



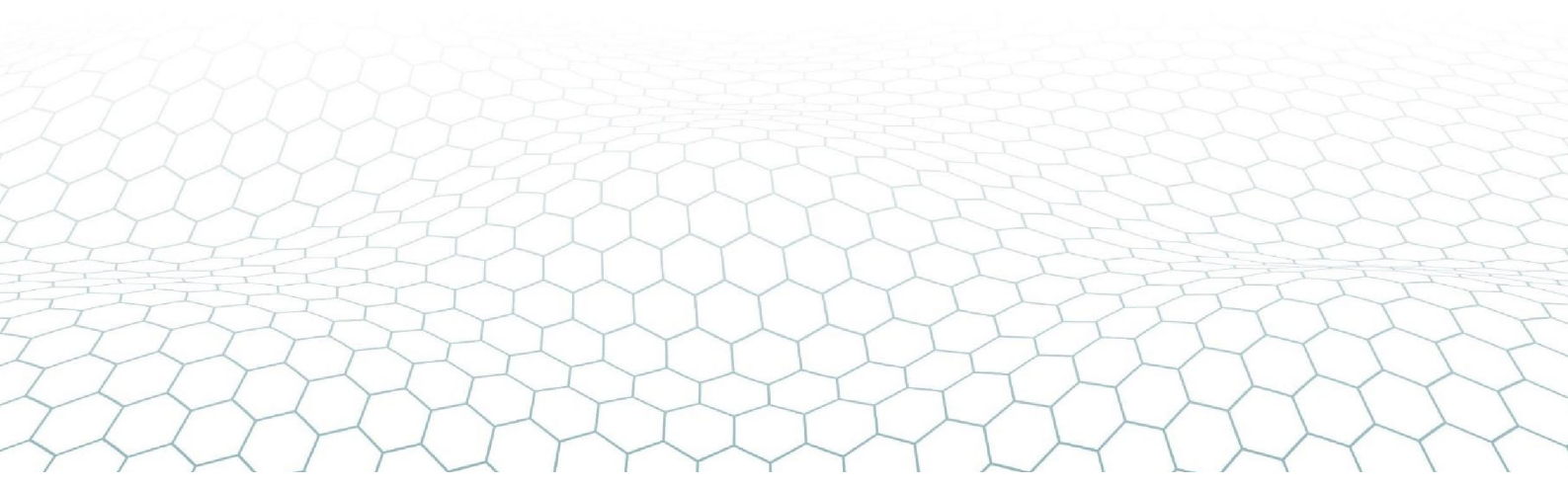
MALTAENTERPRISE

## INCENTIVE GUIDELINES

# Invest

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## Support for Initial Investment Projects



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# 1. Introduction

## 1.1 Scope and Background

1.1.1 This measure aims to sustain the regional industrial and economic development of Malta. The measure facilitates initial investments by encouraging the setting up of new establishments, the expansion of existing facilities and the diversification of existing businesses, amongst other activities.

1.1.2 Beneficiaries of Invest may be supported through loan guarantees, interest rate subsidies, cash grants and tax credits (which may be claimed against future Income Tax bills). The support is aimed at facilitating access to funding and accelerating the return on investment made.

## 1.2 Duration of the Scheme

1.2.1 These Incentive Guidelines shall be applicable from 1<sup>st</sup> May 2022 and unless reviewed or updated shall remain in force until 31 December 2023.

1.2.2 The incentive may be reviewed in line with any revisions of the relevant State Aid regulations or in view of any national policy requirements.

## 1.3 Legal Basis

1.3.1 Malta Enterprise Corporation may issue and publish 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.

1.3.2 The Invest Regulations 2022 as subsidiary legislation 463.XX to the Malta Enterprise Act, Chapter 463 of the Laws of Malta mentioned in the previous paragraph, forms the national legal basis of this aid scheme.

1.3.3 The terms and conditions covering this aid scheme shall be in line with Commission Regulation (EU) No 651/2014 of 17th June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty, (OJ L 187/1, 26.6.2014) as amended by Commission Regulation (EU) 2017/1084 of 14 June 2017 amending Regulation (EU) No 651/2014 as regards aid for port and airport infrastructure, notification thresholds for aid for culture and heritage conservation and for aid for sport and multifunctional recreational infrastructures, and regional operating aid schemes for outermost regions and amending Regulation (EU) No 702/2014 as regards the calculation of eligible costs (OJ L 156/1, 20.6.2017), by Commission Regulation (EU) 2020/972 of 2 July 2020 amending Regulation (EU) No 1407/2013 as regards its prolongation and amending Regulation (EU) No 651/2014 as regards its prolongation and relevant adjustments (OJ L 215/3, 7.7.2020), and by Commission Regulation (EU) 2021/1237 of 23 July 2021 amending Regulation (EU) No 651/2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty (OJ L 270/39, 29.7.2021), and as may be subsequently amended [herein after referred to as the General Block Exemption Regulation].

## 1.4 Designated Authority

1.4.1 This incentive is administered by Malta Enterprise Corporation.

## 2. Definitions

For the purposes of these Incentive Guidelines, the following definitions shall apply:

### **Bank**

For the scope of this incentive, a 'bank' is understood to be a commercial bank or other financial institution licensed to provide loans to businesses in Malta.

### **Diversification**

In the case of SMEs, diversification refers to a diversification of the output of an establishment into products not previously produced in the establishment. In the case of large enterprises, diversification refers to a diversification of the activity of an establishment under the condition that the new activity is not the same or a similar activity to the activity previously performed in the establishment. For aid granted for a diversification of an existing establishment, the eligible costs must exceed by at least 200% the book value of the assets that are reused, as registered in the fiscal year preceding the start of works.

### **Employment directly created by an investment project**

'Employment directly created by an investment project' means employment concerning the activity to which the investment relates, including employment created following an increase in the utilisation rate of the capacity created by the investment.

### **Fundamental change in the overall production process**

A fundamental change in the overall production process of an existing establishment, where for an investment to constitute a fundamental change in the production process, the eligible costs must exceed the depreciation of the assets linked to the activity to be modernised in the course of the preceding three fiscal years.

### **Gross grant equivalent**

'Gross grant equivalent' means the amount of the aid if it had been provided in the form of a grant to the beneficiary, before any deduction of tax or other charge.

### **Initial investment**

'Initial investment' means:

- a) an investment in tangible and intangible assets related to the setting-up of a new establishment, extension of the capacity of an existing establishment, diversification of the output of an establishment into products not previously produced in the establishment or a fundamental change in the overall production process of an existing establishment; or
- b) an acquisition of assets belonging to an establishment that has closed or would have closed had it not been purchased and is bought by an investor unrelated to the seller and excludes sole acquisition of the shares of an undertaking.

### **Initial investment in favour of new economic activity**

'Initial investment in favour of new economic activity' means:

- a) an investment in tangible and intangible assets related to the setting up of a new establishment, or to the diversification of the activity of an establishment, under the condition that the new

activity is not the same or a similar activity to the activity previously performed in the establishment;

- b) the acquisition of the assets belonging to an establishment that has closed or would have closed had it not been purchased, and is bought by an investor unrelated to the seller, under the condition that the new activity to be performed using the acquired assets is not the same or a similar activity to the activity performed in the establishment prior to the acquisition;

### **Large enterprises**

'Large enterprises' means undertakings not fulfilling the criteria laid down in Annex I of the General Block Exemption Regulation.

### **Relocation**

'Relocation' means a transfer of the same or similar activity or part thereof from an establishment in one contracting party to the EEA Agreement (initial establishment) to the establishment in which the aided investment takes place in another contracting party to the EEA Agreement (aided establishment). There is a transfer of the product or service in the initial, and the aided establishment serves at least partly the same purposes, and meets the demands or needs of the same type of customers, and jobs are lost in the same or similar activity in one of the initial establishments of the beneficiary in the EEA.

### **Same or a similar activity**

'The same or a similar activity' means an activity falling under the same class (four-digit numerical code) of the NACE Rev 2 statistical classification of economic activities as laid down in Regulation (EC) No 1893/2006 of the European Parliament and of the Council of 20 December 2006 establishing the statistical classification of economic activities NACE Revision 2 and amending Council Regulation (EEC) No 3037/90 as well as certain EC Regulations on specific statistical domains.

### **Small and Medium Sized Enterprises (SMEs) (Small Undertaking and Medium-Sized Undertaking)**

'Small and Medium Sized Enterprises' or SMEs means undertakings fulfilling the criteria laid down in Annex I of the General Block Exemption Regulation.

### **Start of Works**

'Start of Works' means the earlier of either the start of construction works relating to the investment, or the first legally binding commitment to order equipment or any other commitment that makes the investment irreversible.

Buying land and preparatory works such as obtaining permits and conducting feasibility studies are not considered 'Start of Works'.

For take-overs, 'Start of Works' means the moment of acquiring the assets directly linked to the acquired establishment.

### **Undertaking in Difficulty**

'Undertaking in Difficulty' means an undertaking in respect of which at least one of the following circumstances occurs:

- a) In the case of a limited liability company (other than an SME that has been in existence for less than three (3) years or), where more than half of its subscribed share capital has disappeared as a result of accumulated losses. This is the case when deduction of accumulated losses from reserves (and all other elements generally considered as part of the own funds of the company) leads to a negative cumulative amount that exceeds half of the subscribed share capital. For the purposes of this provision, 'limited liability company' refers in particular to the types of company

mentioned in Annex I of Directive 2013/34/EU<sup>1</sup> and 'share capital' includes, where relevant, any share premium.

- b) In the case of a company where at least some members have unlimited liability for the debt of the company (other than an SME that has been in existence for less than three years), where more than half of its capital as shown in the company accounts has disappeared as a result of accumulated losses. For the purposes of this provision, 'a company where at least some members have unlimited liability for the debt of the company' refers in particular to the types of company mentioned in Annex II of Directive 2013/34/EU.
- c) Where the undertaking is subject to collective insolvency proceedings or fulfils the criteria under its domestic law for being placed in collective insolvency proceedings at the request of its creditors.
- d) Where the undertaking has received rescue aid and has not yet reimbursed the loan or terminated the guarantee, or has received restructuring aid and is still subject to a restructuring plan.
- e) In the case of an undertaking that is not an SME, where, for the past two (2) years:
  - i. the undertaking's book debt to equity ratio has been greater than 7.5; and
  - ii. the undertaking's EBITDA interest coverage ratio has been below 1.0.

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<sup>1</sup> Directive 2013/34/EU of the European Parliament and of the Council of 26 June 2013 on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings, amending Directive 2006/43/EC of the European Parliament and of the Council and repealing Council Directives 78/660/EEC and 83/349/EEC.

## 3. Eligibility

### 3.1 Qualifying Activities:

3.1.1

This measure is applicable to investment projects that shall result in initial investment or initial investment in favour of a new economic activity in one or more of the activities listed below. The form of aid which may be considered in each case is indicated in Annex A.

- A) **Manufacturing:** Production, manufacturing, improvement, assembly, preservation and processing of goods, materials, commodities, equipment, plant, and machinery. The activity carried out should result in product(s) that are clearly distinct from the materials and components utilised.
- B) **Repair, overhaul or maintenance:** The repair, overhaul or maintenance of:
  - i. any water craft not covered by the definition of shipbuilding as provided for in the Framework on State aid for shipbuilding as published in the Official Journal C364 of 14.12.2011, p.9-13;
  - ii. aircraft;
  - iii. industrial engines or electromechanical equipment;
- C) **Industrial Services:** The provision of services requiring the operation of mechanical and/or electrical equipment, that is analogous and/or coincidental to manufacturing;
- D) **Information Technology - Computer Programming:** Developing, writing, modifying, testing of software to create and implement: systems software (including updates and patches); software applications (including updates and patches); databases systems; online solutions. This activity includes:
  - i. customising software; specifically modifying and configuring an existing application so that it is functional within the clients' information system environment;
  - ii. publishing of ready-made (non-customised) software following translation or adaptation of that software for a particular market (operating system, business or other application);
- E) **Information Technology - Data Processing and Hosting facilities:** The hosting of data for public or private third parties such as web hosting, streaming services, application hosting, application service provisioning, and general time-share provision of mainframe (or computing) facilities;
- F) **Information Technology - Data Processing services:** Activities for processing of digital/electronic data supplied by third parties or collected for third party sources;
- G) **Information Technology - Electronic and mobile platforms:** The operation of mobile and electronic platforms that enable clients to conduct commerce, financial transactions and electronic payments with third parties;
- H) **Call Centre Activities:** Inbound or outbound call centre services that receive customer orders, provide product information, deal with customer requests for assistance, address customer complaints, sell or market goods or services to potential customers, undertake market research or public opinion polling and similar activities for clients;
- I) **Research and Development, Design, and/or Innovation:** Carrying out of a continuous cycle of activities focused on design, development, testing, validation and technical analysis of products and/or processes, clinical trials, clinical validations, research activities related to biotechnology and life sciences and any other activity based on the use of established R&D



processes and/or design methodologies. The activity may include the commercialisation of developed solutions, services and products;

- J) **Waste Treatment:** the operation of physical, thermal, chemical or biological processes which change the characteristics of the waste in order to reduce the volume or the hazardous nature of waste so as to facilitate its handling or enhance recovery. (NACE 38.2 Waste treatment and disposal and NACE 38.3 Materials recovery.)
- K) **Environmental Solutions:** The operation of "Environmental Solutions" that significantly prevent, reduce or reverse the negative impacts of human activities on the environment. (NACE 39.0 Remediation activities and other waste management services).
- L) **Life Sciences:** The carrying out of activities related to Life Sciences focused on research, development, quality assurance, validation (including clinical trials) of products (such as medical devices and organic tissue) and processes (such as tissue transplantation procedures). The investment project supported through this scheme must be used solely for the beneficiary's own purposes.
- M) **Pharmaceuticals:** The carrying out of one or more of the following activities under a Good Manufacturing Practice certificate and/or a Good Distribution Practice Certificate issued by the Medicines Authority in Malta:
  - i. Formulation, development and/or manufacturing of pharmaceuticals licensed for use as medications;
  - ii. Preparation and packaging of pharmaceuticals licensed for use as medications;
  - iii. Logistics operations of pharmaceuticals, medical devices and related goods.
- N) **Audio-visual productions:** Activities for the production of feature films, television films, advertisements, documentaries and similar audio-visual productions including: the operation and provision of immovable property (such as sound stages and studios) specifically designed and equipped for the production of audio and audio visual products; and the provision for lease and rental of equipment, services and machinery for the production of audio and audio visual products.
- O) **Audio recording:** Activities for the production of audio recording in specifically designed structures.
- P) **Digital video games:** Design and development of digital video games including the running of multiuser platforms for such games.
- Q) **Education and Tuition:** Licensed institutions providing training that leads to recognised qualifications and certifications. (Such qualifications and certification shall not be limited to those recognised by the Malta Qualifications Recognition Information Centre (MQRIC) but shall include widely accepted certifications considered to be industry standards in the respective sector).
- R) **Human inpatient and/or day care services:** The operation of an immovable structure providing human inpatient and/or day care services (this includes hospitals, homes for elderly persons and day care clinics) duly licenced to conduct such services.
- S) **Logistics:** The operation of a Logistics facility of at least 2000sqm specifically designed for the provision of supply chain management and operations through temporary storage and warehousing of any third party goods, materials, commodities, equipment, plant or machinery, which activity may also include other related operation such as mixing, blending, sorting, labelling, packaging, exhibiting such any third party goods, materials, commodities, equipment, plant or machinery.

- T) **Industrial Packaging:** Packaging activities on an industrial scale through the use of automated systems.
- U) **Hotels and Guest Houses:** The operation of Hotels and Guest Houses including their amenities as licensed by the Malta Tourism Authority.
- V) **Knowledge Intensive Services:** The provision of Knowledge Intensive Services that rely on proprietary information technology solutions for their provision where 60% of the persons engaged are required to hold a degree at MQF6 or higher.
- W) **Restoration:** The Restoration and/or preservation of works of art and antiques.
- X) **Entertainment and Recreational Facilities:** The operation of an establishment or facilities dedicated for cultural events, trade shows, concerts, festivals, exhibitions or sporting activities and film projection.

3.1.2 Only economic activities listed above are considered qualifying, yet supported activities should also fall under the below NACE categories:

Sector	NACE Code
Manufacturing	C
Water supply, sewerage, waste management and remediation	E
Removal Services	H49.42
Warehousing and support activities for transportation	H52
Postal and courier activities	H53
Accommodation and food service activities	I
Information and Communication	J
Financial and Insurance Activities	K
Professional, Scientific and Technical Activities	M
Administrative and support service activities	N
Education	P
Human Health and Social Work Activities	Q
Creative, Arts and Entertainment Activities	R90
Libraries, Archives, Museums, and Other Cultural Activities	R91
Sports Activities and Amusement and Recreation Activities	R93
Other Services	S

### 3.2 Eligible Undertakings

3.2.1 Eligible undertakings are small and medium-sized enterprises in terms of Annex I of the General Block Exemption Regulation , as well as large enterprises. Loan Guarantees may only be awarded to small and medium-sized enterprises.

3.2.2 To be eligible for aid through this incentive, an undertaking must operate from Malta and be incorporated in the European Union as a partnership en nom collectif, en commandite or a limited liability company, co-operative or similar set-up. To benefit from a tax credit, partnerships are required to register under Article 27(6) of the ITMA to be treated as a company.

- 3.2.3 Eligible undertakings that have been established for more than three (3) years and are defaulting on VAT, Income Tax, or Social Security payments shall be disqualified, unless they are honouring a repayment agreement with the Commissioner for Inland Revenue (CfR) in respect of any arrears signed at least three (3) months prior to the date of application.
- 3.2.4 The Undertaking must not be an 'Undertaking in Difficulty'. However, this scheme shall apply by derogation to undertakings which were not in difficulty on 31 December 2019 but became undertakings in difficulty in the period between 1 January 2020 to 31 December 2021.
- 3.2.5 The undertaking must not have carried out a relocation to the establishment in which the initial investment for which aid is requested is to take place, in the two (2) years preceding the application for aid and must commit that it will not carry out a relocation up to a period of two (2) years after completion of the supported initial investment.
- 3.2.6 Support shall not be provided to any undertaking which is subject to an outstanding recovery order following a previous Commission decision declaring any aid granted to the undertaking by Malta as illegal and incompatible with the internal market.
- 3.2.7 Support shall not be provided to any undertaking that is engaged or plans to be engaged in an activity related to gambling (thus requiring a licence from the Malta Gaming Authority) or the provision of financial services (thus requiring a licence from the Malta Financial Services Authority).

### **3.3 Eligible Projects**

- 3.3.1 Support may only be awarded in respect of eligible investment projects commencing on or after 1st May 2022 and by 31st December 2026 or later if the Start of Works was delayed due to factors outside the control of the beneficiary as shall be determined by the Corporation, as long as the beneficiary submits an application for assistance, and the aid in respect of such projects is approved by the Corporation during the validity period of the scheme which in no case shall be later than 31 December 2023.
- 3.3.2 Eligible investment projects having a start of works after 1st May 2022 but prior to the approval of the Corporation may only be awarded aid in the form of tax credits.
- 3.3.4 The investment and resultant Economic Activity shall be maintained in the recipient area for at least five (5) years, or at least three (3) years in the case of SMEs, after completion of the investment. This shall not prevent the replacement of plant or equipment that has become outdated or broken within this period, provided that the economic activity is retained in the area concerned for the relevant minimum period.
- 3.3.5 The beneficiary shall provide a financial contribution of at least twenty-five percent (25%) of the eligible costs, either through its own resources or by external financing, in a form which is free of any public support.
- 3.3.6 Investment Costs related to research infrastructures (as defined in the General Block Exemption Regulation) and energy generation (including energy generated from renewable sources), distribution and infrastructure, shall not be considered as eligible.

### **3.4 Eligible Projects - SMEs**

- 3.4.1 SMEs may be supported in carrying out 'initial investment' projects consisting of:
- a) an investment in tangible and intangible assets related to the setting-up of a new establishment, extension of the capacity of an existing establishment<sup>2</sup>, diversification of

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<sup>2</sup> The extension of capacity of an existing establishment means that the existing establishment is put into a situation where it can manufacture more volume of at least one of the products already produced in the establishment, whilst the underlying overall production process is not fundamentally changed.

- the output of an establishment into products not previously produced in the establishment or a fundamental change in the overall production process of an existing establishment; or
- b) the acquisition of assets belonging to an establishment that has closed or would have closed had it not been purchased, and is bought by an investor unrelated to the seller and excludes sole acquisition of the shares of an undertaking.

### **3.5 Eligible Projects – Large Enterprises**

3.5.1 Large enterprises may only be supported in carrying out 'initial investment in favour of new economic activity' consisting of:

- a) an investment in tangible and intangible assets related to the setting up of a new establishment, or to the diversification of the activity of an establishment, under the condition that the new activity is not the same or a similar activity to the activity previously performed in the establishment; or
- b) the acquisition of the assets belonging to an establishment that has closed or would have closed had it not been purchased, and is bought by an investor unrelated to the seller, under the condition that the new activity to be performed using the acquired assets is not the same or a similar activity to the activity performed in the establishment prior to the acquisition.

## 4. The Incentive

### 4.1 Benefits that may be awarded under this measure

4.1.1 The Aid provided under these Incentive Guidelines may be awarded as Tax Credits, Cash Grant, Subsidies on loan interest, Loan Guarantees or a combination of any of these forms of aid. The total aid (value of aid) awarded cannot exceed the maximum support limits established in these Guidelines.

### 4.2 Tax Credit

4.2.1 Fiscal aid under this measure is non-discretionary and shall be awarded to any initial investment project that meets the eligibility criteria.

4.2.2 Any tax credits awarded may only be utilised by the beneficiary as long as the activity supported is still being carried out in the establishment. The Corporation shall annually provide the beneficiary with a statement of any tax credit balance until all allocated tax credits are utilised.

### 4.3 Cash Grants

4.3.1 A cash grant may be awarded in respect of initial investment projects following an evaluation of the project and its economic impact. Any such grant must be approved in writing by Malta Enterprise before the Start of Works and during the validity of the scheme.

### 4.4 Loan Interest Rate Subsidy

4.4.1 The Corporation may support eligible initial investment projects with an Interest Rate Subsidy that shall not exceed an interest rate equivalent to three percent (3%) per annum. In any case 1% of the interest rate charged by the bank must be paid by the beneficiary. Irrespective of the term of the loan, the subsidy shall only be available up to the tenth (10<sup>th</sup>) year from the date of the initial drawdown.

4.4.2 The Corporation shall establish a maximum annual subsidy in its approval.

4.4.3 The Beneficiary shall be required to provide details of a specific loan account with a Bank which shall be used exclusively to pay all eligible costs related to the supported investment project. The Corporation shall only consider eligible payments made directly from this loan account.

4.4.4 The Gross Grant Equivalent of any interest rate subsidy shall be calculated at the net present value of future subsidies using the discount rate established in relation to the **Base Rates** calculated in accordance with the Communication from the Commission on the revision of the method for setting the reference and discount rates (OJ C 14, 19.01.2008, p.6.). For establishing the value of aid the following formula shall be adopted:

$$\text{Value of aid} = \sum_{i=0}^n \frac{(\text{Value of Subsidy})_i}{(1+(\text{Reference Rate} + 100 \text{ basis points}))^i}$$

Where: n is the number of repayment period covered by the subsidy.

### 4.5 Loan Guarantees for SMEs

4.5.1 An Eligible Undertaking which must qualify as a Small or Medium-Sized enterprise may be supported through a guarantee to be used against a bank loan required for:

- a) the setting-up of a new establishment; or
- b) the extension of the capacity of an existing establishment.

4.5.2 The guarantee shall not exceed ten million euro (€10,000,000) and shall be reduced annually in accordance with the repayment schedule specified in the loan agreement. At no instance shall the guarantee cover more than 80% of the supported loan.

4.5.3 The value of aid shall be calculated by establishing the current value (using the applicable reference rate) of the guarantee premium which would have had to be paid on the annual outstanding amounts of the loan as scheduled. The premium shall be established by reference to the safe harbour premiums established by *Commission Notice on the application of Articles 87 and 88 of the EC Treaty to State aid in the form of guarantees - Official Journal C 155 of 20.06.2008, page 10*. For undertakings that do not have a credit history or rating based on a balance sheet approach, the safe-harbour premium shall be set at 3.8%. Any guarantee premium can never be lower than the premium which would be applicable to the parent company or companies.

#### 4.6 Maximum Support

4.6.1 The value of aid (calculated as the gross grant equivalent) shall be adjusted to ensure that the total amount of aid for a given investment project shall not exceed the maximum intensities established in the table below:

Size of Applicant (Activity)	Investment project in an assisted area identified in Annex B	Investment project in Gozo and Comino	Investment project in other areas
Small undertaking excluding hospitality sector	30%	35%	20%
Medium-sized undertaking excluding hospitality sector	20%	25%	10%
Large undertaking	10%	15%	N/A
Small and Medium Sized Enterprises (SMEs) operating in hospitality sector	15%	15%	10%

4.6.2 For 'Large Investment Projects', meaning initial investment projects with value of eligible costs exceeding EUR 50 million (calculated at prices and exchange rates on the date of granting the aid), the adjusted aid amount, i.e. the applicable maximum permissible aid shall be adjusted according to the following formula:

$$\text{Maximum aid amount} = R \times (A + 0.50 \times B + 0 \times C)$$

Where: R is the maximum aid intensity applicable in the area concerned established in an approved regional map and which is in force on the date of granting the aid, excluding the increased aid intensity for SMEs;

A is the initial EUR 50 million of eligible costs;

B is the part of eligible costs between EUR 50 million and EUR 100 million;

C is the part of eligible costs above EUR 100 million.

Furthermore, the notification thresholds outlined in Article 4(1) (a) and (c) of the General Block Exemption Regulation must not be exceeded. Such thresholds will not be circumvented by artificially splitting up the investment projects.

- 4.6.4 Any initial investment started by the same beneficiary (at group level) within a period of three (3) years from the date of Start of Works of another aided investment in the same level 3 region of the Nomenclature of Territorial Units for Statistics shall be considered to be part of a single investment project. Where such single investment project is a large investment project, the total aid amount for the single investment project shall not exceed the adjusted aid amount for large investment projects.

## 5. Eligible Project Expenditure

- 5.0.1 Eligible project expenditure shall be the acquisition of Qualifying Tangible and Intangible Assets required for the implementation of an eligible Initial Investment Project, or the wage costs arising from job creation as a result of an initial investment project (or estimated wage costs of employment directly created by the investment project in those areas not listed in Annex B) calculated over a period of two years.
- 5.0.2 Any taxes (such as Value Add Tax) or Government induced charges (such as customs charges and vehicle registration costs) shall not be considered to be part of the eligible expense related to the asset.
- 5.0.3 Costs related to services incidental to the procurement of the asset (such as shipping, installation and commissioning) shall be considered as an integral part of the eligible cost if this is allowed within the applicable accounting standards and evidence is provided that such costs are directly related to the investment project.
- 5.0.4 Eligible Project Expenditure financed through a Loan covered by an interest rate subsidy, or a guarantee shall be limited to tangible assets which may consist solely of construction and/or modification of buildings, plant, machinery, and equipment required for the initial investment project. All costs must be incurred within 36 months from the first draw down.

### 5.1 Tangible Assets

- 5.1.1 For the purpose of this incentive, 'Tangible Assets' means assets consisting of land, buildings (including fittings and furnishings), plant, machinery and equipment.
- 5.1.2 The assets acquired shall be new except:
- a) for SMEs which may also acquire used assets as long as such assets had not previously been used in Malta and proof is provided that such equipment is compliant to the latest environmental standards;
  - b) for the acquisition of an establishment.
- 5.1.3 Only the procurement of assets required for the implementation of the initial investment project required for carrying out of the qualifying economic activity may be supported.
- 5.1.4 The acquisition of works of art, antiques, collectables and similar items shall be considered ineligible.
- 5.1.5 With the exception of plant or equipment which has become broken or outdated due to rapid technological change, the tangible assets must be kept by the undertaking for at least five (5) years or three (3) years in the case of SMEs, after completion of the investment. In any case the underlying economic activity shall be retained in the recipient area for the minimum period of at least five (5) years or three (3) years in the case where the beneficiary is an SME.

### 5.2 Tangible Assets: Motor Vehicles

- 5.2.1 The costs for the acquisition of motor vehicles shall be considered only if the vehicle:
- a) is required for conducting the qualifying economic activity within the establishment; and
  - b) constitutes a part of an initial investment project.
- 5.2.2 Projects that constitute only the purchase of motor vehicles cannot be supported



### **5.3 Tangible Assets: Lease of tangible assets (plant or machinery)**

5.3.1 Costs related to the lease of tangible assets (plant or machinery) may be taken into account if the lease agreement contains an obligation for the beneficiary of the aid to purchase the asset upon expiry of the term of the lease. In such cases, the lease must take the form of financial leasing.

### **5.4 Tangible Assets: Land and buildings**

5.4.1 Costs for the procurement or lease of land, buildings and immovable structures shall be considered eligible in adherence to the following parameters:

- a) Costs incurred prior to the approval of an application (Request for Support) can only be supported through tax credits. Any costs incurred prior to the formal approval of the project are incurred at the applicants risk.
- b) Costs related to the lease of land and buildings shall be considered as eligible if the lease covers a period of at least five (5) years after the expected date of completion of the investment project for large undertakings or at least three (3) years in the case of SMEs. Only new lease agreements required for an initial investment or an initial investment in favour of a new economic activity shall be considered eligible. Irrespective of the lease period the aid shall be limited to the first ten (10) years. The eligible lease value shall be capped at the rate established in the original lease agreement, and any amendments made thereafter to increase the lease value shall not be considered. The lease agreement must clearly specify that neither party can terminate the lease within the eligible period. (If a lease agreement has an optional renewal clause, the date linked to the optional renewal shall for the purpose of the incentive be considered the termination date).
- c) Only buildings and structures which are duly licensed and where a qualifying economic activity is carried out shall be considered.
- d) The procurement of land shall be considered as eligible as long as the industrial buildings and structures forming part of the initial investment project are constructed thereon.
- e) Costs incurred for the purchase of land and other eligible preparatory works made for the purpose of the project shall be considered only if incurred after 1<sup>st</sup> May 2022 and in less than twenty-four (24) months before the Start of Works.
- f) The value of land and buildings shall be adjusted to deduct the cost of any areas in excess of the requirements of the supported investment project and qualifying activity as shall be established by a competent professional.
- g) Costs related to the construction of showrooms, retail outlets, restaurants, cafeterias and similar permanent facilities directly serving the general public shall not be supported unless such investments are an integrated amenity of a hotel investment project or part of permanent facilities used for cultural events, trade shows, concerts, festivals, exhibitions, film projection or sporting activities. When such costs are incorporated in an eligible investment, the value of land, buildings or structures shall be accordingly adjusted as shall be established by a competent professional. When these costs are incurred as part of a hotel investment project or part of a permanent facility used for cultural events, trade shows, concerts, festivals, exhibitions or sporting activities, film projection, the eligible costs shall be capped at ten percent (10%) of the value of the approved investment project.
- h) Costs incurred in relation to the finishing of eligible buildings and structures as required for the eligible business activity, shall be considered as eligible. These costs may include plastering, rendering, cabling, and other costs incurred as part of an initial investment, carried out after the acquisition date.
- i) Procurement of land to be operated as a quarry or a landfill shall be considered as ineligible.

## 5.5 Intangible Assets

5.5.1 For the purpose of this incentive, 'Intangible Assets' means assets that do not have a physical or financial embodiment, such as patents, licences, know-how or other intellectual property. Costs for the procurement of Intangible Assets shall be considered for the calculation of investment costs if they fulfil all the following conditions:

- a) used exclusively in the establishment receiving the aid;
- b) regarded as amortisable assets;
- c) purchased under market conditions<sup>3</sup> from third parties unrelated to the buyer;
- d) included in the assets register of the undertaking receiving the aid and must remain associated with the project for which the aid is granted for at least three (3) years or five (5) years in the case of large enterprises, after completion of the investment.

5.5.2 For large undertakings, costs of intangible assets are eligible only up to a limit of fifty percent (50%) of the total eligible investment costs for the initial investment.

## 5.6 Qualifying assets when acquiring the assets of an establishment

5.6.1 In the case of acquisition of the assets belonging to an establishment that has closed or would have closed had it not been purchased, the following rules shall be applicable:

- a) Only the costs of assets purchased from third parties unrelated to the buyer shall be taken into consideration. The transaction shall take place under market conditions.
- b) If aid has already been granted for the acquisition of assets prior to their purchase, the costs of those assets shall be deducted from the eligible costs related to the acquisition of an establishment.
- c) Where a member of the family of the original owner, or an employee takes over a small enterprise, the condition (set in 'a' above), that the assets be bought from third parties unrelated to the buyer shall be waived.
- c) The acquisition of shares does not constitute initial investment and hence does not constitute a qualifying expenditure.

## 5.7 Calculating the value of investment on the basis of jobs created

5.7.1 The qualifying expenditure may be calculated by considering the wage costs of *full-time jobs*<sup>4</sup> directly created as a result of the initial investment project. When opting to calculate the qualifying expenditure by considering wage costs, the beneficiary would still be required to implement an investment project through the acquisition of tangible assets and provide proof of such investment.

5.7.2 The jobs created by the investment project shall lead to a net increase of the number of employees in the establishment concerned, compared with the average over the previous twelve (12) months, meaning that any jobs lost during that period must be deducted from the apparent created number of jobs. The number of persons employed full-time, part-time and seasonal has to be considered with their annual labour unit fractions.

5.7.3 The eligible value shall be the gross wages before tax and compulsory contributions (such as social security costs) incurred over a period of two (2) years for the new roles created as a result of the investment project and filled within three (3) years from the completion of the investment project.

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<sup>3</sup> The Corporation may request an independent report detailing how the value of the assets was established.

<sup>4</sup> All calculation shall be based on full-time employment as registered with Jobsplus. Part-time, reduced, and seasonal shall not be considered.

- 5.7.4 The wage costs of new employees that had been employed with the Beneficiary or a linked undertaking in the six (6) months prior to the start of the engagement shall not be considered eligible.
- 5.7.5 Each job created must be maintained in the area concerned for a period of three (3) years, or five (5) years in case of large enterprises, from the date the post was first filled. If the job created is not maintained any aid disbursed shall be refunded by the beneficiary.

## 6. Application Process

- 6.0.1 Applicants should submit their application to the Corporation before 30<sup>th</sup> September 2023.
- 6.0.2 Each application must describe a clearly defined initial investment project. The Corporation shall review any application received and communicate the outcome of such review to the beneficiary.
- 6.0.3 Applications for tax credits for which the aid shall be calculated on assets procured may be submitted within six months from Start of Works, provided that this is done during the validity of the scheme. All other requests should be submitted prior to the commencement of the investment project giving the Corporation reasonable time to evaluate prior to the intended Start of Works. It is the applicant's responsibility to provide details and comprehensive information in the application form to enable the Corporation to determine eligibility and evaluate the application. The Corporation shall reject any incomplete application and shall not be bound to seek further information to better understand the proposed project.
- 6.0.4 Applicants should submit their request for support on the official application form provided through the Corporation's Online Application System .
- 6.0.5 All Applicants shall be required to submit the following documentation:
- a) Compliance certificates issued by the CfR not earlier than 3 months prior submission of application;
  - b) Details of Directors and Shareholders – Provide details of every Director and Shareholder and a profile of every Director holding 25% or more control in the applicant Enterprise.
  - c) Audited Accounts for the previous two years unless the undertaking has been established for less than 3 years.
  - d) A detailed and identifiable list of the expenditure on which support is being requested, listing equipment to be purchased and its projected cost; and an estimated Bill of Quantities compiled by competent persons in respect of plant, buildings and structures (including construction and finishing costs). The Corporation may request supporting documentation to verify that the aid requested represents realistic market prices.
  - e) The application should also contain:
    - i) a site plan indicating where the project will be carried out, including pictures of the current site and a plan of how this will be transformed by the project.
    - ii) a schematic signed by an architect indicating where, in the applicable local council boundaries, the proposed project will be carried out.
- If the applicant is still to identify a site for the project, the applicant may request a conditional approval which will be reviewed following submission of the above documents.
- 6.0.6 Applicants requesting support through a cash grant, loan interest subsidy or loan guarantee should also submit:
- a) An independent opinion from a Certified Public Accountant, explaining the impact on the proposed investment should the requested support not be awarded.
  - b) A business proposal or business plan. (Undertakings established for less than three years are required to submit a full business plan).
  - c) If the Applicant is part of a Group it should submit the latest consolidated audited accounts.
- 6.0.7 Applicants requesting support through a loan interest subsidy or loan guarantee should also submit a letter from their bankers providing details of the loan that shall be issued to the beneficiary should the project be approved by the Corporation.

6.0.8 The Corporation may request any addition information or documentation it deems relevant for processing the application submitted.

## **6.1 Determination of eligibility**

6.1.1 The Corporation will review all documentation submitted to determine the eligibility of the applicant and the project and may consult public sources of information and also conduct an onsite verification to support the process.

6.1.2 In order to determine that an undertaking is carrying out a Qualifying Economic Activity the Corporation:

- a) shall analyse the Memorandum and Articles of Association to confirm that the main objects relate to activities that are listed as eligible activities and that none of the objects allow for the carrying out of activities deemed as disqualifying; and
- b) may conduct onsite visits to confirm that any relevant entity is engaged in eligible activities and is not carrying out any disqualifying activities; and
- c) may request any relevant permits and documentation as the Corporation deems necessary to conduct its determination;

6.1.3 Based on the information provided in the application form and any additional information requested or obtained, the Corporation shall determine the eligibility of the proposed project.

## **6.2 Evaluation**

6.2.1 Support in the form of Tax Credit is awarded on the basis of eligibility as determined in these Incentive Guidelines.

6.2.2 All other requests for support shall be evaluated within the context provided in this section. Each submission will be reviewed on its own merits and any support will be awarded at the sole discretion of the Corporation. In assigning aid under this incentive, the Corporation will examine the project's potential to provide a contribution to the Maltese economy by examining various factors including:

- a) Project Feasibility: Is the project feasible and is it reasonably likely to remain feasible in the foreseeable future?
- b) Track Record: The applicant's reputation, including but not limited to whether the applicant is listed on international stock-exchanges; has a leading position in the same line of business/industry; has successfully executed cross-border investments.
- c) Technology: Will the technology used and the associated technological know-how expand local capabilities, potentially providing access to technology to other local undertakings through technology transfer? Is the applicant familiar with the technology? Has the technology been proven?
- d) Employment: Will the project generate employment in areas where the required human capital is available and will it offer job opportunities to qualified or highly skilled personnel? Are the required skills available? How long will it take for employees to acquire the required skills?
- e) Impact: Will the Project generate a positive impact on the productivity of other domestic companies through networking and clustering opportunities?
- f) Sustainability: What is the environmental impact of the project and how will the project address Sustainable Development Goals at a corporate and national level.
- g) Market: How large and competitive is the relevant market? How does the applicant compare to others in the same market?

- 6.2.2 Further detail on the evaluation criteria may be provided in the application form.
- 6.2.3 In conducting its evaluation the Corporation may request further information, and clarifications, beyond the information requested in the application, so as to determine whether the support should be awarded.

### **6.3 Awards**

- 6.3.1 On being satisfied that an undertaking satisfies the conditions set out in these Guidelines and the Regulations, the Corporation will provide the applicant with a notification of project approval. The approval will be issued subject to terms and conditions as may be imposed by the Corporation.
- 6.3.2 The outcome shall be communicated through a Letter of Approval (in line with Part VI Section 28 et seq. of the Malta Enterprise Act.) specifying the terms and conditions of the award.
- 6.3.3 The approval of the Corporation shall establish the maximum support to be awarded in support of the Project. The Letter of Approval will specify the maximum value which may be requested as tax credits, and if applicable the amounts which may be claimed for reimbursement as a cash grant, and any relevant details if an interest rate subsidy or loan guarantee is awarded.
- 6.3.4 When the approval includes the possibility of a loan guarantee, the Corporation shall only issue the guarantee once the undertaking provides a sanction letter from a bank recognised by the Corporation and grants the Corporation a general hypothec. Should the repayment schedule agreed with the bank differ from that presented in the application, the Corporation may need to re-assess the value of aid and may opt to re-evaluate the project.

### **6.4 Revocation and suspension of aid**

- 6.4.1 All projects are subject to audits and evaluations.
- 6.4.2 The assistance may be revoked, or suspended, if the beneficiary does not adhere to the conditions established in these Incentive Guidelines and in the Letter of Approval. Furthermore, the Corporation shall withhold all, or part, of the assistance if the undertaking (at group level) is subject to a recovery in respect of any other incentive awarded by the Corporation.
- 6.4.3 Any decision to revoke or suspend aid shall be taken without prejudice to the Bank in favour of whom a guarantee was issued to cover the approved project.
- 6.4.4 In terms of Part VII and Part VIII of the Malta Enterprise Act, Chapter 463 of the laws of Malta, the Corporation may revoke, amend or modify any aid awarded and apply penalties or request recovery of aid in the case of breach of these Guidelines or the conditions set down in the Letter of Approval issued by the Corporation and any relevant regulations.

### **6.5 Monitoring**

- 6.5.1 Successful applicants will be subject to monitoring to ensure that the investment project is being implemented according to the applicable Regulations and Incentive Guidelines and in terms of the Letter of Approval.
- 6.5.2 The Corporation may request any documentation it deems relevant and conduct site visits at the applicant's place of business to ensure that the supported loan is utilised in relation to the approved project and costs. On-Site visits may be carried out during and after the implementation of the investment project. Such visits may entail the verification of the documentation related to the investment project and the confirmation of the works carried out.

### **6.6 Project Changes**

- 6.6.1 The Corporation understands that beneficiaries may need to revise their plans during the implementation of a project. In such instances, the beneficiary will be required to submit a comprehensive list of changes supported by a full justification for these changes, based on which a review of the project will be carried out and an updated letter of approval shall be issued.

## **6.7 Claims**

- 6.7.1 Claims should be submitted in line with the terms and conditions specified in the Letter of Approval. When submitting a claim, the beneficiary shall provide copies of documentation confirming that transactions meeting all the legal requirements in respect to the applicable fiscal regulations and must also provide evidence that any transaction was conducted through a licensed financial intermediary (such as a bank). Details of the documentation required shall be further specified in the Letter of Approval.
- 6.7.2 Claims may be made against actual costs incurred, hence for assets financed through a lease agreement or when the repayment terms extend beyond the project completion date, claims shall be submitted *pari passu* with the payments even if these extend beyond the project completion.

## 7. State Aid Rules and Obligations

### 7.1 Applicable State Aid Rules

7.1.1 The terms and conditions set out in these guidelines are in line with the General Block Exemption Regulation [Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty, as amended by Commission Regulation (EU) No 2017/1084 of 14 June 2017 amending Regulation (EU) No 651/2014 as regards aid for port and airport infrastructure, notification thresholds for aid for culture and heritage conservation and for aid for sport and multifunctional recreational infrastructures, and regional operating aid schemes for outermost regions and amending Regulation (EU) No 702/2014 as regards the calculation of eligible costs, by Commission Regulation (EU) 2020/972 of 2 July 2020 amending Regulation (EU) No 1407/2013 as regards its prolongation and amending Regulation (EU) No 651/2014 as regards its prolongation and relevant adjustments, and by Commission Regulation (EU) 2021/1237 of 23 July 2021 amending Regulation (EU) No 651/2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty, and as may be subsequently amended].

7.1.2 The measure is based on Article 14 - Regional Investment Aid and Article 17 - Investment aid to SMEs, of the above mentioned regulation.

### 7.2 The incentive is not applicable to the following:

7.2.1 Activities listed down in Articles 1 (2), (3), (4) and (5) of the General Block Exemption Regulation [where applicable].

7.2.2 Activities listed down in Article 13 (1) of the General Block Exemption Regulation .

7.2.3 Undertakings in difficulty defined in terms of the General Block Exemption Regulation. However, those undertakings which were not in difficulty on 31 December 2019 but became undertakings in difficulty in the period from 1 January 2020 to 31 December 2021, shall still be considered eligible.

7.2.4 Furthermore assistance may not be granted if the aid is:

- a) related to export activities towards third countries or Member States, namely aid directly linked to quantities exported, to the establishment and operation of a distribution network or to the other current expenditure linked to the export activity;
- b) contingent upon the use of domestic in preference to imported goods,
- c) in favour of a beneficiary which is subject to an outstanding recovery order following a previous Commission decision declaring any aid granted by Malta illegal and incompatible with the internal market.

### 7.3 Rules on cumulation of aid

7.3.1 Rules on cumulation of aid shall be in line with Article 8 of the General Block Exemption Regulation.

### 7.4 Transparency Obligations

7.4.1 For any individual aid awarded in excess of €500,000, the details of the beneficiary, the aid awarded, and the project details shall be published as provided for in Article 9(1)(c) of the General Block Exemption Regulation.



## 8. Further Information

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.

Postal Address: Business First  
Centre Joseph Grech, 2nd Floor,  
'Cobalt House',  
Mdina Road, Mriehel Industrial Estate,  
B'Kara Malta, BKR3000

Telephone: 144

Email: [info@businessfirst.com.mt](mailto:info@businessfirst.com.mt)

Website: [www.businessfirst.com.mt](http://www.businessfirst.com.mt)

ANNEX A – Form of Aid applicable per activity

A)	Manufacturing	[F][C][S][G]
B)	Repair, overhaul or maintenance	[F][C][S][G]
C)	Industrial Services	[F][C][S][G]
D)	Information Technology - Computer Programming:	[F][C][S]
E)	Information Technology - Data Processing and hosting facilities:	[F][C][S]
F)	Information Technology - Data Processing services:	[F][C][S]
G)	Information Technology - Electronic and mobile platforms:	[F][C][S]
H)	Call Centre Activities	[F][C][S]
I)	Research and Development, Design, and/or Innovation	[F][C][S][G]
J)	Waste Treatment	[F]
K)	Environmental Solutions:	[F][C][S][G]
L)	Life Sciences:	[F][C][S][G]
M)	Pharmaceuticals:	[F][C][S][G]
N)	Audio-visual productions:	[F][C][S]
O)	Audio recording	[F][C][S]
P)	Digital video games:	[F][C][S]
Q)	Education and Tuition	[F]
R)	Human inpatient and/or day care services	[F]
S)	Logistics	[F]
T)	Industrial Packaging	[F]
U)	Hotels and Guest Houses:	[F]
V)	Knowledge Intensive Services	[F]
W)	Restoration	[F][C][S]
X)	Entertainment and Recreational Facilities	[F]

[F] = Fiscal support awarded as Tax Credits.

[C] = Cash Grants awarded as reimbursement of costs.

[S] = Interest Rate Subsidies.

[G] = Loan Guarantees.

ANNEX B – Assisted areas

MT001101 Valletta;	MT001221 Gzira;	MT001402 Mdina;
MT001103 Birgu;	MT001246 Pembroke;	MT001407 Zebbug (Malta);
MT001104 Isla;	MT001252 San Giljan;	MT001412 Attard;
MT001105 Bormla;	MT001253 San Gwann;	MT001416 Dingli;
MT001118 Floriana;	MT001259 Sliema;	MT001450 Rabat (Malta);
MT001129 Kalkara;	MT001310 Zejtun;	MT001537 Mellieha;
MT001133 Luqa;	MT001315 Birzebbuga;	MT001539 Mosta;
MT001134 Marsa;	MT001331 Kirkop;	MT001544 Naxxar;
MT001145 Paola;	MT001335 Marsascala;	MT001555 San Pawl il-Bahar.
MT001206 Qormi;	MT001336 Marsaxlokk;	
MT001214 Birkirkara;	MT001351 Safi;	