

**A.L. 66 ta' l-2006**

**ATT DWAR IL-KUMMISSJONI ĊINEMATOGRAFIKA  
TA' MALTA  
(KAP. 478)**

**Regolamenti ta' l-2006 dwar Kreditu ta' Taxxa  
(Infrastruttura Awdjovisiva)**

BIS-SAHHA tas-setghat moghtija bl-artikoli 25 u 33 ta' l-Att dwar il-Kummissjoni Ċinematografika ta' Malta, il-Ministru għall-Investiment, Industrija u Teknoloġija ta' l-Informazzjoni, wara konsultazzjoni mal-Prim Ministru u Ministru tal-Finanzi, għamel dawn ir-regolamenti li ġejjin:-

**1.** (1) It-titolu ta' dawn ir-regolamenti hu Regolamenti ta' l- Titolu.  
2006 dwar Kreditu ta' Taxxa (Infrastruttura Awdjovisiva).

(2) Dawn ir-regolamenti japplikaw għal nfieq kwalifikanti li jintefaq fl-1 ta' Jannar, 2005 jew wara.

(3) L-ekwivalenti tal-benefiċċji taht dawn ir-regolamenti għandu jkun ammont li jkun approprjat speċifikatament fl-estimi finanzjarji tal-Gvern għal xi sena finanzjarja partikolari.

**2.** F'dawn ir-regolamenti, sakemm ir-rabta tal-kliem ma tkunx Tifsiriet.  
tehtieg xort'ohra –

“l-Att” ifisser l-Att dwar il-Kummissjoni Ċinematografika ta' Malta;

“impjegat addizzjonali” tfisser impjegat li l-impjieg tiegħu jiġi ċertifikat mill-Kummissarju bħala impjieg ta' impjegat addizzjonali permezz ta' ċertifikat mahruġ taht ir-regolament 13;

“intrapriża żgħira” u “intrapriża ta' daqs medju” għandhom it-tifsira moghtija lilhom taht id-disposizzjonijiet tar-Regolamenti ta' l-2001 dwar il-Promozzjoni tan-Negożju;

“kumpannija” għandha t-tifsira moghtija lilha taht ta-Att dwar it-Taxxa fuq l-*Income*;

“kumpannija eligibbli” tfisser kumpannija li tkun imwaqqfa jew li jkollha post tan-negozju f’Malta u li n-negozju taghha jkun jikkonsisti biss jew prinċipalment f’attivitajiet li jaghmlu parti mill-industrija tal-*film servicing*;

“kumpannija kwalifikanti” tfisser kumpannija eligibbli li tkun ċertifikata bhala kumpannija kwalifikanti u li jkollha ċertifikat validu mahruġ taht ir-regolament 4;

“nfieq kwalifikanti” tfisser spiża li tkun intefqet fl-1 ta’ Jannar 2005 jew wara –

(a) għall-akkwist, bini, żvilupp jew titjib ta’ bini jew struttura industrijali, maghdud mahzen, u inklużi spejjeż ta’ xogħol relatat li jiġu kapitalizzati bhala parti mill-ispiza ta’ dak l-akkwist, bini, żvilupp jew titjib;

(b) l-akkwist ta’ impjant u makkinarju, esklużi –

(i) vetturi bil-mutur, hlief għal dawk il-vetturi speċjalizzati skond ma jista’ japprova l-Kummissarju;

(ii) xoghlijiet ta’ arti u antikitajiet;

(iii) dawk l-oġġetti li l-użu tagħhom huwa kollu kemm hu jew fil-biċċa l-kbira tiegħu ta’ tiżjin;

(iv) dawk l-oġġetti li l-prezz tagħhom għandu x’jaqsam mal-valur intrinsiku iktar milli ma’ l-utilità speċifika tagħhom għal proġett kwalifikanti;

(ċ) l-akkwist ta’ drittijiet ta’ proprjetà intellettuali minghand terzi persuni taht kundizzjonijiet tas-suq miftuh meta l-prezz tagħhom ikun jista’ jinqata’ fuq firxa ta’ żmien;

“nfieq permissibbli” għandha t-tifsira moghtija lilha fir-regolament 11;

“l-oghla nfieq kwalifikanti” tfisser l-ammont stabbilit skond ir-regolament 8;

“proġett approvat” tfisser proġett approvat skond ir-regolament 7, b’dawk il-kundizzjonijiet li jistgħu jkunu jghoddu għalih skond ir-regolament 7(2);

“proġett kwalifikanti” tfisser proġett li fih jintefaq nfieq kwalifikanti u li, fl-opinjoni tal-Kummissarju, jikkontribwixxi għall-iżvilupp, titjib jew tkabbir ta’ l-infrastuttura awdjovisiva f’Malta;

“*self-assessment*”, “taxxa”, “data tal-prospett tat-taxxa” u “sena ta’ stima” għandhom it-tifsira mogħtija lilhom taħt l-Att dwar it-Taxxa fuq l-*Income* jew l-Att dwar l-Amministrazzjoni tat-Taxxa;

“żmien tal-proġett” tfisser iż-żmien li jibda fid-data murija fl-ittra ta’ approvazzjoni bhala l-iktar data kmieni li fiha għandu jibda l-proġett, u li jispiċċa fid-data murija fl-imsemmija ittra ta’ approvazzjoni bhala l-iktar data tard tard li fiha għandu jintemm.

**3. (1)** Meta kumpannija tagħmel nfieq permissibbli fit-twettiq ta’ proġett approvat u meta jseħhu l-kundizzjonijiet dwar l-impjieg imsemmija fir-regolament 12 u l-kundizzjonijiet l-oħra rilevanti meħtieġa b’dawn ir-regolamenti, hija jkollha jedd għal kreditu ta’ taxxa skond id-disposizzjonijiet ta’ dawn ir-regolamenti u bla ħsara għalihom.

Kreditu ta’ taxxa  
dwar nfieq  
permissibbli.

(2) L-imsemmi kreditu ta’ taxxa għandu jkun b’żieda ma’ u bla ħsara għall-jedd ta’ dik il-kumpannija għal tnaqqis, jekk ikun hemm, li jista’ jingħata dwar l-imsemmi nfieq skond id-disposizzjonijiet ta’ l-artikolu 14 ta’ l-Att dwar it-Taxxa fuq l-*Income*.

**4. (1)** Kumpannija eliġibbli tista’ tagħmel applikazzjoni lill-Kummissarju biex tiġi ċertifikata bhala kumpannija kwalifikanti għall-fini ta’ dawn ir-regolamenti.

Ċertifikazzjoni ta’  
kumpannija  
kwalifikanti.

(2) Applikazzjoni taħt dan ir-regolament għandha ssir fuq formola li tkun aċċettabbli għall-Kummissarju u għandu jkollha dawk il-partikolaritajiet, u jkollha magħha dawk id-dokumenti u ċertifikati li l-Kummissarju jista’ jqis rilevanti.

(3) Meta l-Kummissarju jkun sodisfatt li kumpannija li tkun għamlet applikazzjoni taħt dan ir-regolament tkun kumpannija eliġibbli u li l-attivitajiet tagħha jkunu konduċenti għall-iżvilupp u t-tkabbir ta’ l-industrija awdjovisiva f’Malta, huwa jista’ jiċċertifikaha bhala kumpannija kwalifikanti għall-fini ta’ dawn ir-regolamenti.

(4) Iċ-ċertifikat għandu juri d-data minn meta jkun validu u l-perijodu sakemm jibqa’ validu:

Iżda l-Kummissarju jista’, konformement mal-kriterji stabbiliti fis-subregolament (3), permezz ta’ avviż bil-miktub iħassar

ċertifikat mahruġ taht dan ir-regolament jew jestendi jew inaqqas il-perijodu tal-validità tiegħu.

Applikazzjoni għall-  
approvazzjoni ta'  
proġett.

**5. (1)** Meta kumpannija kwalifikanti tagħmel jew tkun bi hsiebha tagħmel proġett kwalifikanti hija tista' tagħmel applikazzjoni lill-Kummissarju biex jiġi approvat dak il-proġett.

(2) Applikazzjoni taht dan ir-regolament għandha ssir fuq formola li tkun aċċettabbli għall-Kummissarju u:

(a) għandha tagħti dawk il-partikolaritajiet dwar l-applikanti li jkunu mehtieġa biex jiġi stabbilit jekk hija tikkwalifikax bhala intrapriża zgħira jew ta' daqs medju;

(b) għandha tagħti deskrizzjoni tal-proġett, l-għan tiegħu, id-data ta' meta jkun mistenni li jibda u kemm mistenni jdum;

(c) għandha tagħti dettalji dwar l-investment li l-kumpannija tkun bi hsiebha tagħmel fit-twettiq tal-proġett, inkluża deskrizzjoni ta' kull partita ta' nfieq kwalifikanti li l-applikanti tkun bi hsiebha tagħmel li tiddistingwi bejn nfieq fuq impjant u makkinarju, nfieq fuq bini u strutturi industrijali u nfieq fuq jeddijiet ta' proprjetà intellettuali;

(d) għandha tghid kemm tkun bi hsiebha timpjega impjegati addizzjonali matul iż-żmien tal-proġett;

(e) għandha tagħti l-awtorizzazzjoni msemmija fis-subregolament (3);

(f) għandu jkun fiha dak it-tagħrif, tqassim u dettalji, u jkollha magħha dawk id-dokumenti u ċertifikati, skond ma l-Kummissarju jista' jehtieġ;

(g) għandha ssir mhux iktar tard minn tliet xhur qabel id-data tal-prospett tat-taxxa tal-kumpannija għas-sena ta' stima li tiġi minnufih wara l-ewwel sena li fiha l-kumpannija tagħmel l-infieq li tirreferi għalih l-applikazzjoni.

(3) L-awtorizzazzjoni msemmija fis-subregolament (2)(e) għandha –

(a) tagħti lill-Kummissarju u lill-uffiċjali tiegħu aċċess għal kull post jew xogħlijiet skond ma l-Kummissarju jista' jqis li jkun mehtieġ biex jaċċerta ruħu dwar kull haġa rilevanti għall-approvazzjoni ta' l-applikazzjoni;

(b) tawtorizza lill-Kummissarju biex jghaddi lill-Kummissarju tat-Taxxi Interni kull taghrif u l-originali jew kopji ta' kull dokument u *records* li l-Kummissarju jista' jikseb f'dak li ghandu x'jaqsam ma' l-applikazzjoni.

**6.** (1) Meta l-Kummissarju jkun sodisfatt li applikazzjoni li tissodisfa l-htegiet ta' dawn ir-regolamenti tkun saret minn kumannija eligibbli, u li l-proġett li tirreferi ghalih l-applikazzjoni jkun proġett kwalifikanti *in bona fide*, huwa jista' jirrakkomanda lill-Kummissjoni li dak il-proġett ghandu jiġi approvat.

Rakkomandazzjoni tal-Kummissarju.

(2) Fir-rakkomandazzjoni tiegħu il-Kummissarju ghandu jghid sa fejn, fl-opinjoni tiegħu, l-investment li l-applikanti tkun bi hsiebha tagħmel fil-proġett ikun jirrapreżenta nfieq kwalifikanti u mehtieg u raġonevoli fil-kuntest ta' l-ghan li ghalih ikun ippjanat li jsir.

(3) Il-Kummissarju ma ghandux jirrakkomanda l-approvazzjoni ta' proġett –

(a) li biex jitwettagħ ikun jehtieg żmien ta' iktar minn hames snin;

(b) jekk l-applikazzjoni ssir wara l-31 ta' Diċembru, 2008.

**7.** (1) Meta l-Kummissjoni tirċievi rakkomandazzjoni minghand il-Kummissarju taht ir-regolament 6 hija tista', jekk tqies li jkun adatt li tagħmel hekk, tapprova l-proġett u tghaddi biex tagħti d-deċizjoni u tohroġ l-ittra ta' approvazzjoni kif provdut fir-regolamenti 8 u 9.

Approvazzjoni tal-proġett.

(2) Il-Kummissjoni tista' tagħmel l-approvazzjoni tal-proġett soġġetta għal dawk il-kundizzjonijiet li tista' tqis li jkunu adatti.

**8.** (1) Meta l-Kummissjoni tapprova proġett hija ghandha tiddeċiedi l-oghla nfieq kwalifikanti għal kull partita ta' nfieq.

Deċizjoni dwar l-oghla nfieq kwalifikanti.

(2) L-ammont totali deċiż skond is-subregolament (1) ma ghandux jaqbeż l-ammont rakkomandat mill-Kummissarju skond ir-regolament 6(2).

**9.** (1) Dwar kull proġett approvat il-Kummissarju ghandu johroġ ittra ta' approvazzjoni li turi:

Ittra ta' approvazzjoni.

(a) il-partikolaritajiet ta' l-applikanti;

(b) deskrizzjoni tal-proġett, b'dawk il-kundizzjonijiet li jkunu setgħu tqiesu xierqa skond kif maħsub fir-regolament 7(2);

(ċ) l-ogħla nfieq kwalifikanti għal kull partita ta' nfieq;

(d) l-ogħla total ta' l-intensità ta' għajjnuna mogħtija mill-Istat li l-applikanti tkun intitolata għalih;

(e) l-iktar data kmieni li fiha għandu jibda l-proġett u l-iktar data tard li fiha għandu jintemm;

(f) l-iqsar żmien li għalih l-investiment għandu jinżamm skond ir-regolament 11;

(g) dawk il-partikolaritajiet l-oħra skond kif il-Kummissarju jista' jqis li jkunu adatti.

(2) Il-Kummissarju għandu jagħti l-ittra ta' approvazzjoni lill-applikanti u kopja tagħha lill-Kummissarju tat-Taxxi Interni.

(3) Il-Kummissarju għandu johroġ l-imsemmija ittra ta' approvazzjoni sa mhux aktar tard mid-data tal-prospett tat-taxxa relattiv tal-kumpannija.

Il-kumpannija  
tiċċertifika li l-  
proġett ikun tlesta.

**10.** (1) Meta jitlesta l-proġett approvat u mhux iktar tard minn sittin jum wara, il-kumpannija għandha tibgħat lill-Kummissarju ċertifikat magħmul minn persuna li tkun magħrufa mill-Kummissarju bħala kompetenti għal dan il-ghan, u li jkun juri:

(a) id-data li fiha jkun tlesta l-proġett;

(b) l-ammont ta' nfieq permissibbli li jkun sar fil-fatt, u li jkun jiddistingwi bejn nfieq fuq impjant u makkinarju, nfieq fuq bini u strutturi industrijali u nfieq fuq jeddijiet ta' proprjetà intellettuali.

(2) Il-kumpannija għandha, fiż-żmien imsemmi fis-subregolament (1), tagħti kopja taċ-ċertifikat lill-Kummissarju tat-Taxxi Interni.

(3) Il-Kummissarju tat-Taxxi Interni jista', wara li jirċievi kopja taċ-ċertifikat, jitlob opinjoni indipendenti dwar il-kontenut tiegħu mingħand il-Kummissarju jew persuna teknika oħra.

Nfieq permissibbli.

**11.** (1) L-infieq ikun nfieq permissibbli jekk u sa fejn jitwettqu l-kundizzjonijiet kollha li ġejjin:

(a) ikun nfieq kwalifikanti li ġie tassew minfuq mill-kumpannija fit-twettiq ta' proġett approvat u li la jkun thallas lura lilha u l-anqas ma jkollu jingabar lura minnha;

(b) ikun partita ta' nfieq li tkun tirreferi ghalha l-ittra ta' approvazzjoni mahruġa taht ir-regolament 9, ma jaqbix l-oghla nfieq kwalifikanti ghal dik il-partita u jkun infieq li dwaru tkun ġiet sodisfatta kull kundizzjoni li tkun setgħet ġiet magħmula applikabbli skond ir-regolament 7(2);

(ċ) ikun intefaq matul iż-żmien tal-proġett u għall-ghan li għalih il-proġett ikun ġie approvat;

(d) ikun imniżżel tajjeb, b'mod ċar u separatament fil-kotba tal-kumpannija u jkun hemm prova dwaru permezz ta' dokumenti;

(e) jekk ikun infieq għal xogħlijiet ta' kostruzzjoni, id-dokumenti msemmija fil-paragrafu (d) ikun fihom dikjarazzjoni tal-perit li taht id-direzzjoni u s-superviżjoni tiegħu jkunu saru x-xogħlijiet, li tikkonferma li dak l-infieq sar fit-twettiq tal-proġett kif approvat.

(2) L-investment li jsir bl-infieq permissibbli għandu jinżamm fil-kumpannija għal mill-inqas tliet snin wara t-tmiem taż-żmien tal-proġett.

(3) Jekk investment jew parti minnu ma jinżammx fil-kumpannija għaž-żmien imsemmi fis-subregolament (2), l-ammont ta' nfieq li jikkorrispondi għal dak l-investment jew parti minnu, skond ma jkun il-każ, li ma jkunx hekk inżamm għandu jitqies li qatt ma kien nfieq permissibbli u għandhom japplikaw id-disposizzjonijiet tar-regolament 15.

**12.** (1) Bla hsara għad-disposizzjonijiet l-oħra ta' dan ir-regolament, il-kundizzjoni dwar l-impjieg imsemmija fir-regolament 3(1) issehh jekk, matul iż-żmien tal-proġett jew fi żmien tliet snin mit-tmiem tiegħu, il-kumpannija kwalifikanti in kwistjoni timpjega mill-inqas erba' impjegati addizzjonali;

Kundizzjoni dwar impjieg.

(2) Bla hsara għas-subregolament (3), individwu jitqies impjegat addizzjonali jekk isehhu dwaru l-kundizzjonijiet kollha li ġejjin –

(a) jiġi impjegat taht kuntratt għal żmien indefinit jew għal żmien ta' mhux inqas minn tliet snin;

(b) id-dmirijiet tieghu ikollhom x'jaqsmu biss u direttament ma' l-attivitajiet tal-kumpannija fl-industrija tal-*film servicing* ;

(ċ) l-impjieg tieghu johloq zieda netta fl-ghadd ta' impjegati *full time* tal-kumpannija kwalifikanti;

(d) huwa ma kienx, f'xi żmien matul sentejn qabel l-impjieg tieghu ma' dik il-kumpannija, impjegat ma' persuna li kienet relatata ma' dik il-kumpannija permezz ta' proprjetà jew detenzjoni diretta jew indiretta ta' ishma;

(e) l-impjieg tieghu ikun ċertifikat mill-Korporazzjoni skond ir-regolament 13 bhala impjieg ta' impjegat addizzjonali għall-ghan ta' dawn ir-regolamenti;

(f) huwa jibqa' fl-impjieg ta' l-imsemmija kumpannija kwalifikanti għal mill-inqas tliet snin.

(3) Meta l-impjieg ta' individwu jkun gie ċertifikat skond is-subregolament (2)(e) u dak l-individwu ma jibqax fl-impjieg ta' dik il-kumpannija, tkun xi tkun ir-raġuni, għal żmien ta' mill-inqas sitta w tletin xahar, u ma jiġix sostitwit validament b'impjegat iehor kif provdut fis-subregolament (4), huwa għandu jitqies li qatt ma kien impjegat addizzjonali.

(4) Impjegat jitqies li jkun gie sostitwit validament jekk:

(a) fi żmien tliet xhur mid-data ta' tmiem l-impjieg ma' kumpannija kwalifikanti, dik il-kumpannija timpjega individwu iehor minflok; u

(b) dwar l-impjeg ta' l-impjegat sostitut jitwettqu l-kundizzjonijiet tas-subregolament (2), hlief li l-fatt li jkun impjieg flok iehor ma jitqiesx, fih innifsu, bhala ksur tal-kundizzjoni tal-paragrafu (ċ) ta' dik is-subregolament; u

(ċ) it-total taż-żminijiet ta' impjieg ta' l-impjegat oriġinali u tas-sostitut jew sostituti tieghu ma jkunx inqas minn sitta w tletin xahar.

(5) Impjegat sostitut jista' jiġi validament sostitwit bl-istess mod, u ż-żmien ta' l-impjieg tieghu għandu wkoll jitqies għall-ghan tas-subregolament (4)(ċ).

(6) Fil-kalkolu ta' l-ghadd ta' impjegati addizzjonali, impjegat u s-sostitut jew sostituti tieghu jgħoddu bhala impjegat addizzjonali wiehed.



(7) Jekk kumpanija kwalifikanti li tkun ghamlet użu mill-beneċċiji tal-kreditu ta' taxxa taht dawn ir-regolamenti ma tkunx tissodisfa l-kundizzjoni tal-l-impjeg; din ghandha titlef id-dritt ghal dak il-beneċċju u japplikaw id-dispozzjonijiet tar-regolament 15.

**13.** (1) Kumpanija kwalifikanti li l-proġett taghha jkun approvat taht dawn ir-regolamenti ghandha taghmel u taghti lill-Kummissarju dikjarazzjoni li jkun fiha dak it-taghrif dwar l-impjegati taghha li jkun mehtieġ biex il-Kummissarju jkun jista' jstabbilixxi l-ghadd ta' impjegati addizzjonali u s-sostituti taghhom, liema taghrif ghandu jkun fih –

Ċertifikat ta' impjegati addizzjonali.

(a) l-ghadd ta' individwi li jkunu fl-impjeg tal-kumpanija qabel il-bidu tal-proġett taghha u l-ghadd u l-partikolaritajiet u d-data ta' l-impjeg ta' l-individwi li jkunu impjegati minnha bhala impjegati *full-time* matul iż-żmien tal-proġett u matul it-tliet snin li jiġu wara;

(b) dak it-taghrif u dettalji ohra li l-Kummissarju jista' jqis rilevanti.

(2) Id-dikjarazzjoni ghandha ssir kull tant żmien skond ma jista' jitlob il-Kummissarju.

(3) Meta l-Kummissarju jkun sodisfatt li kumpanija kwalifikanti tkun impjegat individwu li jikkwalifika bhala impjegat addizzjonali skond id-disposizzjonijiet tar-regolament 12, u li jkun kiseb it-taghrif kollu li jkun qies rilevanti dwar l-impjegati ta' dik il-kumpanija, huwa ghandu johrog ċertifikat li jkun juri dak:

Iżda dak iċ-ċertifikat ghandu jkun bla hsara ghar-regolament 12(3).

**14.** (1) Il-kreditu ta' taxxa li jkollha jedd ghalih kumpanija kwalifikanti dwar infieq permissibbli ghandu jinghata ghas-sena ta' stima li tahbat minnufih wara dik li fiha jsir l-infiq jew li fiha titwettaq ghall-ewwel darba l-kundizzjoni dwar l-impjeg, liema minnhom tiġi l-aħhar, u jkun daqs:

Il-kalkolu tal-kreditu ta' taxxa.

(a) 25% ta' l-infiq li japplika ghalih il-paragrafu (a) tat-tifsira ta' "nfieq kwalifikanti";

(b) 40% ta' kull nfieq kwalifikanti iehor.

(2) Minkejja d-disposizzjonijiet tas-subregola (1) il-kreditu ta' taxxa li jkollha jedd ghalih kumpanija kwalifikanti dwar proġett approvat ma ghandux jaqbeż, fit-total tieghu -

(a) f'każ ta' intrapriża żghira jew ta' daqs medju, hamsin fil-mija ta' l-ispiza totali tal-proġett in kwistjoni;

(b) f'każ ta' kull kumpannija kwalifikanti ohra, erbgħin fil-mija ta' l-ispiza totali tal-proġett in kwistjoni, kalkolat b'referenza għall-ekwivalenti ta' l-ghotja netta:

Iżda meta l-kumpannija in kwistjoni tkun hadet għajjnuna mill-Istat dwar nfieq magħmul fit-twettiq tal-proġett, b'mod li ma jkunx dak provdut f'dawn ir-regolamenti, il-limitu msemmi fil-paragrafu (a) jew (b), skond il-każ, għandu jonqos bil-valur ta' dik l-għajjnuna:

Iżda wkoll il-kumpannija għandha tkun unikament responsabbli għall-korrettezza tal-kalkolu tat-tnaqqis imsemmi, meta jkun applikabbli.

(4) Il-kreditu ta' taxxa jittiehed bħala tnaqqis mit-taxxa li jkollha tithallas fuq qliegh jew profitti li jkun għejjin mill-attivitajiet li dwarhom ikun sar l-investiment li għalih jirreferi l-proġett approvat, u ma jingħatawx bħala tnaqqis minn taxxa li jkollha tithallas fuq qliegh jew profitti minn xi għajn iehor; u kull ammont ta' kreditu ta' taxxa dovut għal sena ta' stima li ma jinqatax f'dik is-sena jista' jittiehed 'il quddiem u jitnaqqas mit-taxxa li jkollha tithallas fi snin ta' wara fuq qliegh jew profitti mill-imsemmija attivitajiet:

Iżda kull parti ta' kreditu ta' taxxa li ma tittehidx sas-sena ta' stima 2013 ma għandhiex tittiehed 'il quddiem u l-jedd għal kreditu dwar dak l-ammont mhux mehud jintilef.

(5) Meta kumpannija tikkwalifika, dwar sena ta' stima, għal kreditu ta' taxxa kemm taht l-Att dwar il-Promozzjoni ta' Negozji kemm taht id-disposizzjonijiet ta' dawn ir-regolamenti, hija għandha tiehu l-kreditu ta' taxxa taht l-Att dwar il-Promozzjoni ta' Negozji qabel ma ssir xi tpaċija dwar il-kreditu ta' taxxa taht dawn ir-regolamenti.

(6) Kreditu ta' taxxa dovut skond dawn ir-regolamenti ma johloqx jedd għal hlas lura.

Thassir jew kalkolazzjoni mill-ġdid ta' kreditu ta' taxxa.

**15.** (1) Fiċ-ċirkostanzi msemmiya fir-regolamenti 11(3) u 12(3) il-kreditu ta' taxxa in kwistjoni għandu jithassar jew jiġi kalkolat mill-ġdid, skond il-każ.

(2) It-thassir jew il-kalkolu mill-ġdid ta' kreditu ta' taxxa johloq obbligu tal-kumpannija li thallas ammont ta' taxxa, b'żieda ma' kull debitu iehor ta' taxxa, li jkun daqs it-tnaqqis fil-kreditu ta' taxxa li

jirrizulta mit-thassir jew kalkolazzjoni mill-ġdid, u dak l-ammont jitqies taxxa li ghandha tithallas taht l-Att ghas-sena ta' stima li tahbat minnufih wara s-sena li fiha tinholq il-kawża ghal dak it-thassir jew kalkolazzjoni mill-ġdid, u hekk ghandha tigi dikjarata u mhallsa mill-kumpanija in kwistjoni.

**16.** Kumpanija li tinghatalha ittra ta' approvazzjoni skond ir-regolament 9 ghandha taghti lill-Kummissarju, mhux aktar tard minn xahrejn wara d-data tal-prospett tat-taxxa relattiv, kopja tal-prospett tat-taxxa ghal dik is-sena ta' stima li fiha jista' jintalab ghall-ewwel darba l-kreditu ta' taxxa relattiv skond dik l-approvazzjoni u ghal kull sena ta' stima sussegwenti li fiha jkun jista' jintalab dak il-kreditu ta' taxxa, irrispettivament minn jekk il-benefiċċju jintużax jew le.

Ghandha tinghata kopja tal-prospett tat-taxxa lill-Kummissarju.

**17.** (1) Meta l-Kummissarju johroġ ittra ta' approvazzjoni lil kumpanija skond ir-regolament 9, dan jista', minn żmien ghal żmien, jagħmel reviżjonijiet ta' kotba u dokumenti, jagħmel spezzjonijiet fuq il-post fil-bini ta' dik il-kumpanija u jagħmel sorveljanza oħra skond kif jidhirlu li jkun mehtieġ għall-ghanijiet ta' dawn ir-regolamenti u ghal kull haġa li tkun rilevanti ghal applikazzjoni approvata.

Sorveljanza mill-Korporazzjoni.

(2) Il-Kummissarju ghandu jżomm *database* ta' kull ghajnuna moghtija lil kumpanija, jew mitluba minnha, taht dawn ir-regolamenti ghal ghaxar snin mid-data li fiha tkun inghatat ghajnuna individwali għall-aħhar darba, sabiex –

(a) jivverifika jekk id-disposizzjonijiet ta' dawn ir-regolamenti jkunux ġew osservati;

(b) jaghti lill-Bord ta' Sorveljanza fuq Ghajnuna Moghtija mill-Istat dik l-informazzjoni li dan ikun jista' jehtieġ; u

(ċ) jinforma lill-Kummissarju tat-Taxxi Interni jekk il-kreditu mitluba skond dawn ir-regolamenti jkunux ġew kalkolati sew.

**18.** Minkejja d-disposizzjonijiet l-oħra ta' dawn ir-regolamenti, il-Kummissarju tat-Taxxi Interni jista' jagħmel dak l-istharriġ u dawk il-verifiki li huwa jqis adatti skond id-disposizzjonijiet ta' l-Att dwar it-Taxxa fuq l-*Income* u l-Att dwar l-Amministrazzjoni tat-Taxxa, u ghandu l-jedd, wara li jikkonsulta lill-Kummissarju, li ma jippermettix kreditu ta' taxxa jekk l-applikanti tikser xi disposizzjoni ta' dawk l-Atti jew l-Att dwar is-Sigurta' Soċjali jew xi leġislazzjoni sussidjarja magħmula tahtom.

Poteri tal-Kummissarju tat-Taxxi Interni.

Prospett tat-taxxa  
elettroniku.

**19.** Ebda kreditu ta' taxxa ma jkun dovut lil kumpannija taht dawn ir-regolamenti ghal xi sena ta' stima jekk dan ma jintalabx fil-parti adatta ta' prospett tat-taxxa mibghut b'mezzi elettronici sa mhux iktar tard mid-data tal-prospett tat-taxxa relattiv.

Kundizzjonijiet  
ulterjuri.

**20.** Biex ikun hemm jedd ghall-beneficċju taht dawn ir-regolamenti ghandhom jiġu osservati wkoll il-kundizzjonijiet ulterjuri li ġejjin:

(a) ma jkunux qed jintalbu u sussegwentement ma jintalbux xi beneficċji oħra minn xi persuna fuq l-istess attività jew proġett taht xi liġi oħra li taghti skemi ta' incentivi fiskali;

(b) id-debiti kollha ta' taxxa, inklużi ammonti dovuti dwar taxxa ta' l-FSS kif ukoll kontribuzzjonijiet tas-sigurtà soċjali, dovuti saż-żmien ta' l-applikazzjoni, hlief ghal xi taxxa li dwarha jkun hemm kwistjoni, iridu jkunu thallsu jew ikunu qeghdin jithallsu skond ftehim formali magħmul mal-Kummissarju.

**L.N. 66 of 2006**

**MALTA FILM COMMISSION ACT  
(CAP. 478)**

**Tax Credit (Audiovisual Infrastructure) Regulations, 2006**

IN exercise of the powers conferred by articles 25 and 33 of the Malta Film Commission Act, the Minister for Investment, Industry and Information Technology, after consultation with the Prime Minister and Minister of Finance, has made the following regulations:-

**1.** (1) The title of these regulations is the Tax Credit Title.  
(Audiovisual Infrastructure) Regulations, 2006.

(2) These regulations shall apply in respect of qualifying expenditure incurred on or after the 1<sup>st</sup> January, 2005.

(3) The equivalent of the benefits under these regulations shall be an amount specifically appropriated in Government's financial estimates for a particular financial year.

**2.** In these regulations, unless the context otherwise requires – Definitions.

“the Act” means the Malta Film Commission Act;

“additional employee” means an employee whose employment is certified by the Commissioner as the employment of an additional employee by means of a certificate issued under regulation 13;

“allowable expenditure” has the meaning assigned to it in regulation 11;

“approved project” means a project approved in accordance with regulation 7, as subject to any conditions that may be applicable in terms of regulation 7(2);

“company” has the meaning assigned to it under the Income Tax Act;

“eligible company” means a company established or having a place of business in Malta whose business consists solely or mainly of activities that form part of the film servicing industry;

“maximum qualifying expenditure” means the amount determined in accordance with regulation 8;

“project period” means the period commencing on the date indicated in the letter of approval as the earliest date by which the project must commence and ending on the date indicated in the said letter of approval as the latest date by which it must be completed;

“qualifying company” means an eligible company which is certified as a qualifying company and which is in possession of a valid certificate issued under regulation 4;

“qualifying expenditure” means expenditure which has been incurred on or after the 1<sup>st</sup> January, 2005 for:

(a) the acquisition, construction, development or improvement of any industrial building or structure, including a warehouse, and including related labour costs which are capitalised as part of the cost of any such acquisition, construction, development or improvement;

(b) the acquisition of plant and machinery, excluding –

(i) motor vehicles, except for such specialised motor vehicles as may be approved by the Commissioner;

(ii) works of art and antiques;

(iii) any assets whose use is wholly or mainly of a decorative nature; and

(iv) any assets whose cost is related to their intrinsic value rather than to their specific usefulness for a qualifying investment;

(c) the acquisition of intellectual property rights from third parties under open market conditions the cost of which is amortisable;

“qualifying project” means a project in which qualifying expenditure is incurred and which, in the opinion of the Commissioner, contributes towards the development, improvement or expansion of the audiovisual infrastructure in Malta;

“self-assessment”, “tax”, “tax return date” and “year of assessment” have the meaning assigned to them under the Income Tax Act or the Income Tax Management Act;

“small enterprise” and “medium sized enterprise” shall have the meaning assigned to them under the Business Promotion Regulations, 2001.

**3.** (1) When a qualifying company incurs allowable expenditure in carrying out an approved project and where the employment condition referred to in regulation 12 and the other relevant conditions laid down in these regulations are satisfied, it shall be entitled to a tax credit in accordance with and subject to the provisions of these regulations.

Tax credit in respect of qualifying expenditure.

(2) The said tax credit shall be in addition to and without prejudice to the right of that company to a deduction, if any, that may be allowable in respect of the said expenditure in accordance with the provisions of article 14 of the Income Tax Act.

**4.** (1) An eligible company may apply to the Commissioner to be certified as a qualifying company for the purpose of these regulations.

Certification of qualifying company.

(2) An application under this regulation shall be made on such form as may be acceptable to the Commissioner and shall contain such particulars, and be accompanied by such documents and certifications as the Commissioner may consider relevant.

(3) When the Commissioner is satisfied that a company that has made an application under this regulation is an eligible company and that its activities are conducive to the development or expansion of the audio visual industry in Malta, he may certify it as a qualifying company for the purposes of these regulations.

(4) The certificate shall indicate the date from which and the period for which such certificate shall be valid:

Provided that the Commissioner may, in line with the criteria set out in sub-regulation (3), by notice in writing cancel a certificate issued under this regulation or extend or restrict the period of its validity.

**5.** (1) When a qualifying company carries out or intends to carry out a qualifying project it may apply to the Commissioner for the approval of that project.

Application for the approval of a project.

(2) An application under this regulation shall be made in such form as may be acceptable to the Commissioner and shall:

(a) provide such particulars of the applicant as are necessary to determine whether it qualifies or not as a small or medium sized enterprise;

(b) describe the project and its purpose and state the expected date of its commencement and its expected duration;

(c) provide details of the investment that the company plans to make for the realisation of the project, including a description of each item of qualifying expenditure that the applicant intends to incur, distinguishing between expenditure on plant and machinery, expenditure on industrial buildings and structures and expenditure on intellectual property rights;

(d) state the number of additional employees that it plans to employ during the project period;

(e) grant the authorisation referred to in sub-regulation (3);

(f) contain such other information, breakdowns and details, and be accompanied by such documents and certifications as the Commissioner may require;

(g) be made by not later than three months prior to the company's tax return date for the year of assessment that immediately follows the first year in which the company incurs the expenditure to which the application refers.

(3) The authorisation referred to in sub-regulation (2)(e) shall -

(a) grant to the Commissioner and his officers access to any premises or works as the Commissioner may consider necessary in order to ascertain any matter relevant to the approval of the application;

(b) authorise the Commissioner to disclose to the Commissioner of Inland Revenue any information and to pass on to him originals or copies of any documents and records that may have been obtained in connection with the application.

Recommendation  
by the  
Commissioner.

6. (1) When the Commissioner is satisfied that an application complying with the requirements of these regulations has been filed by an eligible company, and that a project to which the application refers is a *bona fide* qualifying project, he may recommend to the Commission that the project be approved.

(2) In his recommendation the Commissioner shall state the extent to which, in his opinion, the investment that the applicant plans to make towards the project represents qualifying expenditure and is



necessary and reasonable in the light of the purpose for which it is planned to be incurred.

(3) The Commissioner shall not recommend the approval of a project –

(a) that requires for its realisation a period of more than five years;

(b) if the application for its approval is made after the 31<sup>st</sup> December, 2008.

**7.** (1) When the Commission receives a recommendation from the Commissioner under regulation 6 it may, if it considers it appropriate so to do, approve the project and proceed to make a determination and issue a letter of approval as provided in regulations 8 and 9. Approval of project.

(2) The Commission may make the approval of a project subject to such conditions as it may consider appropriate.

**8.** (1) When the Commission approves a project it shall determine the maximum qualifying expenditure for each item of expenditure. Determination of maximum qualifying expenditure.

(2) The total amount determined in accordance with sub-regulation (1) shall not exceed the amount recommended by the Commissioner in terms of regulation 6(2).

**9.** (1) In respect of every approved project the Commissioner shall issue a letter of approval showing: Letter of approval.

(a) particulars of the applicant;

(b) a description of the project, with such conditions as may have been considered appropriate pursuant to regulation 7(2);

(c) the maximum qualifying expenditure for each item of expenditure;

(d) the maximum aggregate State aid intensity to which the applicant is entitled;

(e) the earliest date by which the project must commence and the latest date by which it must be completed;

(f) the shortest period for which the investment must be retained in terms of regulation 11;

(g) such other particulars as the Commissioner may consider appropriate.

(2) The Commissioner shall deliver the letter of approval to the applicant and a copy thereof to the Commissioner of Inland Revenue.

(3) The Commissioner shall issue the said letter of approval by not later than the company's relative tax return date.

Certification of completion by the company.

**10.** (1) Upon the completion of the approved project and not later than sixty days therefrom, the company shall deliver to the Commissioner a certificate drawn up by a person who is recognised by the Commissioner as competent for this purpose, showing:

(a) the date of completion of the project;

(b) the amount of allowable expenditure actually incurred, distinguishing between expenditure on plant and machinery, expenditure on industrial buildings and structures and expenditure on intellectual property rights.

(2) The company shall, within the time limit set out in sub-regulation (1), deliver a copy of the certificate to the Commissioner of Inland Revenue.

(3) The Commissioner of Inland Revenue may, after receiving a copy of the certificate, request an independent opinion from the Commissioner or any other competent technical person regarding the contents thereof.

Allowable expenditure.

**11.** (1) Expenditure shall constitute allowable expenditure if and to the extent that it meets all the following conditions:

(a) it is qualifying expenditure actually incurred by a qualifying company in carrying out an approved project and is not reimbursed to or otherwise recoverable by it;

(b) it is an item of expenditure to which a letter of approval issued under regulation 9 refers, which does not exceed the maximum qualifying expenditure for that item, and in respect of which any conditions that may have been made applicable in terms of regulation 7(2) have been satisfied;

(c) it was incurred during the project period and for the purpose for which the project was approved;

(d) it is correctly, clearly and separately recorded in the records of the company and supported by documentary evidence;

(e) if it represents the cost of construction works, the documentary evidence referred to in paragraph (d) includes a statement by the architect under whose direction or supervision the works were carried out confirming that the expenditure was incurred in the carrying out of the project as approved.

(2) The investment represented by allowable expenditure shall be retained within the company for at least three years after the termination of the project period.

(3) If an investment or part thereof is not retained within the company for the period referred to in sub-regulation (2), the amount of expenditure corresponding to that investment or part thereof, as the case may be, that is not so retained shall be deemed to have never constituted allowable expenditure and the provisions of regulation 15 shall apply.

**12.** (1) Subject to the other provisions of this regulation, the employment condition referred to in regulation 3(1) shall be satisfied if, during the project period or within three years from the termination thereof, the qualifying company in question employs at least four additional employees.

Employment  
condition.

(2) Subject to sub-regulation (3), an individual shall be deemed to be an additional employee if all the following conditions are met –

(a) he is employed under an indefinite contract or for a period of not less than three years;

(b) his duties are solely and directly related to the activities carried out by the qualifying company in the film servicing industry;

(c) his employment represents a net increase in the number of full time employees of the qualifying company;

(d) he was not, at any time during the period of two years prior to his employment with that company, employed with a person related through direct or indirect ownership or shareholding with that company;

(e) his employment is certified by the Commissioner in accordance with regulation 13 as an employment of an additional employee for the purpose of these regulations;

(f) he remains in the employment of the said qualifying company for at least three years.

(3) When the employment of an individual has been certified in accordance sub-regulation (2)(e) and that individual does not remain in the employment of the qualifying company in question, for any reason whatsoever, for a period of at least three years and is not validly replaced as provided in sub-regulation (4), he shall be deemed to have never been an additional employee.

(4) An employee shall be deemed to have been validly replaced if:

(a) within three months from the date of the termination of his employment with a qualifying company, that company employs another individual in his place; and

(b) the employment of the replacement employee satisfies the conditions of sub-regulation (2), except that the fact that it is a replacement shall not, of itself, be deemed to be a breach of the condition of paragraph (c) thereof; and

(c) the aggregate of the periods of employment of the original employee and of his replacement or replacements is not less than three years.

(5) A replacement employee may be validly replaced in the same manner, and the period of his employment shall also be taken into account for the purpose of sub-regulation (4)(c).

(6) In calculating the number of additional employees, an employee and his replacement or replacements shall count as one additional employee.

(7) If a qualifying company that has availed itself of the benefit of the tax credit under these regulations does not satisfy the employment condition it shall forfeit the right to that benefit and the provisions of regulation 15 shall apply.

Certification of  
additional  
employees.

**13.** (1) A qualifying company whose project is approved under these regulations shall prepare and deliver to the Commissioner such information about its employees as is necessary to enable the

Commissioner to determine the number of additional employees and their replacements, including -

(a) the number of individuals who were in the employment of the company before the commencement of its project and the number and particulars and date of employment of individuals who are employed by it as full time employees during the project period and during the following three years;

(b) such further information and details as the Commissioner may consider relevant.

(2) The statement shall be prepared at such intervals as the Commissioner may require.

(3) When the Commissioner is satisfied that a qualifying company has employed an individual that qualifies as an additional employee in accordance with the provisions of regulation 12, and that it has obtained all the information that it has considered relevant about the employees of that company, it shall issue a certificate to that effect:

Provided that such certificate shall be without prejudice to regulation 12(3).

**14.** (1) The tax credit due to a qualifying company in respect of allowable expenditure shall be allowable for the year of assessment immediately following that in which the expenditure is incurred or in which the employment condition is first satisfied, whichever is the later, and shall be equal to:

Calculation of the tax credit.

(a) 25% of expenditure to which paragraph (a) of the definition “qualifying expenditure” applies;

(b) 40% of any other allowable expenditure

(2) Notwithstanding the provisions of sub-regulation (1) the tax credit due to a qualifying company in respect of an approved project shall not exceed, in the aggregate, –

(a) in the case of a small or medium sized enterprise, fifty percent of the total cost of the project in question; and

(b) in the case of any other qualifying company, forty percent net grant equivalent of the total cost of the project in question:

Provided that where the company in question has benefited from any State aid in respect of expenditure incurred in the carrying out of the project, other than as provided for in these regulations, the threshold referred to in paragraph (a) or (b), as the case may be, shall be reduced by the value of that aid:

Provided further that the correct calculation of the said reduction, where applicable, shall be the sole responsibility of the company.

(4) The tax credit shall be availed of by way of a deduction from the tax chargeable on gains or profits derived from the activities in respect of which the investment to which the approved project refers is made, and shall not be allowable as a deduction from tax chargeable on gains or profits from any other source; and any amount of tax credit due for a year of assessment that is not so absorbed in that year may be carried forward and deducted from the tax chargeable in subsequent years on income from the said activities:

Provided that any part of the tax credit that is not availed of up to the year of assessment 2013 shall not be carried forward and the right to a credit in respect thereof will lapse.

(5) Where, for a year of assessment, a company qualifies for a tax credit under the Business Promotion Act and also under the provisions of these regulations, it shall avail itself of the tax credit under the Business Promotion Act before any set-off is made in respect of the tax credit due under these regulations.

(6) A tax credit due in accordance with these regulations shall not give rise to a right for any refund.

Reversal or  
recalculation of tax  
credit.

**15.** (1) In the circumstances mentioned in regulations 11(3) and 12(7) the tax credit in question shall be reversed or recalculated, as the case may be.

(2) The reversal or recalculation of a tax credit shall give rise to an obligation of the company to pay an amount of tax, in addition to any other tax liability, equivalent to the amount represented by the reversal or recalculation, and such amount shall be deemed to be tax chargeable under the Act for the year of assessment immediately following that in which the cause for the reversal or recalculation takes place, and shall be reported and paid by the company in question accordingly.

**16.** A company to whom a letter of approval has been issued in terms of regulation 9 shall submit to the Commissioner, by not later than two months after the relative tax return date, a copy of the tax return for the year of assessment for which the relative benefit may be claimed in terms of under these regulations and for each subsequent year of assessment for which the said benefit remains available to it, irrespective of whether the benefit is utilised or not.

Submission of copy of tax return to the Commissioner.

**17.** (1) When the Commissioner issues a letter of approval to a company in terms of regulation 9, he may, from time to time, make such reviews of books and documents, hold on-site inspections on premises of that company and make such other monitoring as he may consider necessary for the purposes of these regulations and for any matter relevant to an approved application.

Monitoring by the Commissioner.

(2) The Commissioner shall keep a database of all assistance provided to, or claimed by, a company under these regulations for ten years from the date on which the last individual assistance was granted, in order to enable it to –

(a) verify whether the provisions 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 Commissioner of Inland Revenue whether the credits claimed in terms of these regulations have been properly calculated.

**18.** Notwithstanding the other provisions of these regulations, the Commissioner of Inland Revenue may make such enquiries and verification as he deems fit in accordance with the provisions of the Income Tax Act and the Income Tax Management Act, and shall, after consulting the Commissioner, have the right not to allow a benefit under these regulations if any default is committed by the applicant in respect of any provision of those Acts or the Social Security Act or any subsidiary legislation issued thereunder.

Powers of the Commissioner of Inland Revenue.

**19.** No tax credit shall be due to a company under these regulations for a year of assessment unless it is claimed in the appropriate section of a tax return submitted by electronic means by not later than the relative tax return date.

Electronic tax return.

**20.** The following further conditions must also be fulfilled for eligibility to the benefit under these regulations:

Further conditions.

(a) no other benefits are being claimed or may subsequently be claimed by a person on the same activity or project under any other legislation granting fiscal incentive schemes;

(b) all tax liabilities including amounts due in respect of FSS tax as well as social security contributions due up to the time of the application, except for any tax still in dispute, must have been settled or is being settled in accordance with a formal agreement drawn up with the Commissioner.