

Advokatska kancelarija TSG TOMIĆ SINDJELIĆ GROZA informiše o aktuelnostima u radu kancelarije i zakonodavnom reljefu RS / Die Rechtsanwälte TSG TOMIĆ SINDJELIĆ GROZA informieren über aktuelle Themen der Kanzlei und den Rechtsrahmen der RS / The TSG TOMIĆ SINDJELIĆ GROZA Law Office is informing about the actual activities of the Law office and the Law frame in RS/ Юридическая контора ТСГ ТОМИЧ СИНДЖЕЛИЧ ГРОЗА информирует о самых актуальных событиях, о работе конторы и законодательном релёфе РС / Glavni urednik/Chefredakteur /Editor-in-Chief / Главный редактор: Ljubica Tomić /Lektor/Lektor/Proofreader/Лектор: Ivana Radović, Vesna Gašić, Vojislava Katić, Viktorija Topalović, Magda Braun / Br. 63/14

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INCENTIVES FOR DIRECT INVESTMENTS IN THE REPUBLIC OF SERBIA

In 2014 the Republic of Serbia adopted a new incentive program for green-field and brown-field projects in Serbia based on the Regulation on the terms and conditions for attracting direct investments ("Off. Gazette of the RS", no. 55/2014), which entered into force on 24.05.2014 (hereinafter "the Regulation").

The amount of funding that can be awarded is determined in relation to:

- **eligible investment costs** (investments in tangible and intangible assets as defined by the Regulation),
- or **eligible costs of gross wages for new job positions** within a period of two years upon the implementation of the investment project.

This kind of ascertainment of the funding amount differs from the previous regulation on attracting direct investments, which was based on a point scoring system.

Pursuant to the foregoing the Regulation stipulates a limit on the funding amount to be awarded, as follows:

- for eligible investment costs of up to 50 million EUR, the limit of awarded funds may not exceed 50% thereof; however exceptionally it may be increased by an additional 20% and 10% for small-sized companies and medium-sized companies respectively;
- for a part of eligible investment costs ranging btw 50 and 100 million EUR, the limit of funds may not exceed 25% of such costs;
- for a part of eligible investment costs exceeding 100 million EUR, the limit of funds may not exceed 17% of such costs. (Article 5 of the Regulation)

The beneficiary of funds must ensure a participation of no less than 25% of eligible costs from its own resources. (Article 6 of the Regulation)

The terms and conditions that the Investors must fulfil for investments, for which funds can be awarded, are similar to those in the previous regulation. Therefore, the incentives can be granted for:

- investments in the manufacturing sector with a minimum value of 500.000 euro or a million euro (depending on the region, in which the investment will be implemented, classified according to the level of development of regions and local government units), securing the creation of at least 50 i.e. 100 new jobs;
- investments in the service sector, which may be subject to international trade, with a minimum



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value of 300.000 euro, securing the creation of at least 10 new jobs;

- investments in strategic projects in the field of tourism, with a minimum value of five million euro, securing the creation of at least 50 new jobs;
- investments of at least 50 million euro, securing the creation of at least 300 new job positions (large investment projects), provided that at least 20% of the investment project's value is realized no later than one year from the Agreement signing date;
- investments in the value of at least 30 million euro, which secure the creation of at least 150 new job positions (medium investment projects), provided that at least 10% of the investment project's value is realized no later than one year from the Agreement signing date. (Article 8 of the Regulation)

Investment projects in the sector of primary agricultural production, hospitality industry, gambling, trade, production of synthetic fibres, coal and steel, tobacco and tobacco products, weapons and ammunition, as well as economic entities in difficulties (as set forth under Article 7, items 1)-3) of the Regulation) are not eligible to receive funding.

The procedure of funds awarding shall be carried out in accordance with the public call, which the Serbian Investment and Export Promotion Agency ("SIEPA" or "the Agency") has prepared and published on the website of the Government, the Ministry and SIEPA, <http://www.siepa.gov.rs/en/>, with the prior approval of the Ministry of Economy.

The application for participation in the procedure for awarding of funds shall be submitted to SIEPA, which firstly verifies the fulfilment of requirements for awarding funds. Subsequently, SIEPA refers the application accompanied with its expert analysis of the project to the Commission for application evaluation (the "Commission"). The Commission comprises of 5 ministers of the Republic of Serbia: Minister of Economy, Finance, Infrastructure, Trade and Employment. The criteria for awarding funds are as follows: references and investor's profile, technological operation level, previous cooperation with suppliers and projected share of local suppliers, investment effects on employees (trainings and average salary), volume of international and total turnover, financial and market evaluation of the investment project (funding sources, solvency, profitability, etc.), amount and type of investment, effects of the investment on the region/city/municipality (taking into account the level of development of the municipality), impact of the investment project on the increase in competitiveness and entrance into new markets.

The decision shall be adopted by consensus of all five ministers of the Commission. Mutual rights and obligations regarding the payment of the awarded funds

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are subsequently regulated by the agreement concluded by the Ministry and the funds beneficiary.

Unlike the previous regulation that defined the tranches of disbursement of the funds depending on the type of investment, the Regulation in force has no such provisions. Therefore, the parties shall agree upon the dynamic and manner of payment within the agreement on awarding funds.

The Regulation prescribes a deadline of 3 years for the implementation of the investment project and creation of new job positions, beginning from the date of entering into the agreement on awarding funds (Article 10 of the Regulation). For large and medium investment projects, the deadline can be specified within the agreement on awarding funds and cannot exceed 10 years.

The beneficiary of the funds must submit a guarantee of a bank operating on the territory of the Republic of Serbia, payable on first demand to the Republic of Serbia, which must be valid until fulfilment of all obligations of the beneficiary arising from the agreement on awarding funds (Article 21 of the Regulation).

On the basis of the issued bank guarantee and blank promissory note, the Ministry is entitled to collect funds at any time in the amount of disbursed funds and legally prescribed default interest, if it determines that the beneficiary does not fulfil the conditions stipulated in the agreement related to the dynamics of investment implementation or any other contractual obligations (Art. 20 of the Regulation).

The current regulation is similar to the previous one in regard to the rules of reimbursement of funds invested in infrastructure. Namely, the investor is entitled to apply for a refund of partial or total amount of the funds invested in investment projects which require investments in infrastructure necessary for carrying out the business activities of the beneficiary of funds. Likewise, if the infrastructure has already been built at the expense of the investor, and is required for a new investment project that entails new investment of at least 10 million euros and creation of at least 300 new jobs, the investor is entitled to a refund of partial or total amount of the funds invested in the infrastructure, within seven years from the date of construction completion of the infrastructure in question. Upon the submission of application, the amount of funds for reimbursement will be determined by the Ministry (Article 26 of the Regulation).

By late August 2014 the budget rebalance of the Republic of Serbia is anticipated; hereinafter it may be expected that this Regulation will start its effective implementation.

We are gladly at your disposal for any further questions regarding incentives in the Republic of Serbia and further detailed elaboration thereof.

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