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**L.N. 169 of 2012**

# MALTA ENTERPRISE ACT
# (CAP. 463)

## Investment Aid (Amendment) Regulations, 2012

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

Citation and commencement.

S.L. 463.02

**1.** (1) The title of these regulations is the Investment Aid (Amendment) Regulations, 2012, and these regulations shall be read and construed as one with the Investment Aid Regulations, hereinafter referred to as "the principal regulations".

(2) These regulations shall be deemed to have come into force on the 1st January, 2012.

Substitutes regulation 3 of the principal regulations.

**2.** Regulation 3 of the principal regulations shall be substituted by the following new regulation:

"Qualifying activities.

3. A qualifying activity in terms of these regulations shall be an economic activity consisting of a trade or business the profits or gains from which are chargeable to tax pursuant to article 4(1)(a) of the Income Tax Act, carried on or intended to be carried out by an undertaking in Malta which consists solely of any one or more of the following activities:

Cap. 123.

(a) (i) the production, manufacture, improvement, assembly, preservation, processing of goods, materials, commodities, equipment, plant, machinery;

(ii) the rendering of industrial services analogous to the activities referred to in subparagraph (i);

(iii) the repair, overhaul or maintenance of pleasure crafts, yachts not having more than thirty berths, aircraft, engines or equipment incorporated or used in such vessels or aircraft;

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(b) Information and Communications Technology (I.C.T.) developmental and related activities as may be prescribed in the Guidelines, but excluding telecommunications service providers and operators of online casinos and similar activities;

(c) call centres activities as may be prescribed in the Guidelines;

(d) research, development, and innovation of products and processes as may be prescribed in the Guidelines;

(e) eco-innovations, waste treatment and environmental solutions as may be prescribed in the Guidelines;

(f) biotechnology as may be prescribed in the Guidelines;

(g) formulation, development, manufacturing and preparation and packaging of pharmaceuticals as may be prescribed in the Guidelines;

(h) the development and production of audiovisual products and, or the operation and provision of facilities directly required for the development and production audiovisual products as may be prescribed in the Guidelines;

(i) the provision of private tertiary education as further defined in the Guidelines where the investment and number of jobs created exceeds the minimum parameters as may be prescribed in the Guidelines;

(j) the provision of private health-care services as further defined in the Guidelines where the investment and number of jobs created exceeds the minimum parameters as may be prescribed in the Guidelines;

(k) the provision of logistics services that include part transformation that adds value by an undertaking employing not less than two hundred and fifty full-time employees or their equivalent as may be prescribed in the Guidelines;

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(l) activities set out in article 11 of the Malta Freeports Act; Cap. 334.

(m) the provision of shared regional or global management and services as may be further defined in the Guidelines. Provided that such undertaking:

(i) is established in Malta after 1st January 2012;

(ii) exceeds the minimum value of investment and jobs created as may be prescribed in the Guidelines;

(n) the provision of knowledge intensive business services as may be further defined in the Guidelines. Provided that the undertaking:

(i) is established in Malta after 1st January 2012;

(ii) exceeds the minimum value of investment and jobs created as may be prescribed in the Guidelines;

(o) the operation or management of a hotel or group of hotels as may be be prescribed in the Guidelines:

Provided that notwithstanding the provisions of any other regulation, investment aid:

(a) shall only be granted with regards to investment projects approved by the Corporation after 1st January 2012;

(b) shall not exceed 15% of the qualifying expenditure incurred on an approved investment project:

Provided also that an undertaking shall not qualify for any of the benefits provided by these regulations if:

(a) the undertaking sells by retail and, for this purpose, an undertaking shall be deemed not to sell by retail if its sales of goods or services are made:

(i) to a person who carries on a trade and the goods or services so sold to such person are either resold by such person or are used by such person for the purpose of his trade; or

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(ii) to a person, other than an individual, who uses those goods or services for the purpose of an undertaking carried on by such person; or

(iii) to a person through e-commerce activities resulting in online transactions effected by means of a secure payment system; or

(iv) such undertaking is a small sized undertaking that sells solely goods manufactured by the same undertaking;

(b) the undertaking's trade or business includes any one of the following activities:

(i) dividing, sorting, packaging, mixing without changing the character of the good, drying, labelling, or other similar processes or any combination of such processes to goods which are acquired in bulk merely to prepare those goods for sale or distribution, excluding goods in respect of which the said undertaking carries on any other activity referred to in paragraph (a) of this regulation;

(ii) the assembly of any goods where the Corporation determines that:

1. the final assembled good is clearly recognisable from the individual components or parts from which it is assembled without regard being had to any exterior casing of the good; and

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2. the components and parts from which the good is assembled are such that the good is nearly complete and the assembly work and the supervision of such assembly work only require the employment of almost exclusively unskilled workers, such that the assembly operation is of a spurious nature when considered in the light of manufacturing activities;

(iii) without prejudice to any exception as may be provided in the Guidelines, the installation, commissioning or assembly of goods on site, where the said goods have not been manu-factured by the undertaking which is installing, commissioning or assembling the goods on site:

Provided that the provisions of this paragraph shall not be applicable to an undertaking which carries on only any one or more of the activities set out in paragraphs (b) to (j) of this regulation;

(ċ) the trade or business includes the preparation or production of "food in the course of catering" which is directly supplied to the final consumer.".

Deletes regulations 5 and 6 of the principal regulations.

**3.** Regulations 5 and 6 of the principal regulations shall be deleted.

**Ippubblikat mid-Dipartiment tal-Informazzjoni (doi.gov.mt) — Valletta —** ***Published by the Department of Information (doi.gov.mt) — Valletta***
**Mitbugħ fl-Istamperija tal-Gvern fuq karta riċiklata —** ***Printed at the Government Printing Press on recycled paper***

**Prezz/*Price***
**€0.45**