

Financial Incentives for the Audiovisual Industry: **CASH REBATE GUIDELINES**

These guidelines shall come into force on 1 January 2019 and are issued by the Malta Film Commission in accordance with the Financial Incentives for the Audiovisual Industry Regulations, 2019 (L.N. of 2019). This document has been designed to assist qualifying companies applying for the cash rebates available.

Malta Film Commission

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Section 1: Introduction

1.1. The Malta Film Commission

The Malta Film Commission (MFC) is a government body established by CHAPTER 478 (Act No. 7 of 2005) of the Laws of Malta, with the role of advising the Minister responsible for the film sector on policies. The MFC is responsible for the promotion, development and support of the audiovisual industry, including the film servicing industry, in Malta. This is achieved through various policies, services and incentives with an aim to facilitate the work of qualifying productions in Malta and by marketing Malta's locations, skilled labour and industry capabilities to international producers. In addition, the MFC is also responsible for developing an indigenous film industry through training programmes and the Malta Film Fund.

As an office, the MFC aims at attracting business to the Maltese islands through various marketing efforts and by offering economic incentives and also provides free services, from scouting locations to trouble-shooting with local officials.

The MFC also maintains and updates a directory of the local filming industry (service providers, useful contact information of available facilities to classified listings of industry-related goods and services).

The MFC provides free assistance in the following areas:

- Information about locations;
- Assistance in the acquisition of filming permits;
- Information and administrative assistance about local incentives including the Financial Incentives for the Audiovisual Industry;
- Acts as a liaison between the different Government entities and departments;
- Administration of a database for local services and crew.

The Audiovisual Industry represents a key component of the cultural and creative industry and the Maltese government is committed to promoting this growing sector as one of its priorities.

1.2. Finding Local Crew and Local Services

In the Malta Film Commission's directory, a list of registered crew and local service companies can be found. This includes local production service companies which can be contracted to manage the production in Malta. A local production service company provides the full range of production services and takes full responsibility for all production services carried out in Malta. Once you decide to choose Malta, it is recommended that you liaise with a local production service company to assist you with your actual production.

1.3. Financial Incentives for the Audiovisual Industry

The Financial Incentives for the Audiovisual Industry is a financial incentive scheme managed and administered by the Malta Film Commission under the auspices of the Ministry for Tourism.

Funding is through national funds and is awarded to qualifying companies with qualifying productions that are considered as a cultural product and found to be making a valid contribution to the expression of creativity and culture through the development of production capability skills in the audiovisual sector with the goal of maintaining and fostering employment in Malta in this sector. This scheme offers a cash rebate on eligible expenses incurred by audiovisual projects. Apart from direct Malta spend, this scheme also favours EU/EEA¹ related spend (as defined herein) in Malta.

¹ In the case of sub-contracting and labour costs relating to countries with an official bi-lateral or multi-lateral co-production agreement with Malta and involves a qualifying production which has an official recognised co-production agreement with a Local Qualifying Company this proviso is extended to non-EU/EEA countries.

This scheme is considered as State Aid and is regulated and monitored by the European Commission. The terms and conditions of this scheme are in line with the applicable parameters and criteria of Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty, as amended by Commission Regulation (EU) 2017/1084 of 14 June 2017 (hereinafter referred to as the General Block Exemption Regulation (GBER)²) and more specifically with Article 54, relating to aid schemes for audiovisual works.

The scheme shall not apply to those sectors and/or activities expressly excluded by Article 1 of the General Block Exemption Regulation.

Undertakings in difficulty as defined in terms of Article 2(18) of the General Block Exemption Regulation are excluded from benefiting from assistance under this incentive (see Enterprise Size/Undertakings in Difficulty Declaration).

Support will not be granted to any qualifying company which is subject to an outstanding recovery order following a previous Commission decision declaring an aid granted by Malta illegal and incompatible with the internal market.

² References to the General Block Exemption Regulation throughout this document refer to *Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty*, as amended by *Commission Regulation (EU) 2017/1084 of 14 June 2017 amending Regulation (EU) No 651/2014 as regards aid for port and airport infrastructure, notification thresholds for aid for culture and heritage conservation and for aid for sport and multifunctional recreational infrastructures, and regional operating aid schemes for outermost regions and amending Regulation (EU) No 702/2014 as regards the calculation of eligible costs.*

Section 2: ELIGIBILITY CRITERIA

To be eligible to apply for this scheme you must meet the following criteria:

2.1. The production must be carried out by a Qualifying Company.

The qualifying company shall be the entity responsible for all activities involved in making a qualifying production and having access to full financial information for the total production worldwide, which can be made available to the Commissioner upon the latter's request.

Provided that there shall be only one qualifying company with respect to a given qualifying production.

Provided that if the qualifying company is a:

- i) Foreign Qualifying Company, the qualifying company must be either a special purpose corporate vehicle or a company which carries on, or intends to carry on in Malta, a trade or business which is considered as a qualifying production.
- ii) Local Qualifying Company, the company which must have an audiovisual production as its main purpose and activity and that is duly registered as an audiovisual production company in Malta, having at least one director or a major shareholder of the company who is a Maltese/European citizen.
- iii) An audiovisual studio/facility whose main purpose and activity is animation and/or VFX and is a company that is duly registered as an audiovisual studio/facility in Malta, having at least one director or a major shareholder of the company who is a Maltese/European citizen.

2.2. A Qualifying Production means an audiovisual work that must be partially or wholly carried out in Malta and processed to commercial release standards, for international distribution for cinema and international telecast (including VOD/SVOD platforms) and is categorised as follows:

- (a) Feature film;
- (b) Television production (including Film, Series or Mini-Series including Pilots).
- (c) Creative documentary;
A creative documentary is a project based on an original theme which contains a certain 'timeless' element so that there is no loss of interest when the event with which it may be linked has passed and contains significant original filming and does not merely report information;
- (d) Reality programmes (scripted/unscripted);
The reality programme may be live or recorded which directly or indirectly promotes the Maltese Islands and its culture abroad';
- (e) Game shows;
The game show may be live or recorded which directly or indirectly promotes the Maltese Islands and its culture abroad'.

Audiovisual works as outlined above, may involve Animation/Visual Effects (whether computer generated or otherwise; even if not physically shot in Malta) or be linked to Cross-Media/Trans-media/Virtual Reality.

Exclusions

The following in particular are not eligible for the financial incentives:

1. any public or special performance(s) staged for filming or otherwise;
 2. any sporting event;
 3. current affairs or talk shows;
 4. demonstration programmes for tasks, hobbies or projects;
 5. review, magazine-style, or lifestyle programmes;
 6. advertising programmes or advertisements;
 7. pornographic content;
 8. computer games.
- 2.3. The minimum spend³ in Malta must be €100,000 with an overall budget exceeding €200,000. The limits applicable to 'Difficult Audiovisual Works' are a minimum spend in Malta of €50,000 with an overall budget exceeding €100,000⁴.
- 2.4. In order for audiovisual work to be considered as a cultural product and found to be making a valid contribution to the expression of creativity and culture through the development of production capability skills in the audiovisual sector, a Cultural Test is required. The audiovisual work must obtain a minimum of 40 points in aggregate in the Cultural Test (separate Cultural Test applies for Animation/VFX Works).
- 2.5. Foreign companies not registered in Malta, must use a registered Production Service Company as Production Coordinator.
- 2.6. In respect of official international co-productions involving a Malta Co-Producer, it is the Malta Co-Producer who should apply and would act as the recipient.

³ The minimum level of production activity in Malta cannot exceed 50% of the overall production budget, as outlined in the General Block Exemption Regulation.

⁴ In line with the *General Block Exemption Regulation*, the maximum expenditure subject to territorial spending obligations shall in no case exceed 80% of the overall production budget.

Section 3: Level of Aid and Intensity

3.1. Level of Aid and Intensity

3.1.1. The aid intensity (financial incentive) for audiovisual works shall not exceed **forty percent (40%)** of the eligible expenditure of a qualifying production. In the case of a qualifying production considered as 'Difficult Audiovisual Work', the aid intensity shall not exceed **fifty percent (50%)** of the eligible expenditure. These maximum aid intensities shall also apply for co-productions. Refer to section 3.2 for more details on percentage allocations within these thresholds.

The aid intensity shall be calculated on the basis of the eligible expenditure in Malta and the maximum expenditure subject to territorial spending obligations shall not exceed 80% of the overall production budget.

3.1.2. In determining the level of rebate, the Commissioner shall take into account the total amount of State Aid for the aided activity to ensure that the maximum aid intensities established under Chapter III, Article 54 'Aid schemes for audiovisual works' of the General Block Exemption Regulation are respected.

3.1.3. Where Union funding centrally managed by the institutions, agencies, joint undertakings or other bodies of the Union that is not directly or indirectly under the control of the Member State is combined with State Aid, only the latter shall be considered for determining whether notification thresholds and maximum aid intensities or maximum aid amounts are respected provided that the total amount of public funding granted in relation to the same eligible costs does not exceed the most favourable funding rate laid down in the applicable rules of Union law.

3.1.4. Identifiable eligible costs claimed under any other publicly funded scheme (in Malta), cannot be claimed under this scheme.

3.1.5. If it becomes apparent that aid has been received towards same eligible costs as outlined under this scheme, this will result in funds having to be reimbursed with the corresponding recovery interest.

3.1.6 The applicant is under obligation to present a full and accurate disclosure of any relevant information relating to state aid received from any party and in any form (i.e. grant, loan, rebate, tax relief), while the Malta Film Commission will verify that the said threshold is not exceeded both at the stage of receiving the application for funding and prior to making a recommendation on the amount of finance to be granted.

3.1.7. Financial aid received may in an individual case be checked by the European Commission as set out under Article 12 of the General Block Exemption Regulation.

3.2. Rebate Percentages

3.2.1. The financial incentive shall not exceed a maximum rebate of **forty percent (40%)**⁵ of the eligible expenditure of a qualifying production (this also applies for co-productions), which shall be exempt for the purpose of the Income Tax Act, as outlined below:

A. Qualifying Productions excluding Animation/VFX

Criteria – Qualifying Productions excluding Animation/VFX	%
on all eligible expenditure.	30%

⁵ this limit does not apply in the case of difficult audiovisual works.

The Commissioner has the discretion to award an additional 10% based on the Maltese cultural elements as outlined below:	
a) Malta features as Malta or local usage of facilities;	5%
b) Maximisation of local resources.	5%
Maximum Rebate:	40%

B. Animation/VFX

Criteria – Animation/VFX	%
on all eligible expenditure.	25%
The Commissioner has the discretion to award an additional 15% based on the Maltese cultural elements and on the maximisation of local resources.	15%
Maximum Rebate:	40%

3.2.2. A qualifying production considered as a **‘Difficult Audiovisual Works’** may qualify for a maximum rebate of **fifty percent (50%)** of the eligible expenditure (this also applies for co-productions), which shall be exempt for the purpose of the Income Tax Act.

3.3. Difficult Audiovisual Work

3.3.1. A ‘Difficult Audiovisual Work’ in addition to meeting the eligible criteria as outlined in these guidelines, will also need to satisfy all the parameters listed below (in accordance with the EU’s subsidiarity principle which is in line with Malta’s national parameters):

1. Must be a low budget production – the total production budget does not exceed €1,500,000.
2. Is considered ‘difficult’ under the following circumstances:
 - a) sole original version is in the Maltese language with a limited distribution territory, population or language area;

and/or

 - b) is considered a commercially difficult work (i.e. little if any prospect of commercial success because of its experimental nature or because it represents a very high level of creative risk).

and/or

 - c) aims to mobilise and create an indigenous industry that can allow local filmmakers (including works for TV/Animation) to share our culture and values locally and beyond our shores.
3. The work must be considered a National Work (in respect of any claim for the ‘Financial Incentives for the Audiovisual Industry’), as follows:
 - i) a qualifying production that is developed, produced and owned (or co-produced under an official bi-lateral or multi-lateral agreement) by a Malta producer (citizen of Malta or a holder of a Permanent Residence Permit issued by the Government of Malta) registered with the Malta Film Commission; and
 - ii) obtains the minimum of points in respect of ‘creative input’ as follows (exceptions in this respect will only be considered in the context of the requirements otherwise imposed by any bi-lateral or multi-lateral co-production treaty):
 - a) Feature Film: 15 points out of 21 points based on key creative team members considered citizens of Malta or holders of a Permanent Residence Permit issued by the Government of Malta:

Feature Film – Malta Creative Input	
Director	4
Scriptwriter	3
Composer	1
Talent - 1st Role (determined by number of days worked)	3
Talent - 2nd Role (determined by number of days worked)	2
Talent - 3rd Role (determined by number of days worked)	1
HOD – Cinematography (DOP)	1
HOD – Sound Design	1
HOD – Editor	1
HOD – production designer or costume design	1
Studio or shooting Location	1
Visual effects (VFX) Location	1
Post Production Location	1
Points Total	21

- b) Documentary: obtains a minimum of 8 points out of 16 points based on key creative team members considered citizens of Malta or holders of a Permanent Residence Permit issued by the Government of Malta:

Documentary – Malta Creative Input	
Director	4
Scriptwriter	1
Camera	2
Editor	2
Researcher	1
Composer	1
Sound	1
Shooting location	1
Post production Location	2
Visual effects (VFX) Location	1
Points Total	16

- c) Animation: obtains a minimum of 15 points out of 23 points based on key creative team members considered citizens of Malta or holders of a Permanent Residence Permit issued by the Government of Malta:

Animation – Malta Creative Input	
Conception	1
Script	2
Character Design	2
Music Composition	1
Directing	2
Storyboard	2
Chief decorator	1
Computer backgrounds	1
Layout (2D) or layout and camera blocks (3D)	2
75% of expenses for animation in Malta	3
75% of the cleaning, inter-betweening and colouring in Malta (2D) or 75% of the colouring, lighting, rigging, modelling and exturing in Malta	3

Compositing or Camera	1
Editing	1
Sound	1
Points Total	23

Until a decision as to whether the production is considered as a 'Difficult Audiovisual Work' and a 'National Work' the Commissioner reserves the right to request further information or clarification on any aspect of the above. Once relevant information has been received and assessed by the Commissioner, the Commissioner will then make a recommendation to the Commission to grant the qualifying production the status of being a "Difficult Audiovisual Work" and "National Work". A certificate will then be issued.

Section 4: Application and Post Certification Process

The beneficiary of the cash rebate will always be recognised as the qualifying company producing the qualifying production. Applications are to be made out in the name of the Qualifying Company producing the Qualifying Production.

Registered service providers such as Animation/VFX studios located in Malta with responsibility for commissioned films or film sequences with a service agreement contract are eligible to submit applications on behalf of the qualifying company directly in their name. However, the beneficiary of the cash rebate will always be recognised as the qualifying company producing the qualifying production.

In the case of a co-production involving more than one production company, the application must be represented by one company. The producers participating in the co-production must reach an agreement on this point. In the case of a co-production with a local qualifying company, application for the cash rebate must be made by the Malta co-producer.

Production service companies in the audiovisual sector having a production service agreement in place and responsible for the Malta budget, and which contributes directly to the productions needs through the procurement of services or goods and the engagement of persons on behalf of the qualifying company for the qualifying production in Malta, may apply on behalf of the qualifying Company. However, the beneficiary of the cash rebate will always be recognised as the qualifying company producing the qualifying production.

The production service company, a company that has been contracted by the foreign qualifying company to manage the production in Malta, must be registered with the Malta Film Commission and must enter into a production service agreement contract to be eligible to apply on behalf of the qualifying company.

An application must be presented to the Commissioner for provisional approval, together with a detailed projection of the Malta Budget, a completed Cultural Test and requested supporting documents (as outlined below) at least **30 working days** before planned commencement of the production's principal photography or commencement of Animation or VFX's in Malta.

Applications received less than 30 working days before planned commencement in Malta will be considered if found to be justifiable and will be made solely at the discretion of the Commissioner.

Upon assessment based on specific guidelines and performance in the Cultural Test, the Commissioner would grant a provisional certificate no later than 20 working days after receipt of the application.

Applications submitted after the commencement of principal photography or Animated/VFX work in Malta **will not be considered.**

4.1. Required Documentation

The following documents (and any additional requested documents) are to be submitted to the Malta Film Commission when applying for the Financial Incentives for the Audiovisual Industry:

1. Signed and completed Application Form;
2. Signed and completed Cultural Test;
3. Signed and completed State Aid Declaration Form;
4. Signed and completed International Distribution Declaration Form;
5. Signed and completed Enterprise Size/Undertakings in Difficulty Declaration;
6. Synopsis of the Project, Script, Treatment outline; subject to type of format for which a benefit is

- being made;
7. Schedules: Filming, Animation/VFX; Post-Production in Malta;
 8. Top sheet of the overall production Budget (in EURO) excluding VAT;
 9. Detailed, itemised estimate of expenditure in Malta (in EURO) excluding VAT; (supported with Malta Budget Breakdown Form);⁶
 10. List of Trainees;
 11. List of Cast (including nationalities), where applicable;
 12. List of Crew (including nationalities - once finalised and prior to principal photography or commencement of Animation/VFX);
 13. Request and justifications for consideration for the Maltese Cultural Elements.
 14. In respect of co-productions, copy of either coproduction deal-memo, contract or official co-production status certificate from relevant authorities responsible for recognising official co-production status.
 15. For productions requesting 'Difficult Audiovisual Work' status in respect of the favourable cash rebate, relevant assessment form.
 16. Copy of production service agreement between production service company and foreign qualifying company (draft if not signed at application stage but signed version will be required with final submission).
 17. Tax compliance certificate, VAT compliance certificate, FSS and SSC compliance certificate, for the following:
 - Production service companies with a production service agreement and applying for the Financial Incentive for the Audiovisual Industry on behalf of a foreign qualifying company.
 - Production companies registered as an audiovisual production company in Malta, having at least one director or a major shareholder of the company who is a Maltese/European citizen and applying for the Financial Incentive for the Audiovisual Industry with a qualifying production.
 - Local companies/studios providing Animation/VFX services.

In case the Commissioner requests additional information in respect of an application, processing of the application will not be progressed until the relevant information has been received.

4.2. Trainees

Prior to the commencement of the shoot or Animation/VFX works being carried out in Malta, the qualifying company will commit to engage personnel with the production and provide the names, to the Commissioner, for:

- a) Creative talent or leading crew members that have their permanent residence in Malta or that otherwise have a demonstrable strong connection to the Maltese film culture.
- b) A minimum of 5 Maltese Nationals or EU/EEA citizens living in Malta as trainees for 'HOD' positions.
- c) A minimum of 5 Maltese Nationals or EU/EEA citizens living in Malta as trainees below the line.

Trainees should be provided with a remuneration not less than the national minimum wage.

Should the number of trainees not be reached before planned commencement in Malta this needs to be discussed with the Film Commissioner and if found to be justifiable revisions to the above will be made solely at the discretion of the Commissioner.

Proviso: For Animation/VFX works these obligations will be discussed according to the project requirements.

⁶ Must be FULL budget for Malta including expenditure considered as 'ineligible' or in excess of any cappings.

4.3. Advance Grant

The qualifying company (or the Animation/VFX company in Malta) can benefit from an **advance grant payment** equivalent to **10% of the cash rebate** on receipt of notification that shooting or Animation/VFX works carried out in Malta of the qualifying production for which a benefit is being sought has commenced. Subject to presentation of a top sheet of accumulated expenses to-date in relation to the qualifying production; that can be verified with contracts and payment transactions. All other terms and conditions regarding final submission as outlined in these guidelines herein remain the same.

4.4. Quarterly Tranche

Qualifying productions that have a lengthy duration in Malta may benefit from **quarterly tranche** payments of the cash rebate⁷. A request needs to be made at application stage and if found to be justifiable will be solely given at the discretion of the Film Commissioner. Final submission procedures and requirements as outlined herein remain the same but effectively presented quarterly.

4.5. Co-Productions

Qualifying Productions recognised as an official co-production under the Council of Europe Convention on Cinematographic or under a specific bi-lateral agreement with Malta (i.e. Canada, China or any future bi-lateral or multi-lateral agreement) shall be entitled to the same rights and have the same obligations as a local qualifying company as long as they meet the eligibility criteria as outlined herein and that of the relevant treaty. Irrelevant of who is the majority or minority partner, it is the Malta Co-Producer who should apply and is recipient of the Cash Rebate.

4.6. Provisional Certificate

Upon assessment based on specific guidelines and performance in the Cultural Test, the Commissioner would grant a provisional certificate no later than 20 working days after receipt of the application; subject to:

1. Application is filled in full and all supporting documentation have been submitted with application; and
2. A pass mark or higher is achieved during the evaluation phase of the cultural test; and
3. In case the Commissioner requests additional information in respect of an application, processing of the application will not be progressed until the relevant information has been received.

The provisional certificate is issued on the basis of the information supplied during the application process. Any material or content change in the information supplied to the Commissioner, and on which the issue of the certificate was based, that may arise as the project progresses must be notified and agreed to by the Commissioner. Failure to have obtained such agreement will be regarded as a material breach of the conditions of the certificate.

The certificate may contain certain specific additional conditions particular to an individual applying production.

4.7. Significant Budget Changes

Where, after submission of the application for provisional approval the budget of the Malta spend and estimated eligible expenditure as indicated in the provisional certificate, increases by over 10% of the original estimations prior to completion and final submission, the Commissioner needs to be informed in writing immediately of such changes.

If it becomes apparent that the threshold has been exceeded, the Commission reserves the right to award

⁷ In excess of 6 months.

the final incentive on not more than 10% over and above the overall qualifying expenditure, as outlined in the provisional certificate.

Should further allowances be made which are found to be justifiable, this will be made solely at the discretion of the Commissioner.

4.8. Monitoring

The Film Commissioner reserves the right to send out its personnel or representatives to carry out spot checks on location during the shoot or when Animation/VFX works are being carried without any necessary prior notification to verify that works are being carried out in accordance with schedules and information provided.

4.9. Post-Certification Process - Final submission requirements

The Qualifying Company and/or the Production Service Company are required to open a dedicated bank account for the production and all local transactions for which a claim is being requested which clearly outlines the payment transactions; these are to be clearly cross-referenced throughout. Statement of bank transactions is to be presented with final submission.

Once the production is completed, final submission requires a **full audit** of expenses pertaining to the qualifying production where a benefit is being sought. The Qualifying Company and/or the Production Service Company must present the final costs for which a benefit is being claimed arising from the qualifying production as outlined herein; appropriately referenced based on categories that are reflected in these guidelines. Documents presented must be clearly cross-referenced⁸.

Final costs relating to the Malta Spend of the pertinent qualifying production must be supported by valid fiscal invoices, fiscal receipts, proof of payment (proof of payment can be presented by either Bank transfer sheet, copy of cashed cheque, or with a supplier fiscal receipt. The proof of payment has to be attached to the invoice. If not, the invoice will be treated as ineligible) together with copies of all contracts in excess of €50,000, payslips, proof of withholding tax payments including FS3's and with respect to wages, as a minimum, the FS5 with full report of wages included therein and the relevant FS5 receipt should be presented.

Malta Spend needs to be clearly identified as follows:

1. Local Spend should be clearly identified separately.
2. EU/EEA Spend should be clearly identified separately.
3. Non eligible spend (including any non-EU/EEA⁹ spend) should be clearly identified separately.

Contracts/invoices presented in a foreign language should be translated into English.

On completion of the qualifying production, the qualifying company is to submit the following documents to the Commissioner on final submission:

- a) an immediate written notification that the filming activity or Animation/VFX works in Malta of the qualifying production for which a benefit is being sought is completed; detailing total

⁸ Meaning each and every transaction has a reference to the actual supporting document. Every single document refers back to the accounts and vice-versa.

⁹ In the case of eligible expenditure with countries with an official bi-lateral or multi-lateral co-production agreement with Malta and involves a qualifying production which has an official recognised co-production agreement with a Local Qualifying Company this proviso is extended to non-EU/EEA countries.

number of shooting dates and dates these took place and final dates and schedule for Animation/VFX and any Post-Production works.

b) Detailed listings of personnel engaged on the production in Malta (same applies for Animation/VFX works and where applicable) as follows:

- i) Cast
- ii) Stunts and Special Skills
- iii) Featured Artists and Extras
- iv) Local Crew (including any construction labour)
- v) Foreign Crew
- vi) Service Companies engaged (locally and EU/EEA¹⁰)

Personnel Lists should also include:

- 1. Nationality/Residency
- 2. ID/Passport number/MFC Registration (where applicable).
- 3. Contract duration
- 4. Role in the production
- 5. Copy of JobsPlus Employment License (where applicable).

c) Final list of locations used (with address) including copies of relevant permits such as, Planning Authority: Development Notification Orders; Local Council: No objection letter; Police Permits: if location requires such permit; Property Owners (private or governmental entity): No objection letter and/or relevant release form.

d) Recce report (outlining dates, who was present and their role in the production).

e) Completed and signed Financial Form outlining full details of the qualifying company, beneficiary, of the cash rebate (bank details).

All accounts are to be presented net of Value Added Tax. The accounts must include the following:

- 1. A "top sheet"¹¹ expenditure summaries (signed by your certified accountant) consisting of the following:
 - i) Total actual Malta Spend (local and EU/EEA¹² spend including both eligible and ineligible expenditure).
 - ii) covering just the local eligible expenditure for which a benefit is being claimed.
 - iii) covering just the EU/EEA¹³ eligible expenditure for which a benefit is being claimed.
 - iv) the entire production expenditure on the qualifying production (final actual spend).
- 2. Accounts detailing the amounts spent on each individual element of the project for which a

¹⁰ In the case of eligible expenditure with countries with an official bi-lateral or multi-lateral co-production agreement with Malta and involves a qualifying production which has an official recognised co-production agreement with a Local Qualifying Company this proviso is extended to non-EU/EEA countries.

¹¹ See Audit Guidelines and template.

¹² In the case of eligible expenditure with countries with an official bi-lateral or multi-lateral co-production agreement with Malta and involves a qualifying production which has an official recognised co-production agreement with a Local Qualifying Company this proviso is extended to non-EU/EEA countries.

¹³ In the case of eligible expenditure with countries with an official bi-lateral or multi-lateral co-production agreement with Malta and involves a qualifying production which has an official recognised co-production agreement with a Local Qualifying Company this proviso is extended to non-EU/EEA countries.

benefit is being sought separated for the Malta eligible and EU/EEA¹⁴ eligible expenditure in Malta (as defined in the Guidelines herein):

1. Accommodation
2. Air Travel
3. Recce Costs
4. Labour Costs:
 - i) Labour Costs (other than Above the Line)
 - ii) Labour Costs: Above the Line
5. Per Diems
6. Location Fees
7. Rentals
8. Services
9. Professional Services
10. Construction including set builds
11. Malta Film Studios
12. Entertainment
13. Post Production
14. Miscellaneous

All account entries are to be:

- a) clearly cross-referenced (in accordance with the categories outlined in these guidelines),
 - b) supported by copies of fiscal invoices,
 - c) contracts and agreements for which a benefit is being sought for any rebate claim over the amount €50,000 should automatically be provided to the Commission. All other contracts and agreements should be readily available when requested for inspection.
 - d) proof of payment (as outlined in these guidelines)
 - e) certified by proper fiscal receipts that enable the recipient of the payment to be identified.
 - f) Copy of signed production service agreement between production service company and foreign qualifying company, where applicable.
3. In terms of **labour cost** for which a benefit is being claimed (under section 5 (5.1.4), eligible expenditure) this must be supported with a detailed payroll analysis indicating, as follows:
- i) expenditure on employees, directly engaged with the qualifying company or its legal representative (registered production service company) on a full-time basis, part-time basis or with a contract of service who are nationals of an EU/EEA¹⁵ member state and are employed/posted in Malta in accordance with the laws of Malta.
 - ii) copy of payslips for those on payroll and invoices together with fiscal receipts for those on a contract of service, where applicable;
 - iii) contract and agreements for which a benefit is being sought for any rebate claim over the amount €50,000 should automatically be provided to the Commission. All other contracts and agreements should be readily available when requested for inspection.

¹⁴ In the case of eligible expenditure with countries with an official bi-lateral or multi-lateral co-production agreement with Malta and involves a qualifying production which has an official recognised co-production agreement with a Local Qualifying Company this proviso is extended to non-EU/EEA countries.

¹⁵ In the case of labour costs with countries with an official bi-lateral or multi-lateral co-production agreement with Malta and involves a qualifying production which has an official recognised co-production agreement with a Local Qualifying Company this proviso is extended to non-EU/EEA countries.

- iv) proof of payment (as outlined in these guidelines)
 - v) copies of receipts relating to withholding tax paid, including a copy of the FS3/FS5, on the income of any individual employed with a qualifying company, or employed with a company which offers its services to such qualifying company.
 - vi) Copies of receipts relating to withholding tax paid by any individual who is neither ordinarily resident nor domiciled in Malta and was employed or offered their services to the production as foreign crew or as an actor, front of camera performer and/or film director.
 - vii) For those on payroll, a copy of the detailed monthly payroll analysis agreeing with the FS5, the FS5 and the receipt of the FS5 must be presented.
4. Copies of VAT returns as submitted to the VAT department together with detailed report of the VAT return and the receipt showing VAT was duly paid to the Government.
 5. Any Internal service charges carried out by a qualifying company or its legal representative that is associated with a group of holding or associated company (either having share capital or equity) need to also be validated by supporting contracts and proof of market costs, if so requested. These shall also need to be clearly and properly cross-referenced to the relevant invoices as in proper accounting practice.
 6. Statement of bank transactions is to be presented with final submission for all eligible transactions for which a claim is being requested; statement must clearly outline the payment transactions and must be clearly cross-referenced to the invoice/payslip it pertains to as in proper accounting practice.

Should any shortcomings be found where any of the paperwork submitted is not up to standard, this may make this line item immediately ineligible.

On receipt of audit report and upon final review by the Commissioner, a 'Final Certificate' will be issued. The qualifying company is to then provide the Malta Film Commission, as requested, with an updated final State Aid Declaration declaring any state aid received in respect of the qualifying production. The Commissioner reserves the right to request further information or clarification relating to State Aid obligations and any State Aid Transparency measures concerning any future monitoring exercise imposed by the EU or the State Aid Monitoring Board.

The cost of the review audit together with administrative fees will be borne by the applicant. The cost will depend on the overall eligible spend, not exceeding 0.5%, minimum €5,000 and maximum €20,000; this will be deducted from the final cash rebate.

The cash rebate is forwarded to the qualifying company no later than **five months** from the date of receipt of the 'final submission' as outlined herein. This is subject to:

1. the final submission having been presented in an orderly manner, clearly cross referenced as per proper accounting practice and supported by requested documentation as outlined herein, and
2. the auditors are clearly satisfied with the integrity of the traceability chain and that any further testing or information they require has been answered within a sufficient time-frame.

The Malta Film Commission will withhold 2% of the cash rebate until obligations as outlined in the provisional and final certificate are fulfilled. The Malta Film Commissioner reserves the right to withhold this 2% if the qualifying company does not abide by the obligations as outlined.

Section 5: ELIGIBLE AND NON-ELIGIBLE EXPENDITURE

Eligible expenditure must be made by the qualifying company (or through its legal representative in Malta) on which an application for the qualifying production has been submitted and directly contributes to the productions' needs. Expenses must be directly related to the qualifying production. Fiscal invoices, contracts and receipts must be made out in the name of the recipient of funding and/or the production service company and/or the Animation/VFX company (with a valid production service agreement contract with the foreign qualifying company to legally represent them in Malta and clearly referencing the production). The beneficiary of the cash rebate will always be recognised as the qualifying company producing the qualifying production.

The following expenses, net of value added tax, for rental of goods and services paid to local companies registered with the Malta Film Commission's and/or EU/EEA¹⁶ sub-contractors are considered as 'eligible expenditure', in accordance with the criteria as listed below and as detailed in these guidelines.

5.1. Eligible Expenditure

The following expenditure that is incurred in Malta is ELIGIBLE for the financial incentive:

Sec	Category	Description
5.1.1.	Accommodation	Expenditure on hotel accommodation and rental of real estate for foreign cast and crew.
5.1.2.	Air travel	Relevant flight expenditure for air freight and air travel between Malta and any airport within the EU/EEA, ¹⁷ as well as expenses (including all airport taxes, such as departure tax, passenger service charges, security charges and similar expenses) incurred at Malta International Airport in respect of such air travel. Costs relating to extra baggage charges are also eligible.
5.1.3.	Recce Costs	Accommodation, Air travel (as outlined in 1 and 2 above) and Transport costs in Malta are considered eligible.
5.1.4.	Labour Costs (inclusive of Fringe Benefits).	<p>Expenditure on employees, directly engaged with the qualifying company or its legal representative (registered production service company) on a full-time basis, part-time basis or with a contract of service who are nationals of an EU/EEA¹⁸ member state and are employed/posted in Malta in accordance with the laws of Malta.</p> <p>'Above the line' total labour costs relating to directors, producers, casting directors, cast and stunts shall be capped at €500,000.</p> <p>Labour costs relating to local crew and trainees will only be eligible if the qualifying company ensures that the recruitment of crew members and trainees in Malta is conducted from the Malta Film Commission's official Directory. The crew members and trainees should present and be at all times in possession of the crew I.D tag</p>

¹⁶ In the case of sub-contracting relating to countries with an official bi-lateral or multi-lateral co-production agreement with Malta and involves a qualifying production which has an official recognised co-production agreement with a Local Qualifying Company this proviso is extended to non-EU/EEA countries.

¹⁷In the case of flights between countries with an official bi-lateral or multi-lateral co-production agreement with Malta and involves a qualifying production which has an official recognised co-production agreement with a Local Qualifying Company this proviso is extended to non-EU/EEA countries.

¹⁸In the case of labour costs relating to countries with an official bi-lateral or multi-lateral co-production agreement with Malta and involves a qualifying production which has an official recognised co-production agreement with a Local Qualifying Company this proviso is extended to nationals of non-EU/EEA countries.

		<p>given to them by the Film Commission as part of proof that they are part of the directory. The Directory is available from the Malta Film Commission.</p> <p>Costs relating to employees directly engaged or with a contract of service that are non-EU/EEA nationalities and are engaged with the production service company and/or local production company and pay taxes in Malta are considered as eligible.</p> <p>All labour costs (including trainees) for which a cash rebate is being claimed for by a local qualifying company must be on a local payroll with related social contributions and tax deductions made under a local employment contract.</p> <p>All labour costs (including trainees) for the making of animation/VFX shots via a production service agreement for which a cash rebate is being claimed for by a local Animation/VFX studio/facility for a qualifying production must be on a local payroll with related social contributions and tax deductions made under a local employment contract.</p> <p>Labour costs for local cast - hire of Extras, Stand ins, Day players and for which 15% withholding tax has been deducted.</p> <p>Definitions:</p> <p>Labour Costs: Engagement fees, salaries, wages, overtime, holiday pay, employment bonuses, including fringe benefits.</p> <p>Fringe Benefits: Mobile allowance, Car allowance, Box Rentals;</p> <p><i>Note: social contributions (including employers' contribution) are only eligible for those engaged on a local payroll.</i></p>
5.1.5.	Per Diems (subsistence allowance including any living allowances)	Daily subsistence subject to a maximum of €100 per person, per day.
5.1.6.	Location fees	<p>Fees and courtesy payments that are directly related to the qualifying production which are paid to location owners, local councils, non-governmental organisations or other individuals or entities in Malta.</p> <p>Provided that where such fees and payments exceed €100 (or equivalent) per day per individual or entity, a fiscal invoice or receipt will be required.</p>
5.1.7.	Rentals	<ul style="list-style-type: none"> • Audio/Sound Equipment; • Grip equipment; • Camera Equipment; • Drone Camera's and ancillary equipment; • Video Playback and assist and ancillary equipment; • DIT and ancillary equipment; • Set Lighting/Electrical Equipment; • Ground transport and facility vehicle services: Rental of

		<p>chauffer-driven cars, self-drive vehicles, facility vehicles, trucks, cranes, mobile homes, trailers, honey wagon, gully suckers, tugs, coaches, minibuses, collection transport and picture vehicles in Malta and licenced according to Transport Malta;</p> <ul style="list-style-type: none"> • Studio space, production offices, warehouse space, workshop facilities, storage space, stages and any other space for the needs of the production; • Furniture, tools and equipment for workshops, set construction, artistic preparations, production offices, onset location and unit base equipment including rental of Ezy-ups, Tents, Marques, and Heating/Air-conditioning units etc; • Wardrobe including costumes, wigs, prosthetics, rails, mirrors etc; • Props including set dressing, greens, weapons and planes, helicopters, boats, yachts, and any object rented and used as a prop; • Helicopters; • Generator/s; • Marine vehicles; • Mobile toilets; • Scaffolding; • Green Screen; • Animals; • Walkie talkies; • Skips; • Health and Safety Equipment; • SFX Equipment • Stunt Equipment • Diving Equipment • Set builds - including the setting up and dismantling costs, where applicable. • Other relevant rentals directly related to the production.
5.1.8.	Services	<ul style="list-style-type: none"> • Catering and craft services - provided onset during the shoot and offered by a catering/craft service company. • Diving services; • Laundry and cleaning services; • Malta heritage, archaeological and environmental monitoring services and location permits issued by the Planning Authority, Heritage Entities, Government Departments or Authorities or similar; • Security services; • Courier Services: between Malta and EU/EEA countries;¹⁹ • Health & Safety Services: Onset First Aiders, Medics such as Nurses and Doctors on set including Ambulance Services;

¹⁹ In the case of services relating to countries with an official bi-lateral or multi-lateral co-production agreement with Malta and involves a qualifying production which has an official recognised co-production agreement with a Local Qualifying Company this proviso is extended to non-EU/EEA countries.

		<p>Police, Wardens, Civil Protection (Fire Fighters) and Armed Forces of Malta;</p> <ul style="list-style-type: none"> • Shipping: Relevant shipping expenses in relation to maritime transport or sea travel between Malta and any port within the EU/EEA, and ferry services between the Maltese islands;²⁰ • Telecommunications: Expenditure on fixed telephony, mobile telephony, and internet services incurred in Malta; • Utility Bills relating to Water & Electricity; • Waste/Set Strike removal. • SFX Services • Restorations (foreseeable costs relating to sets, location, props etc excluding purchases of materials). • Insurance - relating to the Malta Production (excludes error and omissions insurance). • Production service company fees - provided that such expenditure shall not exceed 20% of the final Malta Spend (actual) not exceeding €100,000, whichever is the lower.
5.1.9.	Professional Services	<p>Fees relating to professional services carried out in Malta. Typically this would include but is not limited to:</p> <ul style="list-style-type: none"> • <i>Health and Safety inspections;</i> • <i>Architecture inspections;</i> • <i>Structural Engineer inspections;</i> • <i>Accounting Firms;</i> • <i>Bank charges/fees (excluding interest);</i> • <i>Audit Fees;</i> • <i>Legal Fees;</i> • <i>Any form of historical research;</i> • <i>Any form of professional/consultancy services;</i> <p>Provided that total expenditure for such services shall not exceed €100,000.</p>
5.1.10.	Construction including set builds	<ul style="list-style-type: none"> • Construction and adaptation of ships and other vessels (other than set builds) - whether self-propelled or not, including barges, pontoons and similar crafts. • Set Builds - in any form. <p>Costs should be split into:</p> <ol style="list-style-type: none"> 1. Material Costs (considered as purchases and therefore ineligible). 2. Labour Costs (eligible to be included under section 4 above). <p>Other than that listed under section 5.1.11.</p>
5.1.11.	Malta Film Studios	<p>Services, equipment, rentals, purchases (not limited to and can include: offices/workshops/storage space/stages/water facilities/ancillary locations managed in name of MFS, props,</p>

²⁰ In the case of shipping costs relating to countries with an official bi-lateral or multi-lateral co-production agreement with Malta and involves a qualifying production which has an official recognised co-production agreement with a Local Qualifying Company this proviso is extended to non-EU/EEA countries.

		costumes, wardrobe, etc), and set builds (including vessels).
5.1.12.	Entertainment	Organised by the qualifying company for cast and crew provided that total expenditure shall not exceed €4,000.
5.1.13.	Post production	Must be carried out in Malta and linked to the production that was either totally or partially shot/Animated/VFX in Malta. Typically this would include but is not limited to: <ul style="list-style-type: none"> • <i>Editing services, crew and equipment;</i> • <i>Sound Design including ADR and Foley;</i> • <i>Music Rights and Composition;</i> • <i>Colour Correction;</i> • <i>Sub-titling;</i> • <i>Credits and trailers.</i>
5.1.14.	Miscellaneous services procured in Malta	Other than those listed above and that are directly related to the qualifying production.

5.2. Ineligible Expenditure

The following expenditure is NOT eligible for the financial incentive:

5.2.1.	All materials and supplies purchased or otherwise procured in Malta or an EU/EEA Member State or any third country other than those listed as eligible expenses.
5.2.2.	Fuel Expenses.
5.2.3.	Development costs such as and not limited to: Writers' Costs, Story and screenplay rights, scriptwriting costs, costs of development and research, license rights.
5.2.4.	Parking fines/tickets.
5.2.5.	Deferred payments, participation in profits, remaining payments, interest owed, doubtful debts, bad debts.
5.2.6.	General business overheads (expenditure not directly related to the film Production. The expenses related to the operation of a Company and what in accounting practice would be classified as administrative expenses in audited financial statements).
5.2.7.	Depreciation costs on any fixed assets used during Production.
5.2.8.	Customs duty.
5.2.9.	VAT and Taxes.
5.2.10.	Financing costs.
5.2.11.	Fluctuations in Exchange Rates.
5.2.12.	Completion Bond.
5.2.13.	Bank Interest.
5.2.14.	MFC Administrative/Audit Fee.
5.2.15.	Internal service charges (unless validated by supporting contracts and proof of market costs).
5.2.16.	Petty Cash expenditure.
5.2.17.	Offset lunches/lunch allowances (separate from any subsistence allowance/per diem allowance); offset dinners/dinner allowances separate from any subsistence allowance/per diem allowance).
5.2.18.	Costs of acquisition, licenses and development of any software that supports the support functions of the company/production.
5.2.19.	Costs of Distribution, Publicity and marketing costs (including EPK).
5.2.20.	E&O Insurance costs.
5.2.21.	Any loss and damages caused during a production to any property owned or rented by the qualifying company (or it's representative acting on its behalf) including personal and/or third party property.
5.2.22.	Any works and expenditure on Animation/VFX/Post Production in Malta found to be incurred before the date of the application will be considered as ineligible.
5.2.23.	Expenditure relating to labour costs and travel related costs for work engaged on the Qualifying

	Production outside of Malta is not eligible.
5.2.24.	Expenditure as detailed in the list of eligible expenditure (in these guidelines) relating to materials and supplies sourced from Non EU/EEA countries are considered as not eligible. ²¹
5.2.25.	Labour costs relating to local crew and trainees that are not registered with the Malta Film Commission and are not in possession of the crew I.D tag given to them by the Film Commission as part of proof that they are part of the directory.
5.2.26.	Rental of goods and services paid to local companies not registered with the Malta Film Commission directory.
5.2.27.	Cost of materials relating to set builds (including vessels) unless listed as eligible.
5.2.28.	Final costs not supported by proof of payment (proof of payment can be presented by either Bank transfer sheet, copy of cashed cheque, or with a supplier fiscal receipt. The proof of payment has to be attached to the invoice. If not, the invoice will be treated as ineligible).

5.3. Notes:

- 5.3.1. The qualifying company (or its legal representative in Malta) must ensure that any crew role/profession bound by law are in possession of a valid licence/warrant to carry out their role or duties. Any individual found to be in breach of law will be struck off the Malta Film Commission directory. The Film Commissioner reserves the right to inform any government entity responsible of any breach, misconduct or malpractice that it is made aware of.
- 5.3.2. **Labour costs** relating to local crew and trainees will only be eligible if the qualifying company ensures that the recruitment of crew members and trainees in Malta is conducted from the Malta Film Commission's official Directory. The crew members and trainees should present and be at all times in possession of their crew I.D tag given to them by the Film Commission as part of proof that they are part of the directory. The Directory is available from the Malta Film Commission.
- 5.3.3. **Rentals** must be carried out with companies specifically relating to the trade of business for which they are legally recognised and can practice. If regulated they must ensure that all legal obligations and permits to operate within the remit of their business and by law are in place. The onus is on the qualifying company and or its legal representative to ensure that all conditions are being met. The Film Commissioner reserves the right to inform any government entity responsible of any breach, misconduct or malpractice that it is made aware of.
- 5.3.4. **Rentals** procured locally will only be eligible if the qualifying company ensures that this is carried out with local companies registered on the Malta Film Commission's official Directory. Local companies providing rental services will be provided with a unique reference number given to them by the Film Commission as part of proof that they are part of the directory. The Directory is available from the Malta Film Commission.
- 5.3.5. **Services** must be carried out with companies specifically relating to the trade of business for which they are legally recognised and can practice. If regulated they must ensure that all legal obligations and permits to operate within the remit of their business and by law are in place. The onus is on the qualifying company and or its legal representative to ensure that all conditions are being met. The Film Commissioner reserves the right to inform any government entity responsible of any breach, misconduct or malpractice that it is made aware of.
- 5.3.6. **Services** procured locally will only be eligible if the qualifying company ensures that this is carried out with local companies registered on the Malta Film Commission's

²¹ In the case of sub-contracting relating to countries with an official bi-lateral or multi-lateral co-production agreement with Malta and involves a qualifying production which has an official recognised co-production agreement with a Local Qualifying Company this proviso is extended to non-EU/EEA countries.

official Directory. Local companies providing any type of services will be provided with a unique reference number given to them by the Film Commission as part of proof that they are part of the directory. The Directory is available from the Malta Film Commission.

- 5.3.7. Where the Film Commissioner feels that the Malta Budget provided with the provisional application is excessive; he reserves the right to ask for verifications and market assessment. The Film Commissioner reserves the right to ask its independent auditors to intervene and carry out any verifications on its behalf. The Film Commissioner reserves the right to impose a capping if he is not satisfied. Prior to the issue of the provisional certificate the Film Commissioner will inform the Qualifying Company with their final position.
- 5.3.8. Where the guidelines lend themselves to varying interpretations or do not deal with specific subject matter, the interpretation of the Malta Film Commission will be decisive and final.

Section 6: OBLIGATIONS

6.1. Legal Jurisdiction

The qualifying company shall ensure that the filming activity and all other activities related to the qualifying production are conducted in accordance with the Laws of Malta. The Courts of the Republic of Malta shall have jurisdiction on any dispute.

6.2. Recruitment

The qualifying company is to ensure that the recruitment of personnel in Malta, including recruitment of extra talent, trainees and the engagement of services in Malta, is conducted fairly and without discrimination of any form. The qualifying company is to ensure that the recruitment of crew members and trainees in Malta is conducted from the Malta Film Commission's official Directory. The crew members and trainees should present and be at all times in possession of the unique I.D tag given to them by the Film Commission as part of proof that they are part of the directory. The Directory is available from the Malta Film Commission.

6.3. Taxation²²

Prior to the payment of the cash rebate and following completion of the qualifying production, the qualifying company is to ensure that any taxation obligations are met, as follows:

- **Taxation: Actors and Front of camera persons.**
Actors and front of camera persons are in general subject to personal income tax in Malta on their remuneration allocable to activities in Malta (as entertainers/artistes) in line with relevant treaty (Double Taxation Agreement with Malta). In accordance with relevant exemption to the Income Tax Act, actors and front of camera persons, are given a favourable tax rate set at **10%**.
- **Taxation: Director**
Where the said individual is a film director, should they be subject to personal income tax in Malta on their remuneration allocable to activities in Malta in line with relevant treaty (Double Taxation Agreement with Malta). In accordance with relevant exemption to the Income Tax Act, the film director can benefit from a favourable tax rate set at **10%**.
- **Taxation: Non-Resident Film Crew**
Non-resident film crew employed with a qualifying company may be subject to personal income tax if working in Malta, however, reference to relevant treaty (Double Taxation Agreement with Malta) should be referred to as tax does not need to be paid in Malta unless they exceed more than 183 days in Malta.

Should non-resident crew employed with a qualifying company or its legal representative (as outlined in relevant exemption notice) for less than 183 days wish to benefit from a favourable tax rate for work carried out in Malta, they can benefit from a tax rate set at **15%**.

To benefit from this favourable tax rate they need:

1. to be engaged by the recognised production service company or the local qualifying company and put on a local Maltese payroll.
2. If in receipt of the relevant A1 certificate (EU/EEA crew) or proof that their social contributions are paid where they are domiciled (non EU/EEA crew) they will be exempt from having social contributions deducted in Malta and the Malta employer does not need to contribute towards

²² Further information can be obtained from the Office of the Commissioner for Revenue.

the employers share.²³

Any tax paid in Malta can then be claimed as double taxation relief against the tax payable in the country of domicile on that same income; in accordance with relevant DTA.

- **Taxation: Extras**

Although subject to the normal tax rules, employment of local extras would usually be part time employment for tax purposes, and in that case a withholding tax of **15%** would apply instead of the normal tax rates.

6.4. Employment Licenses in Malta²⁴

Productions with Non EU/EEA Cast and Crew (including Croatian Nationals) posted to work in Malta need to be in possession of a valid Employment Licence, irrelevant of duration in Malta. Application for an Employment Licence is to be made at least 10 days before their first working day in Malta in the case of Croatian citizens and at least eight weeks before in the case of Third Country Nationals.

Applications must be supported by a letter from the Malta Film Commission (MFC) acknowledging their awareness of the Qualifying Company's intention to shoot in Malta.

In the case of Third Country Nationals it is the responsibility of the Production Service Company to issue any official invitation and take on the responsibility to endorse and be responsible for the Qualifying Company and Foreign Cast and Crew whilst in Malta.

6.5. Publicity, Testimonials and Credits.

The Malta Film Commission is fully aware of the importance of information embargoes and tight security on the proceedings of the shoot and the production in general. We are not only aware but furthermore commit ourselves not to issue or release any material related to the production without your written consent prior to the release of production.

The following obligations outline the requirements of the production when taking place in Malta, once a production wraps and what the production is obliged to carry out once the production is finalised and released.

- **Filming in Malta:**

Once shooting commences daily call sheets and or change of schedules are to be sent to the Malta Film Commission every day, as and when they are released to the crew.

During production, the Malta Film Commission reserves the right to conduct a video interview, with the main actors/actresses, the director, producers and production designer as testimonials which will be used for publicity. These will be used locally and internationally to promote the Maltese film industry.

During production, the Malta Film Commission reserves the right to have a photographer and/ or a videographer on set to document behind the scenes which will then be used for publicity after release of the production. These will be used locally and internationally to promote the Maltese film industry.

During the production, the Malta Film Commission reserves the right to organise an official set visit with the Minister and/or senior Government Officials.. Access to press will be discussed on a case by case basis.

²³ Further information can be obtained from the Department of Social Security – International Affairs.

²⁴ Further information can be obtained from Jobsplus – Employment Licences Unit.

Proviso: For Animation/VFX works these obligations will be discussed according to the project requirements.

1% of the final cash rebate will be withheld until the fulfilment of the above.

○ **Wrapping Filming in Malta:**

Following completion of the qualifying production in Malta, the qualifying company is encouraged to provide the Malta Film Commission, a hero prop and/or costume and storyboards to be kept as a record of the qualifying production in Malta and possible eventual use for exhibition and promotional purposes when showcasing Malta as a film location.

Following completion of shooting, should the qualifying company decide to sell any sets, props, costumes and other material related to the production, the Malta Film Commission is to be given the right of first refusal to acquire any of the material related to the qualifying production.

Proviso: For Animation/VFX works these obligations will be discussed according to the project requirements.

○ **Release of Production – Final Obligations:**

The qualifying company is to include the credits in the language of the qualifying production “**Produced with the support of the financial incentives provided by the Malta Film Commission and the Government of Malta**” and “**Filmed on location in Malta**” as the case may be; these credits are to be located in a prominent position in the closing credits, immediately after the cast and crew credits. The logo of the Malta Film Commission must also be featured in accordance with the Commission’s branding guidelines.

Prior to payment and following completion of the qualifying production, the qualifying company is to provide the Malta Film Commission with an electronic press kit (EPK), which includes photos, footage of behind-the-scenes, clips from the actual shoot & B-roll, and the trailer to be used for international marketing and promotional purposes showcasing Malta. These will be used to promote the Maltese film industry.

Following completion of the qualifying production, the qualifying company is to provide the Malta Film Commission with a 2k digital copy of the film or sequences shot in Malta and two copies in Blu-Rayformat of the whole production.

The qualifying company is to provide the Malta Film Commission, when requested, with an updated final State Aid Declaration declaring any state aid received in respect of the qualifying production.

Proviso: For Animation/VFX works these obligations will be discussed according to the project requirements.

1% of the final cash rebate will be withheld until the fulfilment of the above.

The Malta Film Commission will withhold 2% of the cash rebate until obligations as outlined in the provisional and final certificate are fulfilled. The Malta Film Commissioner reserves the right to prohibit the payment of this 2% if the qualifying company does not abide by the obligations as outlined.

6.6. Monitoring Obligations

In accordance with the Malta Film Commission Act (Chapter 478), Article 6 (3), the Commissioner may, if he so deems appropriate, reserve the right to request any further documentation in order to fulfill the “Functions of the Commissioner”, as follows:

- (a) Monitor, keep under review and evaluate operations, activities and matters in relation to the audiovisual or film servicing industry;
- (b) Carry out studies, research and investigations relating to any matter regarding the audiovisual industry;
- (c) Provide information and issue guidelines, to the public and relevant entities, regarding film, the audiovisual industry, the film servicing industry and audiovisual policy in general;

The Film Commissioner reserves the right to send out its personnel or representatives to carry out spot checks on location during the shoot or when Animation/VFX works are being carried without any necessary prior notification to verify that works are being carried out in accordance with schedules and information provided.

6.7. State Aid Transparency

In line with Article 9 of the General Block Exemption Regulation, every individual aid award exceeding €500,000 shall be published in national and European state aid websites, as follows:

- Name of the beneficiary,
- Company registration number and EU VAT Number (if available);
- Size of enterprise;
- Sector of activity at NACE group level;
- Amount of aid granted;
- Aid instrument;
- Date when the aid was granted;
- Objective of the aid.
- Name of the project funded

The information shall be published within 6 months from the date the aid was granted and shall be available for at least 10 years from the date on which the aid was granted.

Aid awarded as outlined above, and below €500,000, may also be published in writing and on the internet by the Malta Film Commission.

6.8. Retention of documents

All documentation must be kept available for at least 10 years from the date on which the aid was granted under the scheme.

6.9. Compliance

The qualifying company, including its local branch or agent, if any, shall ensure compliance with the conditions and requirements set out in the certificate of provisional approval, the final Certificate and the Guidelines.

If the qualifying company or its local branch or agent, if any, fails to meet any of the conditions and requirements, the Commissioner may withdraw its provisional or final approval for the grant of the financial incentive and make the production ineligible for the Financial Incentives for the Audiovisual Industry. If the qualifying company or its local branch or agent has already received the financial incentive and the Commissioner establishes that the conditions and requirements have not been complied with, it shall refund to the Commissioner the amount of the financial incentive received upon the Commissioner's request.

The information contained herein is of a general nature and is not intended to address the circumstances of any particular individual or entity. Although we endeavour to provide accurate and timely information, there can be no guarantee that such information is accurate as of the date it is received or that it will continue to be accurate in the future. No one should act upon such information without appropriate professional advice after a thorough examination of the particular situation. The guidelines may be changed from time to time, as deemed necessary. Where the guidelines lend themselves to varying interpretations or do not deal with specific subject matter, the interpretation of the Malta Film Commission will be decisive and final. For further information about this initiative or about filming in Malta, kindly contact the Malta Film Commission.