

SUBSIDIARY LEGISLATION 325.06**BUSINESS PROMOTION REGULATIONS**

1st November, 2000

LEGAL NOTICE 135 of 2001, as amended by Legal Notices 228 of 2002, 98 and 128 of 2003, 464 of 2004, 67, 228 and 370 of 2005, and 192 of 2006.

1. The title of these regulations is the Business Promotion Regulations. Title.

2. (1) In these regulations, unless the context otherwise requires:

"Act" means the Business Promotion Act;

"Corporation" means:

- (a) for the purposes of regulation 11, the Institute for the Promotion of Small Enterprise Limited;
- (b) for the purpose of regulations 13 and 14(1) to (5), the Employment and Training Corporation;
- (c) for the purpose of regulations 4, 5, 6, 7, 8, 9, 10, 12, 14(6) to (9), 18, 20, 28 and 30 to 39, the Malta Development Corporation;

and for the purposes of the other regulations, the word "Corporation" shall mean any of the above entities as the case may require;

"medium-sized enterprise", "small enterprise" and "micro enterprise" shall have the meaning assigned to them by regulation 3;

"Minister" means the Minister responsible for Economic Services and includes, to the extent of the authority given, any person or authority authorised by him to act in that behalf for any purpose of these regulations;

"qualifying expenditure" shall mean expenditure of a capital nature -

- (a) incurred in acquiring, developing or constructing tangible fixed assets consisting of:
 - (i) land, industrial buildings or structures, including warehouses and offices within an industrial building or structure, but excluding showrooms; or
 - (ii) plant and machinery, including computer hardware and software and air conditioning systems, (but excluding non-commercial vehicles) and also including office furniture and fittings or commercial vehicles as may be certified by the Corporation as essential for the implementation of a qualifying investment

Interpretation.
Amended by:
L.N. 228 of 2002;
L.N. 98 of 2003;
L.N. 128 of 2003;
L.N. 67 of 2005.
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project; or

- (b) incurred in the acquisition or development of technology or know-how whether this is patented or not;

where the tangible and intangible assets referred to in paragraphs (a) and (b) are used in the production of the income derived from the activities referred to in article 3(1) of the Act; and

where the tangible or intangible assets in respect of which the expenditure has been incurred is maintained for at least five years or such other shorter period as the Corporation may deem appropriate in view of the nature of the investment project; and "investment project" shall include any qualifying expenditure incurred by a company whether such expenditure is incurred over a period of time or not and whether such expenditure is in respect of a number of items or not:

Provided that with respect to companies which do not qualify as a medium or small sized enterprise, the qualifying expenditure in terms of paragraph (b) shall not exceed twenty-five per cent of the total qualifying expenditure:

Provided further that the expenditure is incurred in relation to the setting up of a new activity, the extension or expansion of an existing activity or in relation to the commencement of an activity which involves a change in the product or production processes then undertaken by the company, and provided that the said activity is carried out in Malta:

Provided further that with respect to expenditure referred to in paragraph (a) the expenditure is incurred on assets -

- (i) which are new or used in Malta for the first time except when the assets consist of land or buildings; and
- (ii) in respect of which no income tax benefit has previously been obtained under the Act or any regulations made thereunder by any person who is connected with the company claiming any benefit contemplated by these regulations or the Act; and, for the purposes of this sub-paragraph, a person shall be considered to be connected to such company if one is, directly or indirectly, controlled or beneficially owned to the extent of more than fifty per cent by the other or both are, directly or indirectly, controlled or beneficially owned to the extent of more than fifty per cent by the same persons:

Provided further that:

- (i) immovable property held by title of emphyteusis; and
- (ii) any asset acquired under a contract of hire which stipulates that ownership of the asset shall or may pass to the lessee when a specified amount has been paid,

shall, for the purposes of this definition, be deemed to be assets acquired by the company:

Provided further that with respect to the expenditure incurred on the acquisition of assets referred to in paragraph (b) such expenditure is incurred on assets which, in accordance with generally accepted accounting principles, are amortizable and which are purchased from third parties under market conditions;

"waste treatment" means physical, thermal, chemical or biological processes, including sorting, which change the characteristics of the waste in order to reduce its volume or hazardous nature, facilitate its handling or enhance recovery, and shall include waste management.

(2) Subject to the provisions of subregulation (1), terms and expressions used in these regulations shall, unless the context otherwise requires, have the meaning assigned to them in the Act.

3. (1) Subject to the other provisions of this subregulation -

(a) a medium-sized enterprise is an enterprise which -

- (i) has fewer than two hundred and fifty employees; and
- (ii) has either an annual turnover not exceeding twenty-one million and four hundred and sixty-five thousand liri or a balance sheet total not exceeding eighteen million, four hundred and fifty-nine thousand and nine hundred liri;

(b) a small enterprise is an enterprise which -

- (i) has fewer than fifty employees; and
- (ii) has either an annual turnover not exceeding four million and two hundred and ninety-three thousand liri or a balance sheet total not exceeding four million and two hundred and ninety-three thousand liri;

(c) a micro enterprise is an enterprise which -

- (i) has fewer than ten employees; and
- (ii) has either an annual turnover not exceeding eight hundred and fifty-eight thousand and six hundred liri or a balance sheet total not exceeding eight hundred and fifty-eight thousand and six hundred liri.

Definition of small and medium-sized enterprises.
Amended by:
L.N. 98 of 2003;
L.N. 128 of 2003;
L.N. 228 of 2005.

(2) Notwithstanding subregulation (1), except in the cases set out in the proviso to subregulation (4)(b), an enterprise shall not be considered a medium-sized, a small or a micro enterprise if twenty-five percent or more of its capital or voting rights are directly or indirectly controlled, jointly or individually, by one or more public bodies and, for this purpose, a public body means and includes:

- (a) the Government of Malta;
- (b) any Government division or department;
- (c) any local council set up under the Local Councils Act;

- (d) any corporation or authority set up by an Act of Parliament;
- (e) any foreign entity similar to a public body referred to in the foregoing paragraphs.

(3) In determining the headcount and the financial ceilings of an enterprise for the purpose of this regulation, the following provisions shall apply:

- (a) in the case of an autonomous enterprise the data, including the number of staff, shall be determined exclusively on the basis of the accounts of that enterprise;
- (b) in the case of an enterprise that is not an autonomous enterprise, the data, including the number of staff, shall be the aggregate of:
 - (i) the data determined on the basis of the accounts and other data of the enterprise or, where they exist, the consolidated accounts of the enterprise or the consolidated accounts in which the enterprise is included through consolidation;
 - (ii) the data of any partner enterprises of the enterprise in question, which aggregation shall be made in proportion to the percentage of the capital or voting rights, whichever is the greater, held directly by each such partner enterprise in the enterprise in question or by the enterprise in question in each such partner enterprise, as the case may be:

Provided that in the case of cross holdings reference shall be made to the greater of the holdings;
 - (iii) one hundred percent of the data of any enterprise which is linked directly or indirectly to the enterprise in question, unless already included through consolidation in the accounts;
- (c) in the application of paragraph (b)(ii), the data of a partner enterprise shall be the aggregate of the data determined on the basis of its accounts and its other data, consolidated if they exist, and one hundred percent of the data of any enterprises which are linked to that partner enterprise, unless already included through consolidation;
- (d) in the application of paragraphs (b)(iii) and (c), the data of linked enterprise shall be the aggregate of the data determined by reference to its accounts and other data, consolidated if they exist, and a percentage of the data of the partner enterprises of that linked enterprise, if any, which percentage shall be established as provided in paragraph (b)(ii) unless already included, at least to the extent of that percentage, through consolidation;

- (e) where in the consolidated accounts no staff data appears for a given enterprise, staff figures are calculated by aggregating proportionally the data from its partner enterprises and by adding the data from the enterprises to which the enterprise in question is linked.
- (4) In this regulation -
 - (a) an "autonomous enterprise" is any enterprise which is not a partner enterprises or a linked enterprises;
 - (b) two enterprises are partner enterprises of each another if they are not linked enterprises and if one of them holds, either solely or jointly with one or more linked enterprises, twenty-five percent or more of the capital or voting rights of the other:

Provided that an investor which is not linked, either individually or jointly, to an enterprise shall not be deemed to a partner enterprise of that enterprise, even if the said twenty-five percent threshold is exceeded, if that investor falls within any of the following categories:

- (i) public investment corporations, venture capital companies, individuals or groups of individuals with a regular venture capital investment activity who invest equity capital in unquoted businesses ("business angels"), provided the total investment of those business angels in the same enterprise is less than five hundred and thirty-six thousand, six hundred and twenty-five liri;
 - (ii) universities or non-profit research centres;
 - (iii) institutional investors, including regional development funds;
 - (iv) autonomous local authorities with an annual budget of less than four million and two hundred and ninety-three thousand liri and fewer than five thousand inhabitants;
- (c) two enterprises are linked enterprises if there is between them any of the following relationships:
 - (i) one of them has a majority of the shareholders' or members' voting rights in the other;
 - (ii) one of them has the right to appoint or remove a majority of the members of the administrative, management or supervisory body of the other;
 - (iii) one of them has the right to exercise a dominant influence over the other pursuant to a contract entered into with that other enterprise or to a provision in its memorandum or articles of association:

Provided that investors listed in the proviso to paragraph (b) shall not be deemed to exercise a

- dominant influence if they do not involve themselves directly or indirectly in the management of the enterprise in question, without prejudice to their rights as stakeholders;
- (iv) one of them, being a shareholder in or member of the other enterprise, controls alone, pursuant to an agreement with other shareholders in or members of that other enterprise, a majority of the shareholders' or members' voting rights in that enterprise;
 - (v) one of them has any of the relationships mentioned above with the other through one or more other enterprises or any one of the investors listed in the proviso to paragraph (b);
 - (vi) one of them has any of the relationships mentioned above with the other through a natural person or a group of natural persons acting jointly and the enterprises engage in their activity or in part of their activity in the same relevant market or in an adjacent market, that is to say, the market for a product or service that is situated directly upstream or downstream of the relevant market.

(5) The determination of whether the conditions referred to in subregulation (1)(a) and (b) and in subregulation (2)(a) and (b) are satisfied shall be made by reference to the enterprise's last approved financial statements:

Provided that where the company's last approved financial statements do not refer to any of the enterprise's last two financial periods or where financial statements have not yet been approved, the determination of whether or not a company satisfied those conditions shall be made by the Corporation on the basis of information provided by the company and any other information available to the Corporation:

Provided, moreover, that an enterprise may or, at the request of the Corporation, shall, make a declaration of status as an autonomous enterprise, partner enterprise or linked enterprise, including the data regarding the ceilings set out in this regulation. The declaration may or, as the case may be, shall be made even if the capital is spread in such a way that it is not possible to determine exactly by whom it is held, in which case the enterprise shall state in good faith whether or not it can legitimately presume that it is not owned as to 25% or more by one enterprise or jointly by enterprises linked to one another. Any such declarations shall be without prejudice to the checks and investigations provided for in the Act, in these regulations or in any other regulations made under the Act.

(6) For the purpose of determining whether an enterprise satisfies the conditions set out in subregulations (1) and (2) -

- (a) the annual turnover of that enterprise shall, when stated in Maltese liri, be translated into Euros at an

average rate of exchange which shall be arrived at by dividing the aggregate of the middle rate of exchange determined by the Central Bank of Malta for each whole month comprised in an accounting period by the number of whole months comprised in that period; and

- (b) the total assets of that enterprise shall, when stated in Maltese liri, be translated into Euros at the middle rate of exchange last determined by the Central Bank of Malta on or prior to the date on which the accounting period of the enterprise ends;

and where an enterprise prepares its financial statements in a currency other than in Maltese liri or Euros, the turnover and total assets of that company shall first be translated into Maltese liri and then into Euros by reference to the middle rate of exchange as determined by the Central Bank of Malta using the methods set out in paragraphs (a) and (b):

Provided that the amount to be taken into account for determining the turnover shall be calculated excluding value added tax and other indirect taxes.

(7) If, in respect of an enterprise, it has already been established by reference to its financial statements for a period of at least twelve months whether or not it qualifies as a medium-sized enterprise, a small enterprise or a micro-enterprise, it shall only acquire or lose such a status if the conditions set out in subregulations (1) and (2) are satisfied or are no longer satisfied, as the case may be, for two consecutive accounting periods.

(8) For the purpose of this regulation -

- (a) the following shall be deemed to be employees of an enterprise:
 - (i) employees of the enterprise;
 - (ii) persons working for the enterprise being subordinated to it and deemed to be employees in terms of the law regulating their employment;
 - (iii) owner-managers;
 - (iv) partners engaging in a regular activity in the enterprise and benefiting from financial advantages from the enterprise;
- (b) apprentices or students engaged by an enterprise in vocational training with an apprenticeship or vocational training contract shall not be deemed to be employees of that enterprise;
- (c) the number of full-time employees shall be arrived at by dividing the number of employees who worked full time for the enterprise at the end of each whole month comprised in an accounting period by the number of months in that accounting period.

(9) For the purposes of subregulations (1) and (2), the number of employees shall be determined by adding to the number of full-time employees the result obtained from dividing the number of

hours worked by employees, who are not employed on a full-time basis, by one thousand and seven hundred and sixty:

Provided that employees who are on maternity or parental leave shall not be deemed to have worked for the duration of that leave.

(10) For the purposes of this regulation, if a financial period of a company, other than the first financial period, is less or more than twelve months, the amounts referred to in subregulation (1)(b) and in subregulation (2)(b) and the number of hours worked by employees who are not employed on a full-time basis referred to in subregulation (9) shall be divided by three hundred and sixty five and then multiplied by the number of days comprised in that accounting period.

(11) For the purposes of this regulation, "enterprise" shall mean an enterprise which carries on a trade or business in Malta:

Provided that this subregulation shall not be applicable for the purpose of determining whether or not an enterprise is a small, medium-sized or micro enterprise in order to establish:

- (i) the tax benefits such enterprise will be entitled to in year of assessment 2004 and subsequent years of assessments;
- (ii) the other benefits such enterprise will be entitled to as from 1 January 2003.

Reduced rates of
income tax.
Amended by:
L.N. 228 of 2002;
L.N. 98 of 2003.

4. (1) Where a company, throughout a relevant accounting period, satisfies the conditions set out in this regulation, the profits derived by such company from its trade or business carried out in Malta shall -

- (a) with effect from the year of assessment from which the provisions of this regulation become applicable and the six subsequent years of assessment, be subject to income tax at the rate of 5%;
- (b) for the six years of assessment immediately following the years of assessment as determined in accordance with paragraph (a), be subject to income tax at the rate of 10%;
- (c) for the five years of assessment immediately following the years of assessment as determined in accordance with paragraphs (a) and (b), be subject to income tax at the rate of 15%:

Provided that the last year of assessment in respect of which the provisions of this regulation shall be applicable shall be year of assessment 2021:

Provided further that, subject to the immediately preceding proviso, the Corporation shall confirm to each company qualifying in terms of this regulation the minimum number of years of assessment, which shall not exceed ten years of assessment, in respect of which the provisions of this regulation shall be applicable to that company; and the Corporation may, not earlier than twelve months prior to the expiration of such period, renew

such confirmation for a further period not exceeding five years:

Provided further that, without prejudice to a company's rights with respect to any period confirmed by the Corporation in terms of the immediately preceding proviso, the Minister may by notice in the Gazette determine that the last year of assessment in respect of which the provisions of this regulation shall be applicable shall be a year of assessment prior to year of assessment 2021:

Provided further that companies referred to in subregulation (2)(a) shall only be eligible to be taxed at the rates stipulated in paragraphs (b) and (c) of this subregulation, and in such case the rate of tax referred to in paragraph (b) shall be applicable for six years of assessment with effect from the year of assessment from which the provisions of this regulation become applicable and the rate of tax referred to in paragraph (c) shall be applicable for the following five years of assessment.

(2) For the purposes of subregulation (1), the year of assessment from which the provisions of this regulation shall become applicable is -

- (a) year of assessment 2002, or any of the subsequent two years of assessment in the case of -
 - (i) a company incorporated in Malta and which existed on the day immediately preceding the date of the coming into force of this regulation; and
 - (ii) a company incorporated outside Malta and which was registered as an oversea company in terms of the Companies Act on the day immediately preceding the date of the coming into force of this regulation,

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as shall be determined by the company by notice to the Corporation by not later than 30 April 2003;

- (b) any of the first three years of assessment of the company in the case of any other company as shall be determined by the company by the end of its third year of assessment,

so however that, if no such notice is given by the aforementioned dates, the earlier year from the available years of assessment shall be the first year of assessment from which the provisions of this regulation shall be applicable:

Provided that where a company as is referred to in paragraph (a) carries on a trade consisting of a project in respect of which the Corporation has, prior to the date referred to in the said paragraph (a), granted its approval, conditional or otherwise, that a company which undertakes the said project shall qualify for any of the incentives provided by articles 4, 5 or 5A of the Act, such company shall, if it has not started utilising the said incentive, be deemed to be a company falling under paragraph (b). A certificate issued by the Corporation, to the effect that a company is deemed to be a company falling under paragraph (b), shall constitute

conclusive evidence of the facts stated therein for all purposes of law and a copy of any such certificate shall be forwarded by the Corporation to the Commissioner of Inland Revenue:

Provided further that a company to which the preceding proviso refers shall be deemed to be a company falling under paragraph (b) as long as it satisfies such of those conditions contained in the aforementioned Corporation's approval as the Corporation may specify in the certificate referred to in the preceding proviso.

(3) Subject to the provisions of subregulation (4), a company shall qualify for the benefit provided by subregulation (1) if its trade or business, in Malta, consists solely of one or more of the following qualifying activities:

- (a) any one or more of the activities set out in the Schedule, which is published in the English language only;
- (b) the repair, improvement or maintenance of any of the following:
 - (i) yachts or motor boats having a length of at least eight metres which are not used in a trade or business consisting of the transportation of passengers or goods but including yachts or motor boats, which although used in such a trade or business, are so used for the transportation and accommodation of passengers in yachts or motor boats not having more than thirty berths, aircraft, engines or equipment incorporated or used in such vessels or aircraft; or components of such engines or equipment;
 - (ii) turbines;
 - (iii) gantry cranes, quay cranes, reach stackers, tug masters and large fork lifters (or their equipment) which are used to handle containers in a port;
 - (iv) containers which are fifteen feet or more in length and which are used for the transportation of merchandise;
 - (v) goods the manufacture of which would fall within any one or more of the activities referred to in paragraph (a), and which goods have been manufactured by the company;
- (c) repair, maintenance, installation and commissioning of marine electrical and electronic systems;
- (d) software development, including debugging of software and the installation, implementation, support and maintenance of the software, and the provision of training on the use of the software where the installation, implementation, support, maintenance or training is carried out by the company which has developed the said software in Malta or, with respect

to a specific project, is mainly carried out in relation to software developed by the company in Malta;

- (e) development and maintenance of information and content mainly for international dissemination through electronically accessed media including the internet, the world wide web, WAP services, interactive television, compact discs and intranets;
- (f) research and development, including the design or development of goods or the development of production processes or methods;
- (g) waste treatment;
- (h) the activities set out in article 11 of the Malta Freeports Act and carried on mainly in a freeport as defined by that Act, by a company licensed under that Act; Cap. 334.
- (i) the production of audio visual productions consisting of feature films, television films, advertising programmes or advertisements, and documentaries;
- (j) biotechnology, comprising:
 - (i) the production or development of intellectual property or goods; or
 - (ii) the rendering of services;resulting from, or related to, the study, research, discovery, application, modification or development of living organisms or materials derived from them:

Provided that a company carrying out the activities set out under paragraphs (g), or (j) shall only qualify for the benefit provided by this regulation if the project is approved by the Corporation and, in giving its approval, the Corporation may impose such conditions as it deems fit.

(4) A company shall not qualify for the benefit provided by subregulation (1) if -

- (a) the company sells by retail and, for this purpose, a company shall be deemed not to sell by retail if its sales of goods or services are made to -
 - (i) 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
 - (ii) a person, other than an individual, who uses those goods or services for the purpose of an undertaking carried on by such person;
- (b) the company'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 company carries on any other activity referred to in subregulation (3)(a);

(ii) the assembly of any goods where -

- (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
- (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 subregulation (3)(b) and (c), the repair, maintenance, preservation, improvement, reconditioning, refurbishing or restoration of any good or any combination of such activities where such activities do not impose on such goods a change in their character;
- (iv) without prejudice to subregulation (3)(c), the installation, commissioning or assembly of goods on site, where the said goods have not been manufactured by the company which is installing, commissioning or assembling the goods on site:

Provided that the provisions of this paragraph shall not be applicable to a company which carries on only any one or more of the activities set out in subregulation (3)(b) to (j):

Provided further that the provisions of this paragraph shall not be applicable to a company which carries on any assembly work as, or as part of, the activities referred to in subregulation (3)(h);

- (c) the company, being eligible for the benefits provided by articles 4, 5 or 5A of the Act, has not, in terms of article 34(2) of the Act, waived its right to be eligible for the benefits provided by those articles for the year of assessment in question and for subsequent years of assessment:

Provided that a company which has not waived its right to be eligible to the benefits provided by articles 4, 5 and 5(a) of the Act as aforesaid may make its determination pursuant to subregulation (2) by

notifying the Corporation.

- (5) (a) A company shall be eligible to qualify for the benefits provided by this regulation if it has been determined that it is so eligible by the Corporation.
- (b) For the purpose of making a determination pursuant to paragraph (a), the Corporation shall consider whether, given its activities, the company satisfies the conditions set out in subregulations (3) and (4).
- (c) For the purposes of paragraph (b), the Corporation may request such information and explanations as it deems fit and may visit the premises of the company.
- (d) On being satisfied that a company satisfies the conditions set out in subregulations (3) and (4), the Corporation shall provide the said company with a certificate signifying the accounting period from which the company does satisfy the said conditions, and the company's entitlement to the benefit provided by this regulation shall be conditional on the production of this certificate by the said company. A copy of any such certificate shall be forwarded by the Corporation to the Commissioner of Inland Revenue.
- (e) The certificate referred to in paragraph (d) shall constitute *prima facie*, and not conclusive, proof that the company qualifies for the benefit provided by this regulation.
- (f) The Corporation shall communicate its decision as to whether a company satisfies the conditions set out in subregulations (3) and (4) within sixty days from the receipt of all information requested by the Corporation for the purpose of making its determination.
- (g) The Corporation may, as and when it deems fit, request information and explanations from a company which has been furnished with a certificate pursuant to paragraph (d), and may visit the premises of such a company in order to determine whether the company is still eligible to qualify for the benefits provided by this regulation.
- (6) A company wishing to avail itself of the benefits provided by this regulation shall apply for a determination referred to in subregulation (5) by submitting an application to the Corporation.
- (7) A company shall only be entitled to benefit from the provisions of this regulation if, with the submission of its income tax return for every year of assessment in respect of which it claims a benefit in accordance with this regulation, it submits -
- (a) a declaration, signed by all the directors of the company or by the company secretary where such declaration is approved by the board of directors of the company, confirming that throughout the relevant accounting period the company's trade or business consisted solely of the activities referred to in

subregulation (3) and that the company is not disqualified from benefiting from the provisions of this regulation by virtue of subregulation (4). Where the declaration is signed by the company secretary it shall also state:

- (i) whether all the directors of the company were present at the meeting approving the declaration and, if not all the directors were present, whether the meeting was properly convened as required by the company's memorandum and articles;
 - (ii) whether the declaration was unanimously approved by all the directors present at the meeting and, if approval was not unanimous, the number of votes against and the number of votes for the motion; and
- (b) a declaration, signed by the auditor of the company for the accounting period in question, confirming that, to the best of his knowledge and belief, the declaration referred to in paragraph (a) is correct.

(8) Where a company (hereinafter in this subregulation referred to as the "relevant company") carries on a trade or business which consists solely or mainly in the mere expansion, duplication or replacement of a trade or business formerly carried on in Malta by any company in any way directly or indirectly connected or associated with the relevant company through shareholding, voting or other ownership or controlling rights, irrespective of the person in whom such rights are or may have been vested, the following provisions shall apply:

- (a) where such other company is a company to which subregulation (2)(a) applies, the relevant company shall, even if it is incorporated in Malta or registered as an overseas company after the date referred to in that subregulation, be deemed to be a company to which the said subregulation applies; and the years of assessment referred to in subregulation (1)(b) and (c) shall, with respect to the relevant company, commence from year of assessment from which the provisions of this regulation became applicable in respect of the other company in accordance with the provisions of subregulation (2);
- (b) where such other company is a company to which subregulation (2)(b) applies and the relevant company is also a company to which the said subregulation applies, the years of assessment referred to in subregulation (1)(a), (b) and (c) shall, with respect to the relevant company, commence from the year of assessment from which the provisions of this regulation became applicable for the other company in accordance with the provisions of subregulation (2):

Provided that the provisions of article 25(3), (4) and (5) of the Act shall be applicable to this condition in like manner as they

are applicable to article 4(1)(c) of the Act.

(9) Profits which are taxed at a reduced rate of income tax as provided by subregulation (1) shall, for the purposes of the Income Tax Act, be allocated to the Maltese Taxed Account and article 67 of that Act shall not be applicable to any distribution of such profits whether or not such distribution is made by the company qualifying from the benefit provided by this regulation or by any other company which, directly or indirectly, receives dividends which include the profits which have been taxed at a reduced rate in accordance with the provisions of this regulation.

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(10) The provisions of article 25 of the Act shall, as far as they are applicable, apply to the incentive provided by this regulation and, for this purpose, references in that article to a qualifying company shall include references to a company qualifying for the benefit provided by this regulation; and subarticles (1) and (2) thereof shall apply with respect to the years of assessment as determined in accordance with subregulations (1) and (2).

(11) In this regulation "relevant accounting period" shall mean the accounting period as determined in accordance with article 11 of the Income Tax Act which ends in the year preceding year of assessment 2002 and subsequent years of assessment, as the case may require.

5. (1) A company which qualifies for the benefit provided by regulation 4 or which would have so qualified, but for the fact that the years of assessment in respect of which it may so qualify have not, as elected for by the said company, yet commenced or have elapsed, shall, in respect of year of assessment 2002 and subsequent years of assessment, be entitled to an investment tax credit which tax credit shall, with respect to an investment project, be calculated either -

Investment tax
credits.
Amended by:
L.N. 228 of 2002.

- (a) as a percentage of the qualifying expenditure incurred by such company in the year preceding the year of assessment in question; or
- (b) in accordance with the provisions of subregulations (3) to (11):

Provided that the total amount of the investment tax credit that may be claimed in terms of this regulation for a given investment project shall be such that the conditions set out in regulations 12 and 18 are satisfied.

(2) The percentage referred to in subregulation (1)(a) shall, in the case of a company which qualifies as a small or medium-sized enterprise, not exceed 65%, and in the case of any other company the said percentage shall not exceed 50%.

(3) A company may claim an investment tax credit by reference to the wage costs pertaining to the jobs created, in Malta, as a result of an investment project the expenditure on which constitutes qualifying expenditure.

(4) For the purposes of subregulation (3), the investment tax credit based on job creation shall be a percentage of the wage cost for the first twenty-four month period of the employment of an

individual in respect of whom the job was created.

(5) In the case of a company which qualifies as a small or medium-sized enterprise, the percentage referred to in subregulation (4) shall not exceed 65%, and in the case of any other company the percentage shall not exceed 50%.

(6) The amount of investment tax credit based on job creation which a company may claim in a year of assessment shall be based on the wage cost incurred by that company in the accounting period ending in the year preceding that year of assessment.

(7) A company shall be considered to have created a job as a result of an investment project for those individuals who are employed by the company during the employment qualifying period as defined in subregulation (9), as long as the employment of any such individual is not in replacement of another individual and provided that such employment is not terminated before the lapse of five years from the date on which they were employed:

Provided that for the purpose of determining whether jobs have been created, individuals who are employed by the company on a part-time basis shall be deemed to be a number of full-time employees as is produced by dividing the number of hours worked by such part-time employees by one thousand and seven hundred and sixty:

Provided further that where the accounting period ending in the year preceding a year of assessment is more or less than twelve months, the number of hours worked by part-time employees shall be divided by an amount which shall be arrived at by dividing the amount of one thousand and seven hundred and sixty by three hundred and sixty-five and then multiplying the result by the number of days comprised in that accounting period.

(8) For the purpose of determining whether an individual has been employed by a company for the required five year period referred to in subregulation (7), it shall be deemed that the date of commencement of employment of an individual who has been employed by that company in replacement of another individual, whose employment was terminated for whatever reason, shall be the date of commencement of employment of the individual whose employment was replaced; provided that any such individual is employed within six months of the date of termination of employment of the individual whose employment is replaced.

(9) For the purposes of this regulation, the employment qualifying period shall be the period commencing on the day which precedes the day on which the assets pertaining to the investment project are first employed by the company by one hundred and eighty-three days, up to the third anniversary of the date of completion of the investment project.

(10) A company wishing to claim an investment tax credit for a year of assessment based on job creation in accordance with subregulations (3) to (9) shall submit details of its investment project and of the individuals employed as a result of that investment project to the Corporation for its approval and shall, for each year comprised in the employment qualifying period, submit

further details with respect to the same investment project consisting of further amounts invested, termination of employees previously detailed as having been employed and new employees distinguishing between employees in respect of whom new jobs have been created and employees employed in replacement of employees whose employment has been terminated as well as the wage costs in respect of which a credit is to be claimed in terms of this regulation for that year of assessment.

(11) The Corporation, on being satisfied with the submissions referred to in subregulation (10), and within sixty days from the receipt of all relevant information it may request, shall issue a certificate setting out the investment tax credits to which the company is entitled to.

(12) A company which is entitled to an investment tax credit in respect of a year of assessment shall be entitled to deduct from the amount of income tax which is due on its chargeable income derived from its trade or business for that year of assessment the amount of the investment tax credit and, where the investment tax credit, for any year of assessment, exceeds the income tax payable by such a company for that year, the excess shall be added to the investment tax credit for the following year and deemed to be part of that investment tax credit, or if there is no such investment tax credit for that year, be deemed to be the investment tax credit for that year and so on for subsequent years:

Provided that so much of the investment tax credit which is not so utilised at the end of any year and which is therefore carried forward to be added to the investment tax credit of the following year of assessment and deemed to be part of that investment tax credit or to be deemed to be the investment tax credit for that year, shall be increased by seven per cent *per annum* or by such other rate as may be prescribed by the Minister by notice in the Gazette; and where any part of the investment tax credit as so increased is again not utilised, so much of it as is not utilised shall be further increased by the said percentage and carried forward to the following year and so on for subsequent years:

Provided further that an investment tax credit may only be deducted from the tax due on chargeable income which is derived from one or more of the activities referred to in regulation 4(3).

(13) The provisions of article 25 of the Act shall, as far as is applicable, apply to the incentive provided in terms of this regulation and for this purpose references in that article to a qualifying company shall include references to a company qualifying for the benefit provided by this regulation.

(14) Where a company has benefited from the provisions of this regulation, the investment tax credit shall be deemed to have relieved from tax so much of that company's chargeable income which, when multiplied by the rates of tax at which it was chargeable in that year, is equal to the investment tax credit, and where such chargeable income has been taxed at different rates of tax the investment tax credit shall first be deemed to have relieved that part of the income which has been taxed at the lowest rate; and

where the company or any subsequent company distributes the income which is so deemed to have been relieved from tax, such company or companies shall state in the dividend warrant pertaining to any such distribution that such income has been relieved from tax by an investment tax credit in accordance with this regulation; and the tax which has been so relieved shall not be available for refund for any purpose of the Income Tax Acts.

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(15) The chargeable income which is deemed to have been relieved from tax in accordance with subregulation (14) shall, for the purposes of the Income Tax Act, be allocated to the Maltese Taxed Account of the company in question and upon distribution shall be exempt from income tax to the same extent as dividends referred to in article 9 of the Act, and for this purpose references in that article to a qualifying company shall include references to a company qualifying for the benefit provided by this regulation.

Value added
incentive scheme.
Amended by:
L.N. 228 of 2002;
L.N. 98 of 2003.

6. (1) Where a qualifying company, being a company which qualifies as such in terms of article 3(1)(a) and (b) of the Act, throughout a relevant accounting period, satisfies the conditions set out in this regulation, an amount of the company's profits as is determined in accordance with subregulation (3), shall -

- (a) with effect from the year of assessment from which the provisions of this regulation may become applicable and the six subsequent years of assessment, be subject to income tax at the rate of 5%;
- (b) for the six years of assessment immediately following the years of assessment as determined in accordance with paragraph (a), be subject to income tax at the rate of 10%;
- (c) for the five years of assessment immediately following the years of assessment as determined in accordance with paragraphs (a) and (b), be subject to income tax at the rate of 15%;

Provided that the last year of assessment in respect of which the provisions of this regulation shall be applicable shall be year of assessment 2021:

Provided further that, subject to the immediately preceding proviso, the Corporation shall confirm to each company qualifying in terms of this regulation the minimum number of years of assessment, which shall not exceed ten years of assessment, in respect of which the provisions of this regulation shall be applicable to that company; and the Corporation may, not earlier than twelve months prior to the expiration of such period, renew such confirmation for a period not exceeding five years:

Provided further that, without prejudice to a company's rights with respect to any period confirmed by the Corporation in terms of the immediately preceding proviso, the Minister may by notice in the Gazette determine that the last year of assessment in respect of which the provisions of this regulation shall be applicable shall be a year of assessment prior to year of assessment 2021:

Provided further that companies referred to in subregulation (2)(a) shall only be eligible to be taxed at the rates stipulated in paragraphs (b) and (c) hereof, and in such case the rate of tax referred to in paragraph (b) shall be applicable for six years of assessment with effect from the year of assessment from which the provisions of this regulation may become applicable, and the rate of tax referred to in paragraph (c) shall be applicable for the following five years of assessment.

(2) For the purposes of subregulation (1), the year of assessment from which the provisions of this regulation become applicable, is -

(a) year of assessment 2002, or any of the subsequent two years of assessment in the case of -

- (i) a company incorporated in Malta and which existed on the day immediately preceding the date of coming into force of this regulation; and
- (ii) a company incorporated outside Malta and which was registered as an oversea company in terms of the Companies Act on the day immediately preceding the date of coming into force of this regulation,

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as shall be determined by the company by notice to the Corporation by not later than 30 April 2003;

(b) any of the first three years of assessment of the company in the case of any other company as shall be determined by the company by the end of its third year of assessment,

so however that if no such notice is given by the aforementioned dates, the earlier year from the available years of assessment shall be the first year of assessment from which the provisions of this regulation shall be applicable.

(3) The amount of profits which shall be subject to reduced rates of income tax in accordance with the provisions of subregulation (1) shall be arrived at by the following formula:

$$\begin{array}{l}
 (a) \quad \left(\frac{V_c - V_b}{V_b} \right) \quad \quad \quad \left(\quad \quad \quad \right) \\
 \left| \frac{\quad \quad \quad}{\quad \quad \quad} \right| \quad X \quad (c) \quad \left| \quad P_c - P_b \quad \right| \\
 (b) \quad \left(\frac{S_c - S_b}{S_b} \right) \quad \quad \quad \left(\quad \quad \quad \right)
 \end{array}$$

Where:

V_c = value added in relevant accounting period

V_b = average value added in base period

S_c = sales in relevant accounting period

S_b = average sales in base period

P_c = profit in relevant accounting period

P_b = average profit in base period:

Provided that the amount of tax payable by a company as a result of this regulation shall in no case be lower than the company's average tax payable in the base period for year of assessment 2002 which shall be arrived at by dividing the total of the tax payable by the company for each year of assessment pertaining to each accounting period comprised in the base period by the number of days in those accounting periods and multiplying the result thereof by the number of days comprised in the relevant accounting period; and, for the purpose of this proviso, "tax payable" shall comprise the tax payable by the company on its chargeable income derived from its trade or business:

Provided further that the total amount of profits which are brought to charge to tax in a year of assessment, shall in no case exceed the actual amount of profits as calculated before the application of the formula set out in this subregulation.

(4) A company shall only qualify for the benefit provided by the provisions of this regulation if it satisfies all of the following conditions:

- (a) the amount of value added resulting from the company's audited financial statements for the relevant accounting period exceeds the average amount of value added as shown in that company's financial statements covering the base period;
- (b) throughout the base period and the relevant accounting period it was a qualifying company;
- (c) during the relevant accounting period it satisfied the conditions set out in regulation 4(4), without regard being had to the provisos to paragraph (b) thereto;
- (d) during the relevant accounting period its trade or business did not include the preparation or production of "food in the course of catering" including -
 - (i) meals or snacks including -
 - (1) hot and cold dishes including antipasto and dessert;
 - (2) sandwiches, toast, potato chips, sausage rolls, pizza, *pastizzi*, *qassatat* and similar snacks;
 - (3) biscuits, cakes, confectionery and similar items but excluding those sealed in a package by the manufacturer and supplied in that original sealed package, and those items which individually weigh 500 grams or more;
 - (4) food supplied in restaurants, cafeterias, canteens, bars and other similar establishments
 - (5) food prepared or produced for parties, functions, weddings and similar events;
 - (6) food prepared or produced for

consumption on aircraft and vessels or for consumption by persons pertaining to a particular location or organisation, including patients in hospitals or homes, residents of hotels or guest houses, workers in a particular workplace and the preparation or production of food in similar circumstances;

- (ii) milk, milkshake, tea, coffee and chocolate supplied in liquid form, excluding milk and milkshake supplied by the manufacturer thereof in bottles and containers for distribution to retail outlets but including any form of drink which is merely produced by adding liquid to powder or substance and where such drink is produced in order that it may be served in a bar, restaurant, canteen, cafeteria or other establishment or place to individuals for consumption.
- (5) For the purposes of this regulation:
- (a) except for paragraph (c), "profits" means the company's chargeable income for income tax purposes after deducting any part thereof which does not accrue to the company from its trade or business carried out in Malta and after account has been taken of any incentive or benefit obtained by the company under the provisions of the Act or of these regulations;
 - (b) a loss made in any accounting period comprised in a base period shall be deemed to be zero profits;
 - (c) "value added" means the aggregate of -
 - (i) the profits, before taxation, derived by the company from its trade or business, as reported in the company's financial statements for the accounting period in question;
 - (ii) the wages and salaries paid by the company, whether in cash or in kind, to its full-time and part-time employees and which amounts have been reported to the Inland Revenue Department under the final settlement system rules or any other rules complementing or replacing the same;
 - (iii) the social security contributions paid by the company in respect of the amounts referred to in sub-paragraph (ii); and
 - (iv) the cost of services which are provided by a company which, during the relevant accounting period, did not qualify for any of the benefits provided by this regulation, regulation 4 or articles 4, 5 or 5A of the Act and which is, directly or indirectly, controlled and beneficially owned to the extent of more than ninety per cent by the same persons and for the purpose of this

sub-paragraph (iv) the cost of services shall mean the wages and salaries paid by such other company, whether in cash or in kind, to its full time and part-time employees that carried out the services in question to the company claiming the benefit of this regulation and which amounts have been reported to the Inland Revenue Department under the final settlement system rules and any other rules complementing or replacing the same;

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- (d) where a company was not in existence, or in the case of a qualifying company incorporated outside Malta such company was not registered as an oversea company in accordance with the Companies Act, during the accounting periods comprised in a base period, the company shall, for the purpose of applying the formula set out in subregulation (3), be deemed to have had zero profits and zero value added in the base period and the result of parts (a) and (b) of the said formula shall be deemed to be one;
- (e) the amount of total sales shall be calculated free on board and where the sale is made pursuant to a contract of works, the amount of total sales shall include the uninvoiced value of any materials and components provided by the customer;
- (f) the average value added, average sales and average profits of a base period shall be arrived at by dividing the aggregate sales, value added and profits of the accounting periods comprised in the base period by the number of days comprised in those accounting periods and multiplying the result thereof by the number of days comprised in the relevant accounting period;
- (g) the base period shall be comprised of the accounting periods the profits of which fall to be charged to tax in the three years of assessment preceding the two years of assessment which precede the year of assessment in which the profits of the relevant accounting period fall to be charged to tax:

Provided that where the profits of the relevant accounting period fall to be charged to tax in the company's fourth year of assessment, the base period shall be comprised of the accounting period the profits of which fall to be charged to tax in the company's first year of assessment; and where the profits of the relevant accounting period fall to be charged to tax in the company's fifth year of assessment, the base period shall be comprised of the accounting period or periods the profits of which fall to be charged to tax in the company's first two years of assessment;

- (h) where the result of parts (a) and (b) of the formula set out in subregulation (3) is a negative amount, such result shall be multiplied by "-1";

- (i) where the result of part (b) of the formula set out in subregulation (3) is zero, the result of parts (a) and (b) of the said formula shall be deemed to be one.

(6) Where a company which claims the benefit provided by this regulation has, since the end of any accounting period comprised in a base period, acquired the business, or part thereof, of another person, who is connected with such company, whether such acquisition is made by means of a merger or otherwise, the value added, total sales and profits for that accounting period and relating to the business acquired, shall be added to the value added, total sales and profits respectively of the company for the purpose of determining the amount of profits which shall be subject to reduced rates of income tax in accordance with the provisions of this regulation; and for the purposes of this subregulation, a person shall be considered to be connected to such company if one is, directly or indirectly, beneficially owned and controlled to the extent of more than fifty per cent by the other or both are, directly or indirectly, beneficially owned and controlled to the extent of more than fifty per cent by the same persons.

(7) The provisions of regulation 4(5) to (11) shall apply *mutatis mutandis* to the benefit provided by this regulation as they apply to the benefit provided by that regulation.

7. (1) The provisions of articles 6, 24B and 24C of the Act, and with effect from year of assessment 2003, the provisions of article 7 of the Act, shall only be applicable to expenditure which is qualifying expenditure as defined in these regulations:

Rules for articles 6, 7, 24B and 24C of the Act.
Amended by:
L.N. 228 of 2002.

Provided that the provisions of article 7 of the Act shall only be applicable with respect to qualifying expenditure incurred in acquiring plant or machinery, or industrial buildings or structures as set out in the said article:

Provided further that the provisions of this subregulation shall not affect the entitlement of any company in terms of article 5A of the Act, which article shall apply without regard being had to the provisions of this subregulation..

(2) Where the provisions of articles 6 and 24B of the Act are applied to a company which is not entitled to the incentive provided by regulation 5, the reduction in the rate of income tax shall be arrived at by multiplying nineteen and a quarter percentage points by the rate of tax at which the company is chargeable to tax in a year of assessment and dividing the product by the rate of income tax prescribed by article 56(6) of the Income Tax Act:

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Provided that where the company's chargeable income, before applying the provisions of the said articles 6 and 24B of the Act, is taxable at different rates of tax:

- (a) the reduction in the rate of tax shall be calculated separately for each part of the company's chargeable income, as is so taxable at different rates of tax, as is set in this sub-regulation; and
- (b) the profits which shall first be deemed to be re-invested for the purpose of article 6 of the Act shall, if

the company by extraordinary resolution so resolves, be those profits which are chargeable to tax at the highest rate.

Soft loans.
Amended by:
L.N. 228 of 2002;
L.N. 192 of 2006.

8. (1) Where the Corporation is satisfied that the activities of a qualifying company, being a company which qualifies as such in terms of article 3(1)(a) and (b) of the Act, may contribute to the development of the economy as is consistent with the aims and objectives of the Government, the Corporation may grant loans to the said company, which loans shall not exceed 75% of the qualifying expenditure.

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(2) The rate of interest charged by the Corporation on loans granted in terms of this regulation shall be at least equal to a rate to be arrived at by deducting two and a half percentage points from the minimum discount rate established by the Central Bank of Malta by means of directives issued in terms of the Central Bank of Malta Act.

(3) The repayment of principal and the payment of interest on any loan granted in terms of the provisions of this regulation shall be secured by a general hypothec over the property of the company receiving the loan in addition to any other security which the Corporation may require:

Cap. 16.

Provided that for the purposes of Title XXIII of Part II of Book Second of the Civil Code, the Corporation may allow a hypothecary debt in respect of a loan or other banking facility granted by a financial institution to rank immediately prior to the general hypothec or other security of the Corporation relative to such loan:

Provided further that the Corporation may accept a prime bank guarantee or other similar security in respect of its loan instead of or in addition to a general hypothec as aforesaid.

(4) The repayment of any loan granted under the provisions of this regulation and the payment of interest thereon shall be made within a period of time and at instalments to be agreed upon with the Corporation, but such period shall in no case exceed ten years from the date on which the first loan amount was received by the company:

Provided that, unless otherwise stipulated by the Corporation, for the first two years of the duration of the loan the company shall only be required to pay interest on the loan.

(5) Where the Corporation has approved that a loan be granted by instalments, and any part of such loan has not yet been advanced, the Corporation may, without prejudice to any other remedy, withhold any portion of the loan still outstanding if -

- (a) any sum of money, whether principal or interest, due in respect of any loan provided under this regulation or article 16 of the Act, remains unpaid; or
- (b) any prior loan made under this regulation or under article 16 of the Act has not been applied for the purpose for which it was made or has not been expended in a careful, timely and economical manner;

or

- (c) the company has gone into liquidation or has become insolvent or has assigned property for the benefit of creditors; or
- (d) there has been a breach or non-observance of any condition attached to the loan.

(6) The granting of loans made under this regulation shall not be subject to the provisions of the External Transactions Act.

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(7) A company which carries on or intends to carry on the activities referred to in regulation 4(3)(e), (f) or (j), either solely or together with any of the activities referred to in article 3(1)(a) and (b) of the Act shall, subject to the approval of the Corporation, be entitled to the benefit provided by this regulation.

9. (1) Where the Corporation is satisfied that the activities of a qualifying company, being a company which qualifies as such in terms article 3(1)(a) and (b) of the Act, may contribute to the development of the economy as is consistent with the aims and objectives of the Government, the Corporation may subsidise the rate of interest payable by the company on loans which the said company may take out in order to acquire additional assets to be employed in the company's trade or business to the extent that the expenditure on such assets constitutes qualifying expenditure.

Loan interest
subsidies.
Amended by:
L.N. 228 of 2002;
L.N. 192 of 2006.

(2) The subsidy referred to in subregulation (1) shall be such as to ensure that the rate of interest effectively borne by the qualifying company shall not be less than the rate established in accordance with regulation 8(2).

(3) The subsidy provided by this regulation shall be in respect of loans taken to finance qualifying expenditure for which a soft loan in terms of regulation 8 has not been granted.

(4) Loans which qualify for the interest rate subsidy contemplated by this regulation shall be loans provided by banks and other licensed financial institutions.

(5) A company which carries on or intends to carry on the activities referred to in regulation 4(3)(e), (f) or (j) either solely or together with any of the activities referred to in article 3(1)(a) and (b) of the Act shall, subject to the approval of the Corporation, be entitled to the benefit provided by this regulation

10. (1) Where the Corporation is satisfied that the activities of a qualifying company, being a company which qualifies as such in terms of article 3(1)(a) and (b) of the Act, may contribute to the development of the economy as is consistent with the aims and objectives of the Government, the Corporation may guarantee loans taken by the company to finance the acquisition of additional assets to be employed in the company's trade or business to the extent that the expenditure on such assets constitutes qualifying expenditure.

Loan guarantees.
Amended by:
L.N. 228 of 2002;
L.N. 192 of 2006.

(2) The loan guarantee referred to in subregulation (1) shall not exceed 75% of the qualifying expenditure in respect of which the loan is provided.

(3) For every loan guarantee provided, the Corporation shall

keep sufficient funds on investment in order to cover the maximum amount of capital and interest that the Corporation may be required to pay as guarantor at any point in time.

(4) When acting as guarantor, the Corporation shall retain its rights to be subrogated in the rights of the lender once it effects a payment under the guarantee.

(5) The Corporation shall only provide guarantees to banks and other licensed financial institutions.

(6) A company which carries on or intends to carry on the activities referred to in regulation 4(3)(e), (f) or (j) either solely or together with any of the activities referred to in article 3(1)(a) and (b) of the Act shall, subject to the approval of the Corporation, be entitled to the benefit provided by this regulation

Small and
medium-sized
enterprises.

11. (1) Where the Corporation is satisfied that a qualifying company which is a small or medium-sized enterprise requires the assistance of experts in a particular field, the Corporation may give such an enterprise a grant which shall not exceed 50% of the cost of the services of such experts:

Provided that such a grant shall not be given in respect of services which are of a continuous nature or are provided periodically and relate to the enterprise's usual operating expenditure such as routine consultancy services or advertising.

(2) Where the Corporation is satisfied that a qualifying company which is a small or medium-sized enterprise may benefit from its participation in fairs and exhibitions, the Corporation may give such an enterprise a grant which shall not exceed 50% of the costs of renting, setting up and running the stand; provided that such a grant may only be provided in respect of the first participation of an enterprise in a certain fair or exhibition.

Maximum aid for
investment projects
for SMEs.
Amended by:
L.N. 228 of 2002.

12. The aggregate amount that a company may benefit from in respect of an investment project in terms of regulations 5, 8, and 9 and articles 6, 7, 24B and 24C of the Act shall, where the company qualifies as a small or medium-sized enterprise, not exceed the higher of -

- (a) 65% of the qualifying expenditure pertaining to that investment project; or
- (b) 65% of the wage cost for the first twenty-four month period pertaining to individuals in respect of whom jobs were created as determined by regulation 5(7) to (11).

Incentives for job
creation.

13. (1) Where the Corporation is satisfied that an enterprise has created a full-time job for a qualifying individual, the Corporation shall issue a certificate confirming that the said enterprise has created such job and is accordingly entitled to the benefits of this regulation.

(2) An enterprise shall be considered as having created a job for the purpose of subregulation (1) when it employs a qualifying individual for a period of at least three years and where such employment is not in replacement of that of another individual

whose employment was terminated by the enterprise; provided that in the case of a qualifying individual qualifying as such in terms of subregulation (13)(c), a job shall be considered as being created if the previous employer of the qualifying individual confirms in writing that the post vacated by the said individual need not be replaced.

(3) The onus of proof that the employment of a qualifying individual is not in replacement of that of another individual whose employment was terminated by the enterprise shall lie with the enterprise.

(4) Where an enterprise may be entitled to benefit from the provisions of this regulation in respect of the employment of a qualifying individual and in the six months immediately preceding the date on which it has employed that qualifying individual, the employment of another individual was terminated, whether or not such employment was terminated by the enterprise, the enterprise shall provide proof to the Corporation that the employment of the qualifying individual is not in replacement of the employment of any such other individual or that such other individual terminated his employment voluntarily.

(5) For the purpose of determining whether a qualifying individual has been employed by an enterprise for the required three year period referred to in subregulation (2), it shall be deemed that the date of commencement of employment of an individual who has been employed by that enterprise in replacement of another individual, whose employment was terminated by the enterprise as a consequence of that individual's gross misconduct or who terminated his employment with the enterprise voluntarily, shall be the date of commencement of employment of the individual whose employment was replaced; and it shall be incumbent on the enterprise to prove to the satisfaction of the Corporation that the individual so employed was in replacement of the individual whose employment was terminated as described in this subregulation.

(6) The benefits which an enterprise shall be entitled to under the provisions of this regulation are the following:

- (a) when the individual is a qualifying individual in terms of subregulation (13)(a) or (b), the enterprise shall, in computing its total income for the purposes of the Income Tax Act, in respect of a year of assessment, be entitled to deduct, in addition to the deductions allowed by the provisions of that Act, an additional 65% of the wage cost of such a qualifying individual incurred by the enterprise in the year preceding the year of assessment in question:

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Provided that this additional deduction shall be due only in respect of the wage cost incurred in respect of the first twelve months of the qualifying individual's employment and if, before the expiration of sixty days from the date on which the said qualifying individual was employed, the enterprise submits to the Corporation details of a training programme which the

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qualifying individual is to undergo and such programme meets the approval of the Corporation, the additional deduction shall be increased to 100%;

- (b) when the individual is a qualifying individual in terms of subregulation (13)(c), the enterprise shall, in computing its total income for the purpose of the Income Tax Act, in respect of a year of assessment, be entitled to deduct, in addition to the deductions allowed by the provisions of that Act, an additional 150% of the wage cost of such qualifying individual incurred by the enterprise in the year preceding the year of assessment in question:

Provided that this additional deduction shall be due only in respect of the wage cost incurred in respect of the first twenty-four months of the qualifying individual's employment and if, before the expiration of sixty days from the date on which the said qualifying individual was employed, the enterprise submits details of a training programme which the qualifying individual is to undergo and such programme meets the approval of the Corporation, the additional deduction shall be increased to 200%.

- (7) For the purposes of subregulation (6) -

- (a) when the individual is a qualifying individual in terms of subregulation (13)(a), the wage cost in respect of which the additional deduction is due shall not exceed 125% of an amount established by the Corporation in respect of that individual;
- (b) when the individual is a qualifying individual in terms of subregulation (13)(b), the wage cost in respect of which the additional deduction is due shall not exceed 125% of the wage cost pertaining to such individual's main employment during the last twelve months prior to the commencement of his employment with the enterprise claiming the said additional deduction;
- (c) when the individual is a qualifying individual in terms of subregulation (13)(c), the wage cost in respect of which the additional deduction is due shall not exceed 125% of the wage cost pertaining to such individual's main employment during the last twenty-four months prior to the commencement of his employment with the enterprise claiming the said additional deduction:

Provided that, for the purposes of paragraphs (b) and (c), the wage cost in respect of which the additional deduction is due shall exclude any terminal benefits, benefits in respect of untaken leave, bonuses or any other payments which are not part of the basic emoluments payable to the qualifying individual.

- (8) For the purposes of this regulation "wage cost" shall mean the aggregate of the gross basic emoluments paid to a qualifying individual and the employer's share of the social security contributions payable in respect of those gross emoluments.

(9) An enterprise may, by application to the Corporation and in lieu of claiming a deduction in terms of subregulation (6)(b), opt to be given a cash grant to be calculated by multiplying 70% of the additional deduction referred to in that subregulation by the rates or rate of tax at which the enterprise was taxable in the year of assessment in respect of which it became entitled to such additional deduction if the qualifying individual has been employed for the required three year period referred to in subregulation (2).

(10) Where an enterprise creates a job for a qualifying individual who is registered as a disabled person with the Employment and Training Corporation in accordance with regulation 3 of the Persons with Disability (Registration and Appeal) Regulations, the entitlement to an additional deduction shall in all cases be of 200%. S.L. 210.01.

(11) The benefits provided by this regulation shall only be due to an enterprise on proof being shown that the qualifying individual has been employed for the required three year period. During the said three year period the collection of income tax which, but for the provisions of this regulation, would be payable by an enterprise shall be kept in abeyance and shall become due and payable only if the employment of the qualifying individual is terminated before the expiration of three years from the date of his employment, and in any such case the tax shall be due and payable within sixty days from the date of such termination of employment.

(12) For the purpose of this regulation, an "enterprise" shall include the person who has claimed a deduction in accordance with the provisions of this regulation, persons which control or beneficially own, directly or indirectly, more than fifty per cent of such person, and persons which are controlled or beneficially owned, directly or indirectly, to the extent of more than fifty per cent by such person.

(13) For the purposes of this regulation, a 'qualifying individual' shall mean an individual who either -

- (a) has been registered as unemployed for -
 - (i) a minimum of one year prior to his employment with the enterprise, in the case of an individual who is either over forty years of age or is an individual to whom subregulation (10) is applicable; or
 - (ii) a minimum of two years prior to his employment with the enterprise in the case of any other individual;
- (b) is identified by the Employment Re-structuring Unit within the Ministry for Economic Services as being an individual who may become redundant as a consequence of a restructuring programme undertaken by the enterprise with which he is employed; or
- (c) is employed with a public sector related entity and occupies a position as may be prescribed and, or identified by the Minister by notice in the Gazette.

(14) Subject to the approval of the Corporation, the provisions of this regulation shall also be applicable where an enterprise engages an individual who is a qualifying individual in terms of subregulation (13)(c) under a secondment arrangement between the enterprise and the employer of such individual, and in granting its approval the Corporation may impose such conditions as it may deem fit.

Training
assistance.
Amended by:
L.N. 228 of 2002;
L.N. 370 of 2005;
L.N. 192 of 2006.

14. (1) Where the Corporation is satisfied that any individual employed by a qualifying company, being a company which qualifies as such in terms of article 3(1)(a) and (b) of the Act, is a full-time or part-time employee, whether employed under an indefinite or definite contract (hereinafter in this regulation referred to as the "employee") and that such employee is undergoing training in accordance with a training programme approved by the Corporation, a training grant may be given by the Corporation to the company, which grant shall not exceed -

- (a) where such grant is given to a company which qualifies as a small or medium-sized enterprise -
 - (i) 45% of the eligible costs where the training provided is specific training; and
 - (ii) 80% of the eligible costs where the training provided is general training;
- (b) where the grant is given to a company which does not qualify as a small or medium-sized enterprise -
 - (i) 35% of the eligible costs where the training provided is specific training; and
 - (ii) 60% of the eligible costs where the training provided is general training.

(2) For the purposes of subregulation (1), the eligible costs are:

- (a) trainers' fees and, or costs;
- (b) trainers' and the employee's travel expenses;
- (c) cost of consultancy services with regard to the training project;
- (d) the personnel costs relating to the employee: provided that only the hours during which the employee effectively participates in the training, after deduction of any productive hours or of their equivalent, may be taken into account.

(3) In this regulation:

- (a) "general training" means training that provides qualifications or skills that are transferable to other enterprises or fields of work and thereby improving the employability of an employee; and
- (b) "specific training" means training involving tuition which is applicable only to the employee's present or future position within the enterprise to which the grant is given.

(4) The Corporation may, after having obtained the approval of the Minister, provide grants in excess of the limits set out in this regulation.

(5) A company which carries on or intends to carry on the activities referred to in regulation 4(3)(e), (f) or (j), either solely or together with any of the activities referred to in article 3(1)(a) and (b) of the Act shall, subject to the approval of the Corporation, be entitled to the benefit provided by this regulation.

(6) The Corporation may provide a training grant in the form of a tax credit (hereinafter referred to as a "training tax credit") to a company which carries on or intends to carry on an activity which consists of the repair, improvement or maintenance of aircraft or of engines or equipment incorporated in such aircraft; and where the Corporation approves the granting of such a training tax credit, the provisions of subregulations (7) to (9) shall apply.

(7) Without prejudice to the provisions of the proviso to subregulation (9), the amount of the training tax credit which may be approved by the Corporation shall not exceed the maximum amount of grants which the Corporation may give in terms of subregulation (1).

(8) The amount of training tax credit which may be approved by the Corporation in respect of a company for a year of assessment shall be based on the eligible costs incurred by such company in the accounting period ending in the year preceding that year of assessment.

(9) A company entitled to a training tax credit may benefit from that tax credit for year of assessment 2003 and subsequent years of assessment by deducting from the amount of income tax which is due on its chargeable income derived from its trade or business for a year of assessment the amount of the training tax credit and where the training tax credit, for any year of assessment, exceeds the income tax payable by such a company for that year the excess shall be added to the training tax credit for the following year and deemed to be part of that training tax credit, or if there is no such training tax credit for that year, be deemed to be the training tax credit for that year and so on for subsequent years: Provided that so much of the training tax credit which is not so utilised at the end of any year and which is therefore carried forward to be added to the training tax credit of the following year of assessment and deemed to be part of that training tax credit or to be deemed to be the training tax credit for that year, shall be increased by seven per cent per annum or by such other rate as may be further prescribed by the Minister by notice in the Gazette; and where any part of the training tax credit as so increased is again not utilised so much of it as is not utilised shall be further increased by the said percentage and carried forward to the following year and so on for subsequent years:

Provided further that a training tax credit may only be deducted from the tax due on chargeable income which is derived from any of the activities referred to in subregulation (6).

Income tax kept in
abeyance.

Cap. 372.

Approval in
writing.

Application.

Maximum benefit
for investment
projects.

15. Unless otherwise provided in these regulations, where the entitlement of a company to the benefits provided by the Act or by these regulations for a year of assessment cannot be established only by reason of the fact that not enough time has elapsed for the purpose of determining whether certain conditions have been satisfied, the collection of the income tax which, but for the provisions of the Act and these regulations, would be payable by such company, shall be kept in abeyance until the expiration of six months from the date on which such entitlement can be established, and in the event that the said conditions are not satisfied and therefore the income tax kept in abeyance becomes payable, the date on which it shall be due for payment for the purposes of the Income Tax Management Act shall be the day immediately following the last day on which it shall be kept in abeyance as aforesaid and the fact that such tax has become payable shall not be considered to be an omission for the purpose of the Income Tax Acts.

16. On granting its approval for any purpose under these regulations, the Corporation shall confirm its approval in writing setting out the conditions to be satisfied by a company or enterprise, as the case may be, and the company's or enterprise's entitlement to the benefits provided by these regulations shall be conditional on the production of such written approval by the company or enterprise.

17. Any application required to be submitted to the Corporation in order to benefit from any of the provisions of the Act or of these regulations shall be in such form and contain such particulars as the Corporation may require.

18. (1) The aggregate amount that a company may benefit from in respect of an investment project in terms of regulations 5, 8, and 9 and articles 6, 7, 24B and 24C of the Act shall not, where the company does not qualify as a small or medium-sized enterprise, exceed the higher of -

- (a) 50% of the qualifying expenditure pertaining to that investment project; or
- (b) 50% of the wage cost for the first twenty-four month period pertaining to individuals in respect of whom jobs were created as determined by regulation 5(7) to (11).

(2) The benefit referred to in subregulation (1) and in regulation 12 shall be the net benefit enjoyed by the company after deduction of any taxes payable by the company as a result of receiving any assistance under the said regulations and articles, and where the benefit is enjoyed by such company over a number of years the benefit shall be discounted to present value at a discount rate equivalent to the percentage referred to in regulation 5(12) and using such methods as shall be determined by the Corporation.

(3) In determining whether the provisions of this regulation and of regulation 12 are or have been satisfied, where the terms of any soft loan or interest rate subsidy granted in terms of regulations 8 or 9 are altered or an amount of any soft loan, or part thereof, is

repaid before the due date (hereinafter collectively referred to as an "alteration"), if as a consequence of any such alteration -

- (a) the amount which could have been claimed by a company in terms of article 7 of the Act or in terms of regulation 5 exceeds the amount actually claimed, the company shall be entitled to claim such additional amount, under that article or regulation, for the purpose of determining its chargeable income or tax payable, as the case may be, for the year of assessment, the tax return filing date of which next follows the date on which any such alteration is made;
- (b) a company's chargeable income or income tax payable for any year of assessment is in excess than that which it has declared in its income tax return or paid for that year of assessment, this fact shall not be considered as an omission for the purposes of the Income Tax Acts; and any tax which becomes payable as a consequence of any such alteration shall be deemed to be income tax payable for the year of assessment, the tax return filing date of which next follows the date on which any such alteration is made.

19. A certificate issued by the Corporation confirming that any provision of the Act or of these regulations have been complied with or that the computation of any incentive provided by the Act or by these regulations is correct shall, without prejudice to any other proof available to a company or enterprise, be conclusive evidence of the matters referred to in the certificate.

Certificate
confirming
fulfilment of
conditions.

20. (1) A company which claims a benefit provided by the Act or these regulations in year of assessment 2001 or subsequent years of assessment, shall furnish the Corporation with a copy of every income tax return, audited financial statements, TIFD documents, and any other information or documents concerning its chargeable income derived from its trade or business for any year of assessment in which it claims a benefit, within three months from the earlier of:

Copy of income
tax returns and
notice to the
Corporation.
*Amended by:
L.N. 228 of 2002.*

- (i) the last date on which it is obliged to file such returns and documents with the Department of Inland Revenue; or
- (ii) the date on which it filed its such returns and documents with the Department of Inland Revenue;

and where a company submits any further returns, adjustments or any other information pertaining to the aforementioned returns or documents, it shall also furnish the Corporation with a copy thereof within three months of it having provided the Inland Revenue with such further returns, adjustments or other information.

(2) A qualifying company which has claimed any benefit provided by or under the Act in respect of year of assessment 2000 shall furnish the Corporation with a copy of its income tax return for year of assessment 2000 by not later than the 30th June 2001 or

such later date as the Corporation may determine.

(3) A qualifying company which intends to benefit from any of the incentives provided by articles 4, 5 and 5A of the Act in any year subsequent to year of assessment 2000 shall notify the Corporation of such intention by the 30th June, 2001, or such later date as the Corporation may determine, specifying:

- (a) the likely years of assessment in respect of which it intends to qualify for the benefit provided by article 4 of the Act or for the benefit provided by article 5 of the Act by virtue of article 5(6)(b);
- (b) the likely number of years of assessment in respect of which it intends to qualify for the benefits provided by article 5A of the Act or the incentive provided by article 5 of the Act, other than by virtue of article 5(6)(b) of the Act;

and where a qualifying company specifies that it intends to so qualify, such company may, and if requested by the Corporation shall, provide statements, business plans or financial projections in support of its intention to so qualify.

(4) A qualifying company which intends to benefit from any of the incentives provided by articles 4, 5 and 5A of the Act in any year subsequent to year of assessment 2002 shall, irrespective of the fact that it has already notified the Corporation in terms of subregulation (3), notify the Corporation of such intention not later than thirty (30) days from the 9th August, 2002, or such later date as may be determined by the Corporation, by completing the form set out in the schedule, which is published in the English language only, and any company which fails to notify the Corporation as herein provided shall forfeit its right to be eligible to the benefits provided by those articles.

(5) A qualifying company may only be entitled to the incentives provided by articles 4, 5 and 5A of the Act, in any year of assessment subsequent to year of assessment 2002, only as indicated by it in its notification to the Corporation in terms of subregulation (4).

Database of assistance provided.

21. The Corporation shall keep a database of all assistance provided to, or claimed by, companies and enterprises in order to enable it to -

- (a) verify whether the provisions of the Act and of these regulations have been complied with;
- (b) provide the State Aid Monitoring Board with such information as it may require; and
- (c) inform the Department of Inland Revenue whether the benefits claimed in terms of the Act and these regulations have been properly calculated.

Grants not taxable.
Amended by:
L.N. 98 of 2003;
L.N. 192 of 2006.
Cap. 463.

22. (1) Benefits and grants provided in terms of these regulations or the Act or in terms of the Malta Enterprise Corporation Act shall be exempt from income tax and the provisions of article 36 of the Act shall apply with regard to such receipts as the provisions of that article are applicable to the grants

referred to in subarticle (4)(b) of that article.

(2) For the purposes of subregulation (1), the benefit provided by regulations 8 and 9 shall be the difference between the interest charged by the Corporation and the interest which is normally charged by a commercial bank in Malta as determined by the Corporation and the company benefiting from these regulations shall be entitled to deduct the benefit accruing to it in an accounting period from its chargeable income of that accounting period.

23. Where any benefit provided by these regulations or by the Act is due to a partnership and, in accordance with the Income Tax Acts, the partners thereof and not the partnership itself are assessable to tax on any income of such partnership, any such benefit provided by these regulations or by the Act to a partnership shall be due to the partners of any such partnership.

Benefits to certain partnerships inure to partners.

24. A partnership, other than a partnership *en commandite* the capital of which is divided into shares shall, for the purposes of article 15 of the Act and article 56(20) of the Income Tax Act, be considered to be a company, as defined in that Act, and the provisions of the said subarticle shall be applicable to such a partnership in like manner and to the same extent as it would have been applicable to a company which has as its shareholders the partners of the said partnership having equivalent rights in the company as they have in the partnership.

Certain partnerships.
Amended by:
L.N. 228 of 2002.
Cap. 123.

25. Where a provision in these regulations or in the Act refers to a qualifying company such company shall, except for a company the activities of which include the activities referred to in regulation 4(3)(h), include a company which qualifies for the incentives provided by regulations 4 or 5, and such company shall be entitled to the benefit provided by any such provision.

Qualifying companies.

26. Where a benefit has been provided in terms of these regulations or the Act to a company or enterprise, the Corporation may -

Examination of records.
Amended by:
L.N. 228 of 2002.

- (a) from time to time make or cause to be made such examination of books, documents, premises and all other things and matters of that company or enterprise whatsoever as may be necessary to ensure that the assistance is being applied for the purpose for which it had been made; and
- (b) request such financial statements from the company or the enterprise as it may require, to be submitted quarterly or at shorter intervals at the discretion of the Corporation.

27. A company which is entitled to the benefit provided by regulation 5 may, at its option, defer the claiming of the benefit, or part thereof, to which it may be entitled in any year of assessment, to one or more subsequent years of assessment and in such case the benefit so deferred and claimed in any such subsequent year of assessment shall be deemed to be part of the benefit, or the benefit, to which such company is entitled to for that year; provided that any benefit provided by regulation 5 which is so deferred shall not

Deferment of tax investment incentives.
Amended by:
L.N. 228 of 2002.

Entitlement in case of waiver of certain incentives.
Substituted by:
L.N. 228 of 2002.
Amended by:
L.N. 128 of 2003.

be increased by the percentage referred to in the proviso to regulation 5(12).

28. (1) A qualifying company, as defined in the Act, whose activities are not qualifying activities as set out in regulation 4(3) and:

- (a) which, in any one of the five consecutive years of assessment including and ending with year of assessment 2002 benefited from the provisions of articles 4, 5, or 5A of the Act, such that at least 10% of its chargeable income derived from its trade or business, for any of those years of assessment, reckoned before taking into consideration the provisions of the said articles, has been exempted from, or subjected to reduced rates of income tax in terms of those articles; or
- (b) which is constituted in terms of Maltese law, or registered as an overseas company with the Registrar of Companies, on or after the 1st November 2000 but before the 12th June 2001, and which would have been entitled to the benefits provided by articles 4, 5 or 5A of the Act but for the provisions of articles 4(6), 5(7) and 5A(6) of the Act, and which, had it so qualified, would have had at least 10% of its chargeable income derived from its trade or business for years of assessment 2002 or 2003, reckoned before taking into consideration the provisions of the said articles, exempt from, or subjected to reduced rates of income tax in terms of those articles,

shall qualify for the benefits provided by regulations 4 and 5 if it satisfies the other relevant conditions to qualify for the benefits provided by those regulations and if, where applicable, it revokes, by 30 April 2003 in terms of article 34(2) of the Act, its right to be eligible for the benefits provided by articles 4, 5 and 5A of the Act with effect from year of assessment 2004 or any previous year of assessment; and the trading activities of such a qualifying company shall, as regards such company only, be deemed to be activities referred to in regulation 4(3):

Provided that the provisions of this regulation shall not be applicable in respect of a qualifying company for a year of assessment if, in the accounting period ending in the year preceding that year of assessment, there has been a material change in the trading activities of such qualifying company:

Provided further that a company which would have been entitled to benefit for the aforementioned incentives in the manner set out in this subregulation in any of the aforementioned years of assessment but did not so benefit, or would not have so benefited, solely due to the fact that it did not have any chargeable income or did not claim the benefit, shall be deemed to be a company to which this regulation refers:

Provided further that for the purpose of this subregulation the base period profits referred to in article 5(2) of the Act shall be

deemed to be zero.

(2) A certificate issued by the Corporation confirming that a company satisfies the provisions of subregulation (1) or that there has been no material change in a company's trade or business, shall be conclusive evidence of those facts.

29. (1) The date referred to in -

- (a) the proviso to article 3(2) of the Act;
- (b) the fourth proviso to article 3(8) of the Act;
- (c) article 4(6) of the Act;
- (d) article 5(7) of the Act;
- (e) article 5A(6) of the Act;
- (f) the third proviso to article 15 of the Act;
- (g) article 16(11) of the Act;
- (h) article 23(6) of the Act, but only as regards paragraphs (a) and (b) thereof; and
- (i) article 24A(6) of the Act,

Dates from which certain provisions of the Act are no longer applicable.
Amended by:
L.N. 228 of 2002;
L.N. 98 of 2003.

shall be the 1 November, 2000.

(2) The date referred to in article 18(7) of the Act shall be the 22nd March 2001.

(3) The year of assessment referred to in -

- (a) article 11(5) of the Act;
- (a) article 12(4) of the Act;
- (b) the third proviso to article 13 of the Act; and
- (c) the proviso to article 14 of the Act,

shall be year of assessment 2002.

(4) The date referred to in -

- (a) article 10(3) of the Act;
- (b) article 19(8) of the Act;
- (c) article 20(4) of the Act; and
- (d) article 23(6) of the Act, but only as regards paragraph (c) thereof,

shall be the 1 January, 2002.

(5) The year of assessment referred to in article 8(8) of the Act shall be year of assessment 2002.

(6) Notwithstanding the provisions of subregulation (3), the year of assessment referred to in article 11(5) of the Act shall be year of assessment 2001.

30. (1) Where a company was, on or after the 1st November, 2000, controlled at least as to fifty per cent, directly or indirectly, by Government and not less than fifty per cent of the shares of the company were owned, directly or indirectly, by Government, if all such shares are acquired by any person or persons not under

Privatisations.
Added by:
L.N. 228 of 2002.
Amended by:
L.N. 98 of 2003;
L.N. 464 of 2004.

Government control, and such company is entitled to the benefits provided by regulations 4 and 5:

- (a) the company shall be deemed to be a company to which regulation 4(2)(b) refers and regulation 4(8) shall not apply in its regard; and
- (b) assets owned by the company as at the date on which the said shares are acquired, shall be deemed to constitute qualifying expenditure incurred by such company as on that date at a value which shall be determined by the Corporation:

Provided that the provisions of this subregulation shall not apply where the provisions of subregulation (2) are applicable:

Provided further that the provisions of this subregulation shall only apply where the company, the shares of which are acquired from Government, has closed or ceased its operations, or would have closed or would have ceased its operations, had its shares not been acquired from Government, and provided that the company is not a firm in difficulty.

(2) Where a company (hereinafter referred to as the "first company") which was entitled to an exemption from income tax, was, on or after the 1st November, 2000, fully controlled and owned, directly or indirectly, by Government and for the purpose of privatising the operations carried out by such company, the business of such company together with such assets, liabilities, rights and obligations as is expedient, are transferred to another company (hereinafter referred to as the "second company") which is also fully controlled and owned by Government, and the second company is a company that is entitled to the benefits provided by regulations 4 and 5:

- (a) the second company shall be deemed to be a company to which regulation 4(2)(b) refers and regulation 4(8) shall not apply in its regard; and
- (b) the cost at which the second company acquired the assets from the first company shall be deemed to constitute qualifying expenditure:

Provided that the provisions of this subregulation shall also apply where any assets, liabilities, rights and obligations, are for the purpose of privatisation, transferred to the second company by any entity or corporation which is fully owned, directly or indirectly, by the Government, so long as the second company is entitled to the benefits provided by regulations 4 and 5.

Tax credit for large company.
Added by:
L.N. 98 of 2003.
Amended by:
L.N. 128 of 2003.

31. (1) Where a qualifying company -

- (a) does not qualify as a small or medium-sized enterprise; and
- (b) (i) is entitled to any of the benefits provided by articles 4, 5 or 5A of the Act subsequent to year of assessment 2003 and waives, in terms of article 34(2) of the Act its right of entitlement to benefit from the provisions of these articles with effect from year of assessment 2004; or

- (ii) is entitled to any of the benefits provided by articles 18 or 20 of the Malta Freeports Act in any year of assessment subsequent to year of assessment 2004 and waives, in terms of article 27(5) of the said Act its right of entitlement to benefit from the said provisions of article 18 of that Act with effect from year of assessment 2004 and its right of entitlement to benefit from the provisions of article 20 of that Act with effect from 1st January 2003; or
- (c)
 - (i) had waived its entitlement to the benefits provided by articles 4, 5 and 5A of the Act and as a result of such waiver became entitled to the benefits provided by regulations 4 and 5; or
 - (ii) pursuant to a change in legislation is no longer entitled to benefit from the provisions of articles 4, 5 or 5A of the Act or of articles 18 or 20 of the Malta Freeports Act,

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such company shall, subject to the approval of the Corporation, be entitled to the benefits provided by regulations 4 and 5 and to utilize the tax credits provided by regulations 32 to 35, as reduced by regulation 36, in accordance with the provisions of regulation 37; and for the purpose of regulation 4, such company shall, for the years of assessment in respect of which it can utilize the aforementioned tax credits in accordance with regulation 37, be deemed to be a company to which regulation 4(2)(b) refers.

(2) A company shall be eligible to qualify for the benefits provided by any of the regulations referred to in subregulation (1) if it has been determined that it is so eligible by the Corporation.

(3) On being satisfied that a company is eligible to any of the said regulations, the Corporation shall provide the said company with a certificate setting out therein the tax credits and their respective amounts to which the company is so entitled.

(4) A certificate issued by the Corporation in terms of subregulation (3) shall, without prejudice to any other proof available to the company, be conclusive evidence of the matters stated therein.

(5) A company wishing to avail itself of the said regulations shall apply for a determination referred to in subregulation (2) by submitting an application to the Corporation.

(6) The provisions of article 25 of the Act shall, as far as is applicable, apply to the incentives provided by this regulation and to regulations 32 to 37.

32. (1) A company which has been determined by the Corporation as having satisfied the conditions set out in regulation 31(1) and in this regulation shall be entitled to an investment credit which shall be equal to a percentage of the expenditure incurred by such company on qualifying expenditure on or after the 1st January 1995 up to 31st December 2006 and for this purpose the qualifying expenditure incurred up to 31st December 2001 shall be multiplied

Investment credits.
Added by:
L.N. 98 of 2003.

by 1.07^n (1.07 to the power of "n") where "n" is a number arrived at by deducting from 2002 the year in which the expenditure was incurred:

Provided that the qualifying expenditure shall be that which is incurred under a programme approved by the company by the 31st December 2002 and notified to the Corporation by such date as it shall determine.

(2) The percentage referred to in subregulation (1) shall be:

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(a) 75%, where the company was entitled to any of the benefits provided by articles 4, 5, or 5A of the Act or by articles 18 or 20 of the Malta Freeports Act on or before the 31st December 1999;

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(b) 50%, where the company became entitled to any of the benefits provided by articles 4, 5 or 5A of the Act or by articles 18 or 20 of the Malta Freeports Act on or after the 1st January 2000.

Research and development credits.
Added by:
L.N. 98 of 2003.
Amended by:
L.N. 128 of 2003.

33. (1) A company which has been determined by the Corporation as having satisfied the conditions set out in regulation 31(1) and in this regulation shall be entitled to a research and development tax credit which shall be equal to a percentage of the eligible expenditure incurred by such company on or after 1st January 1995 up to 31st December 2006 and for this purpose the eligible expenditure incurred up to 31st December 2001 shall be multiplied by 1.07^n (1.07 to the power of "n") where "n" is a number arrived at by deducting from 2002 the year in which the expenditure was incurred:

Provided that the eligible expenditure shall be that which is incurred under a programme approved by the company by the 31st December 2002 and notified to the Corporation by such date as it shall determine.

(2) The percentage referred to in subregulation (1) shall be:

- (a) 75% where the expenditure has been incurred on fundamental research activities;
- (b) 60% where the expenditure has been incurred on industrial research activities;
- (c) 35% where the expenditure has been incurred on development activities;
- (d) 75% where the expenditure has been incurred on studies preparatory to industrial research activities;
- (e) 60% where the expenditure has been incurred on studies preparatory to development activities.

(3) In this regulation:

- (a) "fundamental research activities" means an activity or activities designed to broaden scientific and technical knowledge not linked to industrial or commercial objectives;
- (b) "industrial research activities" means an activity or

activities consisting of critical investigation aimed at the acquisition of knowledge with the objective that such knowledge may be useful in developing new products, processes or services or in bringing about a significant improvement in existing products, processes or services;

- (c) "development activities" means an activity or activities consisting of the shaping of the results of industrial research into a plan, arrangement or design for new, altered or improved products, processes or services, whether they are intended to be sold or used - including the creation of initial prototypes which could not be used commercially and the conceptual formulation and design of products, processes or services and initial demonstration projects or pilot projects provided that such products cannot be converted or used for industrial applications or commercial exploitation - but excluding the routine or periodic changes made to products, production lines, manufacturing processes, existing services and other operations in progress even if such changes may represent improvements.

- (4) The eligible expenditure shall consist of:

- (a) personnel expenses comprising all emoluments paid for services rendered by researchers, technicians and other employees attributable to such employees' time spent on the research activity and including the employer's share of social security contributions attributable to such emoluments;
- (b) the costs of instruments, plant and machinery and land and buildings used solely for the research activity;
- (c) the cost of renting instruments, plant and machinery and land and buildings for the period of time used for the research activity;
- (d) the cost of consultancy and equivalent services used exclusively for the research activity, including the research, technical knowledge and patents bought from outside sources;
- (e) additional overheads incurred directly as a result of the research activity;
- (f) other expenses, including costs of materials, supplies and similar products, incurred directly as a result of the research activity.

34. (1) A company which has been determined by the Corporation as having satisfied the conditions set out in regulation 31(1) and in this regulation shall be entitled to a training credit which shall be equal to a percentage of the eligible costs incurred by such company on or after 1st January 1995 up to 31st December 2006 and for this purpose the eligible costs incurred up to 31st December 2001 shall be multiplied by 1.07ⁿ (1.07 to the power of

Training credits.
Added by:
L.N. 98 of 2003.

"n") where "n" is a number arrived at by deducting from 2002 the year in which the expenditure was incurred:

Provided that the qualifying expenditure shall be that which is incurred under a programme approved by the company by the 31st December 2002 and notified to the Corporation by such date as it shall determine.

(2) The percentage referred to in subregulation (1) shall be one of the percentages set out in regulation 14(1)(b) depending on whether the training qualifies as general training.

(3) The eligible costs referred to in subregulation (1) shall be the costs set out in regulation 14(2).

(4) For the purpose of calculating the training credit provided by this regulation, the term "general training" shall have the meaning assigned to it by regulation 14(3).

Environmental
investment credits.
Added by:
L.N. 98 of 2003.
Amended by:
L.N. 128 of 2003.

35. (1) A company which has been determined by the Corporation as having satisfied the conditions set out in regulation 31(1) and in this regulation shall be entitled to an environmental credit which shall be equal to 60% of the eligible expenditure incurred by such company on or after 1st January 1995 up to 31st December 2006 and for this purpose the eligible expenditure incurred up to 31st December 2001 shall be multiplied by 1.07^n (1.07 to the power of "n") where "n" is a number arrived at by deducting from 2002 the year in which the expenditure was incurred:

Provided that the eligible expenditure shall be that which is incurred under a programme approved by the company by the 31st December 2002 and notified to the Corporation by such date as it shall determine.

(2) The eligible expenditure shall consist of the expenditure set out in subregulation (3):

- (a) where such expenditure is incurred for the purpose of reducing pollution and nuisances or to adopt production methods with a view to protecting the environment; and
- (b) to the extent that the company did not incur such expenditure for the purpose of it complying with any applicable laws or regulations.

(3) The expenditure referred to in subregulation (2) shall be:

- (a) the acquisition of land which is strictly necessary to meet environmental objectives;
- (b) the acquisition, development or construction of buildings or structures, plant and machinery;
- (c) the acquisition or development of technology or know-how, which is -
 - (i) a depreciable asset in accordance with generally accepted accounting principles;
 - (ii) acquired on market terms from a person in which the company has no direct or indirect control;

- (iii) included in the assets of the company which retains ownership or use or both such ownership and use of the intangible asset for a period of five years or a shorter period if the intangible assets are technically out of date before the expiry of this five year period:

Provided that should such intangible assets be sold before the expiration of five years from the date of their acquisition or development completion the sales proceeds shall be deducted from the amount of the eligible expenditure.

36. (1) The aggregate of the tax credits a company may be entitled to in terms of regulations 32 to 35 shall be reduced by the benefits accruing to that company, on or after the 1st January, 2001, as a consequence of it having availed itself of any of the benefits provided by articles 4, 5, 5A, 6, 7, 16, 19, 20 or 24C of the Act or by regulations 5, 8, 9 or 14 or by articles 18 or 20 of the Malta Freeports Act and the benefits accruing to such company shall be calculated as follows:

Deductions from
tax credits.
Added by:
L.N. 98 of 2003.
Amended by:
L.N. 128 of 2003.

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- (a) in the case of an income tax benefit provided by articles 4, 5, 5A, 6 and 7 of the Act and by regulations 5 and 14 and by article 18 of the Malta Freeports Act, the benefit accruing shall be the amount of income tax that would have been borne by the company for a year of assessment in the absence of the provisions of the above mentioned articles and regulations, less the amount of income tax actually borne by the company for that year of assessment and the result of this subtraction shall, for each year of assessment, be multiplied by 1.07^n (1.07 to the power of " n ") where " n " is a positive number arrived at by deducting from 2002 the year of assessment in which the benefit was availed of:

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Provided that where the profits brought to charge to tax in year of assessment 2002 or 2003 relate to an accounting period which commenced prior to the 1st January 2001, the benefit accruing from the 1st January 2001 up to the end of that accounting period shall be determined by dividing the result of the calculation hereinabove described for that accounting period by the total number of days comprised in that accounting period and multiplying the result by the number of days in that accounting period which are in 2001 and 2002 as applicable;

- (b) in the case of a benefit provided by article 16 of the Act, the benefit shall be arrived at by multiplying the after-tax interest saved from the soft loan facility in each year up to 31st December 2002 by 1.07^n (1.07 to the power of " n ") where " n " is a number arrived at by deducting from 2002 the year in which the after-tax interest saving was obtained and discounting the after-tax interest saving to be obtained in each year after 31st December 2002 by the discount factor $1/1.07^n$ (1

divided by 1.07 to the power of "n") where "n" is a number arrived at by deducting 2002 from the year in which the after-tax interest saving is to be obtained; and the after-tax interest saved shall be calculated by multiplying the interest saved by the percentage (100% - x%) where x% is the rate of income tax applicable to the company in the absence of the provisions of the articles and regulations referred to in paragraph (a);

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- (c) in the case of a grant provided by articles 19, 20 and 24C of the Act and by regulation 14, the benefit shall be the amount of the grant received in each year up to 31st December 2002, which amount shall be multiplied by 1.07^n (1.07 to the power of "n") where "n" is a number arrived at by deducting from 2002 the year in which the grant was received;
- (d) in the case of the duty exemption provided by article 20 of the Malta Freeports Act, the benefit shall be the amount of duty exempted, which amount shall be multiplied by 1.07^n (1.07 to the power of "n") where "n" is a number arrived at by deducting from 2002 the year in which the exempted duty would have been payable;
- (e) in the case of a benefit provided by regulations 8 and 9, the benefit shall be arrived at by multiplying the tax-free benefit obtained in each year up to 31st December 2002 by 1.07^n (1.07 to the power of "n") where "n" is a number arrived at by deducting from 2002 the year in which the tax free benefit was obtained and discounting the tax-free benefit to be obtained in each year after 31 st December 2002 by the discount factor $1/1.07^n$ (1 divided by 1.07 to the power of "n") where "n" is a number arrived at by deducting 2002 from the year in which the tax-free benefit is to be obtained.

(2) Where the sum of the deductions set out in this regulation exceeds the amount of the tax credits calculated in accordance with the provisions of regulations 32 to 35, the amount of the tax credits shall be deemed to be zero.

(3) A deduction in respect of benefits availed of pursuant to articles 19 or 20 of the Act or regulation 14 shall only be made if the relevant company claims training credits pursuant to regulation 34.

(4) A deduction in respect of the benefits availed of pursuant to articles 6, 7 or 16 of the Act or regulations 5, 8 or 9 shall only be made if the relevant company claims credits pursuant to regulations 32, 33 or 35 in respect of expenditure on which it was granted benefits under articles 6, 7 or 16 of the Act or regulations 5, 8 or 9.

37. (1) With effect from year of assessment 2004, a company which is entitled to any of the benefits provided by regulations 32 to 35 as reduced by regulation 36 (hereinafter in this regulation collectively referred to as the "tax credits") shall be entitled to utilise the tax credits only as described below:

Utilization of tax credits.

Added by:

L.N. 98 of 2003.

Amended by:

L.N. 128 of 2003.

- (a) where the company became so entitled by virtue of it having been entitled to the incentive provided by article 4 of the Act, it shall be entitled to deduct from the amount of income tax which is due on its chargeable income, derived from its trade or business, for the consecutive years of assessment, forming part of the original ten consecutive years of assessment referred to in article 4(1) of the Act, subsequent to year of assessment 2003, the amount of the tax credits and with effect from year of assessment 2004 and subsequent years of assessment where the tax credits exceed such income tax payable by such a company for any of such years, the excess shall be increased by the percentage referred to in the first proviso to regulation 5(12) and the amount so increased shall be the amount which the company shall be entitled to deduct from the amount of income tax which is due on its chargeable income, derived from its trade or business, for the remaining consecutive years of assessment above mentioned;
- (b) where the company became so entitled by virtue of it having been entitled to the incentive provided by article 5 of the Act, it shall be entitled to deduct from the whole or a proportion of the amount of income tax due on its chargeable income, derived from its trade or business for the remaining years of assessment, the company is still entitled to benefit from the incentive provided by the said article 5 subsequent to year of assessment 2003, the amount of the tax credits and with effect from year of assessment 2004 and subsequent years of assessment where the tax credits exceed such income tax payable by such a company for any of such years, the excess shall be increased by the percentage referred to in the first proviso to regulation 5(12) and the amount so increased shall be the amount which the company shall be entitled to deduct from the whole or a proportion of the amount of income tax which is due on its chargeable income, derived from its trade or business, for the remaining years of assessment above mentioned; and the "whole or a proportion of the amount of income tax due" shall be determined by multiplying the total income tax due on the company's chargeable income, derived from its trade or business, by a percentage which shall be calculated by dividing the income tax due in any year of assessment, as may be determined by the company, between year of assessment 1995 and year of assessment 2003, in respect of which the company qualified for the incentive provided by article 5 of the

Act, by the income tax that would have been payable by the company in the absence of that incentive, and deducting the fraction so obtained from the integer one (1), and multiplying the result by 100:

Provided that where a company demonstrates to the satisfaction of the Corporation that the percentage as calculated in accordance with the above provisions is materially different from that which the company reasonably expects, the Corporation may approve a different percentage based on the evidence provided by the company;

- (c) where the company became so entitled by virtue of it having been entitled to the incentive provided by article 5A of the Act, it shall be entitled to deduct from the whole or a proportion of the amount of income tax due on its chargeable income, derived from its trade or business for the remaining years of assessment, the company is still entitled to benefit from the incentives provided by the said article 5A subsequent to year of assessment 2003, the amount of the tax credits and, with effect from year of assessment 2004 and subsequent years of assessment, where the tax credits exceed such income tax payable by such a company for any of such years the excess shall be increased by the percentage referred to in the first proviso to regulation 5(12) and the amount so increased shall be the amount which the company shall be entitled to deduct from the whole or a proportion of the amount of income tax which is due on its chargeable income, derived from its trade or business, for the remaining years of assessment above mentioned; and the "whole or a proportion of the amount of income tax due" shall be determined by multiplying the total income tax due on the company's chargeable income, derived from its trade or business, by a percentage which shall be calculated by dividing the income tax due in any year of assessment, as may be determined by the company, between year of assessment 1995 and year of assessment 2004, in respect of which the company qualified for the incentive provided by article 5A of the Act, by the income tax that would have been payable by the company in the absence of that incentive, and deducting the fraction so obtained from the integer one (1), and multiplying the result by 100:

Provided that where a company demonstrates to the satisfaction of the Corporation that the percentage as calculated in accordance with the above provisions is materially different from that which the company reasonably expects, the Corporation may approve a different percentage based on the evidence provided by the company;

Provided further that the entitlement to the said deduction shall be conditional on the company

satisfying the conditions set out in subarticle (1) of the said article 5A for that year of assessment;

(d) for the purposes of paragraphs (b) and (c) -

- (i) a company which would have been entitled to benefit for the incentives provided by the said articles 5 and 5A in any year of assessment between year of assessment 1995 to year of assessment 2003 but did not so benefit solely due to the fact that it did not have any chargeable income, shall be deemed to be a company which qualified for the incentive provided by article 5 or 5A as the case may require and its chargeable income for that year of assessment shall be deemed to be Lm100;
- (ii) for the purpose of determining the percentage referred to therein, the income tax due in any of the years of assessment between year of assessment 1995 to year of assessment 2003 shall be calculated on the basis that the base period profits referred to article 5(2) of the Act are deemed to be zero;
- (iii) the remaining years of assessment in respect of which the company is entitled to benefit from the provisions of article 5 of the Act subsequent to year of assessment 2003 shall be consecutive years of assessment commencing from year of assessment 2004;
- (iv) the remaining years of assessment in respect of which the company is entitled to benefit from the provisions of articles 5 and 5A subsequent to year of assessment 2003 shall, in the case of a company to which regulation 31(1)(c)(i) applies, be computed after deducting any years of assessment in respect of which such company benefitted from the provisions of regulations 4 or 5;

(e) where a company became so entitled by virtue of it having been entitled to the incentives provided by articles 18 or 20 of the Malta Freeports Act, it shall be entitled to deduct from -

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- (i) the amount of any duty payable by it in terms of the Duty on Documents and Transfers Act on or after the 1st January 2003, and which duty would not have been payable in terms of article 20 of the Malta Freeports Act; and

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- (ii) the amount of income tax due on its chargeable income, derived from its trade or business exercised in a freeport pursuant to the provisions of article 11 of the Malta Freeports Act, for the years of assessment subsequent to year of assessment 2003,

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the amount of the tax credits and where the tax credits, for year of assessment 2004 and subsequent years of assessment, exceed such duty and/or such income tax payable by such company in or for that year the excess shall be increased by the percentage referred to in the first proviso to regulation 5(12) and the amount so increased shall be the amount which the company shall be entitled to deduct from the amount of such duty and/or such income tax payable by it in subsequent years of assessments:

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Provided that a company shall be entitled to the benefit provided by this paragraph for as long as it remains a company licensed to operate in a freeport in accordance with the Malta Freeports Act and provided that it satisfies the conditions, as set out in that Act, it would have been required to satisfy in order for it to qualify for the exemptions provided by the said articles 18 and 20 of the Malta Freeports Act;

- (f) the entitlement to set-off the tax credits against the income tax payable by the company in the manner provided herein, shall be exercised after the application of any other benefits available to the company in terms of the Act and these regulations.

(2) The provisions of regulation 5(14) and (15) shall apply *mutatis mutandis* to the tax credits and references in those subregulations to investment tax credits shall be construed as references to tax credits.

Special incentives
for small and
medium-sized
enterprises.
Added by:
L.N. 98 of 2003.
Amended by:
L.N. 128 of 2003.

38. (1) Where a qualifying company -

- (a) qualifies as a small or medium-sized enterprise;
(b) satisfies the conditions set out in regulation 31(1)(b) or (c),

such company shall, subject to the approval of the Corporation, be entitled to the benefits provided by this regulation in lieu of the benefits provided by regulations 4, 5 or 6:

Provided that a company that benefits from the provisions of this regulation shall not be entitled to the benefits provided by regulations 4, 5 or 6.

(2) A company which satisfies the conditions set out in subregulation (1) by virtue of it having been entitled to the benefit provided by article 4 of the Act shall, up to year of assessment 2012, be exempt from income tax due on its chargeable income, derived from its trade or business, for the consecutive years of assessment, forming part of the original ten consecutive years of assessment referred to in article 4(1) of the Act, subsequent to year of assessment 2003, subject to it satisfying the conditions of the said article 4 other than the condition set out in paragraph (b) of subarticle (1) of the said article 4.

(3) A company which satisfies the conditions set out in subregulation (1) by virtue of it having been entitled to the benefits

provided by article 5 of the Act shall, for the remaining years of assessment the company is still entitled to benefit from the incentives provided by the said article 5 subsequent to year of assessment 2003, be entitled, up to year of assessment 2012, to a reduction of the whole or a proportion of the amount of income tax due on its chargeable income derived from its trade or business; and the "whole or a proportion of the amount of income tax due" shall be determined by multiplying the total income tax due on the company's chargeable income, derived from its trade or business, by a percentage which shall be calculated by dividing the income tax due in any year of assessment, as may be determined by the company, between year of assessment 1995 and year of assessment 2003, in which the company qualified for the incentive provided by article 5 of the Act, by the income tax that would have been payable by the company in the absence of that incentive, and deducting the fraction so obtained from the integer one (1), and multiplying the result by 100:

Provided that where a company demonstrates to the satisfaction of the Corporation that the percentage as calculated in accordance with the above provision is materially different from that which the company reasonably expects, the Corporation may approve a different percentage based on the evidence provided by the company.

(4) A company which satisfies the conditions set out in subregulation (1) by virtue of it having been entitled to the benefits provided by article 5A of the Act shall, for the remaining years of assessment the company is still entitled to benefit from the incentives provided by the said article 5A subsequent to year of assessment 2003, be entitled, up to year of assessment 2012, to a reduction of the whole or a proportion of the amount of income tax due on its chargeable income derived from its trade or business; and the "whole or a proportion of the amount of income tax due" shall be determined by multiplying the total income tax due on the company's chargeable income, derived from its trade or business, by a percentage which shall be calculated by dividing the income tax due in any year of assessment, as may be determined by the company, between year of assessment 1995 and year of assessment 2003, in which the company qualified for the incentive provided by article 5A of the Act, by the income tax that would have been payable by the company in the absence of that incentive, and deducting the fraction so obtained from the integer one (1), and multiplying the result by 100:

Provided that where a company demonstrates to the satisfaction of the Corporation that the percentage as calculated in accordance with the above provision is materially different from that which the company reasonably expects, the Corporation may approve a different percentage based on the evidence provided by the company:

Provided further that the entitlement to the said reduction shall be conditional on the company satisfying the conditions set out in subarticle (1) of the said article 5A for that year of assessment.

(5) For the purposes of subregulations (3) and (4):

- (a) a company which would have been entitled to benefit for the incentives provided by the said articles 5 and 5A in any year of assessment between year of assessment 1995 to year of assessment 2003 but did not so benefit solely due to the fact that it did not have any chargeable income, shall be deemed to be a company which of the Act qualified for the incentive provided by article 5 or 5A of the Act as the case may require and its chargeable income for that year of assessment shall be deemed to be Lm100;
- (b) for the purposes of determining the percentage referred to therein, the income tax due in any of the years of assessment between year of assessment 1995 to year of assessment 2003 shall be calculated on the basis that the base period profits referred to article 5(2) of the Act are deemed to be zero.

(6) A company which satisfies the conditions set out in subregulation (1) by virtue of it having been entitled to the benefits provided by articles 18 or 20 of the Malta Freeports Act -

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- (i) shall, up to the 31st December 2011, be exempt from the payment of duty chargeable in terms of the Duty on Documents and Transfers Act to the same extent as it would have been exempt from the payment of such duty in terms of article 20 of the Malta Freeports Act; and

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- (ii) shall, up to year of assessment 2012, be exempt from the payment of income tax due on its chargeable income, derived from its trade or business exercised in a freeport pursuant to the provisions of article 11 of the Malta Freeports Act, for the years of assessment subsequent to year of assessment 2003:

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Provided that a company shall be entitled to the benefit provided by this subregulation for as long as it remains a company licensed to operate in a freeport in accordance with the Malta Freeports Act and provided that it satisfies the conditions, as set out in that Act, it would have been required to satisfy in order for it to qualify for the exemptions provided by the said articles 18 and 20 of the Malta Freeports Act.

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(7) The provisions of regulation 31(2) to (6) shall apply *mutatis mutandis* to this regulation as they apply to regulation 31.

(8) Profits which are relieved from tax in accordance with the provisions of this regulation shall, for the purposes of the Income Tax Act, be allocated to the Maltese Taxed Account and upon distribution shall be exempt from income tax to the same extent as dividends referred to in article 9 of the Act.

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(9) The provisions of article 25 of the Act shall, as far as is applicable, apply to the incentive provided by this regulation.

(10) The benefit provided by this regulation shall cease to apply

with respect to a company which ceases to qualify as a small or medium sized enterprise by reason of the fact that it was merged with another company or another company merged with it or as a consequence of the acquisition by it of another business.

39. (1) The provisions of regulations 31 to 38 shall not be applicable with respect to a qualifying company for a year of assessment if, in the accounting period ending in the year preceding that year of assessment, there has been a material change in the trading activities of such qualifying company.

Limitation of applicability of regulations 31 to 38.
Added by:
L.N. 98 of 2003.

(2) A certificate issued by the Corporation confirming that there has been no material change in the activities of a qualifying company shall be conclusive evidence of that fact.

40. The incentives provided by articles 6 and 7 of the Act and by regulations 6, 8, 9, 10, 11 and 28 shall only be available to enterprises whose trade or business consists of farming, fishing and aquaculture, or ship repair or the production of steel, motor vehicles, ships or synthetic fibres, if the assistance is regarded by the State Aid Monitoring Board as being compatible aid in accordance with the provisions of the State Aid Monitoring Regulations.

Limitation of applicability of certain incentives.
Added by:
L.N. 98 of 2003.

S.L. 325.07

41. Where costs and expenditure are eligible in whole or in part under different schemes, giving entitlement to a tax credit under regulations 32 to 35, the common expenditure shall be considered only once under the scheme which provided that most favourable benefit.

Common expenditure.
Added by:
L.N. 98 of 2003.
Amended by:
L.N. 128 of 2003.

42. Where in these regulations or the Act, the Corporation is to be notified by a certain date, the Corporation may allow a different date for notification.

Notification dates.
Added by:
L.N. 98 of 2003.

43. (1) With effect from year of assessment 2004 the profits which shall be taxed at the reduced rates of tax in accordance with the provisions of regulation 4 or 6 shall not, in any relevant year of assessment, exceed the amount produced by multiplying the number of employees by:

Profits taxed at reduced rates.
Added by:
L.N. 128 of 2003.

- (a) Lm25,000 or such higher amount as may result from the adjustments referred to in subregulations (2) and (3), where the profits are taxed at the rate of 5%;
- (b) Lm28,000 or such higher amount as may result from the adjustments referred to in subregulations (2) and (3), where the profits are taxed at 10% or 15%.

(2) The amounts of Lm25,000 and Lm28,000 referred to in subregulation (1) are stated at 2002 prices and these amounts shall in respect of year of assessment 2004 be increased by a percentage equal to the percentage increase in the inflation index, established in terms of article 13 of the Housing (Decontrol) Ordinance, during 2003. For subsequent years of assessment these amounts shall be increased by a percentage equal to the percentage increase in the inflation index, established in terms of article 13 of the Housing (Decontrol) Ordinance, from 2002 to the year preceding the relevant subsequent year of assessment.

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Provided that if the inflation index for a particular year has not been published before the date that a company submits its income tax return for a year of assessment the inflation index for that year shall be provisionally deemed to be the inflation index of the previous year and once the inflation index for the year in question is published the company may make a further return in accordance with article 13 of the Income Tax Management Act.

(3) Where in a relevant year of assessment the amount of profits which are taxed at a reduced rate of income tax in accordance with regulation 4 or 6 is less than the applicable amount set out in subregulation (1) as adjusted by -

(a) subregulation (2); and

(b) this subregulation in respect of the year of assessment preceding the relevant year of assessment,

such shortfall shall be increased by the percentage referred to in the first proviso to regulation 5(12) and such increased amount shall be added to the amount set out in subregulation (1) as adjusted by subregulation (2) for the year of assessment following the relevant year of assessment.

(4) The number of employees referred to in subregulation (1) shall be the employees employed by the company, claiming the benefit provided by regulation 4 or 6, during the accounting period ending in the year preceding the relevant year of assessment and such number of employees shall be determined in accordance with the provisions of regulations 3(8) and 3(9).

(5) In this regulation "relevant year of assessment" means the year of assessment in respect of which the provisions of regulation 4 or 6 are to be applied.

(6) Within the scope of the provisions of the third proviso to regulation 4(1) and the third proviso to regulation 6(1), the Minister hereby determines that the last year of assessment in respect of which the provisions of regulations 4 and 6 shall be applicable shall be year of assessment 2009.

SCHEDULE

(Regulation 4(3)(a))

01. Manufacture of pharmaceuticals, medicinal chemicals and botanical products**01.01. Manufacture of basic pharmaceutical products, including:**

- (i) investigation, perfecting and production of medicinal active substances to be used for their pharmacological properties in the manufacture of medicaments
- (ii) processing of blood
- (iii) manufacture of chemically pure sugars
- (iv) processing of glands and manufacture of extracts of glands

01.02. Manufacture of pharmaceutical preparations, including:

- (i) manufacture of medicaments: anti-sera and other blood fractions, vaccines, diverse medicaments, including homoeopathic preparations
- (ii) manufacture of chemical contraceptive products for external use and hormonal contraceptive medicaments
- (iii) manufacture of dental fillings and bone reconstruction cements
- (iv) manufacture of medical impregnated wadding, gauze, bandages, dressings, surgical gut string and similar items

02. Manufacture of rubber and plastic products**02.01. Manufacture of rubber tyres and tubes,**

- (a) including:
 - (i) manufacture of rubber tyres for vehicles, equipment, mobile machinery and other uses: pneumatic tyres, solid or cushion tyres
 - (ii) manufacture of inner tubes for tyres
 - (iii) manufacture of interchangeable tyre treads, tyre flaps, “camel-back” strips for retreading tyres and similar items
- (b) and excluding:
 - (i) manufacture of rubber repair materials which is a qualifying activity in terms of paragraph 02.03 of this Schedule
 - (ii) tyre and tube repair, fitting or replacement

02.02. Retreading and rebuilding of rubber tyres,

- (a) including:
 - (i) tyre rebuilding and retreading
- (b) and excluding:
 - (i) manufacture of rubber repair materials which is a qualifying activity in terms of paragraph 02.03 of this Schedule
 - (ii) repair of punctured tyres

02.03. Manufacture of other rubber products,

- (a) including:
 - (i) manufacture of other products of natural or synthetic rubber, unvulcanized, vulcanised or hardened: rubber plates, sheets, strip, rods, profile shapes, tubes, pipes and hoses, rubber conveyor or transmission belts or belting, rubber hygienic articles such as sheath contraceptives, teats, hot water bottles and similar items, rubber articles of apparel, rubber floor

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- coverings, rubberised textiles, rubber thread and rope, rubberised yarn and fabrics, rubber rings, fittings and seals, rubber roller coverings, inflatable rubber mattresses
 - (ii) manufacture of rubber repair materials
 - (b) and excluding:
 - (i) manufacture of tyre cord fabrics
 - (ii) manufacture of apparel of elastic fabrics
 - (iii) manufacture of rubber footwear
 - (iv) manufacture of glues and adhesives based on rubber
 - (v) manufacture of “camel-back” strips which is a qualifying activity in terms of paragraph 02.01 of this Schedule
 - (vi) manufacture of inflatable rafts and boats
 - (vii) manufacture of mattresses of uncovered cellular rubber
 - (viii) manufacture of rubber sports requisites which is a qualifying activity in terms of paragraph 14.01 of this Schedule
 - (ix) manufacture of rubber games and toys which is a qualifying activity in terms of paragraph 15.01 of this Schedule
 - (x) reclaiming of rubber which is a qualifying activity in terms of paragraph 11.01 of this Schedule
 - 02.04. Manufacture of plastic plates, sheets, tubes and profiles,
 - (a) including:
 - (i) manufacture of semi-manufactures of plastic products: plastic plates, sheets, blocks, film, foil, strip and similar items
 - (ii) manufacture of finished plastic products: plastic tubes, pipes and hoses, hose and pipe fittings
 - (b) and excluding:
 - (i) manufacture of plastics in primary forms: polymers including those of ethylene, propylene, styrene, vinyl chloride, vinyl acetate and acrylics, polyamides, phenolic and epoxide resins and polyurethanes, alkyd and polyester resins and polyethers, silicones, ion-exchangers based on polymers, cellulose
 - (ii) manufacture of plastic optical elements which is a qualifying activity in terms of paragraph 08.04 of this Schedule
 - (iii) manufacture of mattresses of uncovered cellular plastic
 - 02.05. Manufacture of plastic packing goods,
 - (a) including:
 - (i) manufacture of plastic articles for the packing of goods: plastic bags, sacks, containers, boxes, cases, carboys, bottles and similar items
 - (b) and excluding:
 - (i) manufacture of plastic travel goods
 - (ii) manufacture of articles of synthetic or natural rubber which is a qualifying activity in terms of paragraphs 02.01, 02.02 and 02.03 of this Schedule
 - (iii) packaging whether or not this involves an automated process
 - 02.06. Manufacture of builders’ ware of plastic,
 - (a) including:
 - (i) manufacture of plastic builders’ ware: plastic doors, windows, frames, shutters, blinds, skirting boards, tanks, reservoirs, plastic floor, wall or ceiling coverings in rolls or in the form of tiles, plastic sanitary ware including plastic baths, shower-baths, wash basins, lavatory pans, flushing cisterns and similar items

- (b) and excluding:
 - (i) manufacture of articles of synthetic or natural rubber which is a qualifying activity in terms of paragraphs 02.01, 02.02 and 02.03 of this Schedule
 - (ii) manufacture of linoleum and hard non-plastic surface floor coverings
- 02.07. Manufacture of other plastic products,
 - (a) including:
 - (i) manufacture of plastic tableware, kitchenware and toilet articles
 - (ii) manufacture of diverse plastic products such as plastic headgear, insulating fittings, parts of lighting fittings, office or school supplies, articles of apparel, fittings for furniture, statuettes, transmission and conveyer belts and similar items
 - (b) and excluding:
 - (i) manufacture of plastic travel goods
 - (ii) manufacture of plastic footwear
 - (iii) manufacture of plastic medical and dental appliances which is a qualifying activity in terms of paragraph 08.01 of this Schedule
 - (iv) manufacture of plastic optical elements which is a qualifying activity in terms of paragraph 08.04 of this Schedule
 - (v) manufacture of plastic furniture
 - (vi) manufacture of mattresses of uncovered cellular plastic
 - (vii) manufacture of plastic sports requisites which is a qualifying activity in terms of paragraph 14.01 of this Schedule
 - (viii) manufacture of plastic games and toys which is a qualifying activity in terms of paragraph 15.01 of this Schedule
 - (ix) manufacture of linoleum and hard non-plastic surface floor coverings
- 03. Manufacture of fabricated metal products excluding machinery and equipment**
- 03.01. Treatment and coating of metals,
 - (a) including:
 - (i) plating, anodising of metal and similar processes
 - (ii) heat treatment of metal
 - (iii) deburring, sand blasting, tumbling, cleaning of metals
 - (iv) colouring, engraving, printing of metal
 - (v) non-metallic coating of metal: plastifying, enamelling, lacquering and similar processes
 - (vi) hardening, buffing of metals
 - (b) and excluding:
 - (i) forging, pressing, stamping and roll-forming of metal
 - (ii) powder metallurgy: production of metal objects directly from metal powders by heat treatment (sintering) or under pressure
 - (iii) production of finely ground metal powder
- 03.02. General mechanical engineering, including:
 - (i) boring, turning, milling, eroding, planing, lapping, broaching, levelling, sawing, grinding, sharpening, welding, splicing and similar processes of metal work pieces.
- 03.03. Manufacture of cutlery,
 - (a) including:

-
- (i) manufacture of domestic metal cutlery such as knives, forks, spoons and similar items
 - (ii) manufacture of various cutting articles such as razors, razor blades, scissors and hair clippers
 - (b) and excluding:
 - (i) manufacture of cutting blades for machines which is a qualifying activity in terms of paragraph 03.04 of this Schedule
 - (ii) manufacture of hollowware, dinnerware or flatware
 - (iii) manufacture of cutlery of precious metal which is a qualifying activity in terms of paragraph 10.02 of this Schedule
- 03.04. Manufacture of tools,
- (a) including:
 - (i) manufacture of knives and cutting blades for machines or for mechanical appliances
 - (ii) manufacture of hand tools such as pliers and screwdrivers
 - (iii) manufacture of saws and sawblades, including circular sawblades and chainsaw blades
 - (iv) manufacture of interchangeable tools for hand tools, whether or not power operated, or for machine-tools including drills, punches, dies, milling cutters
 - (v) manufacture of blacksmiths' tools: forges, anvils and similar tools
 - (vi) manufacture of vices, clamps
 - (b) and excluding:
 - (i) manufacture of power driven hand tools which is a qualifying activity in terms of paragraph 04.11 of this Schedule
- 03.05. Manufacture of locks and hinges, including
- (i) Manufacture of padlocks, locks, keys, hinges and the like hardware for buildings, furniture, vehicles and similar items
- 03.06 Manufacture of wire products,
- (a) including:
 - (i) manufacture of metal cable, plaited bands and similar articles
 - (ii) manufacture of articles made of wire such as barbed wire, wire fencing, grill, netting, cloth and similar items
 - (iii) manufacture of nails and pins
- 03.07 Manufacture of fasteners, screw machine products, chain and springs,
- (a) including:
 - (i) manufacture of rivets, washers and similar non-threaded products
 - (ii) manufacture of screw machine products such as bolts, screws, nuts
 - (iii) manufacture of springs such as leaf springs, helical springs, torsion bar springs, leaves for springs
 - (iv) manufacture of chain, except power transmission chain
 - (b) and excluding
 - (i) manufacture of power transmission chain which is a qualifying activity in terms of paragraph 04.04 of this Schedule
 - (ii) manufacture of clock or watch springs which is a qualifying activity in terms of paragraph 08.05 of this Schedule

03.08 Manufacture of other fabricated metal products,

- (a) including:
 - (i) manufacture of metal household articles such as sauce-pans, frying pans and other non-electrical utensils for use at the table or in the kitchen, base metal flatware, small kitchen appliances and accessories
 - (ii) manufacture of baths, sinks, wash basins and similar articles of base metal
 - (iii) manufacture of small metal goods for office use
 - (iv) manufacture of safes, strong-boxes, armoured doors and similar items
 - (v) manufacture of cutlasses, swords, bayonets and similar items
 - (vi) manufacture of various articles in base metal such as metal safety headgear, clasps, buckles, hooks and sign plates

04. Manufacture of machinery and equipment

04.01 Manufacture of engines and turbines except aircraft, vehicle and cycle engines

- (a) including:
 - (i) manufacture of internal combustion piston engines and parts thereof except aircraft, motor vehicle and cycle engines, marine engines and railway engines
 - (ii) manufacture of turbines and parts thereof, steam turbines and other vapour turbines, hydraulic turbines, water-wheels and regulators thereof and gas turbines
- (b) and excluding:
 - (i) manufacture of wind turbines which is a qualifying activity in terms of paragraph 04.02 of this Schedule
 - (ii) manufacture of electric generating sets which is a qualifying activity in terms of paragraph 06.01 of this Schedule
 - (iii) manufacture of electrical equipment and components of internal combustion engines which is a qualifying activity in terms of paragraph 06.06 of this Schedule
 - (iv) manufacture of motor vehicle, aircraft or cycle propulsion engines
 - (v) manufacture of turbo-jets and turbo-propellers

04.02. Manufacture of pumps and compressors,

- (a) including:
 - (i) manufacture of air or vacuum pumps, air or other gas compressors
 - (ii) manufacture of pumps for liquids whether or not fitted with a measuring device
 - (iii) manufacture of fluid power equipment and pneumatic and wind power engines and motors
- (b) and excluding:
 - (i) manufacture of hydraulic transmission equipment which is a qualifying activity in terms of paragraph 04.04 of this Schedule

04.03. Manufacture of taps and valves,

- (a) including:
 - (i) manufacture of industrial taps and valves including regulating valves and intake taps
 - (ii) manufacture of sanitary taps and valves
 - (iii) manufacture of heating taps and valves

- (b) and excluding:
 - (i) manufacture of valves of unhardened vulcanised rubber, which is a qualifying activity in terms of paragraph 02.03 of this Schedule, glass or of ceramic materials
 - (ii) manufacture of inlet and exhaust valves of internal combustion engines
- 04.04. Manufacture of bearings, gears, gearing and driving elements,
 - (a) including:
 - (i) manufacture of ball and roller bearings and parts thereof
 - (ii) manufacture of mechanical power transmission equipment, transmission shafts and cranks such as cam shafts, crank shafts, cranks, bearing housings and plain shaft bearings
 - (iii) manufacture of gears, gearing and gear boxes and other speed changers
 - (iv) manufacture of clutches and shaft couplings
 - (v) manufacture of flywheels and pulleys
 - (vi) manufacture of articulated link chain
 - (vii) manufacture of hydraulic transmission equipment
 - (b) and excluding:
 - (i) manufacture of other chain
 - (ii) manufacture of electromagnetic clutches which is a qualifying activity in terms of paragraph 06.07 of this Schedule
- 04.05. Manufacture of furnaces and furnace burners,
 - (a) including:
 - (i) manufacture of electrical and other industrial and laboratory furnaces and ovens including incinerators
 - (ii) manufacture of burners
 - (iii) manufacture of mechanical stokers, grates, ash discharges and similar items
 - (b) and excluding:
 - (i) manufacture of agricultural dryers which is a qualifying activity in terms of paragraph 04.14 of this Schedule
 - (ii) manufacture of non-electric bakery ovens which is a qualifying activity in terms of paragraph 04.14 of this Schedule
 - (iii) manufacture of dryers for wood, paper pulp, paper or paperboard which is a qualifying activity in terms of paragraph 04.17 of this Schedule
 - (iv) manufacture of household ovens which is a qualifying activity in terms of paragraph 04.18 of this Schedule
 - (v) manufacture of medical, surgical or laboratory sterilizers which is a qualifying activity in terms of paragraph 08.01 of this Schedule
- 04.06. Manufacture of lifting and handling equipment,
 - (a) including:
 - (i) manufacture of hand operated or power driven lifting, handling, loading or unloading machinery: pulley tackle and hoists, winches, capstans and jacks, derricks, cranes, mobile lifting frames, straddle carriers, works trucks, whether or not fitted with lifting or handling equipment whether or not self-propelled, of the type used in factories, mechanical manipulators and industrial robots specifically designed for lifting, handling, loading or unloading
 - (ii) manufacture of conveyers, teleferics, liquid elevators and

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- similar equipment
 - (iii) manufacture of lifts, escalators and moving walkways
 - (b) and excluding:
 - (i) manufacture of continuous-action elevators and conveyors for underground use which is a qualifying activity in terms of paragraph 04.13 of this Schedule
 - (ii) manufacture of mechanical shovels, excavators and shovel loaders which is a qualifying activity in terms of paragraph 04.13 of this Schedule
 - (iii) manufacture of industrial robots for multiple uses which is a qualifying activity in terms of paragraph 04.17 of this Schedule
 - (iv) manufacture of floating cranes, railway cranes, crane-lorries
 - 04.07. Manufacture of non-domestic cooling and ventilation equipment,
 - (a) including:
 - (i) manufacture of refrigerating or freezing industrial equipment
 - (ii) manufacture of air-conditioning machines
 - (iii) manufacture of heat exchangers
 - (iv) manufacture of non-domestic fans
 - (b) and excluding:
 - (i) manufacture of agricultural dryers which is a qualifying activity in terms of paragraph 04.14 of this Schedule
 - (ii) manufacture of domestic refrigerating or freezing equipment which is a qualifying activity in terms of paragraph 04.18 of this Schedule
 - (iii) manufacture of domestic fans which is a qualifying activity in terms of paragraph 04.18 of this Schedule
 - 04.08. Manufacture of other general purpose machinery,
 - (a) including:
 - (i) manufacture of weighing machinery (other than sensitive laboratory balances): household and shop scales, platform scales, scales for continuous weighing, weigh-bridges, weights and similar items
 - (ii) manufacture of filtering or purifying machinery and apparatus for liquids
 - (iii) manufacture of equipment for projecting, dispersing or spraying liquids or powders: manufacture of spray guns, fire extinguishers, sand blasting machines, steam cleaning machines and similar machinery
 - (iv) manufacture of packing and wrapping machinery: manufacture of filling, closing, sealing, capsuling or labelling machines and similar equipment
 - (v) manufacture of machinery for cleaning or drying bottles and for aerating beverages
 - (vi) manufacture of distilling or rectifying plant for petroleum refineries, chemical industries, beverage industries
 - (vii) manufacture of gas generators
 - (viii) manufacture of calendaring or other rolling machines and cylinders thereof
 - (ix) manufacture of centrifuges
 - (x) manufacture of gaskets and similar joints made of a combination of materials or layers of the same material
 - (xi) manufacture of automatic goods vending machines
 - (b) and excluding:
 - (i) manufacture of agricultural spraying machinery which is a

- (ii) qualifying activity in terms of paragraph 04.10 of this Schedule
 - (iii) manufacture of metal or glass rolling machinery and cylinders thereof which is a qualifying activity in terms of paragraphs 04.12 and 04.17 of this Schedule
 - (iv) manufacture of cream separators which is a qualifying activity in terms of paragraph 04.14 of this Schedule
 - (v) manufacture of domestic fans which is a qualifying activity in terms of paragraph 04.18 of this Schedule
 - (v) manufacture of sensitive balances which is a qualifying activity in terms of paragraph 08.02 of this Schedule
- 04.09. Manufacture of agricultural tractors,
 - (a) including:
 - (i) manufacture of tractors used in agriculture and forestry
 - (ii) manufacture of walking (pedestrian controlled) tractors
 - (b) and excluding:
 - (i) manufacture of road tractors for semi-trailers
 - (ii) manufacture of road trailers or semi-trailers
- 04.10. Manufacture of other agricultural and forestry machinery,
 - (a) including:
 - (i) manufacture of mowers, including lawn mowers
 - (ii) manufacture of agricultural self-loading or self-unloading trailers or semi-trailers
 - (iii) manufacture of agricultural machinery for soil preparation, planting or fertilizing: ploughs, manure spreaders, seeders, harrows and similar machinery
 - (iv) manufacture of harvesting or threshing machinery: harvesters, threshers, sorters and similar machinery
 - (v) manufacture of milking machines
 - (vi) manufacture of spraying machinery for agricultural use
 - (vii) manufacture of diverse agricultural machinery: poultry keeping machinery, bee-keeping machinery, equipment for preparing fodder machines for cleaning, sorting or grading eggs, fruit, seed, grain and other similar crops
 - (b) and excluding:
 - (i) manufacture of agricultural hand-tools which is a qualifying activity in terms of paragraph 03.04 of this Schedule
 - (ii) manufacture of works trucks which is a qualifying activity in terms of paragraph 04.06 of this Schedule
 - (iii) manufacture of cream separators which is a qualifying activity in terms of paragraph 04.14 of this Schedule
 - (iv) manufacture of road trailers or semi-trailers
- 04.11. Manufacture of machine-tools,
 - (a) including:
 - (i) manufacture of machine-tools for working any material by removal of material including those working by laser, ultrasonic, electro-discharge processes: lathes, boring machines, drills and similar machine-tools
 - (ii) manufacture of machine-tools for working any material without removing material: forging or die-stamping machines, draw-benches and similar machine-tools
 - (iii) manufacture of machines for nailing, stapling, glueing and similar processes
 - (iv) manufacture of welding, brazing or soldering machines

- (v) manufacture of workholders, toolholders and special attachments for machine-tools
 - (vi) manufacture of hand tools with self-contained motor or with pneumatic drive
 - (b) and excluding:
 - (i) manufacture of interchangeable tools for hand-tools or machine-tools which is a qualifying activity in terms of paragraph 03.04 of this Schedule
 - (ii) manufacture of machinery for metallurgy which is a qualifying activity in terms of paragraph 04.12 of this Schedule
 - (iii) manufacture of machinery for mining and quarrying which is a qualifying activity in terms of paragraph 04.13 of this Schedule
- 04.12. Manufacture of machinery for metallurgy,
- (a) including:
 - (i) manufacture of machines and equipment for handling hot metals: converters, ingot moulds, ladles, casting machines
 - (ii) manufacture of metal-rolling mills and rolls for such mills
 - (b) and excluding:
 - (i) manufacture of draw-benches which is a qualifying activity in terms of paragraph 04.11 of this Schedule
 - (ii) manufacture of moulding boxes and moulds (except ingot moulds) which is a qualifying activity in terms of paragraph 04.17 of this Schedule
- 04.13. Manufacture of machinery for mining, quarrying and construction,
- (a) including:
 - (i) manufacture of continuous-action elevators and conveyors for underground use
 - (ii) manufacture of boring, cutting, sinking and tunnelling machinery
 - (iii) manufacture of machinery for treating minerals by screening, sorting, separating and similar processes
 - (iv) manufacture of concrete and mortar mixers
 - (v) manufacture of earth moving machinery: bulldozers, angle-dozers, graders, scrapers, levellers, mechanical shovels, shovel loaders and similar machinery
 - (vi) manufacture of pile-drivers and pile-extractors, mortar spreaders, bitumen spreaders, machinery for concrete surfacing and similar machinery
 - (vii) manufacture of bulldozer and angle-dozer blades
 - (b) and excluding:
 - (i) manufacture of lifting and handling equipment which is a qualifying activity in terms of paragraph 04.06 of this Schedule
 - (ii) manufacture of wheeled tractors which is a qualifying activity in terms of paragraph 04.09 of this Schedule
 - (iii) manufacture of machine-tools for working stone, including machines for splitting or clearing stone which is a qualifying activity in terms of paragraph 04.11 of this Schedule
 - (iv) manufacture of concrete-mixer lorries
- 04.14. Manufacture of machinery for food, beverage and tobacco processing,
- (a) including:
 - (i) manufacture of agricultural dryers
 - (ii) manufacture of machinery for the dairy industry such as cream separators, milk processing machinery (homogenisers and

- irradiators), milk converting machinery (butter churns, butter workers and moulding machines), cheese-making machines (homogenisers, moulders, presses) and similar machinery
- (iii) manufacture of machinery for grain milling industry: grinding mills, “breeding” rolls or mills, feeders, bran cleaners, blenders, rice hullers, pea splitters
- (iv) manufacture of presses, crushers, and similar machinery used to make wine, cider, fruit juices and other similar beverages
- (v) manufacture of machinery for the bakery industry or for making macaroni, spaghetti or similar products: manufacture of non-electric bakery ovens, dough mixers, dough-dividers, moulders, slicers, cake depositing machines and similar machinery
- (vi) manufacture of machines and equipment to process diverse food: machinery to make confectionery, cocoa or chocolate; to maintain sugar; for breweries; to process meat or poultry, to prepare fruit, nuts or vegetables; to prepare fish, shell fish or other sea-food; other machinery for the industrial preparation or manufacture of food or drink
- (vii) manufacture of machinery for the extraction or preparation of animal or vegetable fats or oils
- (viii) manufacture of machinery for the preparation of tobacco and for the making of cigarettes or cigars, or for pipe or chewing tobacco or snuff
- (ix) manufacture of machinery for the preparation of food in hotels and restaurants
- (b) and excluding:
 - (i) manufacture of packing, wrapping and weighing machinery which is a qualifying activity in terms of paragraph 04.08 of this Schedule
 - (ii) manufacture of cleaning, sorting or grading machinery for eggs, fruit or other crops which is a qualifying activity in terms of paragraph 04.10 of this Schedule

04.15. Manufacture of machinery for textile, apparel and leather production,

- (a) including:
 - (i) manufacture of textile machinery: machines for preparing, producing, extruding, drawing, texturing or cutting man-made textile fibres, materials or yarns, machines for preparing textile fibres such as cotton gins, bale breakers, garnettors, cotton spreaders, wool scourers, wool carbonizers, combs, carders, roving frames, spinning machines, machines for preparing textile yarns such as reelers, warpers and related machines, weaving machines (looms) including hand looms, kitchen machines, machines for making knotted net, tulle, lace, braid and other similar items
 - (ii) manufacture of auxiliary machines or equipment for textile machinery: dobbies, Jacquards, automatic stop motions, shuttle changing mechanisms, spindles and spindle flyers and similar machinery
 - (iii) manufacture of machinery for fabric processing: machinery for washing, bleaching, dyeing, dressing, finishing, coating or impregnating textile fabrics, manufacture of machines for reeling, unreeling, folding, cutting or pinking textile fabrics
 - (iv) manufacture of laundry machinery: ironing machines including fusing presses, laundry-type washing and drying machines, dry-cleaning machines
 - (v) manufacture of sewing machines, sewing machine heads and sewing machine needles

- (vi) manufacture of machines for producing or finishing felt or non-wovens
 - (vii) manufacture of leather machines: machinery for preparing, tanning or working hides, skins or leather, machinery for making or repairing footwear or other articles of hides, skins, leather or furskins
 - (b) and excluding:
 - (i) manufacture of paper or paperboard cards for use on Jaquard machines
 - (ii) manufacture of ironing machines of the calender type which is a qualifying activity in terms of paragraph 04.08 of this Schedule
 - (iii) manufacture of machines used in bookbinding which is a qualifying activity in terms of paragraph 04.17 of this Schedule
 - (iv) manufacture of domestic washing and drying machines which is a qualifying activity in terms of paragraph 04.18 of this Schedule
- 04.16. Manufacture of machinery for paper and paperboard production, including:
- (i) manufacture of machinery for making paper pulp
 - (ii) manufacture of paper and paperboard making machinery
 - (iii) manufacture of machinery producing articles of paper or paperboard
- 04.17. Manufacture of other special purpose machinery,
- (a) including:
 - (i) manufacture of machinery for working soft rubber or plastics or for the manufacture of products of these materials: extruders, moulders, pneumatic tyre making or retreading machines and other machines for making a specific rubber or plastic product
 - (ii) manufacture of printing and bookbinding machines
 - (iii) manufacture of moulding boxes for any material, mould bases, moulding patterns, moulds
 - (iv) manufacture of diverse special machinery and equipment: machines to assemble electric or electronic lamps, tubes (valves) or bulbs; machines for production or hot-working of glass or glassware, glass fibre or yarn; machinery or apparatus for isotopic separation, rope making machinery and similar machinery
 - (v) manufacture of dryers for wood, paper pulp, paper or paperboard
 - (b) and excluding:
 - (i) manufacture of machinery or equipment to work hard rubber, hard plastics or cold glass which is a qualifying activity in terms of paragraph 04.11 of this Schedule
 - (ii) manufacture of household appliances which is a qualifying activity in terms of paragraphs 04.18 and 04.19 of this Schedule
- 04.18. Manufacture of electric domestic appliances,
- (a) including:
 - (i) manufacture of domestic electric appliances: refrigerators and freezers, dishwashers, washing and drying machines, vacuum cleaners, floor polishers, waste disposers, grinders, blenders, juice squeezers, tin openers, electric shavers, electric tooth brushes, knife sharpeners, ventilating or recycling hoods
 - (ii) manufacture of domestic electro-thermic appliances: electric water heaters; electric blankets; electric dryers, combs, brushes, curlers; electric smoothing irons; space heaters and household

type fans; electric ovens, micro-wave ovens, cookers, hot plates, toasters, coffee or tea makers, fry-pans, roasters, grills, electric heating resistors and similar appliances

(b) and excluding:

- (i) manufacture of sewing machines which is a qualifying activity in terms of paragraph 04.15 of this Schedule

04.19. Manufacture of non-electric domestic appliances,

(a) including:

- (i) manufacture of non-electric domestic cooking, heating and lighting equipment: non-electric space heaters, cooking ranges, grates, stoves, water heaters, cooking appliances, plate warmers, gas lamps
- (ii) manufacture of parts of, or accessories for, such non-electric, domestic appliances

(b) and excluding:

- (i) manufacture of machinery for the preparation of food in commercial kitchens which is a qualifying activity in terms of paragraph 04.14 of this Schedule

05. Manufacture of office machinery and computers

05.01. Manufacture of office machinery, including:

- (i) manufacture of manual or electric typewriters
- (ii) manufacture of word-processing machines
- (iii) manufacture of hectograph or stencil duplicating machines, addressing machines and sheet fed office type offset printing machines
- (iv) manufacture of calculating machines, cash registers, postage franking machines, special terminals for issuing of tickets and reservations and similar machinery
- (v) manufacture of diverse office machinery or equipment: machines that sort, wrap or count coins; automatic banknote dispensers; machines that stuff envelopes, sort mail; pencil sharpening machines; perforating or stapling machines and similar machinery

05.02. Manufacture of computers and other information processing equipment,

(a) including:

- (i) manufacture of automatic data processing machines including micro computers such as digital machines, analogue machines and hybrid machines
- (ii) manufacture of peripheral units such as printers, terminals, magnetic or optical readers and machines for transcribing data onto data media in coded form

(b) and excluding:

- (i) manufacture of electronic parts found in computing machinery which is a qualifying activity in terms of paragraph 07.01 of this Schedule
- (ii) manufacture of electronic games which is a qualifying activity in terms of paragraph 15.01 of this Schedule
- (iii) repair and maintenance of computer systems

06. Manufacture of electric machinery and apparatus

06.01. Manufacture of electric motors, generators and transformers,

- (a) including:
 - (i) manufacture of AC motors
 - (ii) manufacture of AC generators
 - (iii) manufacture of universal AC/DC motors
 - (iv) manufacture of DC motors or generators
 - (v) manufacture of AC or DC generator sets
 - (vi) manufacture of electric rotary or static converters
 - (vii) manufacture of electrical transformers
 - (b) and excluding:
 - (i) manufacture of vehicle generators and cranking motors which is a qualifying activity in terms of paragraph 06.06 of this Schedule
 - (ii) manufacture of diode valves which is a qualifying activity in terms of paragraph 07.01 of this Schedule
- 06.02. Manufacture of electricity distribution and control apparatus,
 - (a) including:
 - (i) manufacture of electrical apparatus for switching or protecting electrical circuits, or for making connections to or in electrical circuits: manufacture of switches, fuses, lightning arresters, voltage limiters, surge suppressors, plugs, junction boxes, relays, sockets, lamp holders
 - (ii) manufacture of electric control or distribution boards, panels, consoles, desks, cabinets and other bases
 - (b) and excluding:
 - (i) manufacture of fuse wire or strip
 - (ii) manufacture of carbon or graphite electrodes which is a qualifying activity in terms of paragraph 06.07 of this Schedule
 - (iii) manufacture of boards, panels, consoles for use in line telephony or line telegraphy which is a qualifying activity in terms of paragraph 07.02 of this Schedule
- 06.03. Manufacture of insulated wire and cable,
 - (a) including:
 - (i) manufacture of insulated wire, cable, strip and other insulated conductors whether or not fitted with connectors
 - (ii) manufacture of optical fibre cables for coded data transmission: telecommunications, video, control, data
 - (b) and excluding:
 - (i) manufacture of uninsulated non-ferrous metal wire
 - (ii) manufacture of uninsulated metal cable or insulated cable not capable of being used as a conductor of electricity
 - (iii) manufacture of wiring sets which is a qualifying activity in terms of paragraph 06.06 of this Schedule
 - (iv) manufacture of optical fibres and optical fibre cables for live transmission of images: endoscopy, lighting, live images which is a qualifying activity in terms of paragraph 08.04 of this Schedule
- 06.04. Manufacture of accumulators, primary cells and primary batteries, including:
 - (i) manufacture of primary cells and primary batteries
 - (ii) manufacture of electric accumulators, including parts thereof
- 06.05. Manufacture of lighting equipment and electric lamps, including:
 - (i) manufacture of electric filament or discharge lamps such as ultra-violet or infra-red lamps, arc lamps, flashbulbs, flashcubes

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- and similar items
 - (ii) manufacture of electric lamps and lighting fittings such as chandeliers, table, desk, bedside or floor-standing lamps even non-electric, portable electric lamps, illuminated signs and nameplates, outdoor and road lighting, lighting sets of a kind used for Christmas trees
 - 06.06. Manufacture of electrical equipment for engines and vehicles, including:
 - (i) manufacture of electrical ignition or starting equipment for internal combustion engines: ignition magnetos, magneto-dynamos, ignition coils, sparking plugs, glow plugs, starter motors, generators (dynamos, alternators), voltage regulators and similar equipment
 - (ii) manufacture of electrical lighting and sound or visual signalling equipment for cycles and motor vehicles: lamps, horns, sirens and similar equipment
 - (iii) manufacture of wiring sets
 - (iv) manufacture of windscreen wipers and electrical defrosters and demisters
 - (v) manufacture of dynamos for cycles
 - (vi) manufacture of electromechanical/electronic components
 - 06.07. Manufacture of other electrical equipment,
 - (a) including:
 - (i) manufacture of electrical signalling, safety or traffic control equipment for motorways, roads or streets, railways and tramways, inland waterways, ports and harbours and airports
 - (ii) manufacture of diverse electrical sound or visual signalling apparatus: bells, sirens, indicator panels, burglar alarms, fire alarms and similar items
 - (iii) manufacture of electromagnets including electromagnetic or permanent magnet chucks, clutches, brakes, couplings, clamps or lifting heads
 - (iv) manufacture of electrical insulators and insulating fittings, except of glass or ceramics
 - (v) manufacture of insulating fittings for electrical machines or equipment, except of ceramics or plastics
 - (vi) manufacture of carbon or graphite electrodes
 - (vii) manufacture of electrical conduit tubing and joints for such tubing, of base metal lines with insulating material
 - (viii) manufacture of diverse electrical machines and apparatus: manufacture of particle accelerators, signal generators, mine detectors and similar items
 - (b) and excluding:
 - (i) manufacture of glass envelopes for lamps
 - (ii) manufacture of hand-held electrically operated spray guns which is a qualifying activity in terms of paragraph 04.08 of this Schedule
 - (iii) manufacture of electric lawn-mowers which is a qualifying activity in terms of paragraph 04.10 of this Schedule
 - (iv) manufacture of electric shavers which is a qualifying activity in terms of paragraph 04.18 of this Schedule
 - (v) manufacture of electronic valves and tubes (including cold cathode valves) which is a qualifying activity in terms of paragraph 07.01 of this Schedule
 - (vi) manufacture of electrically operated hand-held medical or dental instruments which is a qualifying activity in terms of

paragraph 08.01 of this Schedule

07. Manufacture of radio, television and communication equipment and apparatus

07.01. Manufacture of electronic valves and tubes and other electronic components,

- (a) including:
 - (i) manufacture of thermionic, cold cathode or photo-cathode valves or tubes: television picture tubes, television camera tubes, image converters and intensifiers, microwave tubes, receiver or amplifier valves or tubes and similar items
 - (ii) manufacture of diodes, transistors and similar semi-conductor devices
 - (iii) manufacture of photosensitive semi-conductor devices including photo-voltaic cells
 - (iv) manufacture of mounted piezo-electric crystals
 - (v) manufacture of electronic integrated circuits and micro-assemblies: monolithic integrated circuits, hybrid integrated circuits and electronic microassemblies of moulded module, micromodule or similar types
 - (vi) manufacture of printed circuits
 - (vii) manufacture of electrical capacitors (or condensers), including power capacitors
 - (viii) manufacture of resistors including rheostats and potentiometers
- (b) and excluding:
 - (i) manufacture of heating resistors which is a qualifying activity in terms of paragraph 04.18 of this Schedule
 - (ii) manufacture of transformers which is a qualifying activity in terms of paragraph 06.01 of this Schedule
 - (iii) manufacture of switches which is a qualifying activity in terms of paragraph 06.02 of this Schedule

07.02. Manufacture of television and radio transmitters and apparatus for line telephony and line telegraphy,

- (a) including:
 - (i) manufacture of apparatus for television transmission including manufacture of relay transmitters and television transmitters for industrial use
 - (ii) manufacture of television cameras
 - (iii) manufacture of transmission apparatus for radio-broadcasting
 - (iv) manufacture of transmission apparatus for radio-telephony: fixed transmitters and transmitter-receivers, radio-telephony apparatus for transport equipment, radio-telephones, other transponders and similar equipment
 - (v) manufacture of apparatus for line telephony: telephony sets, fax machines, automatic and non-automatic switchboards and exchanges, telex and teleprinter apparatus and similar items
- (b) and excluding:
 - (i) manufacture of electronic components which is a qualifying activity in terms of paragraph 07.01 of this Schedule

07.03. Manufacture of television and radio receivers, sound or video recording or reproducing apparatus and associated goods,

- (a) including:
 - (i) manufacture of television receivers including video monitors and video projectors

- (ii) manufacture of video recording or reproducing apparatus including camcorders
- (iii) manufacture of radio-broadcasting receivers
- (iv) manufacture of magnetic tape recorders and other sound recording apparatus including telephone answering machines, cassette-type recorders and similar items
- (v) manufacture of turn-tables (record decks), record players, cassette players, CD players and similar items
- (vi) manufacture of microphones, loudspeakers, headphones, earphones, amplifiers and sound amplifier sets
- (vii) manufacture of pick-ups, tone arms, sound-heads, tables for turn-tables, record cutters, aerials, aerial reflectors and aerial rotors, cable converters, TV decoders
- (viii) manufacture of sound electro acoustic apparatus including door intercoms, command transmitter intercoms, simultaneous interpretation apparatus, electronic voting systems, conference systems, paging devices, portable sound systems
- (b) and excluding:
 - (ii) publishing and reproduction of pre-recorded audio and video discs and tapes
 - (ii) manufacture of prepared unrecorded media

08. Manufacture of medical, precision and optical instruments, watches and clocks

08.01. Manufacture of medical and surgical equipment and orthopaedic appliances,

- (a) including:
 - (i) manufacture of instruments and appliances used for medical, surgical, dental or veterinary purposes such as electro-diagnostic apparatus such as electrocardiographs, ultrasonic diagnostic equipment, scintillation scanners, nuclear magnetic resonance apparatus, dental drill engines, sterilizers, ophthalmic instruments
 - (ii) manufacture of syringes, needles used in medicine, mirrors, reflectors, endoscopes and similar items
 - (iii) manufacture of apparatus based on the use of X-rays or alpha, beta or gamma radiation whether or not for use in human or animal medicine such as X-ray tubes, high tension generators, control panels, desks, screens and similar equipment
 - (iv) manufacture of medical, surgical, dental or veterinary furniture such as operating tables, hospital beds with mechanical fittings, dentists' chairs
 - (v) manufacture of mechano-therapy appliances, massage apparatus, psychological testing apparatus, ozone therapy, oxygen therapy, artificial respiration apparatus, gas masks and similar equipment
 - (vi) manufacture of orthopaedic appliances such as crutches, surgical belts and trusses, splints, artificial teeth, artificial limbs and other artificial parts of the body, hearing aids, pace-makers and similar items
 - (vii) manufacture of medical disposable devices
 - (viii) manufacture of medical transfer devices
- (b) and excluding:
 - (i) manufacture of cement used in dentistry which is a qualifying activity in terms of paragraph 01.02 of this Schedule
 - (ii) manufacture of thermometers which is a qualifying activity in terms of paragraph 08.02 of this Schedule

- (iii) manufacture of corrective spectacle lenses and of their frame or of optical microscopes which is a qualifying activity in terms of paragraph 08.04 of this Schedule
- 08.02. Manufacturing of instruments and appliances for measuring, checking, testing, navigating and other purposes, except industrial process control equipment,
- (a) including:
 - (i) manufacture of laboratory type sensitive balances
 - (ii) manufacture of drawing, marking-out or mathematical calculating instruments such as measuring rods and tapes, micrometers, callipers and gauges and similar items
 - (iii) manufacture of microscopes other than optical microscope and diffraction apparatus
 - (iv) manufacture of apparatus for measuring and checking electrical quantities: oscilloscopes, spectrum analysers, cross-check meters, instruments for checking current, voltage, resistance and similar items
 - (v) manufacture of apparatus for measuring or checking non-electrical quantities such as radiation detectors and counters, apparatus for testing and regulating vehicle motors and similar items
 - (vi) manufacture of navigational, meteorological, geophysical and related instruments and apparatus such as surveying instruments, oceanographic or hydrological instruments, seismometers, rangefinders, automatic pilots, sextants, ultrasonic sounding instruments, air navigation instruments and systems, radar apparatus, radio remote control apparatus and radio navigational aid apparatus
 - (vii) manufacture of electricity supply meters and supply meters for water, gas, petrol and similar liquids and gases
 - (viii) manufacture of machines and appliances for testing the mechanical properties of materials
 - (ix) manufacture of instruments and apparatus for carrying out physical or chemical analyses such as polarimeters, photometers, refractometers, colorimeters, spectrometers, pH-meters, viscometers, surface tension instruments and similar instruments and apparatus
 - (x) manufacture of instruments and apparatus for measuring or checking the flow, level pressure or other variables of liquids or gases such as flow meters, level gauges, manometers, heat meters and similar instruments and apparatus
 - (xi) manufacture of diverse measuring, checking or testing instruments, apparatus or machines such as hydrometers, thermometers, barometers, revolution counters, taximeters, pedometers, tachometers, balancing machines, test benches, comparators and similar instruments, apparatus or machines
 - (xii) manufacture of optical type measuring and checking appliances and instruments
 - (b) and excluding:
 - (i) manufacture of pumps incorporating measuring devices which is a qualifying activity in terms of paragraph 04.02 of this Schedule
 - (ii) manufacture of medical and surgical instruments which is a qualifying activity in terms of paragraph 08.01 of this Schedule
 - (iii) manufacture of industrial process control equipment which is a qualifying activity in terms of paragraph 08.03 of this Schedule
 - (iv) manufacture of binoculars, monoculars and similar optical

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- devices which is a qualifying activity in terms of paragraph 08.04 of this Schedule
- (v) manufacture of optical microscopes which is a qualifying activity in terms of paragraph 08.04 of this Schedule
- 08.03 Manufacture of industrial process control equipment, including:
- (i) Design and assembly of industrial continuous process control systems
- (ii) Design and assembly of automated production plants consisting of various machines, handling devices and centralized controlling apparatus
- 08.04 Manufacture of optical instruments and photographic equipment,
- (a) including:
- (i) manufacture of optical elements mounted or not such as unworked optical elements other than of glass, prisms, lenses, optical mirrors, colour filters, polarising elements of glass or other material, optical fibres and optical fibre cables for live transmission of images such as endoscopy, lighting, live images, spectacle lenses and contact lenses, spectacle frames and frames fitted with lenses whether or not the lenses are optically worked such as sun-glasses, protective glasses, corrective glasses
- (ii) manufacture of optical instruments such as optical microscopes, equipment for microphotography and microprojection, magnifying glasses, reading glasses, thread counters, binoculars, sight telescopes, telescopic sights and observation telescopes, astronomical equipment, lasers, but excluding laser diodes
- (iii) manufacture of photographic and cinematographic equipment such as cameras, image projectors, enlargers and reducers, discharge lamps ("electronic") and other flashlight apparatus, apparatus and equipment for photographic and cinematographic laboratories, apparatus for the projection of circuit patterns on sensitised semi-conductor materials, projection screens
- (b) and excluding:
- (i) manufacture of photochemical products
- (ii) manufacture of unworked glass optical elements
- (iii) manufacture of optical fibre cables for coded data transmission which is a qualifying activity in terms of paragraph 06.03 of this Schedule
- (iv) manufacture of photographic flashbulbs which is a qualifying activity in terms of paragraph 06.05 of this Schedule
- (v) manufacture of television cameras which is a qualifying activity in terms of paragraph 07.02 of this Schedule
- (vi) manufacture of microscopes other than optical which is a qualifying activity in terms of paragraph 08.02 of this Schedule
- (vii) manufacture of optical type measuring and checking appliances and instruments which is a qualifying activity in terms of paragraph 08.02 of this Schedule
- 08.05 Manufacture of watches and clocks,
- (a) including:
- (i) manufacture of clocks and watches of all kinds, including instrument panel clocks; watch and clock cases, including cases of noble metals; movements of all kinds of watches and clocks
- (ii) manufacture of time recording equipment and equipment for

- measuring, recording and otherwise displaying intervals of time such as parking meters, process timers, time switches and other releases
- (iii) manufacture of components for clocks and watches, such as springs, jewels, dials, hands, metal watch bands and bracelets, plates, bridges and other parts.
- (b) and excluding:
 - (i) manufacture of non-metallic watch bands

09. Manufacture of motorcycles

09.01 Manufacture of motorcycles,

- (a) including:
 - (i) manufacture of motorcycles, mopeds and cycles fitted with an auxiliary engine
 - (ii) manufacture of engines for motorcycles
 - (iii) manufacture of side-cars
 - (iv) manufacture of parts and accessories for motorcycles
- (b) and excluding:
 - (i) manufacture of parts of motorcycle engines
 - (ii) manufacture of bicycles or invalid carriages

10. Manufacture of jewellery and related articles

10.01. Striking of coins and medals, including:

- (a) manufacture of coins including coins for use as legal tender, medals and medallions, whether or not of precious metal

10.02. Manufacture of jewellery and related articles,

- (a) including:
 - (i) production of worked pearls
 - (ii) production of precious and semi-precious stones in the worked state. Included is the working of industrial quality stones and synthetic or reconstructed precious or semi precious stones
 - (iii) working of diamonds
 - (iv) manufacture of jewellery of precious metal or of base metals clad with precious metals, or precious or semi-precious stones, or of combinations of precious metal and precious or semi-precious stones or of other materials
 - (v) manufacture of goldsmiths' articles of precious metals or of base metals clad with precious metals such as dinnerware, flatware, hollowware, toilet articles, office or desk articles and articles for religious use and similar items
 - (vi) engraving on objects of precious metals
- (b) and excluding:
 - (i) manufacture of articles of base metal plated with precious metal unless qualifying under paragraph 03 of this Schedule
 - (ii) manufacture of watch cases and metal straps which is a qualifying activity in terms of paragraph 08.05 of this Schedule
 - (iii) manufacture of imitation jewellery

11. Recycling

11.01 Recycling of metal waste and scrap,

- (a) including:
 - (i) processing of metal waste and scrap and of metal articles

whether or not used, into secondary raw material. Typical is that, in terms of commodities, input consists of waste and scrap, the input being sorted or unsorted but always unfit for further direct use in an industrial process whereas the output is made fit for further processing and is to be considered then as an intermediate good. A process is required, either mechanical or chemical, such as mechanical crushing of metal waste such as used cars, washing machines, bikes with subsequent sorting and separation, mechanical reduction of large iron pieces such as railway wagons, stripping of used goods such as cars in order to obtain re usable parts, stripping of used goods such as cars or refrigerators to eliminate harmful waste (oil, cooling liquid, fuel)

(b) and excluding:

- (i) manufacture of new products from secondary raw material unless qualifying under paragraphs 03, 04, 05, 06, 07, 08, 09, 10, 13, 14 and 15
- (ii) wholesale in waste and scrap including collecting, sorting, packing, dealing without an industrial process
- (iii) wholesale or retail sale trade in second hand goods

11.02 Recycling of non-metal waste and scrap,

(a) including:

- (i) processing of non-metal waste and scrap and of non-metal articles whether or not used, into secondary raw material. Typical is that, in terms of commodities, input consists of waste and scrap, the input being sorted or unsorted but always unfit for further direct use in an industrial process whereas the output is made fit for further processing and is to be considered then as an intermediate good. A process is required, either mechanical or chemical, such as reclaiming of rubber such as used tyres to produce secondary raw material, sorting and pelleting of plastics to produce secondary raw material for tubes, flower pots, pallets and the like, reclaiming of chemicals from chemical waste, crushing, cleaning and sorting of glass, crushing, cleaning and sorting of other waste such as demolition waste to obtain secondary raw materials

(b) and excluding:

- (i) production of new products from secondary raw material such as spinning of yarn from garneted stock or making pulp from waste paper or retreading tyres should be classified in the appropriate class of manufacturing
- (ii) treatment of food, beverages and tobacco waste
- (iii) processing of depleted thorium or uranium
- (iv) wholesale in waste and scrap including collecting, sorting, packing, dealing without an industrial process
- (v) wholesale or retail sale trade in second hand goods

12. Manufacture of chemicals and chemical products

12.01 Manufacture of industrial gases,

(a) including:

- (i) manufacture of liquefied or compressed industrial or medical gases: elemental gases, liquid or compressed air, refrigerant gases, mixed industrial gases, inert gases such as carbon dioxide, isolating gases

(b) and excluding:

- (i) extraction of methane, ethane, butane or propane
- (ii) manufacture of fuel gases such as ethane, butane or propane in a petroleum refinery

13. Manufacture of Musical Instruments

13.01 Manufacture of musical instruments,

(a) including:

- (i) manufacture of stringed instruments
- (ii) manufacture of keyboard stringed instruments, including automatic pianos
- (iii) manufacture of keyboard pipe organs including harmoniums and similar keyboard instruments with free metal reeds
- (iv) manufacture of accordions and similar instruments including mouth organs
- (v) manufacture of wind instruments
- (vi) manufacture of percussion musical instruments
- (vii) manufacture of musical instruments, the sound of which is produced electronically
- (viii) manufacture of musical boxes, fairground organs, calliopes and similar items
- (ix) manufacture of instrument parts and accessories: metronomes, tuning forks, pitch pipes, cards, discs and rolls for automatic mechanical instruments and similar items
- (x) manufacture of whistles, call horns and other mouth blown sound signalling instruments

(b) and excluding:

- (i) publishing and reproduction of pre-recorded sound and video tapes and discs
- (ii) manufacture of microphones, amplifiers, loudspeakers, headphones and similar components which is a qualifying activity in terms of paragraph 07.03 of this Schedule
- (iii) manufacture of record players, tape recorders and similar items which is a qualifying activity in terms of paragraph 07.03 of this Schedule
- (iv) manufacture of toy instruments which is a qualifying activity in terms of paragraph 15.01 of this Schedule

14. Manufacture of sports goods

14.01 Manufacture of sports goods,

(a) including:

- (i) manufacture of articles and equipment for sports, outdoor and indoor games such as hard, soft and inflatable balls, rackets, bats and clubs, skis, bindings and poles, sailboards, requisites for sport fishing including landing nets, requisites for hunting, mountain climbing, leather sports gloves and sports headgear, basins for swimming and paddling pools, ice-skates, roller-skates, bows and crossbows and gymnasium or athletic equipment

(b) and excluding:

- (i) manufacture of boat sails
- (ii) manufacture of sport clothing
- (iii) manufacture of saddlery and harness
- (iv) manufacture of sports footwear

- (v) manufacture of weapons and ammunition
- (vi) manufacture of sports vehicles other than toboggans and the like unless qualifying under paragraph 09 of this Schedule
- (vii) manufacture of boats
- (viii) manufacture of billiard tables and bowling equipment which is a qualifying activity in terms of paragraph 15.01 of this Schedule
- (ix) manufacture of whips and riding crops

15. Manufacture of games and toys

15.01. Manufacture of games and toys,

- (a) including:
 - (i) manufacture of dolls and doll garments and accessories
 - (ii) manufacture of toy animals
 - (iii) manufacture of wheeled toys designed to be ridden including tricycles
 - (iv) manufacture of toy musical instruments
 - (v) manufacture of articles for funfair, table or parlour games
 - (vi) manufacture of playing cards
 - (vii) manufacture of pin-tables, coin operated games, billiards, special tables for casino games, automatic bowling alley equipment and similar items
 - (viii) manufacture of electronic games: video games, chess and similar games
 - (ix) manufacture of reduced-size ("scale") models and similar recreational models, electrical trains, construction sets and similar models
 - (x) manufacture of puzzles and similar games
- (b) and excluding:
 - (i) manufacture of bicycles
 - (ii) manufacture of festive, carnival or other entertainment articles

16. Building of pleasure and sporting boats

16.01 Building of pleasure and sporting boats

- (a) including:
 - (i) building of inflatables
 - (ii) building of sailboats with or without auxiliary motor
 - (iii) building of motor boats
 - (iv) building of other pleasure and sporting boats such as canoes, kayaks, skiffs and similar pleasure and sporting boats

provided such vessels are not used in a trade or business consisting of the transportation of passengers or goods but including vessels, which although used in such a trade or business, are so used for the transportation and accommodation of passengers in vessels not having more than thirty berths
- (b) and excluding:
 - (i) manufacture of marine engines which is a qualifying activity in terms of paragraph 04.01 of this Schedule
 - (ii) manufacture of sailboards which is a qualifying activity in terms of paragraph 14.01 of this Schedule.

Schedule

Application in terms of
Regulation 20(4) of the Business Promotion Regulations

1	Name of qualifying company	
2	Registered office or mailing address if different	
3	Address or addresses from which business is carried on if different from (2) above	
4	Type of commercial partnership	
5	Place of incorporation	
6	Date of incorporation	
7	Date of registration as overseas company, where applicable	
8	Commercial partnership registration number	
9	Income tax registration number	
10	First year of assessment	
11	Nature of activity/ies including NACE classification	
12	Is qualifying company a small or medium-sized enterprise as defined by regulation 3 of the Business Promotion Regulations ignoring subregulation 11 thereof?	Small/ Medium/ Neither
13	If the company is a small or medium-sized enterprise, provide the name of ultimate holding company within the meaning of of the Companies Act, and the following information cumulated for all enterprises which are to be taken into consideration for the purpose of determining whether the qualifying company is a small or medium-sized enterprise as the case may be: Name of ultimate parent company	
	The number of employees	
	The annual turnover in Euros	
	The balance sheet total, i.e., the total assets in Euros	
	All the provisions of Regulation 3, except for subregulation 11 thereof, of the Business Promotion Regulations should be applied in determining the information in this point 13	
14	For years of assessment subsequent to years of assessment 2002, specify: the likely years of assessment in respect of which it intends to qualify for the benefit provided by article 4 of the Act or for the benefit provided by article 5 of the Act by virtue of article 5(6)(b) the likely number of years of assessment in respect of which it intends to qualify for the benefits provided by article 5 of the Act other than by virtue of article 5(6)(b) of the Act the likely number of years of assessment in respect of which it intends to qualify for the benefits provided by article 5A of the Act	
15	Where appropriate kindly provide or attach details of the qualifying company's future investment or expansion plans	

Declaration:

I declare that the information contained in this form is true and correct:

Name of person making declaration	Designation	Signature of person making declaration	Date

Application in terms of Regulation 20(4) of the Business Promotion Regulations

16 Company information since incorporation or registration as overseas company

report amounts below in qualifying company's current reporting currency.

[illegible]