

L.N. 346 of 2020

**MALTA ENTERPRISE ACT
(CAP. 463)**

Research and Development Regulations, 2020

IN EXERCISE of the powers conferred by article 5 of the Malta Enterprise Act, the Minister for the Economy, Investment and Small Businesses, in consultation with the Malta Enterprise Corporation and with the concurrence of the Minister for Finance and Financial Services, has made the following regulations: -

1. (1) The title of these regulations is the Research and Development Regulations, 2020. Citation and coming into force.

(2) These regulations shall be deemed to have come into force on the 1st March, 2020.

2. In these regulations, unless the context otherwise requires: Interpretation.

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"the Act" means the Malta Enterprise Act;

Cap. 463.

"aid intensity" means the gross aid amount expressed as a percentage of the eligible costs, before any deduction of tax or other charge;

"the Corporation" means Malta Enterprise established under the Act;

"eligible costs" means that expenditure that may qualify for assistance in terms of these regulations and as shall be further established in the Guidelines;

"Research and Development Project" means the carrying out of an activity having a specific objective of developing or improving services, products or processes through experimental development and/or industrial research;

"Small and Medium Sized Enterprises" "Large Enterprises", "Experimental Development", "Industrial Research", "Effective Collaboration" and "Research and knowledge dissemination organisation" shall have the same meanings as assigned to them by 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;

"the Guidelines" means such guidelines as may be published by the Corporation from time to time in terms of the Act;

"undertaking" shall have the same meaning as assigned to it in the Act.

Assistance to support undertakings carry out a Research Activity.

3. Where the Corporation is satisfied that an undertaking requires assistance to carry out a Research and Development Project, the Corporation may assist such an undertaking by means of a tax credit or a cash grant calculated as a percentage of the eligible costs in accordance with the terms and conditions set out in the Guidelines:

Provided that cash grants may only be approved prior to the commencement of the project.

Aid Intensities.

4. Assistance being provided in terms of these regulations shall not exceed the below aid intensities:

(a) forty-five per cent (45%) of the eligible costs in the case of an undertaking which qualifies as a small undertaking;

(b) thirty-five per cent (35%) of the eligible costs in the case of an undertaking which qualifies as a medium undertaking;

(c) twenty-five per cent (25%) of the eligible costs in the case of an undertaking which qualifies as a large undertaking.

Assistance to Collaborative R&D projects.

5. The Corporation may provide additional assistance of up to fifteen per cent (15%) of eligible costs if the undertaking carries out a collaborative Research and Development Project involving effective collaboration with at least an independent undertakings and/or a Research and Knowledge-Dissemination Organisations within the terms established in the Guidelines.

Utilisation of tax credit.

6. (1) An undertaking benefiting from tax credits in terms of these regulations and the respective Guidelines shall be entitled to deduct from the amount of income tax which is due on its chargeable income derived from its trade or business in the years of assessment following the award of the benefit an amount equivalent to the tax credit awarded.

(2) An undertaking that in any year of assessment does not utilise any tax credit awarded or deducts a value from the amount of income tax which is due on its chargeable income derived from its trade or business that is less than the tax credit awarded shall carry forward the unutilised tax credit for the following years of assessment and so on for subsequent years.

(3) Tax credits awarded in terms of these regulations and the respective Guidelines shall not give rise to a right to a refund of tax.

(4) Where an undertaking has benefited from the provisions of this regulation, the tax credit shall be deemed to have relieved from tax so much of that undertaking's chargeable income which, when multiplied by the rates of tax at which it was chargeable in that year, is equal to the tax credit; and where the undertaking is a company and such undertaking or any subsequent company distributes the income which is so deemed to have been relieved from tax, such undertaking or undertakings shall state in the dividend warrant pertaining to any such distribution that such income has been relieved from tax by a tax credit in accordance with this regulation.

(5) (a) In the case of an undertaking which is a company, the chargeable income which is deemed to have been relieved from tax in accordance with sub-regulation (4) shall, for the purposes of the Income Tax Act, be allocated to the respective tax accounts of the company in question in accordance with the Tax Accounts (Income Tax) Rules and any dividends, or part thereof, distributed from such income shall be exempted from income tax in the hands of the members of the company on receipt of such distribution;

(b) where a dividend referred to in paragraph (a) is distributed to a member which is also a company, in this sub-regulation is referred to as "the second company", the said dividend shall likewise be distributed by the second company to its members in the form of dividends exempt from income tax in the hands of the recipients, and where a member of the second company is again a company, the preceding provisions shall apply *mutatis mutandis* as though references to the first company were references to the second company, and as though references therein to the second company were references to that member, and the principle set out in this sub-regulation shall continue to be applied for as long as such income or part thereof to which this regulation applies are distributed by way of dividends.

(6) In case of a company, no tax credit shall be due to an undertaking under this regulation unless it is claimed in the appropriate section of a tax return submitted by electronic means by not later than the relative tax return date.

7. The provisions of Research and Development Activities Regulations shall remain applicable for assistance awarded by the Corporation prior to the coming into force of these regulations.

Transitional
Provision.
S.L. 463.17.

B 2222

Deadline for
submission of
applications for
assistance.

8. No further requests for assistance shall be accepted under these regulations by the Corporation after 31st December 2022.
