

Incentive Guidelines

Tax Credits supporting the Refurbishment of Hotels and Restaurants



MALTAENTERPRISE

Issue Date: 1st September 2018

Version: 1

<http://support.maltaenterprise.com>

Business First will be providing interested applicants with information on the objectives and the details relevant to this incentive. Support is also available to potential applicants who encounter issues when filling in the application to apply for this incentive. Applicants may contact Business First by calling 144 or by sending an email on info@businessfirst.com.mt.

Contents

1.	Introduction	2
2.	Definitions	3
3.	The Incentive	4
4.	Application and Assignment of Aid	5
5.	Claims	5
6.	Tax Credits	6
7.	State Aid Rules and Obligations	7
8.	Contact Details	9

1. Introduction

With a record increase in the number of tourists visiting Malta, the Government of Malta is committed to providing assistance to Hotel and Restaurant operators. Through this incentive, Malta Enterprise will be accepting project applications for the refurbishment of Hotels and Restaurants that would lead to an improved tourism product or service. Eligible applicants will be reimbursed up to 20% of the investment costs through a tax credit.

1.1 Duration of the Incentive

The Corporation shall receive applications under this measure up to the 28th November 2019. Successful applicants will be required to complete their project within twenty-four (24) months from date of approval.

Malta Enterprise may review, update and amend this Incentive Guideline. The applicable Incentive Guidelines shall be the latest published version when the request for assistance is received.

1.2 Legal Basis

Malta Enterprise Corporation may issue and publish updates to 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.

Tax Credits Supporting the Refurbishment of Hotels and Restaurants Regulations, 2018 as subsidiary legislation 463.23 to the Malta Enterprise Act, mentioned in the previous paragraph, forms the national legal basis of this aid scheme.

1.3 Designated Authority

This incentive is administered by Malta Enterprise Corporation (hereinafter referred to as 'the Corporation').

1.4 Budget

This measure has a total budget of EUR 20,000,000.

2. Definitions

2.1 Incentive Entitlement Certificate (IEC)

An *Incentive Entitlement Certificate* (IEC) means a certificate issued in terms of Part VI of the Malta Enterprise Act, outlining the support granted and including any relative terms and conditions.

The Corporation shall have the right to revoke any IEC and recover any aid granted if the applicant breaches:

- a. the parameters set in the applicable Incentive Guidelines or in the applicable State Aid regulations;
- b. any conditions set in the IEC.

2.2 Single Undertaking

For the purpose of these Incentive Guidelines, the term 'single undertaking' shall be defined as follows:

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, a 'single undertaking' includes all undertakings having at least one (1) of the following relationships with each other:

- i. one undertaking has a majority of the shareholders' or members' voting rights in another undertaking;
- ii. one undertaking has the right to appoint or remove a majority of the members of the administrative, management or supervisory body of another undertaking;
- iii. one undertaking has the right to exercise a dominant influence over another undertaking pursuant to a contract entered into with that undertaking or to a provision in its memorandum or articles of association;
- iv. one undertaking, which is a shareholder in or member of another undertaking, controls alone, pursuant to an agreement with other shareholders in or members of that undertaking, a majority of shareholders' or members' voting rights in that undertaking.

Undertakings having any of the relationships referred to in points (i) to (iv) of the first subparagraph through one or more other undertakings shall also be considered to be a single undertaking.

The same regulation states that a group of linked undertakings is considered as one single undertaking for the application of the *de minimis* rule, but those undertakings 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 undertakings controlled by the same public body or bodies are not treated as being linked to each other. The specific situation of undertakings controlled by the same public body or bodies, which may have an independent power of decision, is therefore taken into account.¹

¹ [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.](#)

3. The Incentive

3.1 Eligible Undertakings

In order to be considered for support through this measure the applicant/beneficiary should:

- a) be an established business (such as a registered limited liability company, a partnership or a self employed) operating in Malta
- b) adhere to the applicable State Aid regulation (vide Section 8).

3.2 Eligible Projects

Assistance shall be awarded in relation to the costs incurred for the implementation of a holistic refurbishment of an establishment duly licensed with the Malta Tourism Authority where the main activity is:

- a) the provision of tourist accommodation in hotels, guest houses and hostels;
- or
- b) the provision of food services from a permanent structure whereby the prepared food may be consumed on the premises.

3.3 Eligible Costs

The eligible cost shall be:

- a) design cost which may not exceed 5% of total project costs;
- b) replacement of finishes, furniture, fittings and equipment. The replacement must be new (or first time used in Malta).
- c) redecoration

All costs, excluding costs related to design, should be incurred after the project is approved by the Corporation.

3.4 Maximum Aid and Applicable Aid Intensity

The Corporation may approve a tax credit of up to €200,000 for accommodation providers (as defined in 3.2(a)) and €50,000 for provision of food services (as defined in 3.2(b)), covering up to 20% of the eligible costs.

Assistance for a single undertaking shall not exceed the amount of €200,000 over any period of three consecutive fiscal years as per 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 (the *de minimis* Regulation)².

² [http://eur-lex.europa.eu/LexUriServ/site/en/oj/2006/l_379/l_37920061228en00050010.pdf]

4. Application and Assignment of Aid

4.1 Application Process

Applications will be processed on a first-in, first served basis and only one application per establishment (as defined in section 3.2) may be accepted.

The applicant should submit a refurbishment plan describing the refurbishment project, which should include images of the current facilities and artistic renderings of the refurbished premises. The application should also include:

- a) A bill of quantities detailing the assets and services to be procured;
- b) The budgeted cost of the project.

4.2 Approval

Once the application is evaluated and it is confirmed that all the conditions set out in these Guidelines have been adhered to, the Corporation will issue an Incentive Entitlement Certificate (IEC).

The Corporation reserves the right to inspect the premises where the investment will take place prior and/or after to issuing the Incentive Entitlement Certificate (IEC).

5. Claims

On completion of the approved project or at specific intervals during the implementation as agreed to between the Beneficiary and the Corporation, the beneficiary must submit a claim form delineating the costs incurred. Eligible costs are to be supported by Invoices and Fiscal Receipts (or Tax Invoices) for them to be considered eligible.

The Corporation may carry out an onsite visit to confirm that the:

- a) project has been (is being) implemented in line with the parameters set in these Guidelines and the IEC; and
- b) costs claimed are consistent with the actual project as approved.

Following a positive review of a claim form the Corporation shall issue a Tax Credit Certificate, specifying the tax credit value approved.

The Tax Credit Certificate may only be used against tax due and may not be used to settle any pending tax payments. The Income Tax Department may refuse to accept the Tax Credit Certificate for any Year of Assessment in which the holder is defaulting on VAT, Income Tax, and Social Security payments.

6. Tax Credits

6.1 Utilising the Tax Credit

- a) Any tax credits awarded under this incentive shall not give rise to a right of any tax refund.
- b) The tax credit must be utilised as from the first tax return to be submitted to the Inland Revenue Department after the date in which the Incentive Entitlement Certificate is issued.
- c) Any tax credits awarded under this incentive may not be utilised to settle any tax arrears or to rectify any errors identified by the relevant authorities in the tax return submitted to the Inland Revenue Department.
- d) The Inland Revenue Department shall have the right to refuse any tax credit awarded to undertakings defaulting on VAT, Income Tax, and Social Security payments.

6.2 Monitoring

The Corporation and the Inland Revenue Department reserve the right to review the documentation relating to any issued certificate and to carry out audits and verifications even after the tax credit certificate is issued and utilised.

The Corporation and the Inland Revenue Department reserve the right to revoke the tax credit Certificate and recover any tax benefit the applicant may have received in terms of these Incentive Guidelines in the case of:

- a. misuse or abuse of assets after the completion of the project;
- b. double funding of the same costs from Malta Enterprise or other national and/or European public entities;
- c. any breach of regulations on State Aid; and/or
- d. expenditure not directly related to the trade or business activity.

7. State Aid Rules and Obligations

7.1 Applicable State Aid

These Incentive Guidelines are in line with the *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 (the de minimis Regulation)*³.

The total amount of *de minimis* aid granted to a single undertaking shall not exceed the amount of €200,000 over any 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 651/2014). 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 aid 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 must be filled in and submitted together with the application form.

7.2 Applicability of the Aid

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. 104/2000⁴;
- 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.
- g. Intended for Voluntary Organisations

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

³ [http://eur-lex.europa.eu/LexUriServ/site/en/oj/2006/l_379/l_37920061228en00050010.pdf]

⁴ 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).

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.

7.3 Cumulation

In terms of Article 5 of the *de minimis* Regulation, *de minimis* aid granted under this incentive may be cumulated with *de minimis* aid granted in accordance with Commission Regulation (EU) No 360/2012⁵ 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 fixed in terms of these Incentive Guidelines.

De minimis aid approved under the **Tax Credits supporting the Refurbishment of Hotels and Restaurants** 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 European 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.

⁵ Commission Regulation (EU) No 360/2012 of 25 April 2012 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to *de minimis* aid granted to undertakings providing services of general economic interest (OJ L 114, 26.4.2012, p. 8).

8. Contact Details

Further information on the scheme, as well as guidance on the filling in of the application form may be obtained by contacting Business First during office hours.

Postal Address: Business First
 Ċentru Joseph Grech
 2nd Floor, Cobalt House
 Notabile Road
 Mriehel, B'Kara, BKR 3000

Tel: 144

Websites: www.maltaenterprise.com

www.businessfirst.com.mt

Email: info.businessfirst@maltaenterprise.com