

Incentive Guidelines

Rent Subsidy Scheme



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.

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1. Introduction

These Incentive Guidelines provide the framework for the administration and management of the Rent Subsidy Scheme. This scheme supports small undertakings engaged in manufacturing activities that require industrial space as a temporary, or permanent, solution to:

- i. implement growth plans;
- ii. handle an increase in orders; and/or
- iii. carry out process innovations required to increase efficiency.

1.1 Duration of the incentive.

This aid scheme is applicable between 1st March 2016 and 31st December 2019¹.

Applicants should submit a complete application to Malta Enterprise by not later than **31st October 2019.**

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 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.

Subsidiary Legislation 463.04 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 scheme has a budget of EUR 1,000,000.

¹ This aid scheme is in line with the de minimis Regulation. Further information may be found in Section 8 of this Incentive Guideline. If any changes are made to the de minimis Regulation, this aid scheme will be brought in line with any amendments made to such Regulation.

2. Definitions

2.1 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 (1) undertaking has a majority of the shareholders' or members' voting rights in another undertaking;
- ii. one (1) 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 (1) 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 (1) 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 (1) or more other undertakings shall also be considered to be a single undertaking.²

The same regulation states that a group of linked undertakings is considered as one (1) 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, which may have an independent power of decision, is therefore taken into account.²

2.2 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 including relative terms and conditions.

² Commission Regulation (EU) No 1407/2013 of 18th December 2013:
<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2013:352:0001:0008:EN:PDF>

3. Eligibility

This incentive is available to all undertakings which satisfy all of the following criteria.

3.1 Legal Form

The applicant must be duly:

- i. incorporated under the Companies Act, Chapter 386 of the Laws of Malta being a partnership en nom collectif, en commandite or a limited liability company;
or
- ii. registered as a Cooperative under the Co-operatives Societies Act, Chapter 442 of the Laws of Malta;
or
- iii. registered as a self-employed with the Employment and Training Corporation (ETC).

3.2 Activity

The applicant must be engaged in the manufacturing sector (NACE Code C).

3.3 Employment

The applicant must be a single undertaking that in the two (2) fiscal years preceding the year in which the application is submitted, employed fifty (50) or less persons on Full Time (FT) contracts.

3.4 Annual Turnover

The applicant must be a single undertaking whose turnover did not exceed €10 Million in the two (2) fiscal years preceding the year in which the application is submitted.

3.5 Balance Sheet Total

If the applicant is a registered company³, the applicant's balance sheet total should not have exceed €10 Million in the two (2) fiscal years preceding the year in which the application is submitted.

3.6 Fiscal and Social Security Obligations

At the time of application the applicant must not be defaulting on VAT, Income Tax or Social Security contributions.

3.7 State Aid

The applicant must adhere to the applicable State Aid regulation (vide Section 8).

³ Registered with the Registrar of Companies

4. The Incentive

4.1 What may be assisted

The Corporation may support, through partial reimbursement, costs incurred for rental or leasing of premises required for:

- i. Manufacturing activities;
or
- ii. Storage of works in progress related to manufacturing activities carried out in Malta by the applicant;
or
- iii. Storage of raw materials required for manufacturing activities carried out in Malta by the applicant.

4.2 Conditions for awarding assistance

For the rental agreement to be considered for assistance, all the following conditions must be adhered to:

- i. The property must be rented/leased from a third party in the private sector which is not related to the single undertaking;
and
- ii. The rent/lease agreement must have a commencement date which is not more than one (1) calendar month prior to the application date.⁴

4.3 Maximum support

The total aid which may be granted to a single undertaking is capped at €20,000 over a period of two (2) consecutive years and is further limited to:

- i. €10,000 over any period of twelve (12) months;
and
- ii. €50 per square metre per annum.

4.4 Aid Intensity

The aid intensity is established at 50% of the cost incurred after excluding any taxes.

4.5 Exclusions

Renting or leasing of the following properties is excluded even if such properties are rented or leased to address the objectives of this incentive:

- i. Any property owned by a legal person or group of legal persons related to the single undertaking receiving the assistance.

⁴ The application date is the date on which the application is received by Malta Enterprise.

- ii. Public property.
- iii. Showrooms, display areas and similar properties.

5. Application

An application form can be downloaded from the Corporation's website. Applicants should submit the complete application to the Corporation before 31st October 2019. Each application will be required to contain the following information/documentation, and shall be screened for eligibility in accordance to the procedures described below.

5.1 Justification

The applicant will need to provide clear justification on why the additional space is required. The justification should explain how the new lease would help enhance and maintain the operation of the applicant on a temporary and/or permanent basis.

5.2 Activity

In order to verify the activity of the applicant, the Corporation will:

- i. Use the official NACE classification attributed to the applicant as determined by the National Statistics Office (NSO). To be eligible, the applicant's NACE code (based on NACE rev. 2.0) should be classified as NACE Code 'C' in Section 3 of the NACE classification system.⁵
- ii. Conduct an onsite verification of the activities carried out by the applicant.
- iii. Conduct a review of objects listed in the Memorandum and Article of association, if the applicant is a limited liability company.

5.3 Employment

The applicant will be required to:

- i. Submit the employment history issued by the Employment and Training Corporation (ETC) showing the number of full-time employees for the past two (2) years.
- ii. Show the current number of full time employees through official documentation issued from the Employment and Training Corporation (ETC).
- iii. Disclose employment data of the undertakings that form part of the single undertaking.

The Corporation will verify the data presented with the Employment and Training Corporation.

5.4 Turnover and Balance Sheet totals

The applicant will be required to disclose:

- i. Turnover figures by presenting audit accounts or certified true copies of management accounts or certified true copies of Income Tax Returns⁶.

⁵ If the official NACE is not yet assigned, the Corporation shall use its discretion to determine the main activity of the applicant on the basis of the information available and if possible through onsite verifications.

⁶ Copies are to be certified by a Certified Public Accountant (CPA).

- ii. Turnover and Balance Sheet totals of each undertaking that forms part of the same single undertaking.

5.5 Fiscal and Social Security Obligation

The applicant will be required to provide the following confirmations issued not earlier than six (6) months prior to the date of submitting the application by the:

- i. Inland Revenue Department specifying that the applicant is up to date on Income Tax, and Social Security payments, or is honouring a repayment agreement;
and
- ii. VAT Department specifying that the applicant is up to date with VAT payments, or is honouring a repayment agreement.

5.6 De Minimis Declaration Form

The applicant will be required to duly fill in and sign the De Minimis Declaration Form, declaring the aggregate maximum amount of De Minimis aid given to the single undertaking over a period of three (3) 'fiscal years'. This maximum threshold would include all State Aid granted under this scheme, and any other State aid measure granted under the *de minimis* rule.

5.7 Premises (optional)

The following documents shall be expected if the applicant has already identified the industrial premises to be rented/leased or has already entered into a rent/lease agreement:

- i. A draft copy of the contract, or a copy of the signed contract of rent/lease (as may be applicable)⁷;
and
- ii. Layout plans for current premises and additional premises whether owned or rented⁸.

⁷ The lease must have commenced not earlier than one (1) month prior to the date when the application was submitted to the Corporation

⁸ The applicant should provide plans to include details of all premises used to support the business process, including any new premises being procured and rented premises on which support is not being sought.

6. Evaluation and Adjudication

6.1 Evaluation Process

In conducting its evaluation the Corporation may:

- i. Conduct onsite verification to review the space requirement of the applicant.
- ii. Request further information, and clarifications, beyond the information requested in the application so as to determine whether the support should be awarded.

6.2 Evaluation Parameters

Each submission will be reviewed on its own merits. Any support will be awarded at the sole discretion of the Corporation, following a review of the:

- i. economic feasibility of the proposal;
- ii. expected economic return from the public funding awarded;
- iii. applicant's business performance and projections in relation to the cost of the rent agreement;
- iv. strength of the justification provided in the applicant submission; and
- v. space requirements of the applicant.

6.3 Awards

Following its evaluation the Corporation will determine the value of aid, if any, which will be awarded to the applicant.

The Corporation may withhold all, or part, of the assistance if the undertaking (at group level) is subject to an outstanding recovery in respect of any other incentive awarded by the Corporation. The outcome shall be communicated to the applicant, and successful applicants will be issued an Incentive Entitlement Certificate specifying the terms and conditions of the award.

6.4 Terms and Conditions of Award

The Incentive Entitlement Certificate is to be returned signed to the Corporation within thirty (30) days from the date it is issued by the Corporation, and shall become effective once the applicant submits the first claim, which may not be later than one (1) year from the date of the Incentive Entitlement Certificate.

7. Claim Process

Claims must be submitted on the appropriate claim form and shall include all required supporting documentation. All incomplete claims will be rejected.

7.1 Claims

Claims for reimbursement are to be submitted covering intervals which are not shorter than three (3) months and should include:

- i. the claim form made available by the Corporation.
- ii. VAT invoice/s.
- iii. Proof of the payment , consisting of enclosed cheques or bank documents (statement, bills payable etc.) clearly identifying the completed transactions between the beneficiary and the lessor.

7.2 Claim Processing

When processing claims the Corporation may:

- i. Conduct on site verification to confirm that the premises are being used in accordance to these Incentive Guidelines and to the Incentive Entitlement Certificate issued by the Corporation. Failure to provide access to the site within seven days of notification of visit by the Corporation, Malta Enterprise will constitute a material breach to the conditions of the assistance.
- ii. Request further information and clarifications beyond the information requested in the application, so as to determine whether the support should be awarded.

7.3 Revocation and suspension of aid

The assistance may be revoked, or suspended, if the beneficiary does not adhere to the conditions established in these Incentive Guidelines and to the Incentive Entitlement Certificate. Furthermore, the Corporation may withhold all, or part of the assistance if the undertaking (at group level) is subject to a recovery in respect to any other incentive awarded by the Corporation.

8. State Aid Rules and Obligations

8.1 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)⁹

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 (EU) 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 the 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.

The *de minimis* declaration form¹⁰ must be filled in and submitted together with the application form.

8.2 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. 104/2000¹¹;
- 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;

⁹ The *de minimis* Aid Regulation may be accessed from http://ec.europa.eu/competition/state_aid/legislation/de_minimis_regulation_en.pdf

¹⁰ The *de minimis* Aid Declaration may be downloaded from:
<http://www.maltaenterprise.com/en/support/docs/de-minimis-declaration>

¹¹ 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).

- 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.

Where an undertaking is active in the sectors referred to in points (1), (2) and (3) 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

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 360/2012¹² 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 **RENT SUBSIDY 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.

¹² 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).

9. 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
Gwardamangia Hill,
Pieta`, MEC 0001
Malta.

Tel: 144

Websites: www.maltaenterprise.com
www.businessfirst.com.mt

Email: info.businessfirst@maltaenterprise.com