



SPECIAL ENTERPRISE ZONES

1. Introduction

A Special Enterprise Zone (SEZ) is a separated and uninhabited area in Poland where business may be conducted on preferential terms.

There are currently 14 Special Enterprise Zones in Poland.

2. Requirements

To obtain state aid in a SEZ, the investor needs a business franchise issued by SEZ Manager on behalf of the minister competent for matters of the economy.

Such franchises are issued by way of tender procedures or negotiated procedures. A procedure takes a few months.

The investor may establish his franchise business within a SEZ if his project is worth at least EUR 100,000. However, if the investor wants to choose a location that is outside the SEZ, he may request that the SEZ be expanded to comprise his desired location.

SEZ expansion requests will not be successful if any of the two requirements below is not met:

- the total area of all existing SEZs, including expansions, is no more than 8 thousand hectares (this threshold has not been exceeded yet, but legislative work is pending on an enactment that will increase the threshold to 12 thousand hectares),
- the project for which expansion is sought is worth at least EUR 40 million or will create at least 500 jobs.

3. Financial benefits for investors

Investors doing business in SEZs may obtain state aid:

- by way of support for new projects,
- by way of support for creating new jobs.

3.1. Support for new projects

A new project is a project that involves:

- setting up or extending an enterprise,
- commencing efforts in an existing enterprise that comprise substantial changes in production or a production process, or changes in a product or service, including changes in how services are provided,
- purchasing the assets of an enterprise that has been wound up or is in the process of winding up, or would be wound up if the project (involving purchase of the enterprise or of its part) was not completed.

Maximum state aid for supporting new projects is between 30% and 50% of eligible project expenditures, depending on the region in which the project is located.

That maximum is higher by 15 percentage points for regional aid to small and medium enterprises (below 250 staff and no more than EUR 40 million annual turnover or total assets on annual balance sheet worth no more than EUR 27 million).

As to regional aid for large projects, which are those where eligible project expenditures exceed EUR 50 million, the maximum is computed according to the following formula:

$$I = R \times (\text{EUR } 50 \text{ mio.} + 0.5 \times B + 0.34 \times C)$$

where:

- I - amount of aid for large project
- R - aid intensity for the area where the project is to be established
- B - eligible project expenditures qualifying for aid over EUR 50 mio but less than or equal to EUR 100 mio
- C - eligible project expenditures qualifying for aid over EUR 100 mio

Eligible project expenditures are the following expenses, less VAT and excise if deductible under other laws:

- purchase or manufacture of fixed assets, or payments for leasehold fixed assets,
- extension or improvement of existing fixed assets,

provided that the expenses have been incurred during the term of the franchise in connection with carrying out a project within the SEZ and are capitalised on the fixed assets in accordance with income tax legislation.

Project expenses may include expenditures incurred to create or purchase intangibles such as patents, licenses, patented or unpatented know-how.

Support for new projects will not be granted if investor's own funds (excluding any aid granted to him) engaged in the project are less than 25% of total project expenses.

The actual mechanism for the reimbursement is that the investor enjoys an income tax relief until the total of tax savings equals the amount of the aid (as long as the SEZ exists).

Such relief vests starting from the month in which the undertaking concerned incurred the expenditure during the period from receipt of the franchise, and continues until the total amount of tax savings equals the amount of the aid, on condition that the undertaking:

- continues in business for at least 5 years, and
- does not in any way transfer any assets to which the expenditures were related for 5 years from such assets being recorded in its books for the purposes of income tax legislation.

Only business conducted within an SEZ is eligible for the relief.

Where an undertaking conducts business both within and outside an SEZ, the SEZ operations must be organizationally separated from the other business, and the size of relief will be based on data pertaining to the SEZ operations only.

3.2. Support for job creation

Creation of new jobs means a net increase in the number of jobs within an enterprise as a result of a new project, measured against the average employment over the 6 months prior to receipt of the franchise.

The maximum job creation relief is between 30% and 50% of biannual labour costs for the new hires, such labour costs including:

- gross pay, and
- obligatory charges related to employment,

as incurred by the undertaking from the hiring date.

Here, too, small and medium enterprises may have the maximum aid limit increased by 15 percentage points.

The actual mechanism for the reimbursement is that the investor enjoys an income tax relief until the total of tax savings equals the amount of the aid (as long as the SEZ exists).

Such relief vests starting from the month in which the undertaking concerned commenced incurring its labour costs and continues until the total amount of tax savings equals the amount of the permitted aid, on condition that the newly created jobs are maintained for at least 5 years.

Only business conducted within an SEZ is eligible for the relief.

Where an undertaking conducts business both within and outside an SEZ, the SEZ operations must be organizationally separated from the other business, and the size of relief will be based on data pertaining to the SEZ operations only.

4. Loss of franchise

The franchise expires upon the end of the term for which the SEZ was established.

Additionally, the franchise may be forfeited, or the franchise business restricted, if the undertaking concerned:

- has ceased its franchise business within the SEZ, or
- has grossly breached any terms of the franchise, or
- in the event of defaults found during an inspection, has not cured the defaults within the time prescribed for the purpose by the minister competent for matters of the economy.

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