



MALTAENTERPRISE

INCENTIVE GUIDELINES

Family Business: Transfer of Ownership

Issue Date: May, 2021

Version: 1.0

<https://www.maltaenterprise.com/support>

1. Overview

- 1.1 The purpose of this incentive is to assist and facilitate family businesses to transfer their business from one generation to the next by providing a reduction of duties charged for the transfer of property and shares.
- 1.2 In Malta, the Family Business Act (CAP 565 of the Laws of Malta) clearly defines a ‘family business’. The legislation establishes how family businesses should be structured to fit within the definition established in the Act, indirectly providing a framework to help them pursue succession and an effective transfer of the family business. The legislation establishes operational benchmarks so that family businesses can further achieve their aims.
- 1.3 This Family Business Transfer of Ownership scheme shall support family businesses to transfer their business to other owners who are not family members in the same family according to the terms and conditions stipulated in the Duty on Documents and Transfers Act (CAP 364 of the Laws of Malta).

2. Am I eligible?

- 2.1 To be eligible for support you must meet all the criteria established below:
- a. The applicant must be registered as a Family Business with the Family Business Office.
 - b. The applicant must not have any arrears related to VAT, Income Tax, and Social Security.
 - c. The applicant must not be engaged in activities specifically excluded under the *de minimis* Regulation (vide Section 8).

3. What is the maximum support?

- 3.1 The Family Business Transfer of Ownership scheme is a *de minimis* measure in the form of a reduction in duties incurred when transferring properties or shares. The total amount of *de minimis* aid granted to a single undertaking shall not exceed the amount of €200,000 (or €100,000 in the case of single undertakings performing road freight transport for hire or reward) over any period of three consecutive fiscal years.
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4. What costs are eligible?

4.1 The Family Business Transfer of Ownership Scheme is designed to support registered family businesses to transfer their business from one generation to the next.

4.2 The below table provides details of eligible costs and expenses covered by the Corporation.

Eligible Expenditure	Maximum Limits and Notes
Transfer duty of immovable property	<p>Transfer duty of immovable property that had been used for a period of at least three (3) years.</p> <p>Duty shall be charged on the first five hundred thousand euro (€500,000) of the value of the property transferred at the rate of three euro and fifty cents (€3.50) per one hundred euro (€100).</p> <p>The maximum amount to be claimed as a reduction on duty on the property being transferred is capped at €7,500.</p>
Transfer of Shares	<p>The assessment of duty chargeable in the case of an individual transfer of shares or interest in a partnership, trust or foundation to family members.</p> <p>Transfer of shares or interests in a partnership, trust or foundation held in a family business which carries on a business, no account shall be taken of the first one hundred and fifty thousand euro (€150,000).</p> <p>The maximum amount to be claimed as a reduction on duty is capped at €7,500.</p>

5. How do I apply?

5.1 The application form which may be downloaded from the Corporation's or the Family Business office's website and any other additional documentation should be submitted through the Corporation's client portal. First time applicants will be required to register on the client portal before they can submit their application.

6. By when can I submit an application?

6.1 The applications may be submitted until Thursday 16th December, 2021.

7. What happens after I apply?

- 7.1 Once application is submitted to the Corporation, the submission will be reviewed in line with the terms and conditions of these Incentive Guidelines. The Family Business Office and the Corporation have full discretion on the approval of applications.
- 7.2 If the beneficiary is confirmed to be a Family Business registered with the Family Business Office and the application is eligible in terms of these Guidelines, the Corporation will issue a letter of approval specifying the terms and conditions of the approval. This letter will establish the maximum reduction in duty the Commissioner for Revenue may grant to the beneficiary under the applicable provision of the (Duty on Documents and Transfers Act (CAP 364 of the Laws of Malta).

8. State Aid Rules and Obligations

8.1 Applicable State Aid

- 8.1.1 If the submitted application is approved, the beneficiary will benefit from *de minimis* State Aid in line with *Commission Regulation (EU) No 1407/2013 of 18 December 2013 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to de minimis aid*, as amended by *Commission Regulation (EU) 2020/972 of 2 July 2020 amending Regulation (EU) No 1407/2013 as regards its prolongation and amending Regulation (EU) No 651/2014 as regards its prolongation and relevant adjustments (the de minimis Regulation)*.
- 8.1.2 *Commission Regulation (EU) No 1407/2013* allows a 'single undertaking' to receive an aggregate maximum amount of *de minimis* aid of €200,000 under all *de minimis* aid measures, over a period of three consecutive fiscal years. This aggregate maximum amount threshold applies in principle to all economic sectors with the exception of a 'single undertaking' performing road freight transport for hire and reward for which a lower *de minimis* threshold of €100,000 over any period of three fiscal years applies. The agriculture and fisheries sectors are subject to different thresholds and criteria. For the purpose of this scheme, the term 'single undertaking' shall be defined as per *Commission Regulation EU No 1407/2013 of 18 December 2013 on the application of the Treaty on the Functioning of the European Union to de minimis aid*. This period covers the fiscal year concerned as well as the previous two fiscal years. 'Fiscal year' means the fiscal year as used for tax purposes by the undertaking concerned.
- 8.1.3 The maximum *de minimis* threshold would include all State aid granted under this scheme and any other State aid measure granted under the *de minimis* rule, including that received from any entity other than Malta Enterprise Corporation. Any *de minimis* aid received in excess of the established threshold will have to be recovered, with interest from the undertaking receiving the aid.
- 8.1.4 The *de minimis* declaration form¹ must be filled in and submitted together with the application form.

¹ The *de minimis* Aid Declaration may be downloaded from <http://maltaenterprise.com/files/de-minimis-declaration-form-2021>

8.2 Applicability of the Aid

8.2.1 Assistance approved under this aid scheme is NOT:

- a) Aid granted to undertakings active in the fishery and aquaculture sector, as covered by Council Regulation (EC) No. 104/2000²;
- b) Aid granted to undertakings active in the primary production of agricultural products;
- c) Aid granted to undertakings active in the sector of processing and marketing of agricultural products, in the following cases:
 - i. Where the amount of the aid is fixed on the basis of the price or quantity of such products purchased from primary producers or put on the market by the undertakings concerned;
 - ii. Where the aid is conditional on being partly or entirely passed on to primary producers;
- d) Aid to export-related activities towards third countries or Member States, namely aid directly linked to the quantities exported, to the establishment and operation of a distribution network or to other current expenditure linked to the export activity;
 - e) Aid contingent upon the use of domestic over imported goods;
 - f) Aid for the acquisition of road freight transport vehicles granted to undertakings performing road freight transport for hire or reward.

8.2.2 Where an undertaking is active in the sectors referred to in points (a), (b) and (c) above as well as in other sectors falling within the scope of the *de minimis* Regulation, the Corporation will ensure a separation of the activities or distinction of costs. Only those sectors eligible for assistance under the *de minimis* Regulation will be assisted. Activities in the sectors excluded from the scope of the *de minimis* Regulation will not benefit from assistance under this aid scheme.

8.3 Cumulation

8.3.1 *De minimis* aid granted in accordance with the *de minimis* Regulation may be cumulated with *de minimis* aid granted in accordance with Commission Regulation (EU) No 360/2012 up to the ceiling laid down in that Regulation. It may be cumulated with *de minimis* aid granted in accordance with other *de minimis* regulations up to the relevant ceiling laid down in Article 3(2) of the *de minimis* Regulation.

8.3.2 *De minimis* aid shall not be cumulated with State aid in relation to the same eligible costs or with State aid for the same risk finance measure, if such cumulation would exceed the highest relevant aid intensity or aid amount fixed in the specific circumstances of each case by a block exemption Regulation or a decision adopted by the Commission. *De minimis* aid which is not granted for or attributable to specific eligible costs may be cumulated with other State aid granted under a block exemption Regulation or a decision adopted by the Commission.

² Council Regulation (EC) No 104/2000 of 17 December 1999 on the common organisation of the markets in fishery and aquaculture products (OJ L 17, 21.1.2000, p. 22).

9. Further Information

9.1 This incentive has a budget of one million euro (€1,000,000)

9.2 Useful Definitions

Applicant: An Applicant is an Undertaking that has submitted a complete application for support under this scheme to the Corporation.

Beneficiary: A Beneficiary is an Undertaking that is in possession of a Letter of Approval issued by the Corporation.

Corporation / Malta Enterprise: The terms Corporation and Malta Enterprise shall mean Malta Enterprise Corporation as established by the Malta Enterprise Act (CAP 463 of the Laws of Malta)

Family Business: A Family Business is an undertaking as defined in Article 3 of the Family Business Act (CAP 565 of the Laws of Malta) that is duly registered as a Family Business and holds an updated certificate issued by the Regulator for Family Businesses.

Regulator for Family Businesses: The Regulator for Family Businesses refers to the office established by Part 3 of the Family Business Act (CAP 565 of the Laws of Malta).

Family Member: means the family business owner's spouse, ascendants, descendants in the direct line and their relative spouses, brothers or sisters and their descendants or as the Minister may prescribe.

Spouse: means a spouse in terms of the Marriage Act (CAP 255 of the Laws of Malta) and a partner in terms of the Civil Unions Act (CAP 530 of the Laws of Malta).

Trusts: means a trust in terms of the Trusts and Trustees Act (CAP 331 of the Laws of Malta).

Private Foundations: means those foundations established for a private interest and registered or otherwise recognised as legal persons in terms of the Second Schedule to the Civil Code (CAP 16 of the Laws of Malta).

Owner: means the ultimate beneficiary, natural person who, directly or indirectly, has a shareholding or other interest in a family Business.

Letter of Approval: A Letter of Approval is a document establishing the support granted to an undertaking and stipulating any terms and conditions deemed appropriate by the Corporation.

Single Undertaking:

Single Undertaking includes, for the purposes of the de minimis Regulation, all enterprises having at least one (1) of the following relationships with each other:

1. one (1) enterprise has a majority of the shareholders' or members' voting rights in another enterprise;
2. one (1) enterprise has the right to appoint or remove a majority of the members of the administrative, management or supervisory body of another enterprise;
3. one (1) enterprise has the right to exercise a dominant influence over another enterprise pursuant to a contract entered into with that enterprise or to a provision in its memorandum or articles of association;
4. one (1) enterprise, which is a shareholder in or member of another enterprise, controls alone, pursuant to an agreement with other shareholders in or members of that enterprise, a majority of shareholders' or members' voting rights in that enterprise.

Enterprises having any of the relationships referred to in points (1) to (4) above through one or more other enterprises shall also be considered to be a single undertaking.

The same Regulation states that a group of linked enterprises is considered as one single undertaking for the application of the de minimis rule, but that enterprises which have no relationship with each other except for the fact that each of them has a direct link to the same public body or bodies are not treated as being linked to each other. The specific situation of enterprises controlled by the same public body or bodies, which may have an independent power of decision, is therefore taken into account³.

³ Commission Regulation (EU) No 1407/2013 of 18th December 2013, as amended.

10. Contacts

For guidance on the filling in of the application form kindly contact Business 1st on 144 during office hours.

Duly filled applications must be submitted to Malta Enterprise via the Corporation's Client Portal <https://clientportal.maltaenterprise.com/login>

For further information and guidance kindly contact the Family Business Office on -

Phone: +356 21497970

Email: familybusinessact.mei@gov.mt

<https://www.familybusiness.org.mt/>
