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Draft act on the principles of supporting new investments – will all of Poland become an investment zone?

Tax Alert

Dear Readers,

In this alert, we wish to familiarise you with the basic assumptions of the Draft, which according to the announcements of Deputy Prime Minister, Mr Mateusz Morawiecki, is to make all of Poland an investment zone.

On 20 October 2017, a new draft act on the principles of supporting new investments was published (hereinafter: Draft), introducing modified principles of granting aid to entrepreneurs implementing new investments. The support mechanism established in the Draft will eventually replace the currently operating special economic zones, while respecting the acquired rights of entrepreneurs who have obtained permits to operate in the zones under the existing terms.

Reasons for changes

The intention of the legislator is that the drafted changes should repair the existing imperfections in the functioning of special economic zones. The legislator pointed out that the most serious shortcomings of the current support system included:

- the complex and lengthy procedure of including new areas into the zones;
- time constraints for zone functioning that are to apply until 2026;
- ineffectiveness in the impact of zones on the entire territory of Poland and limited use of the aid by smaller businesses.

Basic assumptions of the Draft

As before, assistance will be provided by granting income tax exemptions (CIT and PIT) as well as – which is a new solution – by providing free services to such entrepreneurs (e.g. training, consultancy, marketing services).

The support will be available for entrepreneurs planning to implement new investments in Poland, including both the creation of a new production facility and reinvestment in the existing plant. New investments, eligible for aid, will be understood as investments that meet the quantitative criteria (capital expenditure) and the qualitative criteria (compliance with the Strategy for Responsible Development) – verifying the impact of the investment on the growth of competitiveness of the Polish economy and the economic development of the region.

The very mechanism of the exemption calculation is nearly identical to the one that is currently in force with respect to special economic zones. In this respect, the Draft reproduces most of the existing rules and regulations of a "technical" nature.

New solutions planned in the Draft include, inter alia:

- complete departure from territorial constraints – the Draft assumes that investments can be implemented anywhere in the country;
- determination of the period for benefiting from the tax exemption – a decision to grant assistance will be valid for a pre-determined period of time (from 10 to 15 years);
- consideration of the objectives and assumptions of the medium-term development strategy of the country;
- introduction of mechanisms counteracting the use of support to achieve undue tax benefit – the Draft introduces in this respect an automatic tax avoidance clause.

A decision on the support will be granted only with respect to an investment that meets a number of conditions determined not in the drafted act but in the regulation issued thereunder. Unfortunately, at the moment, the content of this regulation is still unknown. Therefore, it is not possible to indicate which conditions, factors and circumstances will be taken into account when deciding about granting support to an entrepreneur. The Draft content only suggests that these criteria will take into account, inter alia, the size of the business and the unemployment level in the county where the new investment will be implemented.

The Draft is at an early stage and it has not been submitted to the Sejm yet. In addition, a majority of key conditions for granting assistance will be determined in the Regulations which content is still unknown. We will keep you informed about the progress of works in this respect.

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Should you wish to discuss the above mentioned amendments in detail, feel free to contact us:

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