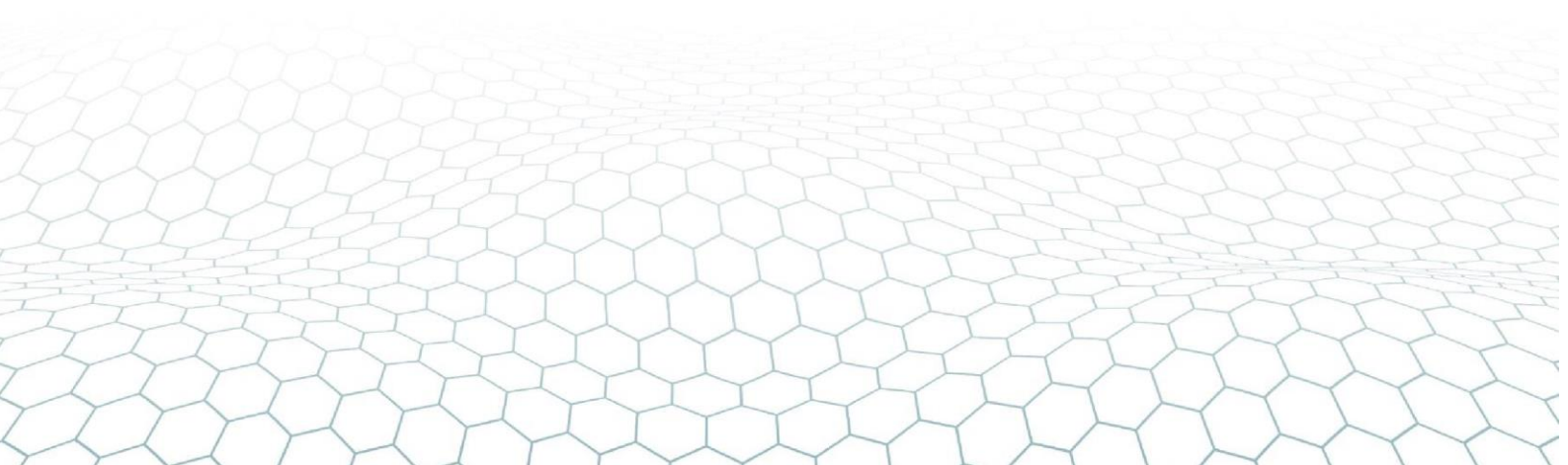




MALTAENTERPRISE

Guidelines

Repatriation of Persons Established in a Field of Excellence Rules



Issue Date: 1st August 2020

Version: 1.0

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



Contents

1.	Introduction	2
1.1	Background	2
1.2	Legal Basis	2
2.	Definitions	2
2.1	Field of Excellence	2-3
2.2	Qualifying Contract of Employment	3
2.3	New Autonomous Company	3
2.4	Relevant Academic or Professional Qualification	3
3.	Application Process	4
4.	Control and Monitoring	5

1. Introduction

1.1 Background

1.1.1 These guidelines provide a framework for individuals seeking a determination of eligibility for the option provided by [SL.123.142](#) Repatriation of Persons Established in a Field of Excellence Rules, as Subsidiary Legislation to the Income Tax Act (CAP. 123) of the Laws of Malta.

1.1.2 This option is available to individuals:

a) that have been ordinarily resident in Malta for at least twenty (20) years but have not been ordinarily resident in Malta for the ten (10) consecutive years prior to their return to Malta.

and

b) having a qualifying employment contract resulting in a minimum amount of employment income chargeable to tax of at least seventy-five thousand euro (€75,000) per annum (excluding fringe benefits).

1.1.3 Eligible individuals may opt for an income tax rate of 15% which shall apply without possibility to claim any relief, deduction, reduction, credit or set-off of any kind.

1.2 Legal Basis

1.2.1 The text in these guidelines shall not supersede any parameters provided in [SL.123.142](#) Repatriation of Persons established in a Field of Excellence Rules, as subsidiary legislation to the Income Tax Act (CAP. 123) of the Laws of Malta, provides the legal basis of this incentive.

2. Definitions

2.1 Field of Excellence

2.1.1 The rules define "field of excellence" as an area of professional competence in which an eligible person has excelled and which area is relevant for the manufacturing and research and development sectors, as may be defined in the Guidelines which may be issued by Malta Enterprise Corporation in terms of the Malta Enterprise Act.

2.1.2 The Corporation shall consider compliant to this definition, the carrying out successfully for a period of at least three (3) years before the application is received one or more of the below roles:

a) The carrying out of Industrial Research - meaning the carrying out (individually or as part of a team) of planned research or critical investigation aimed at the acquisition of new knowledge and skills for developing new products, processes or services, or for bringing about a significant improvement in existing products, processes or services. It comprises the creation of components parts of complex systems, and may include the construction of prototypes in a laboratory environment or in an environment with simulated interfaces to existing systems as well as of pilot lines, when necessary for the industrial research and notably for generic technology validation.

- b) The carrying out of Experimental Development - meaning acquiring, combining, shaping and using existing scientific, technological, business and other relevant knowledge and skills with the aim of developing new or improved products, processes or services. This may also include, for example, activities aiming at the conceptual definition, planning and documentation of new products, processes or services.
- c) Product development - meaning engaging in a functional role of developing and/or designing detailed product specifications (including digital products such as software solutions).
- d) Senior management (Chief Executive Officer, Chief Operating Officer, Chief Financial Officer, Chief Information Officer or Chief Technical Officer) of autonomous manufacturing units and/or research facilities.

2.2 Qualifying Contract of Employment

- 2.2.1 The Rules define a "Qualifying Contract of Employment" as the employment of an eligible person in a field of excellence in such sector/s as may be defined in the Guidelines.
- 2.2.2 The Corporation shall only consider as a Qualifying Contracts of Employment, any such contract that specifically reflect the carrying out one or more of the activities defined as 'field of excellence' in substance in Malta in accordance with 2.1 above.
- 2.2.3 The Corporation shall not consider as qualifying employment any subsequent employment following the initial engagement commencing immediately after repatriation.

2.3 New Autonomous Company

- 2.3.1 A "New Autonomous Company" is a limited liability company established in the previous twelve (12) months and that has no direct or indirect relationship through shareholding or other structures, which gives more than 25% of the control to a single business undertaking or a group of business undertakings acting jointly.

2.4 Relevant Academic or Professional Qualification

- 2.4.1 A "Relevant Academic or Professional Qualification" is a full MQF level 7 achievement or higher which is related to the 'Field of Excellence' required to fulfil the Qualifying Contract of Employment.

3. Application Process

- 3.0.1 Applicants are required to use the official application, which may be accessed through the Corporation's website¹.
- 3.0.2 Applications related to employment contracts that commenced more than twelve (12) months prior to the submission date shall be rejected.
- 3.0.3 Attached to the application, applicants would need to provide the following documentation:
- a) A copy of the contract of employment, which must clearly state where the person shall carry out the duties of the specific role, the reasons if any of the duties are to be carried outside of Malta and the length of such period on an annual basis.
 - b) Confirmation that none of the shareholders (or groups of related shareholders) of the employer having more than 10% of the control, has/have a direct first level family relation with the applicant.
 - c) Unless the employment is with a new autonomous company, confirmation that the applicant is not a shareholder or director of the employer.
 - d) Proof of relevant academic or professional qualification and if required, documentation confirming that such qualification is a full MQF level 7 achievement or higher.
 - e) Proof that the employment is duly registered with Jobsplus.
 - f) Letter signed by the employer confirming the employment contract and granting consent to the Corporation and the Commissioner for Revenue to request any relevant information related to the employment contract.
- 3.0.4 Failure to provide any of the above documentation will automatically disqualify the application.
- 3.0.5 Individuals will be notified in writing of the outcome of their application. If the applicant satisfies the conditions set out in these Guidelines and the Regulations to the satisfaction of the Corporation, a determination of eligibility letter will be issued cover the Year of Assessment in review.
- 3.0.6 The Corporation shall determine the individual eligibility of each application. The Corporation may still refuse an application if the information provided is not deemed satisfactory.
- 3.0.7 Annually, after the initial determination, the beneficiary must submit a formal request to the Corporation, confirming the details provided in the application. Following a review of the documentation, the Corporation shall determine the eligibility for the Year of Assessment.

¹ <https://www.maltaenterprise.com/support>



4. Control and Monitoring

4.0.1 The Corporation and/or the Commissioner for Revenue may:

- a) carryout on-site checks during the period of employment. Such visits may entail the verification of the documentation related to the relevant employment and the confirmation of the works carried out;
- b) periodically request verifications to confirm that the beneficiary is still abiding to the regulations established in the applicable regulations and these Guidelines.

4.0.2 The Corporation and/or the Commissioner for Revenue will revoke any approved and/or granted aid if any evidence is found showing that the beneficiary has abused of the right to this incentive.