

Incentive Guidelines
Catering Capacity Building



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

The scope of this scheme is to assist hospitality and catering establishments engaging a chef to support in capacity building, innovation, and in the development the operations. Undertakings (including self-employed operators) will be supported through a tax credit representing a percentage of the eligible expenditure and wages of the international experienced chefs.

1.1 Duration of the Incentive

This measure shall be available until 31st December 2018.

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 update 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 167 of 2017 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 budget of EUR 250,000 annually.

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 Catering Establishments

As per Chapter 409 in the Malta Travel and Tourism Services Act, catering establishments refer to any building, premises or other establishment, including kiosks, purveying for reward food and, or, beverages including wines and spirits, for consumption.

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

2.4 Respected restaurant guide

A respected restaurant guide shall refer to Michelin Guide book, Gambero Rosso, The World's 50 Best Restaurants, Gault&Millau, AA or any other industry respected restaurant guide considered equivalent to those mentioned. This needs to be substantiated and presented to the selection board.

3. Eligibility

3.1 Eligible Undertaking

In order to be considered for support through this measure the undertaking should meet all the conditions set in the section:

3.1.1 Legal Form

This undertaking should be an established business such as a registered limited liability company, a partnership or a self employed engaged in a commercial activity in Malta.

3.1.2 Qualifying NACE Codes

The undertakings must be officially classified under one of the below NACE Codes:

NACE Code	Sector
56.1	Restaurants and mobile food service activities
56.2	Event Catering and other food service activities

3.1.3 Licensed Catering Establishment

This catering establishment should be duly licensed with the Malta Tourism Authority that wish to engage an internationally experienced chef to support the capacity building to innovate, or to develop the operations.

The catering establishment's licensee may apply subject to an agreement between the applicant and the establishment's owner.

3.1.4 Employment

At the date of application the applicant (legal person submitting the application) must have at least five (5) persons registered on full basis (or a number of persons engaged on part time basis that in total equate as equivalent to 5 full time persons). The employment must be registered with Jobsplus and in case of self employed undertakings the owner will be considered if registered accordingly with Jobsplus.

3.1.5 State Aid

The applicant must adhere to the applicable State Aid regulation (vide Section 9).

3.1.6 Malta Tourism Authority, Food Safety Commission and Environment Health Directorate

All applicants must be duly licensed with the Malta Tourism Authority to carry out their trade or business, and within their business classification. Applicants must not be defaulting with the Food Safety Commission and the Environment Health Directorate.

1) Qualifying Chef

In order to be considered the Chef engaged by the undertaking must meet the criteria set below. The applicant will be required to submit all documentation of substantiate any claim made. This would include certified true copies (with Apostille when necessary) of certifications.

- i. A minimum qualification in equivalence to a MQF Level 5 in the culinary arts or equivalent
and
a minimum of three (3) years experience in a respected restaurant guide.

OR

- ii. A scholarship or certification awarded from an Industry-recognised schools or scholarships such as: Roux Scholarship; Le Cordon Bleu; Institute Paul Bocuse, The International School of Italian Cuisine (ALMA), Culinary institute of America (CIA), as well as from chefs with accolades from Bocuse d'Or, Royal Academy of Culinary Arts amongst others.¹
and
at least 3 years experience in a respected restaurant guide as Executive Sous Chef, Sous Chef, Executive Head Chef and Head Chef or equivalent.

OR

- iii. A minimum of six (6) years experience working as a senior chef in a hotel, stand alone restaurant, franchise group or a group of restaurants; including contract catering or in an respected restaurant guide.

¹ Certified true copies (with Apostille when necessary) of such certification shall be submitted to the selection board

4. Maximum Aid and Applicable Aid Intensity

4.1 Form of Aid

Assistance will be provided in a form of tax credit.

4.2 Maximum Aid

The Corporation may approve a tax credit of up to €10,000 per undertaking, covering 75% of the eligible costs. The aid may cover two different qualifying engagements which may be between the undertaking and the same qualifying chef.

5. Qualifying Costs

Costs as specified in an agreement between the undertaking and Qualifying Chef (or his/her representative) shall be considered as eligible as long as:

- 1) The agreement clearly specifies that the Qualifying Chef will provide the undertaking with capacity building through: on the job training; menu and menu engineering; and/or a routine contact with the personnel on the job premises.
- 2) Will be in Malta for a period of 10 operational days (not necessarily consecutive) for supporting the undertaking in the agreed tasks.

All cost must be invoiced by the Qualifying Chef (or his/her representative) except for any travel costs which may be invoice to the undertaking by the airline or travel agent providing the service.

6. Application and Assignment of Aid

6.1 Application Process

An application form shall be downloadable from the Corporation's website. Applicants should submit the completed application to the Corporation before 31st December 2018. Applications should be submitted electronically as specified on the application form and should include all annexes.

Applications will be processed on a first-come basis and an incomplete application will be rejected.

6.2 Approval

Applications will be processed by Malta Enterprise, Ministry of Tourism and by the Institute of Tourism Studies (ITS) and will be based on the information included in the application form and the documentation submitted. Primarily the evaluation process will confirm whether the applicant fulfils the conditions set out in these Guidelines yet ITS in their review will consider the value to be gained by the applicant and its potential impact on the growth of the Maltese economy before recommending the award.

Should the application be considered favourably an IEC will be issued by the Corporation.

7. Claim Process

Claims must be submitted on the appropriate claim forms and will only be accepted if all the supporting documentation is received by the Corporation. All incomplete claims will be rejected. The beneficiary will be required to provide:

- 1) proof that the agreement with the qualifying chef was carried out as per contract,
- 2) fiscal document of any costs claimed and proof that such costs were settled.

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

8. Tax Credits

Following a positive review of a claim form the Corporation shall issue a Tax Credit Certificate.

The awarded Tax Credit may be claimed in the tax return in the three years of assessment immediately following the year in which the certificate is issued.

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.

9. State Aid Rules and Obligations

9.1 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)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 form³ must be filled in and submitted together with the application form.

9.2 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

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

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

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).

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.

9.3 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 **Catering Capacity Building** 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).

10. 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.

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