits, be set off, for the purposes of collection, only against the tax charged on that dividend.



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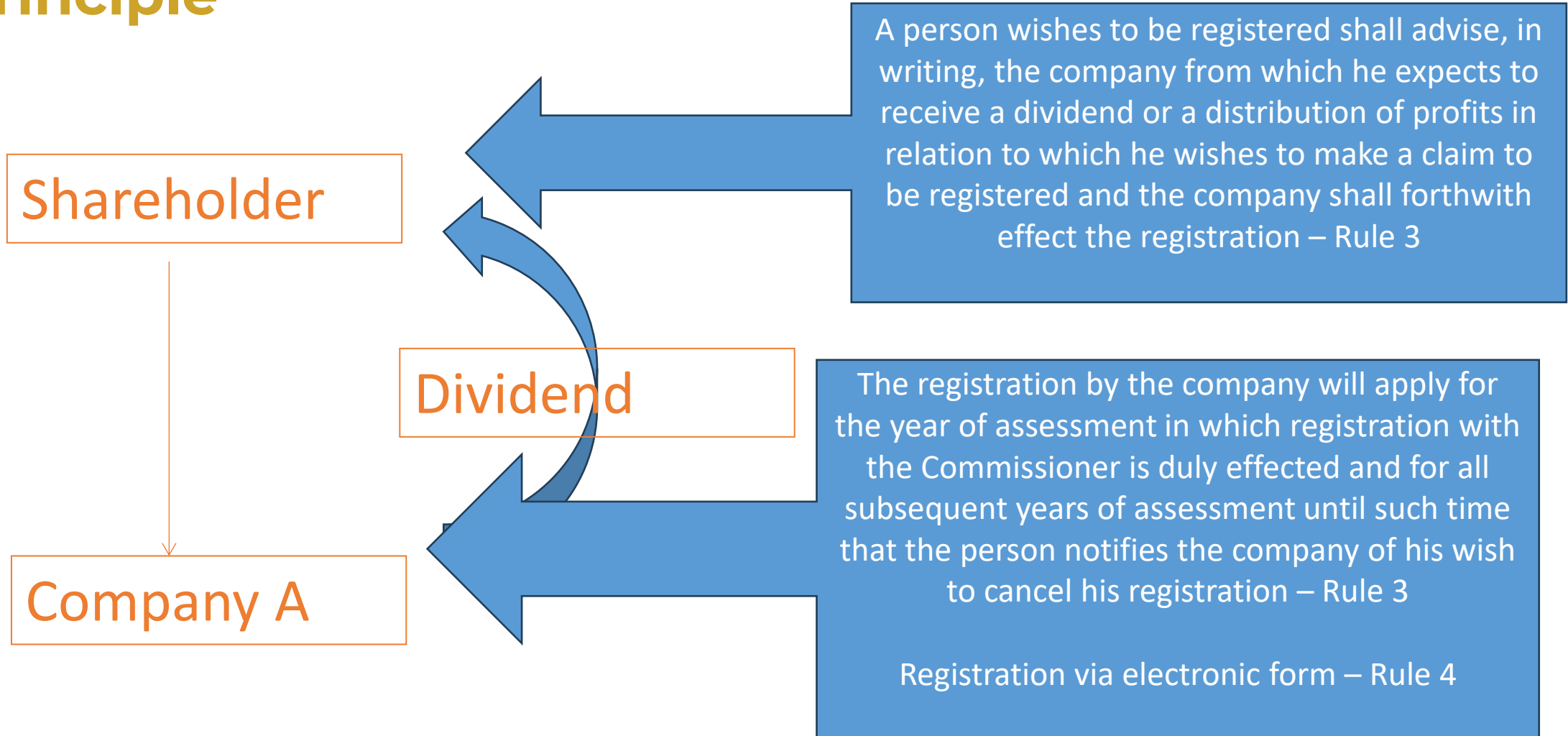
Entitlement– Rule 2 – Tax Refunds and Registration Procedure Rules

- Any person,.....making a claim pursuant to article 48(4) or pursuant to article 48(4A) shall, in order to be entitled to make such a claim, be registered with the Commissioner in accordance with these rules



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Principle



Time Limit – Rule 5

- A person shall only be entitled to make a claim...if, at the time of making the claim, he is registered in terms of these rules and that registration was made not later than the date on which the first provisional tax payment instalment of the company, for the relevant year of assessment falls due or the date on which the company ... makes a payment of tax in respect of that year of assessment whichever is the earlier:
- the registration....shall be made not later than the tax settlement date for that year of assessment of the company...



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Time Limit – Rule 6

- Any changes to the details of a registration made in terms of these rules, including any change to the profit entitlement where applicable shall be notified to the Commissioner in such manner as the Commissioner may determine.



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Cancellation– Rule 6

- Any person who wishes to cancel his registration....shall inform in writing such company....and the company ...shall de-register him by completing such forms as the Commissioner may determine and delivering the said form to the Commissioner in such manner as the Commissioner may determine. Such de-registration shall have effect upon its notification to the Commissioner.



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Tax Refund Application– Rule 8

- A claim for refund shall be made on such form as the Commissioner may determine and shall be delivered to the Commissioner in such manner as the Commissioner may determine.



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Tax Refund Application



Refund Claim Form - PDF Version.pdf



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Penalties – Article 48(10)

- If any person claims a refund in terms of sub article (4) or sub-article (4A) when that person was not entitled to the said refund such person shall be liable to pay a penalty equal to the amount of the refund claimed and if the refund was in fact paid to him that person shall in addition be liable to repay the tax so refunded and to additional tax of seven per cent per month or part thereof commencing from the month in which the said refund was paid to him up to the month in which he repaid the tax refunded and any payment made by the said person in respect of the tax repayable by him in terms of this paragraph shall first be applied against the additional tax due thereon
- Provided that the provisions of this sub-article shall not be applicable when the person referred to therein proves that he did not know and could not reasonably have known that he was not entitled to such a tax refund.



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Questions

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