

# Incentive Guidelines

## Family Business Support Services



MALTAENTERPRISE

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<http://support.maltaenterprise.com>

Malta Enterprise provides interested applicants with support to facilitate the understanding of the objectives and the details relevant to this incentive. Support is also available to address any problems encountered when completing applications. Applicants may contact Business First by calling 144 or by email on [info@businessfirst.com.mt](mailto:info@businessfirst.com.mt).

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# 1. Introduction

This measure is intended to support the development of Family Businesses in building internal capacities and supporting them in the transfer of their business activity. The support provides advisory during business transition and access to specific training deemed beneficial in facilitating the growth of Family Businesses.

## 1.1 Duration of the Incentive

This measure shall be available until 31st December 2020.

Malta Enterprise may periodically update and amend these Incentive Guidelines. In any case, the applicable Incentive Guidelines shall be those published 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.

Legal Notice 429 of 2016 (Malta Enterprise Act, Chapter 463 of the Laws of Malta) provides the legal basis of the incentive.

## 1.3 Designated Authority

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

## 1.4 Budget

This measure has an annual budget of EUR 250,000 and an overall budget of EUR 1,000,000.

## 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.

### 2.2 Family Business

A Family Business is an undertaking as defined in Article 3 of the Family Business Act (Chapter 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.

### 2.3 Regulator for Family Businesses

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

### 2.4 Single Undertakings

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.<sup>1</sup>

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

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<sup>1</sup> Commission Regulation (EU) No 1407/2013 of 18th December 2013:

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, which may have an independent power of decision, is therefore taken into account.<sup>2</sup>

## 3. Eligibility and Support

### 3.1 Eligibility

This incentive is available to all undertakings registered as a Family Business and which:

- a) Are not excluded by State Aid Regulations (vide Section 6).
- b) Are not defaulting on VAT, Income Tax, and Social Security Payments.
- c) Have no pending recovery request of any aid granted from the Corporation.

### 3.2 Maximum support

The maximum support per undertaking may not exceed Euro 4,500 in any single year.

### 3.3 De minimis aid

The aid shall be considered as de minimis aid. The total value of de minimis aid granted to a single undertaking may not exceed the amount of €200,000 over any period of three consecutive fiscal years.

## 4. The Incentive

### 4.1 Advisory for Business Transfer

A family business in the process of transferring the business from the current owner to either a person or persons related to the owner or to third parties, may request support to cover the cost of legal, notarial or accountancy advisory services required in carrying out the process.

- a) The first €500 shall be full covered by Malta Enterprise Corporation. Any additional expenditure will be supported at 75% of the incurred cost. The value of aid that may be awarded shall in no instance exceed €2,500 in any single calendar year.
- b) Support may be provided over a consecutive period which shall not exceed five (5) years.
- c) The support may only cover costs incurred by the family business for providing legal, notarial or accountancy services required for assisting in the succession or business transfer.
- d) Advisors must be in possession of a Warrant in their respective profession.

### 4.2 Arbitration

Fees covering the services rendered for the first five (5) sittings of an arbitrator appointed by the Regulator to assist in the valuation of assets and/or shares being transferred and to set a fair value of the assets and shares may be supported by Malta Enterprise Corporation, if the involved parties confirm to the Regulator of Family Businesses their agreement to use the services of a joint single arbitrator from the list of recommended arbitrators on the Regulator's list.

The total support covering arbitration may not exceed €2,500 per Family Business.

### 4.3 Training

Attendance by owners of family businesses and their employees to seminars and information sessions endorsed by the Regulator as beneficial for the development, growth and better administration and management of the family business.

The total annual support covering training shall not exceed €1,000 per Family Business.



## 5. Applying and claiming support

### 5.1 Requests for support for Advisory and Arbitration related to the transfer of business.

Family Businesses seeking support under these Incentive Guidelines should request the required support from the office of the Regulator for Family Businesses. If the Regulator agrees to provide the requested support, a support voucher shall be issued to the applicant indicating the support that may be claimed.

Following the delivery of the services, the beneficiary would be required to submit the claim documentation requesting the refund of eligible costs and providing the additional documentation as shall be indicated in the voucher. This shall include:

- A *de minimis* declaration.
- Confirmation that the applicant is a registered Family Business
- Documentation (issued during the past 12 months) confirming that the applicant is not defaulting on VAT, Income Tax or Social Security Payments.
- Documentary evidence of the services provided by the advisor/arbitrator.
- a fiscal invoice or receipt issued by the supplier or suppliers identified in the Voucher, to the undertaking to whom the Voucher was awarded (the fiscal invoice or receipt should clearly indicate the provider of the service, the recipient and the VAT number of the recipient).
- Proof of payment (encashed cheques or bank transaction documentation). Such payment must have been affected by the beneficiary (the undertaking to whom the Voucher was issued) to the respective supplier.

The voucher shall have a validity of 12 months.

#### **b) Training Support.**

The Regulator shall identify training seminars or providers that are deemed of value to the development of Family Businesses. A list of these training seminars or providers shall be published on the Regulator's/Corporation's website.

After attending a listed training event a family business may request a refund of costs by submitting a claim during the month of January or July of any year.

Once the claim period is over, the application will be processed and if the total value claimed exceeds €100,000 which is budgeted for this support the support will be reduced to a percentage whereby all applicants will receive the same level of support.

In the claim the applicant will be requested to submit

- A *de minimis* declaration.
- Confirmation that the applicant is a registered Family Business
- Documentation (issued during the past 12 months) confirming that the applicant is not defaulting on VAT, Income Tax or Social Security Payments.
- A fiscal invoice or receipt issued by the supplier providing the training as identified in the approved list of training (the fiscal invoice or receipt should clearly indicate the provider of the service, the recipient and the VAT number of the recipient).
- Proof of payment (encashed cheques or bank transaction documentation), such payment must have been affected by the beneficiary to the respective supplier.

## 6. State Aid Rules and Obligations

### 6.1 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)*<sup>2</sup>.

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 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 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<sup>3</sup> must be filled in and submitted together with the application form.

### 6.2 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. 104/2000<sup>4</sup>;
- 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. 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

<sup>2</sup> [[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)]

<sup>3</sup> The *de minimis* Aid Declaration may be downloaded from <http://www.maltaenterprise.com/en/support/docs/de-minimis-declaration>

<sup>4</sup> 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.

### 6.3 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 360/2012<sup>5</sup> 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 **Family Business Support Services Scheme** 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.

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<sup>5</sup> 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).

## 7. 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 Business First during office hours.

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

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