L.N. 488 of 2010

MALTA ENTERPRISE ACT
(CAP. 463)

Enterprise Support Incentives (Amendment) (No. 2) Regulations, 2010

IN exercise of the powers conferred upon him by article 5 of the Malta Enterprise Act, the Minister of Finance, the Economy and Investment has made the following regulations:-

Title and commencement.

1. (1) The title of these regulations is the Enterprise Support Incentives (Amendment) (No. 2) Regulations 2010, and these regulations shall be read and construed as one with the Enterprise Support Incentives Regulations, 2008, hereinafter in these regulations referred to as "the principal regulations". L.N. 70 of 2008.

(2) These regulations shall be deemed to have come into force on the 1st October, 2010.

Amends regulation 5 of the principal regulations.

2. In regulation 5 of the principal regulations, for the words "in regulation 10" there shall be substituted the words "in regulation 14".

Amends regulation 6 of the principal regulations.

3. In regulation 6 of the principal regulations, for the words "in regulation 10" there shall be substituted the words "in regulation 14".

Renumbers regulations 9 to 13 of the principal regulations.

4. Regulations 9 to 13 of the principal regulations shall be renumbered as regulations 10 to 14 respectively.

Adds new regulation 9 to the principal regulations.

5. Immediately after regulation 8 of the principal regulations, there shall be added the following new regulation:

"Tax credits to undertakings carrying out a creative activity.

9. (1) When the Corporation is satisfied that an undertaking carrying on or intending to carry out a creative activity that may contribute to the economic development of Malta, requires assistance to develop and improve its business or to organise creative activities or events as may be specified in the Guidelines, the Corporation may provide such an undertaking with a tax credit of sixty per cent (60%) to be calculated as a percentage of the eligible costs incurred as from 1st January 2010 in accordance with the terms and conditions set out in the Guidelines:

Provided that for the purpose of this regulation, "creative activity" shall mean an economic activity, requiring an appreciable degree of human self-expression, that leads to the development and production of artistic works, products or services.

(2) The intensity of the tax credit shall be in accordance with the terms and conditions set out in the Guidelines:

Provided that this benefit shall be calculated on the eligible costs incurred as from 1st January 2010 till the 31st December 2013:

Provided further that the total amount of tax credits that may be granted in terms of this regulation shall not exceed twenty five thousand euro (€25,000).

(3) The tax credit referred to in this regulation shall be due as a deduction from tax payable by an undertaking on its chargeable income derived from its trade or business for that year of assessment commencing on the 1st January of the year immediately following the year in which the eligible costs are undertaken, and, where the tax credit, for that year of assessment, exceeds the income tax payable by such an undertaking for that year, the excess in the tax credit shall be allowed to be carried forward to the subsequent year of assessment and deemed to be a tax credit for that year:

Provided that a tax credit shall not give rise to a right to a refund of tax:

Provided further that unutilised tax credits can only be availed of until year of assessment 2015.

(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 on the investment; 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; and the tax which has so been relieved shall not be available for refund for any purpose of the Income Tax Act.

Cap. 123.

(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 Final Taxed Account of the company in question 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.

Cap. 123.

(b) Where a dividend referred to in paragraph (a) is distributed to a member which is also a company, in this paragraph 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 hereof 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 is distributed by way of dividends.

(6) Applications for assistance under this regulation shall reach the Corporation by not later than the 31st March 2013.".

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