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Polish Investment Zone Criteria Challenging for Companies

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For the very first time, investors in Poland are closely acquainted with the conditions necessary to obtain public aid in the form of a tax credit. However, large enterprises will have to commit 100 million zloty ($29.7 million) and meet the qualitative criteria. Who then can count on such support?

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In September 2017, the Polish government published a draft of an act introducing a new mechanism supporting investments in Poland: the so-called Polish Investment Zone ("PIZ"). The new tax incentive was initially supposed to be available at the beginning of 2018. Hence, it came as a surprise that at the turn of last year a new draft of this act appeared on the governmental websites. The changes to the project are not significant; what should certainly attract the attention of investors is another document published along with the changed draft. The said document is the long-awaited government's regulation indicating the requirements for investing in PIZ.

Quantitative Criterion

At the very beginning, the investment should meet the quantitative criterion. It boils down to incurring investment outlays at least at the level specified in the regulation.

The minimum level of spending is not universal throughout the country and varies depending on the investment localization. Minimum costs depend on the unemployment rate in a particular poviat in which the investment is to be carried out ("poviat" is the second-level unit of local government and administration in Poland).

For example, in a poviat with the unemployment rate equal to or lower than 60 percent of the average

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unemployment rate in Poland, the investor must be willing to pay at least 100 million zloty ($29.7 million). On the other hand, in a poviat with the unemployment rate higher than 250 percent of the average unemployment rate, the minimum investment costs will be considerably reduced, down to 10 million zloty ($2.9 million)). Still, the above requirements may be further lowered, in the case of small and medium-sized enterprises ("SMEs") investors and investments in "modern business services". Decrease may be substantial. For micro-enterprises, minimum investment costs may be reduced by 98 percent. As previously expected, the support system promotes smaller companies and those who will choose to invest outside of the biggest urban centers.

Quality Criteria

Whether public aid will be granted is not simply limited to how much the investor is ready to put on the table. The so-called quality criteria should also be measured.

Each project is evaluated according to 10 specific quality criteria and each one criterion is worth one point. Investors are not obligated to meet all of the conditions together, as the minimum score necessary to obtain the tax incentive is six points. This level can be reduced down to four points, if an investment is carried out in areas with the highest unemployment rate. In addition, provisions divide projects into two separate categories ("modern business services" sector and industry).

An investor may obtain points if he or she:

1. creates high-paid jobs and offers stable employment/creates specialized jobs and offers stable employment;
2. engages in industries consistent with the government's development policy;
3. achieves certain level of export sales;
4. cooperates with academic and research centers/develops sectoral clusters;
5. creates centers of "modern business services" with its range extending beyond Poland/performs R&D activities;
6. establishes the investment in areas with the highest unemployment level;
7. is a micro, SME;
8. establishes the investment in certain locations pointed out in the regulation;
9. supports its employees in the field of education and professional qualifications/cooperates with basic vocational schools; and
10. performs activities in the field of its employee care.

Only some criteria come along with accurate guidelines. This concerns, for example, investments in particular sectors (criterion no. 2), i.e. such industries as: aeronautical, shipbuilding, biotechnology, pharmaceutical, electronic, machine, chemical, furniture, food, transportation, automotive (including parts and accessories), medical devices and IT. Similarly, in the case of minimum export sales ratio (criterion no. 3), in order to obtain points, an investor has to overcome official indicators published yearly by the statistical office.

Other criteria may raise serious doubts. The requirement to support employees in the field of education (criterion no. 9) or to perform activities in the field of employee care (criterion no. 10) seems to be open-ended. It is unclear, for example, whether it is sufficient to refer one employee to a training course or will it be necessary to provide free university education to each willing person. Additionally, most of the criteria do not indicate the time perspective in which they should be considered.

Regardless of doubts, it is certain that the quality criteria favor projects carried out by smaller business and those who decide to invest in areas suggested by the government—which are those with the highest level of unemployment and particularly listed in the provisions (medium-sized cities losing socio-economic functions).

Going Forward

The date when the regulation will come into force is unknown yet. It will depend when the government finalizes its works on the new draft of the act introducing PIZ. As discussed, the regulation is still proceeding, it may be further modified. Hopefully, those amendments will clarify the most vague provisions. Nevertheless, as the regulation promotes investments carried out in particular areas of Poland it puts into question the original announcements of the government. They indicated that the reason for the new tax incentive was so that all of Poland would become one big special economic zone. Regulation provisions (especially in respect of quantitative criterion) may thwart those plans.

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