

GOOD PRACTICE

Attracting FDIs and domestic investments by Katowice Special Economic Zone - systematic approach

ORGANISATION: Katowice Special Economic Zone

TOPIC: Attraction of investment

DETAILED DESCRIPTION OF THE GOOD PRACTICE

1. Background Information

1.1 Special economic zones in Poland

Special economic zones in Poland were established primarily in order to accelerate regional economic growth, utilize greenfield infrastructure and assets and create new jobs. The zones attract both Polish and foreign investors. A special economic zone (SEZ) is a separated and uninhabited part of a country's territory where business activity may be conducted under preferential terms within the framework of state aid provided by the country (for instance, in the form of income tax exemptions). In order for investors to qualify for state aid, they must obtain a permit to operate in a SEZ. Initially, the existence of most zones was supposed to end in either 2016 or in 2017. However, their period of operation was later extended twice. In 2013 the Council of Ministers issued regulations which state that all SEZs in Poland will be active until 31 December 2026. The geographical borders of the SEZs are not permanent. When necessary new plots are incorporated whereas those which turn out to have low appeal for investors are excluded.

1.2 Legal acts regulating the operation of SEZs in Poland

The operation of special economic zones in Poland is regulated by legal acts of various ranks containing, on the one hand, joint rules and principles for all the special economic zones and, on the other, individual regulations pertaining to specific SEZs.

1.3 Incentives and exemptions for investors in special economic zones:

1.3.1 Income tax exemption The main benefit resulting from investing in special economic zones is the possibility of tax relief, which involves the exemption from income tax described in Article 17.1.34 of the Act on Corporate Income Tax, as well as in Article 21.1.63a of the Act on Personal Income Tax. Pursuant to the abovementioned rules, the exemption refers to income which is generated from business activity run within the territory of a SEZ on the basis of a permit. Consequently the taxpayer's income may be exempt from income tax under the rules described if the following conditions will be jointly fulfilled: • income must be generated from business activity run within the territory of a SEZ and • income must be generated on the basis of a SEZ permit, in which specific kinds of activities are classified, as a rule, in accordance with the Polish Classification of Goods and Services (PKWiU).

1.3.2 State aid (including income tax exemption) is limited by the amount of eligible expenditures incurred by the investor and the intensity level, which may range from 15% to 70% depending on the area of the project realization and the size of the enterprise. Currently - after 1st July 2014 - the following limits for state aid apply: • for large enterprises - from 15% to 50% of eligible costs, • for mid-sized enterprises - from 25% to 60% of eligible costs, • for small enterprises - from 35% to 70% of eligible costs.

1.3.3 Eligible expenditures of a new SEZ investment pursuant to SEZ rules, the state aid granted to the entrepreneur in the form of tax exemption constitutes regional aid due to: • costs of a new investment, i.e.

eligible expenditures or • creation of new workplaces, i.e. two- year labour costs of newly employed employees. The investor is entitled to choose the calculation base which is more beneficial for him. State aid granted due to the costs of a new investment constitutes an amount calculated as the product of maximum intensity of aid and the costs of investment qualifying for aid. As costs (expenditures) qualifying for aid should be understood the costs of an investment decreased by tax on goods and services and excise tax charged, incurred within the territory of a SEZ, during the permit being in force, on tangible and intangible assets. State aid granted due to the costs of new workplaces constitutes an amount calculated as the product of maximum intensity of aid determined for a given area and two-year labour costs of newly employed employees, covering gross wages costs of such employees increased by obligatory payments connected with the employment, incurred by the entrepreneur starting from the day of employing such employees. This means that in order to determine the amount of state aid due to creation of new workplaces, the number of new employees and two-year labour costs should be taken into account.

1.3.4 Real estate tax exemption Regional aid for business activity run within the territory of a SEZ may be also granted in the form of exemption from real estate tax. The exemption is established by a municipal council in the form of a resolution. Before starting his investment, the investor should report the intention of benefiting from this form of state aid to tax authorities. The amount of state aid and the rules for granting it are determined by the municipal council's decision, however in principle the amount of aid depends on eligible expenditures and the number of new jobs created by the investment. Therefore the possibility of benefiting from real estate tax exemption (and its amount) should be checked while implementing each individual investment project. In addition, under certain conditions, real estate used to run business activity within the territory of SEZs by investors who have obtained a permit before 1 January 2001 is exempt from real estate tax. Exemption from real estate tax is often granted as a form of de minimis aid, which is exempt from the European Commission notification requirement. De minimis aid is considered not to effect trade between Member States and not to distort or threaten to distort competition. For the above reason the total amount of de minimis aid granted per Member State to a single enterprise cannot exceed EUR 200 000 over any period of three fiscal years. Specific restrictions apply to enterprises performing road freight transport for hire or reward - in such a case the total amount of de minimis aid is limited to EUR 100 000.

1.3.5 Obtaining a SEZ permit. The procedure of granting permits for running business activity within the territory of a SEZ is carried out in the form of a tender or negotiation initiated with a public invitation. The tender/negotiation announcement is preceded by the submission of the investor's letter of intent. Afterwards the investor is obliged to purchase the specification of essential conditions of the tender/negotiation. From the announcement of the tender/negotiation the investor has, in general, at least 21 days for the submission of all documents related to the planned investment to SEZ authorities - in particular the offer and the business plan. In case the investor intends to purchase real estate within the permit granting procedure, he is also required to pay a deposit in the appropriate amount on the SEZ's bank account. After positive finalization of the procedure, the investor receives a permit for running business activity within the territory of the SEZ, which specifies the entrepreneur's main commitments, in particular:

- the number of new jobs to be created by the investor within the new investment,
- the amount of eligible expenditures to be incurred by the investor within the new investment,
- the investment completion date,
- the maximum amount of eligible expenditures and two-year labour costs.

2. The Katowice Special Economic Zone Co. (KSEZ Co.) was established by the Ordinance of the Council of Ministers of the 18th of June 1996 in order to support and accelerate the restructuring processes and create employment within the Katowice region.

Profile of the SEZ The majority of the land within the Katowice Special Economic Zone is concentrated in the Śląskie voivodship but the zone also covers areas in the Opolskie and Małopolskie voivodships. Most investment territories are located in the vicinity of international transport routes (east-west and north-south) and the hub of two motorways: A1 and A4.

The Katowice SEZ turned out to be particularly attractive for investors from the automotive sector and has evolved into one of the centres of this industry in Poland.

Selected investors located within Katowice SEZ: General Motors Manufacturing Polska, General Motors Powertrain Polska, Fiat Powertrain Technologies Polska, NGK Ceramics Polska, Nexteer Automotive Polska, Brembo Polska, Guardian Częstochowa, TRW Braking Systems Polska, Johnson Controls, Saint-Gobain Glass Polska, Eaton Automotive Systems, Tenneco Automotive Eastern Europe

2.1 Katowice SEZ main tasks:

- promotion of the region and searching for new investors;
- sales of properties included in the Zone;
- granting the permits to run business activity within the Zone that give the right to income tax relief;
- help investors run their business activity - legal and tax advisory service.

2.2 The Katowice SE supporting tasks:

- active mediation in property market dealings in the Zone surroundings;
- consulting services and training related to special economic zone operation;
- maintaining the database of potential contractors, as a support for the investments to be carried out within KSEZ;
- “one-stop-shop” (comprehensive investor support);
- office and storage space rental;
- support in the scope of regional cooperation;
- human resource consulting and human resource training provided by the Personnel Development Centre in the Tychy sub-zone;
- services in scope of occupational health

2.3 The Katowice Special Economic Zone comprises of four subzones:

- the Gliwice Subzone,
- the Jastrzębie-Zdrój and Żory Subzone,
- the Sosnowiec and Dąbrowa Górnicza Subzone,
- the Tychy Subzone.

Currently, the total area of the Zone is over 2614 ha located in 40 municipalities. Most of the sites are situated in the vicinity of international routes: east-west (Lviv-Wrocław-Berlin) and north-south (Gdańsk-Cieszyn-Ostrava-Vienna), and junction of A1 and A4 motorways.

2.4 The income tax relief for companies investing within the Katowice SEZ is calculating based on:

investment costs:

- The total amount of tax relief for big size enterprises is up to 25% (35% in the Opole and Małopolska Voivodeships) of investment costs
- Medium and Small size enterprises are granted additional 10% and 20%, respectively.

or creation of new jobs:

- The total amount of tax relief for big size enterprises is up to 25% (35% in the Opole and Lesser Poland Voivodeships) of two-year labour costs for new jobs created.

- Medium and Small size enterprises are granted additional 10% and 20%, respectively.

2.5 The costs qualifying for the aid shall mean costs of an investment decreased by tax on goods and services and excise tax charged, if the possibility of their deduction results from separate regulations, incurred within a special economic zone during the duration of the permit, constituting:

- 1) purchase price of the ownership title or perpetual usufruct right to the site;
- 2) purchase price or costs of manufacturing, within one's capacity, of fixed assets, provided that they are classified, under separate regulations, as elements of taxpayer's property;
- 3) costs of extension or modernisation of the existing fixed assets;
- 4) purchase price of intangible assets connected with the transfer of technology through the acquisition of patent rights, licences, know-how or unpatented technical knowledge, subject to sub-clause 2 and 3;
- 5) costs connected with lease of sites, buildings and structures, provided that the lease period shall be at least 5 years, and in the case of small and medium-sized enterprises - at least 3 years counting from the expected date of new investment termination;
- 6) purchase price of the assets other than sites, buildings and structures covered by the lease, if the lease has the form of financial leasing and covers the obligation to purchase assets upon the expiry of lease period.

2.6 Rules of operating within the zone:

Entrepreneurs operates within KSEZ on the basis of valid permit received to run business activity within the zone consisting of 2 conditions:

1. Creation of specific number of work places within KSEZ within the specified period.
2. Bearing the specified amount of investment costs within the zone within the specified period.

The date for above conditions' fulfilment is provided by investor (in accordance with KSEZ).

Newly employed employees shall mean the number of employees employed after obtaining a permit in connection with the performance of a new investment, however not later than within the period of 3 years following the completion of an investment.

The following conditions shall be met in order to obtain the right to income tax exemption:

- preservation of ownership title to the property elements connected with investment expenditure - for the period of 5 years following their entry into fixed and intangible assets register within the meaning of income tax regulations, and in the case of small and medium-sized enterprises - for the period of 3 years, however the replacement of outdated installations or equipment due to fast pace of technological development shall not be excluded;
- preservation of the investment in the region in which the aid has been granted for the period not shorter than 5 years following the termination of the whole investment, and in the case of small and medium-sized enterprises - for the period not shorter than 3 years

Investor is obliged to maintain declared employment level:

- for a period of at least 5 years after completion of investment in case of big enterprises
- for a period of at least 3 years in case of medium and small enterprises

Investor is also obliged to submit to Katowice SEZ , simple in form and content, monthly statements including information on current level of employment as well as amount of investment costs. Katowice SEZ conducts periodic, annual inspections in investors' companies to verify actual levels of investment costs and employment.

2.7 Silesian Regional Strategy vs. Katowice SEZ operating strategy

With the accordance to the State regulation the Polish region authorities are responsible for definition of strategy of regional development, formulating other regional development policies in the field of entrepreneurship, innovativeness, public education, promotion and health protection, culture and heritage, social welfare, modernization of rural areas, spatial management, environmental protection, water management, collective transport and public roads, sports and tourism, consumers rights' protection, defenses, public security, counteracting unemployment and activation of local labor market.

Each the SEZ as customers oriented company may fulfil general objective of each regional strategy such as regional economic development, only.

As Katowice Special Economic Zone has acquired over 250 business entities to date and employed over 56 thousand staff, income tax and salary paid a.m. staff impacted to regional economy significantly.

ROLE OF ACTORS

State Authority

Regional Authority

Municipal Authorities

Business Support Organization

Banks

Provision of Land, consultancy services, infrastructure and financial resources

BENEFICIARIES

Investors

CULTURAL ASPECTS: POSSIBLE KEY LEVERAGES FOR INTERNATIONALISATION PROCESSES
Not identified

INNOVATION OF THE GOOD PRACTICE, POTENTIAL FOR IMPROVEMENT AND REPLICABILITY

1. The idea of Polish SEZ (income tax relief for companies, public aid - de minimis, infrastructure, additional service) placed in their between the standard free economy, so called "Old European Union" and free economic zone like special economic zone in China,
2. Having in mind adequate EU regulation and due to the Polish regulation being in force all Polish SEZ have to be ended by 2026 as the tax relief is concern,
3. Having in mind above mentioned - presented BP might be replicated in called "New European Union" countries such as Romania, Bulgaria or non - UE countries - under their decision