

Guidelines

Qualifying Employment in Innovation and Creativity (Personal Tax)



MALTAENTERPRISE

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



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1. Introduction

1.1 Objective

1.1.1 The development and expansion of knowledge based industries requires the availability of human resources. Such resources may be developed through education and training, however such resources would need to be substantiated through knowledge and experience. This measure facilitates employment of non-residents in roles which are currently not addressed by the local labour market by temporarily easing the tax expenses incurred by such individuals through a fiscal incentive.

1.2 Duration of the Measure

1.2.1 In accordance with SL.123.141 Qualifying Employment in Innovation and Creativity (Personal Tax) Rules, Malta Enterprise Corporation (hereinafter the Corporation or Malta Enterprise) may not issue any further determination after the 31st December 2025 and no further benefits may be availed after year of assessment 2030.

1.3 Legal Basis

1.3.1 S.L. 123.141, entitled Qualifying Employment in Innovation and Creativity (Personal Tax) Rules, as subsidiary legislation to the Income Tax Act (CAP. 123) of the Laws of Malta, provides the national legal basis of this incentive. (*Legal Notice 106 of 2013 as amended by Legal Notice 462 of 2014, 68 of 2018, and 282 of 2019*)

1.4 Designated Authority

1.4.1 Malta Enterprise, (hereinafter referred to as ‘the Corporation’) is the Authority with the designated Authority to determine eligibility of the individual to benefit from this measure.

2. Definitions

2.1 Eligible Office

2.1.1 An Eligible Office shall cover employment in a role directly engaged in carrying out, or management of research, development, design, analytical or innovation activities.

2.1.2 The Corporation shall consider an Eligible Office any role which is focused on:

- a) 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) 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 the detailed specification and development of new tangible products (including electronic products such as media and software products).
- d) Product or process innovation meaning the implementation of significant improvements to tangible products (including electronic products such as media and software products) and industrial processes aimed at increasing current capabilities, including customisation and localisation.
- e) Systematic, logical, scientific, inquisitive, investigative manipulation of data using quantitative and qualitative techniques for the creation of new knowledge and further development of products and services.
- f) Mathematical synthesis and modelling.

2.1.3 An eligible office shall include Senior Management roles in so far that the applicant:

- a) is directly responsible for a team of at least 3 persons carrying out the tasks mentioned above¹.
- b) reports directly to the Board of Directors or the head of the organisation with which the person is employed

2.2 Relevant Qualifications

2.2.1 Relevant Qualifications means any diploma, certificate, degree or other formal educational achievement in a subject area relevant to an eligible office, attained through an educational establishment attesting the successful completion of a post-secondary education programme at graduate level as recognized by the Malta Qualifications Recognition Information Centre as established by article 6 of the Mutual Recognition of Qualifications Act.

¹ In considering the persons under direct responsibility the Corporation shall take into account issues related to staff turnover.

2.3. Relevant Experience

- 2.3.1 A person shall be deemed to have relevant experience if s/he has been employed for a consecutive period of 3 years in a similar role to that required by the Eligible Office immediately prior to being enrolled in the Eligible Office, or at least 5 years' experience in role similar to that required by the Eligible Office in the last 8 years preceding the employment.

3. Description of Measure

3.1 Applicability of Benefit

- 3.1.1 The 15% tax rate shall apply for a consecutive period of up to four (4) years commencing from the year immediately preceding the year of assessment in which the person is first liable to tax.

3.2 Extension of Benefit

- 3.2.1 By application, to any additional periods as may be approved by the Corporation but not exceeding five (5) consecutive years.

3.3 Change in Employment (Eligible Office)

- 3.3.1 Subject to the continued adherence of the Regulations and these guidelines, a person shall continue to benefit from the provisions, if the person enters into a new contract of employment which is also considered to be an Eligible Office and there is no more than thirty (30) days between the termination of one contract of employment and the commencement of the other contract of employment.

4. Eligibility

4.1 Eligible Employment

4.1.1 The Corporation shall consider applications from any person who:

- a) is employed in an “Eligible Office” as confirmed to the satisfaction of the Corporation through the contract of employment.
- b) is subject to paying income tax on such income in Malta, being emoluments payable under a qualifying contract of employment, and received in respect of work or duties carried out in Malta or fulfilling the role required by the Eligible Office, or in respect of any period spent outside Malta in connection with such work or duties, or on leave during the carrying out of such work or duties.
- c) derives employment income of a minimum of fifty-two thousand euro (€52,000) and subject to paying income tax on such income in Malta.
- d) has an employment contract subject to the laws of Malta and proves to the satisfaction of the Corporation that the contract is drawn up for exercising genuine and effective work in Malta.
- e) does not control more than 25% of the shares of the undertaking in which s/he is employed.

4.2 Eligible Persons

4.2.1 The Corporation shall issue a determination to any person engaged an Eligible Office, who:

- a) is in possession of a relevant qualification or has justified to the satisfaction of the Corporation a minimum experience of three (3) years in a role comparable to that of the Eligible Office.
- b) proves that is in receipt of stable and regular resources which are sufficient to maintain oneself and the family members without recourse to the social assistance system in Malta.
- c) resides in accommodation regarded as normal for a comparable family in Malta and which meets the general health and safety standards in force in Malta. The Corporation shall consider that the person resides in an accommodation regarded as normal for a comparable family in Malta if it includes a living area and at least one bedroom for each dependent.
- d) in possession of a valid travel document.
- e) in possession of health insurance in respect of all risks normally covered for Maltese nationals, including cover for in-patient treatment for himself/herself and the members of his/her family. If insurance is provided through a group policy, the applicant has to provide documentation (issued from the insurer) that the applicant and (if applicable) any dependants are covered by the policy.

4.3 Disqualification

4.3.1 A person shall only remain entailed to this benefit as long as the person:

- a) is not domiciled in Malta;
- b) has not benefitted and does not benefit from deductions available to investment services expatriates with respect to relocation costs and other deductions (under article 6 of the Income Tax Act).
- c) fully discloses for tax purposes, and declares, emoluments received in respect of income from a qualifying contract of employment and all income received from a person related to his/her employer paying out income from a qualifying contract as chargeable to tax in Malta

5. Applying for the measure

5.1 Support to applicants

- 5.1 Potential beneficiaries may contact Business First for guidance and information about this measure. Business First staff will support prospective individuals to understand the applicable regulations and guidelines and to address any issues that may be encountered when completing the application.

5.2 Application Process

- 5.2 Applicants are required to use the official application, which may be accessed through the Corporation's website <https://www.maltaenterprise.com/support>

5.3 Approval

- 5.3.1 Certificates will be issued up to any year fully covered by a contract of employment and for which the applicant presents a valid travel document. Therefore if an employment contract starts on 4th March 2019 and expired in 4th March 2022, the certificate will cover basis years 2019, 2020 and 2021. Similarly, if the passport of the employee was valid until 6th June 2021, the certificate will cover basis years 2019 and 2020.
- 5.3.1 Individuals will be notified in writing of the outcome of their application.
- 5.3.2 If the applicant satisfies the conditions set out in these Guidelines and the Regulations, the Corporation will provide the individual with an Entitlement Certificate confirming the determination of eligibility.


6. Monitoring

6.1 Annual Review

- 6.2.1 On an annual basis, the beneficiary shall provide to the Corporation updated documentation as may be required to ensure that the Corporation is in possession of the latest documentation. Such documentation shall include:
- a) Any changes to the employment contract;
 - b) Any acquisition of shares or changes in the shareholding of the employer that result in a change in the percentage of shares controlled by the beneficiary;
 - c) Any changes in place of accommodation;
 - d) Updated travel documents if documents submitted with application have expired or have for any other reasons been updated, changed or modified;
 - e) Updated sickness insurance documentation if the submitted application has expired.

6.2 Control

- 6.2.1 The Corporation and/or the Commissioner of Revenue:

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- a) may request the employer to carry out or commission third parties to carry out 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) may periodically request verifications to confirm that the beneficiary is still abiding to the regulations established in the applicable regulations and these Guidelines.

6.3 Revocation

- 6.3.1 The Corporation and/or the Commissioner of 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.



7. Contact Details

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
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