

# APPLICATION FOR OFFSETTING PROCEDURE

## *Guidance notes*

### **1 Definitions**

‘Creditor Department’: a Government Department or Entity which is owed money from an individual, sole trader, partnership or company (eg. VAT, Income Tax, Social Security Contributions);

‘Debtor Department’: a Government Department or Entity which owes money to an individual, sole trader, partnership or company for goods and services supplied (eg. Suppliers of medicines and contractors);

‘External Party’: the sole trader, partnership or company entering into a set-off agreement with the Government Departments/Entities.

#### **1.1 Context and Process**

These guidelines set out the procedure to be adopted when setting off amounts due to/by Government Departments and an External Party.

#### **1.2 Initiating a Set-Off**

A Set-Off arrangement may only be initiated by an External Party. Copies of all documentation used must be retained by all the parties involved, that is, the Creditor Department, the Debtor Department and the External Party. An application for a set-off arrangement shall only be made on a voluntary basis.

#### **1.3 Debtor/Creditor Applicant**

The applicant requesting the offsetting must also be the same debtor and creditor to Government. Offsetting between an individual and a company owned by same individual is not allowed. Also, offsetting between a company and its subsidiary/related company is not allowed. Furthermore, these should be only one creditor department and one debtor department in each application.

#### **1.4 Offsetting Agreement**

If the application is found to be in order, the applicant will be requested to enter into an Offsetting Agreement with Government. The Agreement will be signed at the Ministry for Finance, Maison Demandols, 30, South Street, Valletta. Copy of the Agreement template is found on the Ministry for Finance website.

#### **1.5 Professional Secrecy and Data Protection**

The pertinent provisions relating to professional secrecy and data protection shall apply.

#### **1.6 Minimum Threshold**

The minimum threshold for application under this procedure is € 10,000.

## **1.7 Right of Investigation**

In the case of dues involving the Office of the Commissioner for Revenue, any offsetting agreement will not prejudice the rights and powers of the Commissioner for Revenue emanating from the pertinent legislation.

## **1.8 Searches**

The applicant is required to attach updated (not older than two weeks) researches with regards to liabilities since hypothecated loans normally carry a priority over other payments.

## **1.9 Payment priorities**

There might be payments, such as workers' salaries etc., which have priority over this offset and thus have to be taken into consideration.

## **1.10 Tallying of figures**

The figure in Appendix A of the application together with the total amount due and total amount receivable on Pages 2 and 3 of the application are to agree.

## **1.11 Interest/Penalties/Fines**

Any interest/penalties/fines incurred before or during the processing period of the application are to be excluded from the amounts to be offset.

## **2. Step By Step Guide for External Party**

- 2.1.** Fill in Section A of the application form;
- 2.2** Send email to the respective Director Corporate Services or Finance/Head of Accounts/Financial Controller specific to the Ministry/Department/Entity involved, seeking confirmation of the amount **due to** Government by you (i.e. Your creditor department or entity);
- 2.3** Send email to the respective Director Corporate Services or Finance/Head of Accounts/Financial Controller specific to the Ministry/Department/Entity involved, seeking confirmation of the amount **due from** Government to you (i.e. Your debtor department or entity);
- 2.4** Fill in Section B and Section C after ensuring that the two amounts are equal.
- 2.5** Obtain the signatures of your creditor and debtor departments, in Section B and Section C respectively, on the application form.
- 2.6** Fill in Appendix A where the invoices due to you are listed individually. Total should agree with Sections B and C.
- 2.7** When the External Party is a company/partnership, the legal representatives of the company/partnership are to sign this application in accordance with the Memorandum & Articles of Association/Deed of constitution.

### **3. Reconciliations**

- 3.1. Any amounts to be set-off should be reconciled by all parties involved.
- 3.2. A cut-off date is to be agreed upon for each set-off, and the reconciliation should reflect all the transactions up to that cut-off date. **No payments or settlements in respect of the amounts identified for offsetting are to be effected until the Offsetting Agreement is concluded.**
- 3.3. Before a set-off takes place, once the amounts due are reconciled, it must be ensured that all the amounts being set-off have been reflected in the government accounting systems of all parties involved in the set-off transaction.
- 3.4. Once the set-off takes place, it has to be ensured that all the respective ledgers are updated with the set-off transactions to reflect the new balances.
- 3.5. All the parties must ensure that any amounts set-off following a set-off agreement are removed from the respective debtor/creditor statements.

### **4. Ageing**

- 4.1. Amounts to be set-off should ideally be prioritised according to aged debtors and creditors.

### **5. Set-offs and the Treasury Department**

- 5.1. A copy of the set-off agreement, will be sent to the Treasury, Government Accounting Section by the Ministry for Finance.
- 5.2. A Transfer Schedule of Payments is to be raised by the Creditor and Debtor Departments to set-off the interdepartmental amounts once the set-off agreement is signed. A copy of the Transfer Schedule of Payment is to be sent to the Ministry for Finance on [budgetaffairs.mfin@gov.mt](mailto:budgetaffairs.mfin@gov.mt) by not later than ten working days from signing of the agreement.

### **6. Submission of application**

Application forms are to be submitted by registered mail to: Offsetting Section, Ministry for Finance, Maison Demandols, 30, South Street, Valletta.