

Newsalert *

Tax and Legal Services



Malta

3 October 2006

Amendments to the Business Promotion Regulations – published on 5 September 2006

Legal Notice 192 of 2006 makes amendments to the Business Promotion Regulations, principally to the provisions regulating aid intensity levels in respect of investment projects. These changes are meant to bring aid intensity levels in line with the EU Regional State Aid rules, and shall come into force as from 1 January 2007.

Other changes that entered into force as from 1 August 2006 include the extension of certain non-fiscal incentives to other prescribed companies and exemption from income tax in respect of benefits and grants awarded through schemes issued by Malta Enterprise.

This newsletter is intended to outline the salient features of these amendments.

(1) Investment projects and aid intensity levels

(a) Requirement for pre-approval of investment projects

As from 1 January 2007, only investment projects that have been approved by Malta Enterprise ("the Corporation") prior to their commencement shall qualify for Investment Tax Credits in terms of Regulation 5 of the Business Promotion Regulations. It is therefore an implied requirement for companies to seek pre-approval from the Corporation in respect of any proposed investment projects. In this regard, we understand that the Corporation may request outline investment plans in respect of investment projects to be undertaken by companies.

(b) Aid intensity levels

Until the coming into force of these amendments, investment tax credits were calculated on the basis of the following percentages of a company's qualifying expenditure (or wage costs in respect of jobs created as a result of an investment project):

- 50% of qualifying expenditure (or wage costs) for large companies;
- 65% of qualifying expenditure (or wage costs) for micro, small and medium-sized enterprises (SMEs).

* **connectedthinking**

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Companies that have commenced or intend to commence an investment project during the remaining part of 2006 may wish to contact us as soon as possible in respect of the investment tax credit position applicable to the particular project.

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Legal Notice 192 of 2006 has reduced the applicable percentages of investment tax credits and emphasised the distinction between micro, small and medium-sized enterprises. With effect from 1 January 2007, investment tax credits and indeed the maximum aid intensity levels in respect of investment projects will be equivalent to:

- 30% of the value of the investment for large companies;
- 40% of the value of the investment for medium-sized companies (defined below);
- 50% of the value of the investment for micro and small companies (defined below).

- Medium-sized enterprises are those having:

- Fewer than 250 employees; and
- Either: annual turnover not exceeding Lm21,465,000
- Or: balance sheet total not exceeding Lm18,459,900

- Small enterprises are those having:

- Fewer than 50 employees; and
- Either annual turnover or balance sheet total not exceeding Lm4,293,000

- Micro enterprises are those having:

- Fewer than 10 employees; and
- Either annual turnover or balance sheet total not exceeding Lm858,600

(2) Non-fiscal incentives

Legal Notice 192 of 2006 has introduced the possibility for companies whose trade or business in Malta consists of the *'development and maintenance of information and content mainly for international dissemination through electronically accessed media'* to also start benefiting from the following non-fiscal incentives, with effect from 1 August 2006.

(a) Soft loans

This benefit consists of the granting of a loan of up to 75% of qualifying expenditure at a rate of interest amounting to at least 2.5% lower than the minimum discount rate established by the Central Bank of Malta. The time frame for repayment of the principal and interest cannot exceed ten years and is subject to the possibility of a two-year moratorium in respect of the principal sum of the loan.

(b) Loan interest subsidies

This benefit provides for a subsidy to be granted on loan interest payable in circumstances where qualifying expenditure is financed by means of a bank loan rather than a soft loan as described above. The subsidy given is such that the rate of interest borne by the company at least equals the rate established in respect of soft loans, that is, the minimum discount rate established by the Central Bank, less 2.5%.

(c) Loan guarantees

This benefit makes provision for the Corporation to guarantee up to 75% of loans taken out with banks and other licensed institutions to finance the acquisition of assets constituting qualifying expenditure.

(d) Training assistance

This benefit consists of a training grant to be provided to a company in circumstances of full-time employees undergoing approved training programmes. The grant is calculated as a percentage of prescribed training costs and the quantum of such percentage is dependent on:

- the size of the company (with a higher percentage being applicable to SMEs); and
- the type of training programme being undertaken (with a higher percentage being applicable to training that is generic in nature and which aims to improve the individual's employability in general rather than that person's specific position within the company).

From correspondence received from the Corporation, it is our understanding that eligibility of the said companies to soft loans, loan interest subsidies and loan guarantees is still dependent upon approval from the European Commission.

(3) Income tax exemption on grants and benefits

Legal Notice 192 of 2006 has confirmed that benefits and grants awarded through schemes issued by the Corporation are not subject to income tax.

The notes are designed to keep readers abreast with financial and tax developments. They are not intended to be a definitive or comprehensive analysis of the subject and should not be acted upon without prior consultation with the Partners or Senior Consultants of the firm. For further details please do not hesitate to contact: