

Foreign direct investments in Polish Special Economic Zones

Since the beginning of its economic transformation, Poland has been chosen by many foreign (public and private) investors as a place to implement numerous investments. Recently, examples of foreign direct investments implemented by major global corporations included:

- Daimler's investment valued at over PLN 2 billion, in construction of a factory manufacturing modern automobile engines in Jawor, Lower Silesia¹;
- Zalando's investment valued at approximately PLN 800 million, in the construction of an international logistics centre in Gryfin near Szczecin²;
- Volkswagen's investment valued at approximately PLN 3.4 billion, in construction of a factory in Białężyce near Września, in which the new Volkswagen Crafter will be manufactured³;
- LG Chem's investment valued at over PLN 1.3 billion, in construction of the first factory in Europe in which batteries for electric cars will be manufactured⁴;
- Toyota Motor Europe's investments valued at approximately PLN 650 million (Toyota's total investment in production investments in Poland amounts to over PLN 4 billion), in construction of new production lines in Wałbrzych in 2018 (hybrid gearboxes) and in Jelcz-Laskowice in 2017 and 2019 (petrol engines).⁵

All the above-mentioned investments are or will be implemented in special economic zones ("SEZ"). In the past, many other projects of various natures were implemented in SEZ, among other things: production facilities, logistics parks, warehousing facilities, assembly plants for equipment and components.

¹ <http://media.daimler.com/marsMediaSite/en/instance/ko/First-production-site-of-Mercedes-Benz-Cars-in-Poland-Contra.xhtml?oid=14077740>

² http://www.paiz.gov.pl/20161118/Zalando_w_Gryfinie

³ http://www.paiz.gov.pl/20140318/volkswagen_zaparkowal_w_Polsce

⁴ http://www.paiz.gov.pl/20161005/LG_Chem_zainwestuje_w_Polsce

⁵ http://www.paiz.gov.pl/20161020/toyota_investment_in_Poland

What are Special Economic Zones?

SEZ are areas in which after fulfilling certain conditions, investors may conduct business activity while enjoying certain benefits, including, in particular, tax exemptions and public subsidies. As at 31 December 2015, the value of capital expenditures incurred by investors in SEZ was in excess PLN 111,682 million⁶, with total employment of 312,022 employees⁷. Significant benefits of investing in SEZ result in the advancing extension of the areas of the zones⁸. Since Poland joined the European Union in 2004, the total area of all 14 operating SEZ has increased from approx. 5,000 to 20,000 hectares.⁹

SEZ are subject to certain limitations. The total area of all special economic zones may not exceed 25,000 hectares, and they must cease operating by 31 December 2026. However, taking into account the historical development of SEZ, it is possible that the admissible area of special economic zones will be increased and the time by which activity in SEZ could be conducted on preferential terms will be extended.

Specific benefits of investing in special economic zones

The main benefits of investing in SEZ are:

- exemption from income tax on activity conducted in a SEZ (corporate income tax or personal income tax, depending on the type of activity conducted by the entrepreneur) and specified in the permit, up to 10% to 50% of the qualified investment expenditures or two years' costs of work of the newly hired employees (30%-70% for SMEs);
- availability of attractive land with utility connections and infrastructure;
- the possibility to purchase or lease real property in existing SEZ; in certain SEZ, it is possible to implement

⁶ Information on the implementation of the Act on Special Economic Zones. As at 31 December 2015. ([http://orka.sejm.gov.pl/Druki8ka.nsf/0/B01837BE236B7D1DC1257FC5003BADB1/\\$File/555.pdf](http://orka.sejm.gov.pl/Druki8ka.nsf/0/B01837BE236B7D1DC1257FC5003BADB1/$File/555.pdf)), p. 3.

⁷ Ibid.

⁸ Both public land and private and can make up special economic zones.

⁹ Information on the implementation of the Act on Special Economic Zones. As at 31 December 2015. ([http://orka.sejm.gov.pl/Druki8ka.nsf/0/B01837BE236B7D1DC1257FC5003BADB1/\\$File/555.pdf](http://orka.sejm.gov.pl/Druki8ka.nsf/0/B01837BE236B7D1DC1257FC5003BADB1/$File/555.pdf)), p. 57.

projects based on the BTS (*built to suit*) system and then lease them to end users (lessees);

- the chance to benefit also from other investment incentives offered in SEZ, including, in particular, the exemption from real estate tax (often offered to new investors by local communities), an investment grant from state administrative authorities, subsidies from local employment offices and assistance in the form of EU funds (state aid is cumulative, i.e. the total level of support for a firm from all sources may not exceed the said maximum of 70%);
- administrative support from the companies managing SEZ, among other things in organisational matters related to the implementation of an investment (suppliers of utilities, local government units, etc.).

The range of support for specific investments may vary and depends on the fulfilment of the relevant conditions resulting from the provisions of law.

Conditions to be fulfilled to obtain state aid in a special economic zone

In order to benefit from state aid in SEZ, it is necessary to obtain a permit to conduct activity, which is issued on behalf of the minister in charge of the economy (currently the Minister of Development) by the company managing the special economic zone. The permit specifies, among other things, the object of business, the minimum level of employment and the minimum level of capital expenditures¹⁰. Only income from the activity conducted in the SEZ and specified in the permit is exempt from tax.

Not all entrepreneurs are eligible to obtain a permit to operate in a SEZ – permits are not issued for, among other things, production of explosives or tobacco products; processing of engine fuels; production, bottling and processing of alcoholic beverages; centres of games of chance; and services connected with the treatment of waste water.

The minimum value of an investment in SEZ is EUR 100,000, and the entrepreneur's own funds must represent at least 25% of the total eligible costs of the investment. To

¹⁰ As at 31 December 2015, entrepreneurs held 2,177 permits to operate in special economic zones (Information on the implementation of the Act on Special Economic Zones. As at 31 December 2015.) ([http://orka.sejm.gov.pl/Druki8ka.nsf/0/B01837BE236B7D1DC1257FC5003BADB1/\\$File/555.pdf](http://orka.sejm.gov.pl/Druki8ka.nsf/0/B01837BE236B7D1DC1257FC5003BADB1/$File/555.pdf)), p. 3)

benefit from state aid, the following conditions in particular must be fulfilled:

- in the case of investors benefiting from an exemption in respect of the costs of a new investment – incurring the capital expenditures declared in the permit and maintaining the investment in the region in which the aid was granted for five years (for large investors) or three years (for SMEs);
- in the case of investors benefiting from exemption as a result of creating new jobs – maintaining the newly created jobs for five or three years, respectively.

Both Polish and foreign firms can invest in special economic zones on the same terms.

Legal form of investments in special economic zones

The provisions of law on SEZ allow investments both in the form of balance sheet financing and by way of project finance or property finance.

In practice, special purpose vehicles are set up for the purposes of numerous investments, which then purchase land in a zone, obtain the necessary administrative decisions, are parties to agreements connected with the implementation of the investment and hire employees.

The special purpose vehicles often finance their activity from the investor's equity, from loans obtained from the investor's capital group and bank credit facilities. Banks (both Polish and foreign) have already financed many investments in SEZ, obtaining the usual types of collateral (mortgage, pledge over participation interests in the SPV, assignment of rights under main contracts, and pledges over bank accounts, etc.).

SEZ management companies

A special economic zone can be managed by a joint-stock company or by a limited liability company in which the State Treasury or the regional government holds the majority of the votes at the general shareholders' meeting. The State Treasury holds a majority share in 11 of 14 SEZ, two (SEZ Euro-Park Mielec and TSSE Euro-Park Wisłosan) are managed by the Industrial Development Agency, and one – Słupsk SEZ – by the Pomeranian Regional Development

Agency, in which Słupsk and the local government of the Pomeranian Region hold the majority share¹¹.

The most important tasks of management companies include, among other things, organising negotiations and tenders for permits to conduct activity in SEZ, constructing and developing infrastructure in the area of SEZ, selling or intermediating in the sale of land within SEZ, intermediating in communications between investors and utilities suppliers and local government authorities, making the infrastructure belonging to or at the disposal of the management company available to investors and monitoring the activity of entrepreneurs with regard to the compliance of their activities with the permits issued to them.

What is worth noting?

Entities planning investments in SEZ usually note the following recurring items:

- the obligation to incur specific expenditures and to conduct activity for three or five years, which may cause complications in the event of a sudden deterioration in market conditions or a change to the investor's strategy;
- the obligation to pay the so-called zone (administrative) fee to cover the administrative costs of the SEZ management company throughout the entire period the investor holds a permit to conduct activity in the special economic zone;
- additional obligations connected with the reporting requirements and the increased number of inspections related to, among other things, the fulfilment of the conditions of the permit and correctness of use of the state aid carried out by the tax authorities; if the investor conducts activity both in SEZ and outside SEZ, it must keep separate accounting records;
- the prices of real properties purchased in SEZ may be higher than the prices of similar real properties outside SEZ;
- the possibility of benefitting from privileges to their full extent – as SEZ operate until 2026, an investor that commenced activity in a special economic zone late may be unable to fully benefit from the exemptions

¹¹ Information on the implementation of the Act on Special Economic Zones. As at 31 December 2015. ([http://orka.sejm.gov.pl/Druki8ka.nsf/0/B01837BE236B7D1DC1257FC5003BADB1/\\$File/555.pdf](http://orka.sejm.gov.pl/Druki8ka.nsf/0/B01837BE236B7D1DC1257FC5003BADB1/$File/555.pdf)), s. 31 - 32

from corporate income tax or personal income tax to which it is entitled;

- limitation of the types of activity that may be conducted in SEZ;
- whether the location of an investment is in a SEZ – if an investor chooses an area that is yet to be included in a special economic zone, it is necessary for the Council of Ministers to issue an ordinance changing the borders of the relevant SEZ, which could delay the implementation of the investment.

Summary

Special economic zones are a successful merger of investors' needs and the needs of the specific regions in which they have been created. Each special economic zone is a part of Poland's territory designated for the conduct of business activity on preferential terms. An investor in SEZ can obtain tax benefits, and, as an additional benefit, it may often commence activity on specially prepared land with utility connections.

Growing investments translate into accelerated economic growth of selected regions of Poland, decreased unemployment and the increased competitiveness of the Polish economy.

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