

## Incentive Guidelines

### Restoration of Commercial Property (Tax Credits)



Ministry of Finance, the  
Economy and Investment



Ministry for Tourism, the  
Environment and Culture



**MALTA**ENTERPRISE

Malta Enterprise



**MEPA**  
Malta Environment and  
Planning Authority

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<http://support.maltaenterprise.com>



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# 1. Introduction

## 1.1 Scope

This scheme aims to promote the restoration, conservation and maintenance of Grade 1 and Grade 2 scheduled buildings and buildings within Urban Conservation Areas (UCAs) that are or shall be used as commercial premises.

Companies that commission such works shall qualify for a tax credit of up to:

- €20,000 covering 20% of eligible costs for the restoration, conservation or maintenance of a building in a UCA; and
- €30,000 covering 30% for the restoration, conservation or maintenance of a Grade 1 or Grade 2 scheduled building.

## 1.2 Duration of the Incentive

This incentive shall be available until the 31st December 2013, yet may be closed earlier if the allocated funds of €2 Million are fully committed at an earlier date.

Malta Enterprise may periodically update and amend these Incentive Guidelines.

## 1.3 Legal Basis

Malta Enterprise Corporation may issue and publish the official Incentive Guidelines covering this aid scheme in terms of Article 8 (3)(a) of the Malta Enterprise Act, Chapter 463 of the Laws of Malta.

Regulation 14 of the Enterprise Support Incentives Regulations as subsidiary legislation 463.04 to the Malta Enterprise Act, mentioned in the previous paragraph, forms the national legal basis of this aid scheme.

## 1.4 Designated Authority

This incentive is a collaborative initiative between the Ministry of Finance, the Economy and Investment (MFEI), the Ministry for Tourism, Culture and the Environment (MTCE), the Malta Environment and Planning Authority (MEPA) and Malta Enterprise Corporation (Malta Enterprise).

The scheme is administered jointly by MEPA and Malta Enterprise.

## 2. Eligibility

### 2.1 Eligible Undertakings

This incentive is available to an undertaking duly incorporated under the Company's Act, Chapter 386 of the Laws of Malta as a Limited Liability Company. Provided that:

- a. The applicant is the owner of a Grade 1 or Grade 2 scheduled building or a building within an Urban Conservation Area (UCA) in Malta which is currently being used or is planned to be used for a commercial activity.
- b. Undertakings should be in possession of the applicable regulatory licences and permits. Such licences include:
  - i. trading licences issued by the Commerce Division;
  - ii. licence issued by the Malta Tourism Authority for the operation of bars, restaurants and hotels;
  - iii. MEPA permit regarding the works being commissioned and the use of the building.
- c. Applicants / beneficiaries must not be defaulting on VAT, Income Tax, Social Security and rent payments to Government.
- d. Undertakings engaged in activities specifically excluded under the de minimis regulations (vide Section 5) are not eligible for this incentive. The exclusions include those undertakings engaged in agricultural production or aquaculture activities.
- e. Undertakings in difficulty (vide Section 5) are excluded from benefiting from assistance under this incentive.
- f. This incentive is intended to support undertakings that carry out a trade or business, the profits or gains from which are chargeable to tax pursuant to article 4(1)(a) of the Income Tax Act.

### 2.2 Qualifying Buildings

- a. 'Scheduled Grade I or Grade 2 building', that is a building which is a legally protected heritage property in accordance with article 81 of the Environment and Development Planning Act of 2010 (Chap. 504), as subsequently amended and in accordance with the Structure Plan Policy UCO 7 and as is listed in <http://www.mepa.org.mt/schedschedulingsearch>. The building must be so scheduled as published by the Malta Environment and Planning Authority (MEPA) as at the date the application is submitted to Business First, Gwardamangia Hill, Pieta..
- b. Buildings in an 'Urban Conservation Area (UCA)' that is in an area within Malta that is legally designated as at the date the application is submitted to MEPA as an area of heritage value according to article 81 of the Environment and Development Planning Act of 2010 (Chap. 504), as subsequently amended and in accordance with the Structure Plan Policy UCO 1 and 2 and as listed in the Local Plans.

## 3. Incentive Description

### 3.1 Qualifying Projects

Provided that a valid MEPA permit is available, qualifying projects shall entail restoration, conservation and /or maintenance projects covered by a Restoration Method Statement approved by MEPA of a qualifying building whereby:

- a. 'restoration' means any works involved in the process of returning the building as nearly as possible to its original form and condition according to best practice as per local and international standards, using the same construction materials and methods as the original. The process may also involve the removal of later work and reconstruction of works that had been previously removed. Such restoration works are to have the approval, and be performed under the supervision of the MEPA in accordance with an approved planning permit and Restoration Method Statement;
- b. 'conservation' means the management of caring for a building to prevent its decay, destruction, misuse, or neglect. Such conservation is to have the approval, and be performed under the supervision of the MEPA;
- c. 'maintenance' means the continuous protective care of the fabric (physical material of the place) and setting of a place, and is to be distinguished from repair. Repair involves restoration or reconstruction.

### 3.2 Applicable Aid Intensity

Eligible undertakings that carry out a qualifying project shall be granted a tax credit as a percentage of qualifying cost incurred. The applicable percentages shall be:

- a. 20% for projects entailing the restoration, conservation and /or maintenance of a commercial building within an UCA.
- b. 30% for projects entailing the restoration, conservation and /or maintenance works on a commercial Grade 1 or Grade 2 scheduled building.

### 3.3 Maximum Aid per Undertaking

An eligible undertaking may only benefit from this incentive once and the total value of aid shall be capped at:

- a. €20,000 for projects entailing the restoration, conservation or maintenance of a commercial building within an UCA.
- b. €30,000 for projects entailing the restoration, conservation or maintenance works on a commercial Grade 1 or Grade 2 scheduled building.

### 3.4 Qualifying Expenditure

Qualifying expenditure shall constitute costs incurred and paid for in full, after the project is approved and before 31<sup>st</sup> December 2015, for the direct procurement of:

- A) Materials,
- B) Labour,
- C) Hire of equipment,
- D) Professional fees (architect's fees, specialist consultancy, project management costs) - these shall be capped at maximum rate of 5% of the total restoration costs,

These costs are to be incurred for:

- a. works related to restoration, cleaning and maintenance of the facade<sup>1</sup>, repair or replacement of doors and apertures, repair or replacement of traditional wooden/masonry balconies, paint and plaster works,
- b. works for the consolidation and restoration of the internal building structure that includes repair or replacement of 'xorok' and timber/steel beams, arches and 'kilep', reconstruction or maintenance of roofs and wells.

### 3.5 Ineligible Costs

Only the costs listed in section 3.4 are considered eligible. It is hereby clarified that the following costs will **not** be considered as qualifying:


- a. wages, salaries and other forms of employee remuneration;
- b. tax (including VAT);
- c. services that are of a continuous or periodic nature or related to the applicant's operating costs (such as recurring fees and re-certification audits);
- d. procurement of movable items;
- e. restoration/conservation of movable objects, artefacts or furnishings;
- f. alterations, additions and improvements not aimed at restoration;
- g. demolitions (unless these form part of the restoration);
- h. reinstatement and reconstruction where there is lack of historic evidence of detail and design;
- i. sanctioning of unauthorised works and development illegalities;
- j. sites that have a pending MEPA enforcement case.

### 3.6 Additional Provisions

- a. For each qualifying cost applicants shall submit a 'fiscal receipt' meaning a receipt as defined in the Thirteenth Schedule to the Value Added Tax Act (Cap.406), as subsequently amended, and also includes any regulation made by the same Act;
- b. Items and service procured from suppliers that are linked to the beneficiary shall not be considered as eligible.
- c. Any tax credits awarded under this incentive shall not give rise to a right of any tax refund.
- d. Tax Credits may be claimed from the financial base year in which a Tax Credit Certificate is issued by Malta Enterprise.
- e. The tax credit shall be utilised against tax incurred on income derived from a trade or business activity as shall be stipulated in a Tax Credit Certificate.
- f. An undertaking may benefit from this incentive only once.
- g. Applicants shall consent to the Malta Environment and Planning Authority (MEPA), Malta Enterprise and the Inland Revenue Department the right to acquire from third parties any necessary data and information deemed necessary for the process of assessing and implementing this incentive.
- h. Any penalties contemplated by the Income Tax Act shall apply in case of abuse of this incentive.

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<sup>1</sup> The main exterior face of a scheduled Grade 1 or Grade 2 building or a building within an UCA and which facade contains an entrance and is characterised by an elaboration of stylistic details.

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- i. Should the approved value of the tax credit exceed the tax from the trade or business activity the balance may be carried forward as a tax credit to subsequent years but must be utilised by year of assessment 2019.
  - j. The building must be utilised for commercial activities for the 5 years following the completion of the project or for 3 years following the completion of the project if the applicant is a Small or Medium Sized Undertakings.
  - k. The incentive cannot be granted in relation to works performed on the Grade 1 or Grade 2 scheduled building or buildings within an UCA that have been supported through any other assistance from the Maltese Government or any public entity, for the same type of restoration, conservation or maintenance works.



## 4. Application and Assignment of Aid

### 4.1 Application

Applicants must be submitted on the official application form, which may be obtained from:

- a. MEPA, St Francis Ravelin, Floriana;
- b. Business First, Gwardamangia Hill, Pieta;
- c. or online from the websites <http://www.mepa.org.mt> and <http://support.maltaenterprise.com>.

The application form is to contain all the information, details and documents required in the said application form and in terms of this scheme.

Application forms are to be submitted to Business First, Gwardamangia Hill, Pieta, by not later than 30<sup>th</sup> April 2013.

MEPA and/or Malta Enterprise may request any further information and/or documentation in the processing of applications submitted.

### 4.2 Evaluation

Any application that relates to the sanctioning of unauthorised works, or to sites that have a pending MEPA enforcement case will not be processed.

All other applications will be processed jointly by MEPA and Malta Enterprise. The evaluation will review the eligibility of the proposed project in terms of the rules and conditions set in these guidelines.

### 4.3 Approval

Applicants whose projects that are deemed by MEPA and Malta Enterprise to adhere to the conditions set in these Guidelines will be issued with letters of Conditional Approval, which shall provide the applicants with all the relevant details and conditions against which the tax credit shall be granted and the maximum value of tax credits that may be granted for carrying out the proposed project. Each of the successful applicants will be required to return a signed copy of the Conditional Approval, specifying the commencement date of the approved works and the acceptance of the relevant conditions set in the Conditional Approval. The signed Conditional Approval is to be returned to Malta Enterprise not later than two weeks prior to the actual commencement of the approved works.

Applicants who have not qualified for support under this scheme shall be notified in writing of the reasons for their disqualification.

### 4.4 Monitoring

MEPA officials shall periodically carry out monitoring visits in order to ensure that the restoration works are carried according to the approved Restoration Method Statement. During the course of the monitoring, the appointed MEPA official shall have the right to stop all the works if it is found that the works being undertaken are not being carried according to the approved Restoration Method Statement, or if the works being undertaken are not detailed in the Restoration Method Statement. The intention of the monitor is not to penalise but to ascertain a good final product. However, MEPA may take enforcement action in cases of contravention of this notice.

### 4.5 Claims

Claims should be submitted to Malta Enterprise before 31<sup>st</sup> January 2016, and shall only be processed if the approved project has been completed. The claim should include:

- a. all the documentation required in the Conditional Approval;

- b. Original fiscal receipts covering all eligible costs;
- c. a declaration by the architect in charge of the project, including a written confirmation that the fiscal receipts submitted by the applicant reflect the true and actual costs of the works undertaken by the applicant under this scheme;
- d. a declaration that these costs have not been supported through any other National or European Union Measure.

MEPA and Malta Enterprise will review the claim. If all the rules in these Guidelines and the Conditional Approval have been respected, the claim shall be endorsed and Malta Enterprise will issue a Tax Credit Certificate which shall be used by the applicant to claim tax credits.

#### 4.6 Tax Credits

Tax Credits may be claimed on tax due from the business activity of the applicant commencing from the financial base year in which a Tax Credit Certificate was issued. Any tax credit not utilised shall be carried forward to subsequent years until financial base year 2018. Any tax credits not utilised by year of assessment 2019 shall be lost.

Malta Enterprise and the Inland Revenue Department reserve the right to revoke the Tax Credit Certificate and recover any tax incentive the applicant may have benefited from in terms of this guideline if:

- a. there is evidence of double funding of the same costs (from Malta Enterprise, other public entities or European Union initiatives);
- b. there is any breach of regulations on State Aid;
- c. the property in which the work was carried out is no longer used for commercial activities;
- d. there is any breach of these Guidelines, the Conditional Approval or the Tax Credit Certificate.

## 5. State Aid Rules and Obligations

### 5.1 Applicable State Aid

These Incentive Guidelines are in line with Commission Regulation (EC) No 1998/2006 of 15 December 2006 on the application of Articles 87 and 88 of the Treaty to de minimis aid, Official Journal L379 of 28.12.2006.

[[http://eur-lex.europa.eu/LexUriServ/site/en/oj/2006/l\\_379/l\\_37920061228en00050010.pdf](http://eur-lex.europa.eu/LexUriServ/site/en/oj/2006/l_379/l_37920061228en00050010.pdf)]

Under this regulation an undertaking may receive an aggregate maximum amount of €200,000 under all de minimis aid measures over a period of three consecutive fiscal years. This aggregate maximum threshold applies in principle to all economic sectors with the exception of the road transport, agriculture and fisheries sectors for which different thresholds and criteria apply. The term 'undertaking' includes also all companies in a group (which fall under the direct or indirect ownership or control of the same ultimate parent company) and relevant partner and linked enterprises as defined in Annex I of Commission Regulation (EC No 800/2008). 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.

This maximum 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. Any de minimis aid received in excess of the established threshold will have to be recovered, with interest, from the undertaking receiving the aid.

The de minimis declaration form<sup>2</sup> must be filled in and submitted together with the application form.

### 5.2 De minimis Aid

This incentive is governed by the de minimis regulations and therefore the incentive will not apply to the following:

- a. Aid granted to undertakings active in the fishery and aquaculture sectors as covered by Council Regulation (EC) No. 104/2000;
- b. Aid granted to undertakings active in the primary production of agricultural products as listed in Annex 1 to the Treaty;
- c. Aid granted to undertakings active in the processing and marketing of agricultural products as listed in Annex 1 to the Treaty, in the following cases:
  - i. when 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. when 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;

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<sup>2</sup> The De minimis Aid Declaration may be downloaded from <http://www.maltaenterprise.com/en/support/docs/de-minimis-declaration>

### 5.3 Undertakings in Difficulty

Aid granted to undertakings in difficulty in terms of Community Guidelines on State aid for rescuing and restructuring firms in difficulty, Official Journal C244, 01.10.2004, are excluded from benefiting from assistance under this incentive.<sup>3</sup>

### 5.4 Cumulation

Aid granted under this incentive may only be cumulated with other aid under any other incentive, or with other Community funding, in relation to the same item of expenditure as long as such cumulation does not exceed the gross aid intensity fixed by these Incentive Guidelines.

In terms of the de minimis regulation quoted above, assistance shall not be cumulated with State Aid in respect of the same eligible costs if such cumulation would result in an aid intensity exceeding that fixed in the specific circumstances of each case by a block exemption regulation or decision adopted by the European Commission.

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<sup>3</sup> [http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:52004XC1001\(01\):EN:HTML](http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:52004XC1001(01):EN:HTML)

## 6. Contact Details

Further information on the scheme, as well as information and guidance on the filling in of the application form may be obtained by contacting Malta Enterprise and/or MEPA during office hours.

Postal Address: Malta Enterprise  
Gwardamangia Hill,  
Pieta`, MEC 0001  
Malta.

Tel: 144

Websites: <http://www.maltaenterprise.com>  
The official Incentive Guidelines are published at <http://support.maltaenterprise.com/>

Email: [info@maltaenterprise.com](mailto:info@maltaenterprise.com)

Postal Address: Malta Environment and Planning Authority  
PO Box 200  
Marsa MRS 1000  
Malta.

Tel: 2290 1549 / 2290 1544

Website: <http://www.mepa.org.mt>

Email: (to be determined later)