

**SCREEN
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**MALTA FILM
COMMISSION**

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BACK**

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Financial Incentives for the Audiovisual Industry

OFFICIAL DOCUMENT
March 2023

Malta Film Commission
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1. MALTA FILM COMMISSION

The Malta Film Commission (“MFC”) is a government body established by the Malta Film Commission Act (CAP 478 of the Laws of Malta), with the role of advising the Minister responsible for the film sector. 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 showcasing Malta’s locations, skilled labour, and industry capabilities on the international stage. In addition, the MFC is also responsible for developing an indigenous film industry through training programmes and support schemes available under Creative Malta.

As an entity, the MFC supports and works hand-in-hand with all productions throughout the entire filmmaking process. From enquiry stage to the end of wrap and beyond.

The MFC, through its “Opportunity for All” programme, maintains and updates a directory (consisting of a list of companies, service providers, crew, and services) of the local filming industry.

The MFC also provides ongoing assistance vis-à-vis:

- Information and administrative assistance about local incentives including the Financial Incentives for the Audiovisual Industry;
- Compilation of location libraries;
- Support on location scouts;
- Management of the Malta Film Studios water tank facilities and Fort Ricasoli;
- Assistance in the acquisition of filming permits;
- Acts as a liaison between the different Government entities and departments;
- Administration of the “Opportunity for All” programme;
- Ongoing support on the ground.

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.

2. THE “OPPORTUNITY FOR ALL” PROGRAMME

Along with its financial incentives, and its film infrastructure, the local crew base is a very important element of Malta’s proposition to foreign productions.

The Malta Film Commission takes pride in offering professional crews with vast experience on multiple productions. With many of our crews boasting credits on some of the biggest

productions of recent years, we are proud of our crews and the experience they bring to each project.

The “Opportunity for All” programme, is the Malta Film Commission’s initiative to ensure the continuous professional development of established crews as well as the induction of new crew members into the industry.

On a wider scale, the programme seeks to identify skill gaps in the local workforce addressing these with targeted training or scholarships. On a macro level, the programme seeks to follow the career paths of each and every crew member identifying their training needs and providing opportunities for career development. The programme’s mentorship scheme allows new crews to be inducted into trainee positions under the guidance of trained professionals.

Careful vetting of both freelancers and companies ensures that the Malta Film Commission can confidently provide enquiring productions with a wide range of crews, and service companies of the highest standards possible.

Request access to the directory by contacting us at ofa@mfc.com.mt

Crews and companies wishing to register can do so at <https://opportunityforall.mt/register>

2. MALTA CASH REBATE

The Malta Film Commission cash rebate is a production incentive in the form of a reimbursement available to both domestic and international qualifying companies with qualifying productions for eligible costs incurred in Malta. The maximum cash rebate percentage is forty percent (40%). The cash rebate is guaranteed by the Maltese Government and can serve as collateral for producers to obtain funds through their banking system.

3. SUNSET DATE

This incentive shall be available from the date of these guidelines until the 31st December 2023.

4. LEGAL BASIS

This scheme is in accordance with the Malta Film Commission Act and regulated by the Financial Incentives for the Audiovisual Industry Regulations (S.L. 478.03 as amended by **LN17 of 2023**).

5. APPLICABLE STATE AID RULES

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 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, by Commission Regulation (EU) 2020/972 of 2 July 2020 amending Regulation (EU) No 1407/2013 as regards its prolongation and amending Regulation (EU) No 651/2014 as regards its prolongation and relevant adjustments, and by Commission Regulation (EU) 2021/1237 of 23 July 2021 amending Regulation (EU) No 651/2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty, and as may be subsequently amended (hereinafter referred to as the General Block Exemption Regulation (GBER)¹ and more specifically with Article 54, relating to aid schemes for audio-visual 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.

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.

These guidelines outline the eligibility criteria, the application process, how this scheme works, and the applicable terms and conditions.

¹ 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, by Commission Regulation (EU) 2020/972 of 2 July 2020 amending Regulation (EU) No 1407/2013 as regards its prolongation and amending Regulation (EU) No 651/2014 as regards its prolongation and relevant adjustments, and by Commission Regulation (EU) 2021/1237 of 23 July 2021 amending Regulation (EU) No 651/2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty, and as may be subsequently amended.

SECTION 2: ELIGIBILITY CRITERIA

To apply for the cash rebate for a qualifying production, you must meet the following eligibility criteria, as outlined below and in accordance with these guidelines herein:

1. Applicant must be a qualifying company.
2. The qualifying production is in one of the formats as outlined in these guidelines.
3. The minimum spend must be €100,000 in Malta with an overall budget exceeding €200,000.^{2 3 4 5}
4. Applicant must pass the cultural test.⁶
5. Foreign qualifying companies are to engage an 'Opportunity for All' (OFA) registered Production Service Company to act as Production Coordinator (in case of live action); and/or engage the services of an OFA registered VFX/Animation/Post-Production Company.⁷

2.1. WHAT IS A QUALIFYING COMPANY

The qualifying company shall be the ultimate beneficiary and 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 Film Commissioner upon the latter's request.

Where the qualifying production is a co-production, the coproducers shall appoint one of the co-producers amongst them to act as the qualifying company in respect of the qualifying production for the purposes of this scheme and the appointed co-producer shall be deemed to be the entity responsible for all activities involved in making the qualifying production⁸.
Provided that:

² If live action is also carried out together with VFX and/or post-production the minimum expenditure requirement applies to the combined total Malta Spend (and not solely to the independent elements).

³ Applications for TV series may be made per episode or as a series.

⁴ If a qualifying company has a slate of projects which are carried out 'back-to-back' or 'simultaneously' the applicant can choose to apply per production or combine in one application if the minimum spend is not met. Please liaise with the Malta Film Commission in advance to understand how this will be implemented and how application needs to be processed.

⁵ In line with the *General Block Exemption Regulation*, territorial spending obligations mean the obligations imposed by the authority granting the aid on beneficiaries to spend a minimum amount and/or conduct a minimum level of production activity in a particular territory.

⁶ For an 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.

⁷ A production service agreement (with a local company offering services as production coordinator or in respect of VFX/Animation/Post-Production works carried out in Malta) must be in place outlining the responsibilities of the parties involved. The local company/studio/facility may assist, guide, and submit application on behalf of the qualifying company; however, application must be in the name of and signed by the applicant who is the ultimate beneficiary of the cash rebate.

⁸ In the case of a co-production with a local qualifying company, it is recommended that the application for the cash rebate is made by the Malta co-producer (the producers participating in the co-production must reach an agreement on this point); if the local co-producer is a minority partner, the majority partner must be included in all official correspondence relating to the filing of the application and final submission (and any other pertinent matters relating to the submission for the cash rebate). Appointed co-producer who is recognized as applicant is considered as being the recipient of the cash rebate in respect of the qualifying production and is responsible for apportioning any funds to any coproducing partners in accordance with any agreements. For sake of full transparency, it is recommended that all co-producing partners should be included in all official correspondence with the Malta Film Commission relating to application, updates, obligations, and final submission. The local co-producer should in no way be treated or considered as a 'service provider' and in no way treated less than co-producing partners. It is expected that each co-producer makes an effective technical and creative contribution following the principle of proportions in line with each partner's respective financial contributions (*mutatis mutandis*) whether co-production is an official co-production following a bi-lateral or multilateral treaty agreement or as an unofficial co-production.

- (a) there shall be only one qualifying company with respect to a given qualifying production.
- (b) in the case of a co-production, the financial incentive granted shall be apportioned between the co-producers as agreed between them, or in the absence of any agreement to that effect, in proportion to their share in the overall budget of the qualifying production⁹; and
- (c) any co-producers shall be jointly and severally liable for their obligations under the Act and these regulations.

A qualifying company is either:

- i) **Foreign Qualifying Company**, it shall 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, or a
- ii) **Local Qualifying Company**, it shall be either a special purpose vehicle or a company that is duly registered in Malta¹⁰ as an audiovisual production company and intends to produce a qualifying production as its main purpose and activity.

2.2. WHAT IS A QUALIFYING PRODUCTION?

An audiovisual production shall be deemed to be a "qualifying production" as mentioned in article 25 of the Malta Film Commission Act and if it satisfies the following conditions:

- (a) the audiovisual work concerned is partially or wholly carried out in Malta (including works related to animation and visual effects activities together with post-production); and
- (b) processed to commercial release standards, for local and, or international distribution for theatrical release, TV Broadcast and video on demand and subscription video on demand platforms¹¹; and
- (c) makes a valid contribution to the expression of creativity and culture through the development of production capability skills in the audiovisual sector¹²; and
- (d) The audiovisual work concerned is categorised as:

(i) "feature film" means a film which includes those shot direct-to-video, where the film is a film commonly screened as the main attraction in commercial cinemas; and is of a duration of not less than sixty (60) minutes, or in the case of a large format (IMAX) film of not less than forty-five (45) minutes;

(ii) television, video on demand or subscription video on demand production (including film, series or mini-series including pilots):

⁹ The appointed co-producer shall be responsible to ensure that any rebate awarded is in line with any agreement and is responsible for apportioning any funds to any coproducing partners in accordance with such agreements.

¹⁰ MFC 'Opportunity for All' Registry and Malta Business Registry.

¹¹ Excludes YouTube, Facebook, Instagram, TikTok and any similar platforms (if in doubt contact the Malta Film Commission).

¹² This shall be verified against a predetermined list of cultural criteria established by the film commissioner - Cultural Test.

(1) **“television, video on demand or subscription video on demand film”** means a drama (meaning a composition which tells a story through the development of theme and plot, by means of dialogue and action and the portrayal of characters, settings, and life situations) of a like nature to a feature film capable of being exhibited on television where the television movie is not less than one (1) commercial television hour in length, or in the case of a programme predominantly utilising cell, stop motion and, or computer animation not less than one half (1/2) commercial television hour; and is shot and processed to commercial release standards, for cinema exhibition or domestic and international television broadcast; or

(2) **“television, video on demand or subscription video on demand series” or “television, video on demand or subscription video on demand mini-series”** means an episodic television drama, including animation, which is either an extended but self-contained drama made for television wherein the key dramatic elements of character, theme and plot are introduced, developed and concluded so as to form a narrative structure (similar to that of a novel) which features a major continuous plot enhanced by minor plots and there is the expectation of an ending that resolves the major plot tensions and is arranged into consecutive episodes for screening purposes; or an anthology of drama works for television where the key dramatic elements of character, theme and plot are introduced, developed and concluded so as to form a narrative structure within each episode (similar to that of a novel or a short story) and is made to be broadcast under one generic title; and is shot and processed to commercial release standards, for domestic and international television broadcast;

(a) (iii) **“creative documentary”** means 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 the theme is linked has passed and contains significant original filming and is not limited to the reporting of information;

(iv) **“reality programmes (scripted or unscripted)”** means programmes which may be live or recorded and directly or indirectly promote the Maltese Islands and its culture;

(v) **“game or competition shows”** means shows which may be live or recorded and directly or indirectly promotes the Maltese Islands and its culture;

(vi) **“short film”** means an original motion picture that has a running time of forty (40) minutes or less, including all credits.

SECTION 3: APPLICATION PROCESS

3.1. WHAT IS THE APPLICATION PROCESS?

For a Qualifying Company to benefit from this scheme, an application must be presented to the Film Commissioner for provisional approval, together with all the mandatory documents as stipulated further below at least thirty **(30) working days**¹³ before planned commencement of the production's principal photography or commencement of Animation/VFX activities together with Post-Production in Malta. No application will be processed until all the required mandatory documentation is submitted¹⁴.

Applications received less than thirty (30) working days before planned commencement in Malta will only be considered if found to be justifiable and will be made solely at the discretion of the Film Commissioner.¹⁵

Upon assessment based on these guidelines and the mandatory documents submitted, the Film Commissioner would grant a provisional certificate by no later than thirty (30) working days after receipt of the application.¹⁶

Applications submitted after the commencement of principal photography or Animated/VFX activities together with post-Production work in Malta **will not be considered**.

The Malta Film Commission reserves the right to ask for copies of any related contracts, letters of interest/commitments from interested parties, if necessary, and other documentation to support the application evaluation. Such request may be made at any time during the production phase including during prep and construction, even if these activities have already commenced prior to the filing of an official application and the intentions of the production to submit is known.

3.2. REQUIRED MANDATORY DOCUMENTATION

The following mandatory documents (and any additional requested documents) are to be submitted to the Malta Film Commission when applying for the cash rebate¹⁷:

¹³ Due to detailed vetting of mandatory documents required to enable a full assessment of the project (particularly the budget and crew list), it is highly recommended that you initiate the process to file your application as soon as budget is locked (this should not be more than 3 months prior to principal photography in Malta). Please liaise with the MFC for any advice relating to official submission so we can give all the necessary guidance.

¹⁴ The 30 working days timeframe for submission will commence once all mandatory documents are in hand.

¹⁵ Please provide official request in writing to the Film Commissioner.

¹⁶ See section 3.3 – Assessment for more details.

¹⁷ Applications together with supporting documentation filed by email must ensure that the applicant (and any co-producing partners) and local service provider (if applicable) are included in all relevant correspondence.

1. Signed and completed Application Form.^{18 19 20}
2. Signed and completed Cultural Test.
3. Signed and completed State Aid Declaration Form.
4. Signed and completed Distribution Declaration Form.²¹
5. Signed and completed Financial Form.
6. Synopsis of the Project, Script/s, Treatment outline; subject to type of qualifying production;
7. Full Production Schedule including Schedules for Filming, Animation/VFX activities and the related Post-Production in Malta (in accordance with industry practice);
8. Top sheet of the overall production Budget (in EURO) excluding VAT together with the detailed itemized budget (Full Budget).
9. Top sheet of the Malta Budget together with detailed, itemized estimate of expenditure in Malta (in EURO) excluding VAT (supported with Malta Budget Breakdown Form);^{22 23 24}
10. At the discretion of the Film Commissioner, Finance Plan for the whole production including evidence of Economic Resources (proof of funds for the Malta Budget).²⁵
11. List of Trainees;²⁶
12. List of Cast / Front of Camera performers (including nationalities);²⁷
13. List of Crew/Artists/Animators/VFX/postproduction positions (including nationalities);²⁸
14. List of Locations (tentative at application stage and final prior to principal

¹⁸ In the case an application is being filed for live action together with VFX/Animation activities together with post-Production and more than one service production service company is involved, one application will be made, however the MFC will need to liaise with the respective company/studio/facility involved to assess the work being carried out in Malta and for which a cash rebate is being requested.

¹⁹ Applications for TV series may be made per episode or as a series.

²⁰ If a qualifying company has a slate of qualifying productions which are carried out 'back-to-back' or 'simultaneously' the applicant can choose to apply per production or combine in one application if the minimum spend is not met (schedules must reflect this in addition a separate Cultural Test is required for each qualifying production together with detailed budget breakdown).

²¹ Copies of any related contracts, letters of interest/commitments from interested parties, where appropriate may be requested at the discretion of the Film Commissioner to reinforce the assessment of the application.

²² Clearly distinguishing in the Malta Spend those line items which are actual Malta Elements and those that are non-Malta Elements (if need be present separately and combined if possible). For Animation/VFX budgets the detailed workings and itemized breakdown of shot costs and all other costs. The Post-production budget outlining the detailed workings and itemized breakdown of all costs are to be presented separately.

²³ Must be FULL budget for Malta including expenditure considered as 'ineligible' or in excess of any capping's.

²⁴ Budget must include all relevant info on which the budget was calculated including number of days, daily or weekly rate, quantity/ies, currency, and amount. For cast/front of camera performers and crew clearly indicate position, name, nationality, budget calculations for pre prep, prep, shoot and wrap where appropriate (cast and crew on budget must match those on cast and crew list provided). Costs must be pro-rated when the production is partially shot in Malta and clearly show workings. Costs paid in a lump sum for individuals must be also pro-rated for the time and costs allocable to the time in Malta only. Lump sums for 'ATL' if not clear and involving more than one role, to be discussed with the MFC to ensure the workings are deemed fair and reasonable. Lump sums in the main budget for any services, rentals or for different departments must be supported by separate detailed cost workings. The Film Commission may request detailed workings, quotes, copy of contract including breakdown of items being rented and/or services acquired at any point in time when carrying out its assessments.

²⁵ This may include and is not limited to covering with, a Bond Guarantee, a Bank Guarantee from local or foreign bank, letters of interest/commitments from interested parties (including any letters from funders/investors/producers and the Bank where such funds are deposited to ensure that funds are available especially for the Malta Budget). Further information may be requested at the discretion of the Film Commissioner to reinforce the assessment of the application.

²⁶ The Malta Film Commission will provide a list of trainees through its "Opportunity for All" Programme. Please liaise accordingly.

²⁷ In case of Animation relates to those 'cast members' who will be doing voice-overs and carried out in Malta.

²⁸ All names of individuals working on the qualifying production whether Live Action/Animation/VFX including Post-Production in Malta as per MFC template. once finalized and prior to principal photography this needs to be resent.

- photography if finalized);
15. Official letter requesting and justifying how it will be maximising Maltese Cultural Elements together with Local Crew Base Form (tentative at application stage and close to final prior to release of provisional certificate);²⁹
 16. In respect of co-productions, copy of either co-production deal-memo or contract; together with official co-production status certificate from relevant authorities responsible for recognising official co-production status; and Co-Production Declaration Form³⁰.
 17. For local productions requesting 'Difficult Audiovisual Work' (DAW) status, relevant assessment form;³¹
 18. For productions awarded 'Difficult Audiovisual Work' (DAW) status in other countries (whether a co-production or otherwise) a certificate confirming status from the entity/ies responsible for awarding status;³²
 19. 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);³³
 20. Tax compliance certificate, VAT compliance certificate, FSS and SSC compliance certificate, for the following:
 - o Local registered Production Service Companies (Production Coordinator).
 - o Local Qualifying Company.
 - o Local Company/Studio/Facility providing Animation/VFX activities including post-Production services in Malta.
 21. See section 3.10.

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

²⁹ See Annex 1.

³⁰ MFC Template available.

³¹ See Annex 2.

³² In determining the level of rebate, the Film 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.

³³ Contract must clearly indicate responsibilities, duration, fee, and any additional services being given. In case of VFX/Animation activities including post-Production, this would refer to the Company/Studios/Facility responsible for works being carried out in Malta.

3.3. ASSESSMENT

Upon assessment based on these guidelines and performance in the Cultural Test, the Film Commissioner would grant a provisional certificate no later than thirty (30) working days after receipt of the application, subject to:

1. Application is filled in full, and all mandatory documentation have been submitted with the application; and
2. A pass mark or higher is achieved during the evaluation phase of the cultural test; and
3. 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 assessments including copies of any quotations and contracts in place. He may also request full access to detailed itemized budgets of any line item. The Film Commissioner reserves the right to ask its independent auditors to intervene and carry out any verifications on its behalf. The Film Commissioner also reserves the right to impose a capping or make a line-item ineligible if he is not satisfied. Prior to the issue of the provisional certificate the Film Commissioner will inform the Qualifying Company with the final position.
4. In case the Film Commissioner requests additional information in respect of an application, processing of the application and release of the provisional certificate will not be progressed until the relevant information has been received.
5. Should it be apparent that the cash rebate (provisional and then final) is found to be equal or greater than actual local spend in Malta towards 'Maltese Cultural Elements' (the Malta Element in the Budget); the Film Commissioner has the right to impose an overall capping of the cash rebate awarded which must never be equal to or exceed the actual local spend.
6. Following the release of the provisional certificate if the Film Commissioner is made aware of any matter, or any possible abuse, at any point in time, the Film Commissioner may request or undertake to carry out any necessary investigation or monitoring exercise required.
7. If any abuse and/or fraudulent practices have been found to have been committed, the Film Commissioner may invalidate and withdraw relevant provisional certificate and can take further legal actions.

The certificate may contain certain specific additional conditions particular to a qualifying production.

3.4. REBATE PERCENTAGES

3.4.1. The financial incentive in the form of a cash rebate shall not exceed a maximum rebate of **forty percent (40%)** of the eligible expenditure of a qualifying production, which shall be exempt for the purpose of the Income Tax Act, as outlined below:

A. Qualifying Productions involving Live Action (including any VFX/post-Production works)

Criteria	%
On all eligible expenditure.	30%
The Film 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. ³⁴	5%
Maximum Rebate:	40%

B. Animation/VFX activities including post-Production works (no Live Action)

Criteria	%
On all eligible expenditure.	25%
The Film 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%

3.4.2. A qualifying production considered as a **'Difficult Audiovisual Work'** may qualify for a maximum rebate of **fifty percent (50%)** of the eligible expenditure, which shall be exempt for the purpose of the Income Tax Act.³⁵

These maximum aid intensities shall also apply for co-productions.

³⁴ In terms of maximization of local resources, one of the elements the Malta Film Commission will take into consideration is information provided as in Annex 1. If the Annex 1 is based on estimates and provisional certificate is released, please note that this will be re-assessed again on final submission to ensure that the thresholds and criteria have been met. Following MFC's final assessment and the final audit the final eligible spend will be in accordance with the Final Certificate.

³⁵ See Annex 2

3.5. LEVEL OF AID INTENSITY

The aid intensity shall be calculated on the basis of the eligible expenditure in Malta and the maximum expenditure subject to territorial spending obligations³⁶ shall not exceed eighty percent (80%) of the overall production budget.

3.5.1. In determining the level of rebate, the Film 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.³⁷ The measure respects the rules on cumulation of aid as defined in Article 8 of the GBER.

3.5.2. 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 financing granted does not exceed the most favourable financing rate laid down in the applicable rules of Union law.

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

3.5.4. 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.

3.5.5 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) including that given to any co-producers for the **aided activity** at initial application stage, final submission stage and on release of the Final Certificate.³⁸

3.5.6. Financial aid received under this scheme may be monitored and checked by the European Commission as set out under Article 12 of the General Block Exemption Regulation.

³⁶ Territorial spending obligations mean the obligations imposed by the authority granting the aid on beneficiaries to spend a minimum amount and/or conduct a minimum level of production activity in a particular territory.

³⁷ The aid intensity for the production of audiovisual works shall not exceed 50% of the eligible costs. The aid intensity may be increased as follows (a) to 60% of the eligible costs for cross-border productions funded by more than one Member State and involving producers from more than one Member State; (b) to 100% of the eligible costs for difficult audiovisual works. EU funds (EURIMAGES or MEDIA) are not included in these maximum percentages.

³⁸ The MFC may be required to contact any government entity (local/foreign) that offers any form of state aid towards the aided activity (as outlined in these guidelines) and as declared by the applicant (and that of any of its subsidiary companies/co-producers) to share information provided to verify its accuracy. The onus is on the applicant to declare honestly; to not do so may be considered as a material fact and should it come to light that the applicant has exceeded any state aid thresholds will be held responsible and appropriate action taken. If in doubt it is recommended that applicant/s liaise with the relevant entity/entities providing state aid to ensure that thresholds are not exceeded.

3.6. INTERIM CLAIMS

3.6.1. ADVANCE GRANT³⁹

Once works have commenced in Malta (in the case of live action, principal photography in Malta), the qualifying company can benefit from an advance grant equivalent to ten percent (10%) of the cash rebate⁴⁰; subject to a presentation of a top sheet of accumulated expenses to-date together with a detailed itemised cost report which can be verified with contracts and payment transactions subject to a full audit⁴¹. On receipt of the audit report the advance grant will be forwarded to the qualifying company no later than four **(4) weeks** from the date of receipt as outlined herein. This is subject to:

1. the 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 checks or information they require has been answered within a sufficient timeframe.

All other terms and conditions regarding final submission as outlined in these guidelines remain the same.

3.6.2. INTERIM CLAIMS

Qualifying productions that have a lengthy duration in Malta may benefit from a number of interim claims once works have commenced in Malta (in the case of live action, principal photography in Malta). 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 in accordance with the approved number of claims and subject to full audit.⁴²

All other terms and conditions regarding final submission as outlined in these guidelines remain the same.

3.7. CHANGES TO THE PROJECT

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 Film Commissioner in respect of the following:

- significant changes to the project (in terms of key personnel)
- significant changes to the schedules
- significant budget changes

³⁹ Number of advance grants to be planned with the Film Commissioner and if found to be justifiable will be solely given at the discretion of the Film Commissioner.

⁴⁰ Excluding the 10% contingency.

⁴¹ Initial audit assessments will be to verify that local spend in Malta is being processed and paid. See final submission requirements.

⁴² Will be subject to full audit/administrative fee for each interim audit claim.

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 Film Commissioner. Failure to have obtained such agreement will be regarded as a material breach of the conditions of the certificate.

Any change from initial submission that may affect the Film Commissioner's decision to award the full rebate percentage in terms of the 'Maltese Cultural Elements' on vetting during the final submission, the Film Commissioner reserves the right to reassess the rebate percentage to ensure that the 'Maltese Cultural Elements' have been fulfilled; subject to this assessment the Film Commissioner will then confirm whether the bonus rebate percentage will be revoked or otherwise.

3.8. 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 ten percent (10%) of the original estimations prior to completion and final submission, the Film Commissioner needs to be informed in writing immediately of such changes.

If it becomes apparent that the threshold has been exceeded, the Film Commissioner reserves the right to award the final incentive on not more than ten percent (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 Film Commissioner.

3.9. 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 including post-Production works are being carried out without any necessary prior notification to verify that works are being carried out in accordance with the schedules and information provided.

3.10. GREEN CHAMPIONS

As everyone is aware, protecting the environment and reducing one's carbon emissions are key environment priorities for all of us including the Film Industry. It is recommended that the production implements its own policies that mitigate and considers alternative solutions that contributes towards:

1. Protecting the environment.
2. Reducing its carbon footprint.
3. Reducing its waste generation.
4. Endeavours to introduce recycling measures and methods (e.g., indicating and providing for where designated trash goes, where recycling or other non-trash can be placed: Reduce, Reuse, Recycle).

Calculating the carbon footprint of your production is an important step in understanding the impact of your production and help you to understand and measure your carbon impact.

We all have a role to play in championing sustainable measures. Additionally, we also have a responsibility to change the way we do things, and this includes our behaviour. Alternative solutions and innovation require a shift in mentality and better awareness to break free from our habits and existing practices.

If the production has implemented any one of the following environmental management and sustainability measures and actions, please do provide (prior to commencement and on completion in Malta):

1. Name of Environmental and/or Sustainability Manager (and Team).
2. Carbon Footprint calculator results (preproduction assessment and final on completion).
3. Carbon Action Plan and Environmental Sustainability Measures and Actions (preproduction assessment and Final Report).
4. Transport Optimisation Plan (preproduction assessment and Final Report).
5. Copy of any Green Certificate label (provisional and final).

SECTION 4: TERMS AND CONDITIONS

4.1. 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.

4.2. RECRUITMENT

The qualifying company (or their acting agent in terms of the local service provider) is to ensure that the recruitment of personnel in Malta and Gozo, including recruitment of extra talent, trainees, and the engagement of services in Malta and Gozo, is conducted fairly and without discrimination of any form.

As everyone is aware, there is also a marked growing awareness in the film industry towards the importance of gender equality, inclusion, and equal opportunity at all levels (whether creative or financial). Accordingly, it is recommended that the production implements its own policies and good practices whereby no one should be discriminated based on their gender, disability, sexual orientation, social class, ethnic origin etc.

It is also understood that the mental health and well-being of cast and crew members also requires good practices bearing in mind the intense periods with long hours away from family and friends which can in turn have an impact on those working for the production; thereby the production has a duty of care to ensure that it also has policies and good practices in place in terms of awareness and prevention to cover bullying, harassment, violence and mental health as a result of working on and or off set.

The qualifying company and its representative are encouraged to recruit crew members and trainees in Malta from the Malta Film Commission's "Opportunity for All" Programme.

4.3. TRAINEES

The "Opportunity for All" programme, is the Malta Film Commission's initiative to ensure the continuous professional development of established crews as well as the induction of new crew members into the industry. Through this programme and following discussions with the qualifying company, the Malta Film Commission will ensure that a number of trainees positions are taken up. This will be discussed on a case-by-case basis to identify needs and available opportunities. A minimum requirement of five (5) trainees from the "Opportunity for All" Programme will be expected.⁴³ Trainees are expected to be provided with a remuneration not less than the national minimum wage.

Proviso: For Animation/VFX activities including post-Production works, these obligations will be discussed according to the project requirements.

⁴³ May increase depending on the size of production, duration, and availability of trainees.

4.4. TAXATION⁴⁴

Prior to final submission, the qualifying company is to ensure that any taxation obligations in accordance with any Laws of Malta, Double Taxation Agreements, Exemption Orders, or others are met.

Non-resident 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 **ten percent (10%)**.

Non-resident film crew (including Producers and Director/s) working in Malta may be subject to personal income tax, reference to relevant Double Taxation Agreement with Malta should be referred too (under articles relating to Independent personal services or dependent personal services). If subject to any Income Tax, as outlined in the relevant exemption to the Income Tax Act, a favourable tax rate is set at **fifteen percent (15%)** on their remuneration allocable to activities in Malta.

If no Double Taxation Agreement between countries exist, it is recommended that further advice is sought from the Office of the Commissioner for Revenue as persons in concern will be liable to pay tax for their remuneration allocable to activities in Malta.⁴⁵

Any non-resident film crew (including Producers and Director/s) who are put on a local payroll for less than 183 days will be exempt from having social contributions deducted in Malta and the employer does not need to contribute towards the employers share if in receipt of the relevant A1 certificate (EU/EEA/UK crew) or proof that their social contributions are paid where they are domiciled.⁴⁶

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.

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 **ten percent (10%)** would apply instead of the normal tax rates.

For further information and/or queries, kindly contact the Commissioner for Revenues' Office.

⁴⁴ Further information can be obtained from the Office of the Commissioner for Revenue.

⁴⁵ Further information can be obtained from the Office of the Commissioner for Revenue.

⁴⁶ Further information can be obtained from the Department of Social Security – International Affairs.

4.5. EMPLOYMENT LICENCES IN MALTA⁴⁷

Productions with non-EU/EEA Cast /Front of camera performers and Crew posted to work in Malta need to be in possession of a valid Employment Licence, irrelevant of duration in Malta. An application for an Employment Licence is to be made at least **eight (8) weeks before** the commencement of the production.

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/front of camera performers and Crew whilst in Malta.

Work permits and or visas for non-EU/EEA Cast /Front of camera performers and Crew posted to work in Malta must be in place in accordance with the Laws of Malta.⁴⁸

4.6. 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 sheets⁴⁹ 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.⁵⁰

The cash rebate is conditional that the Production agrees to film (with its own means or by means of MFC) a one (1) minute testimonial interview of director/s, producer/s, two (2) main cast members and supporting cast members showcasing their experience in Malta. These testimonials will be used for publicity, both locally and internationally to promote the Maltese film industry. Cash rebate will not be released until this has been met.

The cash rebate is conditional that the Production agrees to allow the Malta Film Commission the right to have a photographer and/ or a videographer on set (where works are taking place) to document behind the scenes which will then be used for publicity after

⁴⁷ Further information can be obtained from Jobsplus – Employment Licences Unit.

⁴⁸ Further information can be obtained from ID Malta.

⁴⁹ Any rehearsal days, separate underwater unit, drone unit or 2nd unit shooting separately to the main call sheet also needs to submit its own call sheet and sent to the MFC.

⁵⁰ For VFX/Animation/activities together with post-Production daily schedules/DOODs/reports expected.

release of the production. These will be used locally and internationally to promote the Maltese film industry.

The cash rebate is conditional that during the production, the Malta Film Commission has the right to organise an official set visit/visit with the Minister and/or senior Government Officials and organize a photo opportunity which may then be used for used locally and internationally to promote the Maltese film industry, as and when required. Access to press will be discussed on a case-by-case basis.

Proviso: For Animation/VFX activities including post-Production works these obligations will be discussed according to the project requirements.

- **Wrapping Filming in Malta:**

Following completion of the qualifying production in Malta, the qualifying company must 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 activities including post-Production works these obligations will be discussed according to the project requirements.

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

The qualifying company must include in 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 must 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 must provide the Malta Film Commission with a 4K digital copy of the film or sequences shot in Malta.

The qualifying company must provide the Malta Film Commission with an updated final State Aid Declaration declaring any state aid received in respect of the qualifying production (aided activity).

Proviso: For Animation/VFX activities including post-Production works these obligations will be discussed according to the project requirements.

The Film Commissioner reserves the right to prohibit the payment of ten percent (10%) of the cash rebate if the qualifying company does not abide and fails to fulfil any of the obligations as outlined above.

4.7. MONITORING OBLIGATIONS

In accordance with Article 6 (3) of the Malta Film Commission Act (CAP 478 of the Laws of Malta), the Film 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;

4.8. STATE AID TRANSPARENCY

In line with Article 9 of the General Block Exemption Regulation, every individual aid award exceeding €500,000⁵¹ shall be published in the national and European state aid websites. The following details shall be made public:

- Name of the beneficiary (and/or beneficiaries in the case of co-productions),
- Company registration number and 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 (aided activity)

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

Aid awarded as outlined above, and below €100,000, may also be published in writing and on

⁵¹ https://competition-policy.ec.europa.eu/system/files/2023-03/GBER_amendment_2023_EC_communication_annex_0.pdf

the internet by the Malta Film Commission.

4.9. RETENTION OF DOCUMENTS

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

4.10. 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 Film Commissioner may withdraw its provisional or final approval for the cash rebate 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 cash rebate and the Film Commissioner establishes that the conditions and requirements have not been complied with, it shall refund to the Malta Film Commission the amount of the cash rebate received upon the Film Commissioner's request.

4.11. RIGHT OF INSPECTION – CLAW BACK OF FUNDS

The Malta Film Commission has the right to re-audit and investigate any beneficiary within a ten (10) year period from date of the Final Certificate. Should it come to light that certain inconsistencies were not highlighted by the original Audit, and it results that more state aid was awarded than should have been the case, the Malta Film Commission may claw back any additional cash rebate inadvertently given. In the extreme case if it is found that the beneficiary has intentionally violated the principles of this scheme for fraudulent gain, then any cash rebate awarded is to be returned in full with appropriate recovery interest.

The right of further inspection and the right to Audit the finances and operation of the beneficiary also applies to the National Audit Office of the Government of Malta, the Law Courts of Malta, the Malta Police Force under the Financial Crimes Investigations Department (FCID), the European Commission and the European Court of Auditors as and when the need arises.

4.12. OPPORTUNITY FOR ALL: SKILLS DEVELOPMENT FUND

The Malta Film Commission (MFC) in the past number of years has been proactively driving towards populating the "Opportunity for All Programme" to provide a strong pool of specialised professionals and crews in Malta. Human resources are a critical resource; it is important that the needs of the sector and the current capabilities of Malta's labour force are aligned, while we improve and strengthen opportunities for job creation.

The MFC created a "Skills Development Fund" that allows the current workforce, and new entrants, to access training funds and programmes to enhance their skills and upscale and in doing so contribute further to the growth of the industry (whether by attending local courses, through subsidised training abroad, or mobility exchanges). Support provided will help to meet

the training needs of this sector both locally and globally.⁵²

With effect from 1st January 2023⁵³, the Malta Film Commission has introduced a mandatory financial contribution from all industry players, the relevant beneficiary applying for the Financial Incentives for the Audiovisual Industry scheme (Cash Rebate). This contribution is a 0.5% of the final eligible Malta Spend which is to be paid to the “Opportunity for All: Skills Development Fund”.

4.12. RESERVED RIGHTS

The Film Commission reserves the right to change or amend any part of these Guidelines at any time.

⁵² Refer to Opportunity for All: Skills Development Fund Guidelines for more details.

⁵³ Applies to new applications and Productions (including VFX/Animation) for which works will take place in Malta in 2023 and onwards.

SECTION 5: ELIGIBILITY OF COSTS

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 the cash rebate (applicant)⁵⁴ and/or the production service company⁵⁵ (with a valid production service agreement contract with the foreign qualifying company to legally represent them in Malta and clearly referencing the qualifying production)⁵⁶.

5.1. ELIGIBLE EXPENDITURE

The following expenditure that is incurred in Malta is considered ELIGIBLE net of Value Added Tax⁵⁷:

Sec	Category	Description
5.1.1.	Accommodation ⁵⁸	Expenditure on hotel accommodation and rental of licensed real estate for foreign cast/front of camera performers and crew (includes AirBnB, as long as VAT and MTA registered). ^{59 60}
5.1.2.	Air travel ⁶¹	Relevant flight expenditure for air freight and air travel between Malta and any airport within the EU/EEA/UK, as well as expenses (including all airport taxes, such as departure tax, passenger service charges, security charges and similar expenses) incurred at Malta International

⁵⁴ This can be extended in the case of the of a subsidiary company's involvement (with same shareholders and as declared in relevant application) as long as this is advised at application submission and approved by the Film Commissioner).

⁵⁵ This can be extended in the case of any third party with a valid production service agreement which clearly outlines the involvement and responsibilities with the qualifying company and is related to the qualifying production and refers to eligible expenditure effectively taking place in Malta (any such relationship needs to be advised to the Malta Film Commission at application stage and approval given).

⁵⁶ In the case of co-productions, all co-production companies as listed in the application form, on the provisional certificate and in accordance with the co-production deal memo.

⁵⁷ The spend incurred in Malta must be related to works carried out in Malta on the qualifying production.

⁵⁸ Hotel rooming list which clearly identifies the names of the residents staying there as well as the check in and check out dates needs to be provided. In the case of rental agreements, agreement must include name of lessee, duration, name of qualifying production and names of residents residing in the licensed rented property. In the case where names of residents are not included a declaration from the lessee must be presented. Further clarifications may be made by MFC or its Auditors in this respect.

⁵⁹ This is extended to family members/partner/spouse of ATL if the costs are covered and paid by the Qualifying Company. This is considered as ATL expenditure.

⁶⁰ This is extended to local cast and crews if they are required to stay in Gozo for a shoot in Gozo and for local cast and crews from Gozo if they are required to stay in Malta for a shoot in Malta.

⁶¹ Must be supported by boarding passes and detailed flight list must be provided clearly identifying names, flight details and dates (which must be in line with the cast/crew list engaged for the Qualifying Production). If it is noted that any individual has more than one flight in and out of Malta during principal photography in Malta (and in case of dates not tied to official recce dates), the MFC and its auditors reserves the right to ask for clarifications and justifications. If these are not forth coming the MFC reserves the right to impose a capping on the number of flights carried out per individual.

		Airport in respect of such air travel. Costs relating to extra baggage charges are also eligible. ^{62 63}
5.1.3.	Initial Recce / Technical Recce Costs (outside the Prep period)	<ul style="list-style-type: none"> • Accommodation (in accordance with 5.1.1) • Air travel (in accordance with 5.1.2) • Local Transport costs (Marine or Ground Transport) • Labour Costs and Per Diem Costs (in accordance with 5.1.4/5.1.5/5.1.7)
5.1.4.	Above the Line – Labour Costs ⁶⁴ (Director/s, Producer/s (excluding Line Producer), Cast and Stunts including all front of camera performers (excluding extras)	<p>Expenditure on employees irrespective of the nationality of the persons carrying out the activity, 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 and are employed/posted in Malta. Calculated on the gross salary in accordance with total number of working days within the eligible period (from first day landing in Malta to last day departing from Malta), pursuant to their employment/engagement contract for the whole production (excludes travel days)⁶⁵.</p> <p>Eligible ATL expenditures shall be capped as per one of the below options*:</p> <ul style="list-style-type: none"> - €1 million; or - 30% of total Malta eligible spend subject that this does not exceed the actual ATL costs incurred. <p>Total entitled cash rebate amount on ATL spend in Malta will not exceed the €5 million mark.</p> <p><i>*The Film Commissioner has the right to consider further provisions to ensure that the 'Maltese Cultural Elements' have been fulfilled and that the ATL rebate does not outweigh excessively and unproportionally to the actual spend in Malta (Malta Element)⁶⁶;</i></p>

⁶² This is extended to family members/partner/spouse of ATL if the costs are covered and paid by the Qualifying Company. This is considered as ATL expenditure.

⁶³ Booking fees will only be eligible if bookings are carried out directly through the airline company or the official representative of the airline company in Malta.

⁶⁴ All individuals must have a clear contract in place (in English) indicating the duration of engagement and period in Malta, relevant fee, any fringe benefits (as defined herein), allowances, per diems, box rentals etc. Costs paid in a lump sum for activities must be also pro-rated for the time and costs allocable to the time in Malta only. Lump sums for 'ATL' if not clear and involving more than one role, to be discussed with the MFC to ensure the workings are deemed fair and reasonable. Official copies of the contracts will be required to be able to confirm that a reasonable allocation has been made and that it was calculated correctly.

⁶⁵ In the case where a work permit or visa is required, the eligible cost will be effective from the period covered by relevant work permit, in accordance with the Laws of Malta.

⁶⁶ See 3.3. Assessment criteria

		<p>In the case where it is noted that an individual has more than one role in the production and the production is claiming 'labour costs' both in respect of an 'Above the line' or 'Below the Line' position, the MFC reserves the right to impose a capping based on one position at the highest amount. Should both roles be allowed the MFC reserves the right to ask for further information how the roles and workload will overlap and may ask its independent auditors to intervene and carry out any verifications on its behalf regarding the budget allocated to ensure it is not excessive; if the Film Commissioner is not satisfied with the findings, reserves the right to impose a capping based on one position at the highest amount.</p> <p>Definition of 'ATL': Director/s, Producer/s (excluding Line Producer), Cast, Stunts (including coordinators) and all front of camera performers.</p> <p>Definition of front of camera performers: Actors and front of camera performers including day players, supporting roles, doubles, and Stand-ins excluding extras.</p> <p>Labour Costs: Engagement fees, salaries, wages, overtime, holiday pay, employment bonuses, including fringe benefits (as defined below) excluding any Agent Management Fees⁶⁷</p> <p>Fringe Benefits: Mobile allowance, Car allowance, Box Rentals;⁶⁸</p> <p>Other Labour Costs: Work Permits (Jobsplus), VISA permits (Identity Malta).</p> <p><i>Note: employers' social contributions in Malta are only eligible for those engaged on a local payroll.</i>⁶⁹</p>
5.1.5	Below the Line - Labour Costs ^{70 71}	Expenditure on employees irrespective of the nationality of the persons carrying out the activity, 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 and are

⁶⁷ Actors or any Agent Management Fees not incurred in Malta are not eligible.

⁶⁸ For fringe benefits as defined to be eligible must be included on relevant contract/agreement, payslip or on invoice for services depending on how individual is engaged with the production.

⁶⁹ Including contributions to Maternity Fund.

⁷⁰ All individuals must have a clear contract in place (in English) indicating the duration of engagement, relevant fee, any fringe benefits, allowances, per diems, box rentals etc.

⁷¹ Security/Medical/Divers see 5.1.10; Transport Labour see 5.1.12; Construction Labour see 5.1.14; Professional Services see 5.1.13; post-production see 5.1.17; Covid related Labour see 5.1.20; if in doubt contact MFC.

		<p>employed/posted in Malta. Calculated on the gross salary in accordance with total number of working days within the eligible period (from first day landing in Malta to last day departing from Malta), pursuant to their employment/engagement contract for the whole production (excludes travel days)⁷².</p> <p>Labour costs for local crew (including trainees) may be either a 'loan out', engaged on a payroll system or as self-employed (VAT registered). The individual engaged (apart from loan outs) must be given the right of choice of how they wish to be engaged with the production (i.e., on payroll or by invoice)⁷³. The eligible amount will be calculated on the gross salary against the total number of working days pursuant to their employment/engagement contract for the whole production.</p> <p>In the case where it is noted that an individual has more than one role in the production and the production is claiming 'labour costs' for more than one role, the MFC reserves the right to impose a capping based on one position at the highest amount. Should both roles be allowed the MFC reserves the right to ask for further information how the roles and workload will overlap and may ask its independent auditors to intervene and carry out any verifications on its behalf regarding the budget allocated to ensure it is not excessive; if the Film Commissioner is not satisfied with the findings, reserves the right to impose a capping based on one position at the highest amount.</p> <p><u>DEFINITIONS:</u></p> <p>Labour: In accordance with crew list (and included in end credits).</p> <p>Labour Costs: Engagement fees, salaries, wages, overtime, holiday pay, employment bonuses, including fringe benefits (as defined below) excluding any Agent Management Fees⁷⁴</p>
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⁷² In the case where a work permit or visa is required, the eligible labour cost will be effective from the period covered by relevant work permit, in accordance with the Laws of Malta.

⁷³ A declaration to this effect must be attached to their employment/engagement contract/agreement for verification and must be presented with final submission for Audit/MFC vetting.

⁷⁴ Any Agent Management Fees not incurred in Malta are not eligible.

		<p>Fringe Benefits: Mobile allowance, Car allowance, Box Rentals;⁷⁵</p> <p>Other Labour Costs: Work Permits (Jobsplus), VISA permits (ID Malta).</p> <p><i>Note: employers' social contributions are only eligible for those engaged on a local payroll.</i>⁷⁶</p> <p><i>The above is subject to meeting 'Maltese Cultural Elements' requirement as outlined in Annex 1.</i></p>
5.1.6	Labour Costs - Local Extras	All labour costs for local 'Extras' and which have been locally engaged and ten percent (10%) withholding tax needs to be deducted.
5.1.7.	Per Diems (subsistence allowance including any living allowances)	Eligible only for cast/front of camera performers and crew that are required to live and travel away from their home base and in respect of their work on the qualifying production; excludes fringe benefits as defined above. Subject to a maximum of three hundred (€300) per person, per day whilst in Malta or Gozo. ⁷⁷
5.1.8.	Location fees	<p>Location fees, courtesy payments and permits 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. Fees relating to ancillary location expenses such as unit base, holding area, berthing/mooring fees will fall under this category.⁷⁸</p> <p>In the case of item 1. (1), Part Two, Fifth Schedule to the VAT Act, "the letting of space for artistic and cultural activities" is an exempt without credit supply. Accordingly, the renting of locations for filming purposes is not subject to VAT. This means that, the persons providing such services without a VAT number are not required to register for VAT purposes (unless they provide other services), do not charge VAT on such services, and are not required to issue any fiscal documents under the VAT Act with respect to such services. Copy of contract and proof of payment will still be required.</p>

⁷⁵ For fringe benefits as defined to be eligible must be included/listed on their contract and relevant payslip or on invoice for services depending on how individual is engaged with the production.

⁷⁶ Including contributions to Maternity Fund.

⁷⁷ Does not apply for travel days.

⁷⁸ In the case of location inconvenient allowance and/or location fees paid by cash will only be considered if supported by the right documentation (template available at MFC on request). Payments should not be filed under 'Petty Cash'.

5.1.9.	Rentals ⁷⁹	<p>Expenditure on rentals incurred and used in Malta and sourced from Malta/EU/EEA/UK relating to the qualifying production, as outlined below:</p> <ul style="list-style-type: none"> • Audio/Sound Equipment and ancillary equipment; • Grip equipment and ancillary equipment; • Camera Equipment and ancillary equipment; • Drone Cameras and ancillary equipment; • Video Playback and assist and ancillary equipment; • DIT and ancillary equipment; • Set Lighting / Electrical Equipment and ancillary equipment; • 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; • Picture vehicles (including driver if not separately engaged). • Generator/s; • Marine & Aviation vehicles (including driver if not separately engaged); • Mobile toilets (and any servicing as per contract); • Scaffolding; • Green Screen; • Animals (together with wrangler); • Walkie talkies (including license fee); • Skips (including transport moves); • 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 qualifying production.
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⁷⁹ MFC reserves the right to ask for detailed breakdowns, quotations, and justifications at any stage of the application process.

5.1.10.	Services ⁸⁰	<p>Expenditure on services incurred and used in Malta and sourced from Malta/EU/EEA/UK relating to the qualifying production, as outlined below:</p> <ul style="list-style-type: none"> • Catering and craft services - provided onset and production offices and offered by a catering/craft service company.⁸¹ • Diving services (including equipment rentals); • Photocopying Services (excluding purchases (stationery & toner) but including delivery (of photocopier) and relevant charges for copies); • Local Transport/Delivery Services (not covered in 5.1.12); • Laundry and cleaning services⁸²; • 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; • Health & Safety Services: Onset First Aiders, Medics such as Nurses and Doctors on set including Ambulance Services; Police, Wardens, Civil Protection (Fire Fighters) and Armed Forces of Malta; • 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 and COVID insurance)⁸³. • Malta Production service company fees and/or Malta Co-Production Company Fee in the case where a local co-producer is attached shall be capped at €100,000 or 20% of the final Malta Spend (actual) whichever is the lower
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⁸⁰ Individuals offering a labour service not as a cast or crew member in terms of a particular service such as 'greens and landscaping', 'generator operator' (excluding drivers which need to be included under transport 5.1.12) please include them under 'services vs labour' and include them in list of services.

⁸¹ MFC requires daily catering order as authorised and instructed to the catering company (during shooting period this will be verified with the call sheets). Contract with agreed pricing during the period being claimed needs to be provided. MFC may ask for any further verifications as required.

⁸² Does not apply for cast/crew personal laundry (consider incidentals and is covered by their per diem).

⁸³ Travel Insurance to and from Malta allowed.

5.1.11.	Shipping ⁸⁴	<p>Shipping expenses in relation to maritime transport or sea travel between Malta and any port within the EU/EEA/UK, and</p> <p>Transport tied to shipping including pick-up and delivery of cargo⁸⁵.</p>
5.1.12.	Transport ⁸⁶	<p>Expenditure on services/labour (drivers) /rentals incurred and used in Malta and sourced from Malta/EU/EEA/UK relating to the qualifying production, as outlined below:</p> <ul style="list-style-type: none"> • Drivers (if not with vehicle); • Ground transport and facility vehicle services (and drivers): Rental of chauffeur-driven cars, self-drive vehicles, facility vehicles, trucks, cranes, mobile homes, trailers, honey wagon (including services), gully suckers (including services), tugs, coaches, minibuses, collection transport. • Ferry services between the Maltese Islands⁸⁷. <p><i>The labour element for the above is subject to meeting 'Maltese Cultural Elements' requirement as outlined in Annex 1.</i></p>
5.1.13.	Professional Services	<p>Fees relating to professional services carried out in Malta.</p> <p>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>

⁸⁴ Door to Door. Agent fees will only be eligible if services are carried out directly through the shipping/transport company or the official representative of the shipping/transport agent in Malta.

⁸⁵ Cargo as being tied to rentals as outlined in section 5.1.9.

⁸⁶ Door to Door. Agent fees will only be eligible if services are carried out directly through the transport company or the official representative of the transport agent in Malta.

⁸⁷ Must be supported by bulk receipt from Gozo Ferry or similar. For one off's must be supported by a declaration with name of person/vehicle, date, qualifying production (should not be processed via petty cash).

5.1.14.	Construction (set builds) purchases ⁸⁸	<p>In respect of purchases for set-construction (including materials, tools, and equipment) in accordance with the following:</p> <p>a) Purchases with a total budget under €200,000 and procured via Malta Film Studios.⁸⁹</p> <p>b) Purchases with a total budget over €200,000 in accordance with approved construction budget and approved by the Film Commissioner.</p> <p>Eligibility is subject to the following protocols being in place:</p> <ul style="list-style-type: none"> • MFC official to liaise directly with Production Designer and scout building of sets regularly – on location. • Once sets are finalized or near finalization, production agrees to meet MFC officials on location to agree which sets / props will be kept for MFC for a future museum. • Costs should be allocated clearly in a detailed and itemised construction budget indicating Labour, Materials, Services and Equipment/Tools.
5.1.15.	Malta Film Studios	Location, services, equipment, rentals, (not limited to and can include: offices / workshops / storage space / stages / water facilities / ancillary locations managed in name of MFS, props, costumes, wardrobe, etc).
5.1.16.	Entertainment	Organised by the qualifying company for cast/front of camera performers and crew provided that total expenditure shall not exceed €5,000. ⁹⁰
5.1.17.	Post-Production ⁹¹	Costs relating to post-production (labour, rentals, services) are only eligible to the extent that post-production is carried out in conjunction with principal photography or with Animation/VFX activities and carried out in Malta. ⁹²

⁸⁸ Must be purchased, assembled, fabricated, constructed in Malta and through a local company. Discuss with the MFC in advance.

⁸⁹ Separate guidelines and conditions apply. Discuss with the MFC in advance.

⁹⁰ Must be as a service and supported by an agreement/contract issued by a catering/hospitality businesses/restaurant/hotel and clearly specify the dates of order, budget breakdown, itemised bill and final spend.

⁹¹ Must be as a service and supported by an agreement/contract and clearly specify the dates, work being carried out, budget breakdown, itemised bill and final spend. Must be OFA registered. In the case of a Company labour costs must be on a local payroll with related social contributions and tax deductions made under a local employment contract.

⁹² Verified by the daily schedules/DOOD's sent to the MFC, employment records, and verified by the final credits attributed to who carried out the work in Malta.

		<p>Typically this would include but is not limited to:</p> <ul style="list-style-type: none"> • Editing (including editor/s and rental of editing suites etc.) • Sound Design including ADR and Foley; • Music Rights and Composition; • Colour Correction; • Sub-titling; • Credits and trailers.
5.1.18.	VFX ⁹³	VFX works (including labour costs, rentals, or services) must be carried out in Malta. ⁹⁴
5.1.19.	Animation ⁹⁵	Animation works (including labour costs, rentals, or services) must be carried out in Malta. ⁹⁶
5.1.20.	Covid-Measures ⁹⁷	Labour, Services, Rentals and Purchases relating to swab testing, PPE, and general hygiene carried out in Malta.
5.1.21.	Miscellaneous services procured in Malta	Other than those listed above and that are directly related to the qualifying production. ⁹⁸
5.1.22.	Wardrobe and Costumes Purchases ⁹⁹	<p>All purchases in relation to wardrobe including costumes (including materials and any equipment/tools required in the fabrication thereof) carried out Malta in accordance with the following:</p> <ul style="list-style-type: none"> • Production agrees to meet MFC officials to agree which costumes will be kept for MFC for a future museum/exhibition purpose. • Costs should be allocated clearly in a detailed and itemised budget indicating Labour, Materials, Services and Equipment/Tools.

⁹³ Must be as a service and supported by an agreement/contract and clearly specify the dates, work being carried out, budget breakdown, itemised bill and final spend. Must be OFA registered. In the case of a VFX Company labour costs must be on a local payroll with related social contributions and tax deductions made under a local employment contract.

⁹⁴ Verified by the daily schedules/DOOD's sent to the MFC, employment records, and verified by the final credits attributed to who carried out the work in Malta.

⁹⁵ Must be as a service and supported by an agreement/contract and clearly specify the dates, work being carried out, budget breakdown, itemised bill and final spend. Must be OFA registered. In the case of an Animation Company labour costs must be on a local payroll with related social contributions and tax deductions made under a local employment contract.

⁹⁶ Verified by the daily schedules/DOOD's sent to the MFC and verified by the final credits attributed to who carried out the work in Malta.

⁹⁷ Must be purchased in Malta and through a local company. Discuss with the MFC in advance.

⁹⁸ As approved by the Film Commissioner.

⁹⁹ Must be purchased, assembled, fabricated, constructed in Malta and through a local company. Discuss with the MFC in advance.

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/UK 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 and parking 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 (including any carnet charges).
5.2.9.	VAT.
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 ¹⁰⁰ .
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 (excluding behind the scenes unit

¹⁰⁰ Please note that any eligible expenses paid via the Petty Cash will be considered as ineligible. Eligible expenses require contract, fiscal invoice (unless otherwise exempt in accordance with any VAT law), proof of payment and production details including both beneficiary and recipient etc. to be valid, in accordance with final submission requirements. Cash payments and processed under 'Petty Cash' will not be accepted. In the case of location inconvenient allowance and/or location fees paid by cash will only be considered if supported by the right documentation these must not be processed as 'Petty Cash'.

	and stills photographer shot at same time of production and takes place in Malta).
5.2.20.	E&O Insurance and COVID 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/Postproduction 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 services, materials, rentals, and supplies sourced from Non-EU/EEA/UK countries are considered as not eligible.
5.2.25.	Labour costs relating to local crew and trainees that are not registered on the "Opportunity for All" Programme.
5.2.26.	Rental of goods and services paid to local companies not registered on the "Opportunity for All" Programme.
5.2.27.	Travel Day labour costs for cast/front of camera performers/crew or other (to and from Malta excluding between Gozo and Malta).
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 must be attached to the invoice; if not, the invoice will be treated as ineligible).
5.2.29.	Contingency at provisional application stage will be considered as 'ineligible' if then used for eligible elements as per guidelines this will then be verified at audit stage and classified accordingly.
5.2.30.	Per Diems (subsistence allowance including any living allowances) given to cast/front of camera performers or crew who are not living or traveling away from their home base (and are given a fringe benefit in terms of the definition as found in 5.1.4/5.1.5).
5.2.31.	Production company fringes in terms of 'employers' share of contribution or contributions towards any type of social contribution/private pension fund/trade association (other than as outlined in 5.1.4, 5.1.5).
5.2.32.	Booking services and related fees not carried out in Malta for Accommodation and Flights (other than as outlined in 5.1.2).
5.2.33.	Any type of fine, penalty payment or insurance excess.
5.2.34.	Any claim on an insurance policy cannot also be claimed for on the cash rebate.

5.2.35.	Actors or any Agent Management Fees not incurred in Malta are not eligible.
5.2.36.	If any expenditure is found to be in relation to spend that is in breach of any law or found to be breaking any rules and regulations this will be made ineligible immediately.

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 license/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's "Opportunity for All" Programme. 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 "Opportunity for All" Programme. Crews wishing to register can do so at <https://opportunityforall.mt/register>
- 5.3.3 **Labour costs** relating to foreign cast and crew who require either a work permit or a visa or both, must be in place for the period of engagement with the Qualifying Company in respect of the Qualifying Production as per contract for the period in Malta (in accordance with the Laws of Malta).
- 5.3.4 **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.
- 5.3.5 **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 "Opportunity for All" Programme. Companies wishing to register can do so at <https://opportunityforall.mt/register>
- 5.3.6 **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.

- 5.3.7 **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 "Opportunity for All" Programme. Companies wishing to register can do so at <https://opportunityforall.mt/register>
- 5.3.8 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 declared and 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 (see template).
- 5.3.9 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.
- 5.3.10 The Film Commissioner reserves the right to impose a capping or make an item ineligible if it is found that the budget allocated is excessive and does not reflect realistic costs. The budget estimates provided must present the most comprehensive representation of expected costs, in line with market prices (whether sourced locally and/or internationally). Costs incurred must be fair, reasonable and represent value for money. The budget presented must be as detailed as possible to enable the Malta Film Commission to understand and assess the underlying calculations. The Film Commissioner reserves the right to check the feasibility of the budget presented and may ask the applicant for additional documents to verify and or seek independent advice.
- 5.3.11 The Film Commission reserves the right to request any additional information in respect of an application at any stage of the process regardless of whether a certificate has been issued or not.

SECTION 6: FINAL SUBMISSION

6.1. FINAL SUBMISSION REQUIREMENTS

Final submission must be filed in accordance with these guidelines, **maximum twelve (12) months** after the last Malta spend, if not filed by this timeframe the qualifying company will no longer be eligible for the 'cash rebate'.

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 Malta Spend 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-referenced¹⁰¹.

Final costs relating to the Malta Spend of the pertinent qualifying production must be supported by valid fiscal invoices¹⁰², and 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 must be attached to the invoice. If not, the invoice will be treated as ineligible) together with copies of all contracts, 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.

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

- a) an immediate written notification that the filming activity or Animation/VFX/Post-Production works in Malta of the qualifying production is completed; detailing total number of shooting days and the dates these took place. In the case of Animation/VFX/Post-Production works schedule and final dates are also required.

¹⁰¹ Meaning each and every transaction has a reference to the actual supporting document. Every single document refers back to the accounts and vice-versa.

¹⁰² Invoices/Contracts/Payslips/Receipts need to be in the name of qualifying company and/or the production service company (with a valid production service agreement) and related to the qualifying production; in the case of any subsidiary company, third party service provider and co-productions this is subject to information provided as per these guidelines and approved by the Film Commissioner. In the case of flights booked online, if the airline cannot provide fiscal invoice travel movement report and requested report/boarding passes as outline herein will be sufficient. In the case of Cast or Key Creative ATL members whose payment is guaranteed by transferring their money to Escrow accounts and do not supply an invoice will need to be presented with contract and copy of transfer and in case of any withholding tax proof of receipt (any further queries will be raised accordingly).

b) In respect of personnel engaged on the production (including any Animation/VFX/Post-Production works), please provide full final Unit List and Screen Credits (draft and final when finalised) together with detailed information on the following working on the qualifying production in Malta, :

- i) Producers/Directors
- ii) Cast and front of camera performers.
- iii) Stunts (including coordinators)
- iv) Local/Foreign Extras
- v) Local Crew¹⁰³
- vi) Foreign Crew¹⁰⁴
- vii) Construction Labour
- viii) Transport Labour
- ix) Trainees

Together with:

- 1. Copy of JobsPlus Employment License, Work Permit, Visa (where applicable).
- 2. Updated Crew Base Form (Annex 1).
- 3. Local Cast/Front of Camera performers/Crew engagement declaration (template available on request)

Personnel Lists should include (template available on request):

- 1. Name and Surname.
- 2. Nationality/Place of Residence (Malta or otherwise).
- 3. ID/Passport number.
- 4. Contract duration (start/finish)/Number of days engaged for project.¹⁰⁵
- 5. Role in the Production/Department (Job title in accordance with crew list, budget, and final credits).
- 6. Number of local and foreign personnel engaged on the production and duration¹⁰⁶

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 (Final Location list as per template).

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

¹⁰⁷

e) List of Local Companies (Company, Trading Name, Service offered) and any

¹⁰³ In case of Animation/VFX/Post-Production

¹⁰⁴ In case of Animation/VFX/Post-Production

¹⁰⁵ Converted to Crew-Days in accordance with OFA Guidelines/Template

¹⁰⁶ Include number of hours (indicate standard shooting day duration. Other discuss with MFC). Include gender, if possible.

¹⁰⁷ Including Tech Recce reports.

individual offering a labour service not as a crew member.

- f) Completed and signed Financial Form (as per template).
- g) Final Malta Spend Declaration (as per template).
- h) Final Production Expenditure Declaration (as per template).
- i) Internal Service Charges Declaration (as per template).
- j) In respect of VFX/Animation activities including Post-Production Confirmation of Works Declaration (as per template).
- k) Travel movements order/report and boarding passes for all flights for which a claim for a cash rebate is being made¹⁰⁸.
- l) Hotel rooming list which clearly identifies the names of the residents staying there as well as the check in and check out dates needs to be provided. In the case of rental agreements, agreement must include name of lessee, duration, name of qualifying production and names of residents residing in the licensed rented property. In the case where names of residents are not included a declaration from the lessee must be presented. Further clarifications may be made by MFC or its Auditors in this respect.
- m) Signed production service agreement between production service company and foreign qualifying company (in case of co-production signed deal memo).¹⁰⁹
- n) Final schedules together with call sheets and/or time sheets (where applicable or necessary for VFX, Postproduction and Animation).¹¹⁰
- o) The original Malta Budget presented at application stage updated with final actual expenditure. Above the line and below the line expenditure for labour costs must be updated to reflect actual names of personnel involved in accordance with the final cast/crew unit list (which in turn must match relevant call sheet and eventual final credit list).

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

1. A "top sheet"¹¹¹ expenditure summaries (signed by your certified accountant) consisting of the following:

¹⁰⁸ This should be supported by an excel sheet showing name, surname, position, to and from, dates and breakdown of fee to facilitate the audit checks.

¹⁰⁹ This is received with provisional application, on final submission, and following the release of the Final Certificate (to reflect provisional figures and then updated with actual figures).

¹¹⁰ Further information may be requested by the MFC and its Auditors to enable them to verify the work for which a claim for rebate is being made to ensure that it has been carried out in Malta.

¹¹¹ See Audit Guidelines and template.

- i) Total actual Malta Spend (eligible and ineligible expenditure).¹¹²
- ii) Local expenditure (eligible and ineligible expenditure).¹¹³
- iii) Foreign expenditure (eligible and ineligible expenditure).¹¹⁴
- iv) Full Budget, the entire production expenditure on the qualifying production (final actual spend).

2. Itemised accounts detailing the amounts of the total Malta Spend spent on each individual element of the project (as defined in the Guidelines herein)¹¹⁵:

The production expenditure must be clearly classified in the applicable section as per the eligible expenditure classification deduced in Section 5.1 of these Guidelines and that of Section 5.2 ineligible classification. Each transaction in the top sheet must include one of the following codes, referencing the type of expenditure it relates to:

- 5.1.1. Accommodation¹¹⁶
- 5.1.2. Air Travel¹¹⁷
- 5.1.3. Recce Costs¹¹⁸
- 5.1.4. Labour Costs: Above the Line (as defined in these guidelines)
- 5.1.5. Labour Costs: Below the Line (as defined in these guidelines)
- 5.1.6. Labour Costs: Extras
- 5.1.7. Per Diems
- 5.1.8. Location Fees
- 5.1.9. Rentals
- 5.1.10. Services
- 5.1.11. Shipping
- 5.1.12. Transport
- 5.1.13. Professional Services
- 5.1.14. Construction (set builds) Purchases
- 5.1.15. Malta Film Studios
- 5.1.16. Entertainment
- 5.1.17. Post-Production
- 5.1.18. VFX
- 5.1.19. Animation
- 5.1.20. Covid-Measures
- 5.1.21. Miscellaneous
- 5.1.22 Wardrobe and Costumes Purchases
- 5.2. Ineligible

Each eligible expenditure must include one of the above codes. Meanwhile, the ineligible expenditure must include the term 'ineligible'.

¹¹² Total cost in Malta.

¹¹³ Refers to Malta Element (on the ground expenditure in Malta to Maltese cast/crews/companies etc.).

¹¹⁴ Please distinguish between EU/EEA/UK and other.

¹¹⁵ It is highly recommended that category coding as outlined in these guidelines are used to facilitate the audit process.

¹¹⁶ Rooming list with all names and duration must be provided as outlined in these guidelines.

¹¹⁷ Boarding passes and report must be provided as outlined in these guidelines.

¹¹⁸ Supported by Recce Report, Rooming List, and boarding passes as outlined in these guidelines.

Furthermore, each transaction must be identifiable as either Local expenditure, EU/EEA/UK expenditure or non-EU expenditure. This must be clearly visible in the top sheet for each transaction, including both eligible expenditure and ineligible expenditure. Each transaction in the top sheet must include one of the following codes, referencing the origin of expenditure it relates to:

- Malta
- EU/EEA/UK
- Non-EU

All account entries are to be:

- a) clearly cross-referenced (**in accordance with the categories outlined in these guidelines**).

All eligible account entries are to be:

- 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 of €50,000 should automatically be provided to the Commission. All other contracts and agreements should be readily available when requested for inspection and/or as otherwise advised in these guidelines.
- d) certified by proper proof of payment that enables the recipient of the payment to be identified (as outlined in these guidelines).

3. In terms of **labour cost** for which a benefit is being claimed, 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 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 proof of payment for those on a contract of service, where applicable.
- iii) contracts and agreements for which a benefit is being sought for any rebate claim over the amount of €50,000 should automatically be provided to the Commission. All other contracts and agreements should be readily available when requested for inspection and/or as otherwise advised in these guidelines.
- iv) certified by proper proof of payment that enables the recipient of the payment to be identified (as outlined in these guidelines).
- v) copy 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 it services to such qualifying company.

- vi) Copy 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, 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 (see also Internal Service Charges Declaration).
 6. Statement of bank transactions is to be presented with final submission for all transactions. 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.
 7. With regards to transactions that were affected in a currency other than the Euro, Auditors would require the date of this transaction and the currency with which the expense was incurred. If the qualifying company is claiming a series of expenses that cannot be attributed to any particular date, the Auditors would require the period during which the expenses were incurred, for them to calculate the average exchange rate for that period.

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

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

Should it be found that not all payments to local cast, crew and companies have been carried out whether through the audit process or because of a direct complaint from an individual or a company based in Malta, the Film Commissioner reserves the right to hold back the cash rebate until all pending dues owed in Malta have been finalised and no 'bad debts' exist. If this is not carried out in the given timeframes, as outlined in these guidelines, the qualifying company may delay and jeopardise the cash rebate process.

Final submission can be sent in hard copy or in soft digital format¹¹⁹ or both (true scanned copies of all original documents as outlined above).

¹¹⁹ In the case the auditor requests a hard copy of the original document, this needs to be made available as and when requested.

The objective of the audit review is to:

1. Ensure that application and final submission is in line with relevant guidelines, legal notices, and any State Aid Rules (GBER).
2. To ensure that what is being claimed is in fact eligible.
3. To ensure that the transactional value is correct and being claimed for actual works carried out on the production and works were carried out in Malta for the period concerned.
4. To ensure that the amounts being claimed overall are reasonable in proportion to the budget and size of production.
5. To help highlight any irregularities or any possible 'abuse' to our scheme which can lead to any possible 'fraudulent' gain.

6.2. AUDITOR'S REPORT

On receipt of audit report and upon final review by the Film 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 Film 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**. The cost shall not exceed 0.5% of the actual Eligible Spend, with a minimum cost of €5,000 and capped at a maximum €30,000. This amount will be deducted from the final cash rebate.¹²⁰

6.3. PAYMENT OF THE CASH REBATE

The cash rebate is forwarded to the qualifying company¹²¹ no later than **five (5) 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 timeframe.

¹²⁰ In the case of any interim claims the audit fee will be deducted proportionately. Final audit/administrative fee will be recalculated on the final audit report and take into consideration any deductions made for any interim audit claims.

¹²¹ As per application and ultimate beneficiary. Should any payment be affected to a 'Third Party' on behalf of the ultimate beneficiary, clear instructions must be in place. Kindly seek guidance from the MFC in this respect.

3. In the case where the Film Commissioner has any doubts regarding the auditors' findings; he reserves the right to ask for a further review, further investigations and/or for a reassessment of the final submission from another independent auditor, if necessary, until satisfied with final findings.

The Film Commissioner reserves the right to prohibit the payment of ten percent (10%) of the cash rebate if the qualifying company does not abide and fails to fulfil any of the obligations as outlined in these Guidelines, the Provisional Certificate, and the Final Certificate.

SECTION 7: CONTACT DETAILS

Further information on the scheme, as well as information and guidance on the filling of the application form may be obtained by contacting Malta Film Commission during office hours.

Postal Address:

Malta Film Commission

Malta Film Studios

Kalkara, MALTA

Tel: +356 2180 9135

Web: www.screenmalta.com

The official Incentive Guidelines are published at: www.screenmalta.com

E-mail: info@screenmalta.com

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.

ANNEX 1: LOCAL CREW BASE

Malta's Financial Incentives for the Audio-visual Industry encourages foreign productions to contract local crew based in Malta and Gozo.

5% out of the 40% that Malta offers as cash rebate to foreign eligible productions shooting in Malta is concentrated on 'Maximisation of local resources', as outlined in Section 3.4.1 Table A. For this reason, this Annex aims to provide guidance of what is expected from a foreign qualifying company when contracting local crew to work on a qualifying production in Malta.

Minimum percentages listed below provide a clear indication of the crew depth available in Malta in each of the departments mentioned, full list of specific designations within each department that our local workforce can offer at an experienced and professional level can be found in accordance with the MFC's "Opportunity for All" Directory listings and designations¹²².

Department	Minimum Local Crew Percentages Required
Production	80%
Direction	60%
Locations & Unit	90%
Stunts	50%
Construction	90%
Camera	50%
Art	80%
Set Decoration & Props	70%
Electric & Grips	70%
SFX	50%
Action / Picture Vehicles	80%
Marine	90%
Crowd Casting	90%
Costume / Wardrobe	80%
Hair & Make-Up	70%
Sound	50%
Transport	90%
Other Departments not specified	Subject to requirements, assessment, and discussion.

The above department listings are represented in no particular order.

As outlined in Section 3.4.1 Table A, for a qualifying production to be eligible in the 'Maximisation of local resources' based on Maltese Cultural Elements, the above minimum percentages and specific designations for each department should be filled by members from our local workforce, **if and when applicable**.

¹²² Kindly ensure that all crew are correctly listed and match relevant designation as found on engagement contract, call sheet, unit list, budget, and screen credits. Full unit list and final screen credits will be required.

Should a qualifying company fail to reach the above minimum percentages and fill the specific designations for each department with our local workforce, the qualifying company may revert to compensating the remaining number of crew required with foreign personnel subject to providing a valid justification to the Malta Film Commission.

In good faith, the Malta Film Commission reserves the right to vet such justifications for further verification.

As outlined in Section 3.4.1 Table A, upon satisfying the 'Maximisation of local resources' criteria, a qualifying production becomes eligible for a further 5% of the incentive, inclusive of the 40% Cash Rebate.

ANNEX 2 - DIFFICULT AUDIOVISUAL WORK – MALTA'S NATIONAL PARAMETERS

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:¹²³

Qualifying Productions (for theatrical and festival distribution only):

- (i) **"feature film"** means a film which includes those shot direct-to-video, where the film is a film commonly screened as the main attraction in commercial cinemas; and is of a duration of not less than sixty (60) minutes, or in the case of a large format (IMAX) film of not less than forty-five (45) minutes;
- (ii) **"creative documentary"** means 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 the theme is linked has passed and contains significant original filming and is not limited to the reporting of information;
- (iii) **"short film"** means an original motion picture that has a running time of forty (40) minutes or less, including all credits.

Eligibility Criteria:

1. Must be a 'qualifying production' as described above.
2. Must be a low budget production – the total production budget does not exceed €1,500,000.
3. 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 to share our culture and values locally and beyond our shores.

¹²³ In accordance with the EU's subsidiarity principle which is in line with Malta's national parameters.

4. The work must be considered a **National Work**¹²⁴ (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 Maltese 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:
 - a) **Short Film/Feature Film:** 12 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:

Short Film/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

¹²⁴ Criteria as outlined in points 2 and 3 are still required.

- 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 texturing 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 Film 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 Film Commissioner, the Film Commissioner will then make a recommendation to grant the qualifying production the status of being a "Difficult Audiovisual Work" and "National Work". A certificate will then be issued.