

NEW RULES ON SUPPORTING INVESTMENTS IN POLAND.

Entrepreneurs can count on attractive tax exemptions in Poland regardless of where they locate their new investment. There should be a greater influx of investments in areas with higher unemployment. Small and medium-sized enterprises should have a better chance of obtaining support.

STARTING POINT

On the basis of the Act on Supporting New Investments¹ entrepreneurs have been given the possibility to apply for an income tax exemption throughout the territory of Poland. As of 5 September 2018 Poland has been divided into 14 areas, assigned to individual managers, who are responsible for the development of the regions assigned to them and to provide services to entrepreneurs planning to implement new investment projects.

Ultimately, the new Act is to replace the solutions provided for in the Act on Special Economic Zones,² which provided for the possibility of special public aid to be granted to entrepreneurs only within the boundaries of special economic zones, the operation of which has been limited in time to the year 2026.

IMPACT

Exemption from income tax regardless of where an investment is located.

The availability of adequate real properties in SEZs, where investors could obtain tax preferences, was up to now one of the main concerns of entrepreneurs deciding where to locate new investments. The inclusion of attractive areas into a zone required a lengthy procedure and overcoming many administrative levels. Under the new Act, an investor may locate an investment in any place in Poland and apply for a tax exemption regardless of where he is planning to implement it.

Decisions on support.

Under the new system, an income tax exemption will be obtained on the basis of a "*decision on support*" issued by the minister responsible for the economy, for a fixed period of time: 10, 12 or 15 years.

Key issues

- Exemption from income tax regardless of where an investment is located
- Decisions on support
- SMEs and poorer regions have a greater chance of obtaining support
- The manager of the area at the service of investors

¹ Act on Supporting New Investments of 10 May 2018.

² Act on Special Economic Zones of 20 October 1994.

The support may be received by an investor whose investment is not covered by the list of exemptions³ (the planned investment does not involve, for example, the bottling and processing of alcoholic beverages, the construction of building structures and performance of construction works, financial and insurance services).

Moreover, an entrepreneur must demonstrate fulfilment of the quantity criteria, i.e. the investment of a specified amount, determined depending on the rate of unemployment in the poviát where the investment is being planned.

Quality criteria must also be satisfied in order to obtain a decision on support. In this regard, it is important whether or not the new investment falls within the category of, for example, projects that support sectors compliant with the national development policy (including, among others, the high quality food sector, the means of transportation sector, the professional electrical and electronic equipment sector, the ecoconstruction sector) or is linked with achieving an appropriate level of sales outside of Poland, R&D activity or the creation of high-wage jobs.

SMEs and poorer regions have a greater chance of obtaining support.

The quantity criteria regarding the capital expenditures necessary for an investment to qualify for obtaining a decision on support have been lowered for smaller enterprises (reduced by 98% - in the case of microcompanies, 95% - for small companies and 80% for medium-sized companies, respectively).

Moreover, the new regulations more strongly promote less developed areas of Poland (in particular the Lubelskie, Podkarpackie, Podlaskie and Warmińsko-Mazurskie voivodeships), where a decision on support may be issued for 15 years.

The manager of the area at the service of investors.

In the new system the managers of the support areas are obliged to provide free-of-charge information services, and also services resulting from the investment development plans (determined by the given manager and approved by the Minister). Just like now, the managers will also sign agreements with investors on making assets available to the entrepreneurs to facilitate the implementation of new investments by them. Additionally, the managers and entrepreneurs benefitting from the support are obliged to conclude agreements for the provision of services by the managers for consideration. On their basis an entrepreneur with advisory support, promotional services, training and other services from the manager, which are linked with the implementation of the decision on support.

WHAT DOES THIS MEAN

The existing model of economic zones meant point support for companies investing in specific areas, usually less attractive from the business point of view and has been limited in time (the zones have been established until 2026). The above significantly restricted investors in making decisions to invest in a given location, and this in turn reduced the investment attractiveness of Poland in relation to other countries in the region where such rules did not apply.

³ The types of activities for which a decision on support cannot be issued are set out in the Ordinance of the Council of Ministers on Public Aid Provided to Certain Entrepreneurs to Implement New Investments of 28 August 2018.

CONTACTS

Daniel Kopania
Partner

T +48 22 627 11 77
E daniel.kopania
@cliffordchance.com

Aleksandra Jach
Counsel

T +48 22 627 11 77
E aleksandra.jach
@cliffordchance.com

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www.cliffordchance.com

Norway House, ul. Lwowska 19, 00-660
Warsaw, Poland

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