



Incentive Guidelines

Tax Credits for R&D and Innovation



MALTAENTERPRISE

Issue Date: 1st June 2017

Version: 1

<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.

Contents

1.	Introduction	2
2.	Definitions	3
3.	Eligible Entities	5
4.	The Incentive	6
5.	State Aid Rules and Obligations	7
6.	Further Information	9

1. Introduction

1.1 Duration of Incentive

These Incentive Guidelines will remain active until 31st December 2020. Malta Enterprise may review, update and amend these Incentive Guidelines as deemed appropriate.

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.

Assistance for Research and Development and Innovation Regulations is a Subsidiary Legislation 463.15 to the Malta Enterprise Act Chapter 463 of the Laws of Malta.

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 budget of EUR 500,000

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 Single Undertakings

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

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.¹

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

2.3 Experimental Development

'Experimental Development' means 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.

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

Experimental Development may comprise prototyping, demonstrating, piloting, testing and validation of new or improved products, processes or services in environments representative of real life operating conditions where the primary objective is to make further technical improvements on products, processes or services that are not substantially set. This may include the development of a commercially usable prototype or pilot which is necessarily the final commercial product and which is too expensive to produce for it to be used only for demonstration and validation purposes.

Experimental development does not include routine or periodic changes made to existing products, production lines, manufacturing processes, services and other operations in progress, even if those changes may represent improvements.

2.4 SME (Small and Medium-Sized Enterprise)

For the purpose of these Incentive Guidelines, an SME is as undertaking in Annex I of the General block exemption Regulation.

3. Eligible Entities

a) 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 *Jobsplus*

b) Activity

This incentive is open to all undertakings which are not excluded by State Aid Regulations and which are planning to carry out or implement Experimental Development activities.

c) Fiscal and Social Security Obligation

Applicants must not be defaulting on VAT, Income Tax, and Social Security. The Inland Revenue Department may suspend and tax credit awarded if the beneficiary is defaulting on VAT, Income Tax, and Social Security payments.

4. The Incentive

4.1 Description of Measure

This measure is open to all undertakings that employ for a period of at least twelve (12) months a person holding or reading for a doctoral degree in science, information technology or engineering. Beneficiaries shall be awarded a tax credit of €10,000 which shall be capped accordingly if the applicant exceeds the de minimis limited allocated to the single undertaking.

The support may be claimed once after a person holding a doctoral degree (MQF Level 8) or reading a doctoral degree in science, information technology or engineering has been employed for a minimum of twelve (12) months. Such Employment must not have commenced prior to 1st January 2016.

4.2 Application

Eligible undertakings must apply after the person has been employed for twelve (12) months but within twenty-four (24) months from the commencement of employment of the person. Applicants will need to provide:

- a) an employment history of the person issued from Jobsplus;
- b) an employment history of the applicant as issued from Jobsplus;
- c) Confirmation that the person held a doctoral degree in science, information technology or engineering on the date of employment or was reading for a doctoral degree in science, information technology or engineering in science, information technology or engineering and complete the degree or was still in the process of complete the degree in the twelve (12) month period.

Applications together all the supporting documentation stipulated within the Incentive Guidelines and application form should be submitted on the appropriate form to the email address HQP@maltaenterprise.com . Incomplete applications will be rejected.

Following a positive review, the Corporation will issue an IEC and a Tax Credit Certificate.

The Corporation may furthermore request additional documentation and information which the Corporation may deem relevant to process the claim.

5. State Aid Rules and Obligations

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 \(the de minimis Regulation\)](#)².

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.

5.3.1 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. 104/2000²;
- 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 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.

² 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).

5.3.2 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 360/2012³ 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 for R&D and Innovation** 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.

³ 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).

6. Further Information

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

Tel: 144

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

Email: info.businessfirst@maltaenterprise.com