

What's new in the process of awarding state incentive funds in Serbia?

The Republic of Serbia continues to provide incentives for direct investments, as attested by the Regulation on Determining the Criteria for Giving Incentives for Attracting Direct Investments (The Regulation) that came into force on 19 January 2019. The new Regulation contains several new rules and procedures.

I. Minimum investment requirements and the amount of incentives

Minimum investment requirements for which funds are awarded remain the same. They are determined according to the level of development of the local self-government unit, as follows:

- a minimum of EUR 100,000 of the eligible costs of investment and at least 10 jobs created in the devastated areas, qualify for incentives of up to 30% of the eligible costs of investment, or up to 40% of the eligible costs of gross salaries in a two-year period, however not exceeding 7.000 EUR per job;
- a minimum of EUR 200,000 of the eligible costs of investment and at least 20 jobs created in the units of local government that are classified in the IV group of development, qualify for incentives of up to 25% of the eligible costs of investment, or up to 35% of the eligible costs of gross salaries in a two-year period, however not exceeding 6.000 EUR per job;
- a minimum of EUR 300,000 of the eligible costs of investment and at least 30 jobs created in the units of local government that are classified in the III group of development, qualify for incentives of up to 20% of the eligible costs of investment, or up to 30% of the eligible costs of gross salaries in a two-year period, however not exceeding 5.000 EUR per job;
- a minimum of EUR 400,000 of the eligible costs of investment and at least 40 jobs created in the units of local government that are classified in the II group of development, qualify for incentives of up to 15% of the eligible costs of investment, or up to 25% of the eligible costs of gross salaries in a two-year period, however not exceeding 4.000 EUR per job;
- a minimum of EUR 500,000 of the eligible costs of investment and at least 50 jobs created in the units of local government that are classified in the I group of



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development, qualify for incentives of up to 10% of the eligible costs of investment, or up to 20% of the eligible costs of gross salaries in a two-year period, however not exceeding 3.000 EUR per job.

The deadline for implementation of investment projects and creation of new jobs is 3 years from the date of applying for state incentives but may be extended to a maximum of five years from the date of applying for state incentives, subject to approval of the Council.

These rules have also been retained: A) the beneficiary is obliged to provide at least 25% of the eligible costs of investments from his own funds, B) the investor is obliged to pay the basic salary at least 20% higher than the minimum salary under the regulations governing work relations.

II. Material changes introduced by the new Regulation

One of the major changes affects the way eligible investment costs are calculated: the prices to be considered are reduced by the amount of public revenues! This means that the CUSTOMS duties on equipment are not recognized as eligible costs! This has not been the case before. When it comes to the VAT, it has not been considered as an eligible cost even before, but according to the accounting regulations and practice, customs duties belong to the so-called direct costs of purchase, which constitute the purchase value of a fixed asset, based on which the auditors assess the fulfilment of the investment obligation.

The next hugely important novelty is the increased importance of the business plan. In case of any departures from the contractual obligations under the business plan, the beneficiary of funds needs to notify the Ministry of such departures by the end of the third quarter of the current year and submit the amendments to the business plan with the mandatory annexation of the contract. This raises the issue of appropriateness of such solution, since it is impossible to say with certainty at the beginning of the investment project what amount exactly will be invested and in which equipment by years, given that any replacements of the equipment to be procured or any changes in the price of the equipment would require additional costs and time for an annex to be defined and concluded.

III. Novelties in the awarding of funds

The new Regulation has made changes to the procedure for awarding funds. There are no more differences between the procedures for the investment projects involving up to 100 and those involving over 100 new jobs, and there is no public call for awarding funds.

Furthermore, it should be noted that the Letter of Intent and the information of the Development Agency of Serbia on a possible level of incentive is now an optional step (unlike earlier), and the application for the allocation of funds can be submitted immediately without previously sending the Letter of Intent. (Article 18). However, it is recommendable to undertake the steps entailed in the submission of the Letter of Intent, unless reasons for urgency justify submission of the application without delay (given that the investments are counted as eligible after the filing of the application).

The collection of required documentation for the application has been made easier, as the certificate of non-conviction (for legal entities and responsible persons at the investor and beneficiary of funds) has been replaced with a statement to that effect. This is a significant relief since obtaining adequate certificates abroad was associated with serious difficulties.

There have been no changes to the rule that the funds are paid to the investor in instalments in percentages: (i) in proportion to the amount of investment in fixed assets in each year of the investment project implementation, or (ii) in the amount that is proportional to the number of newly employed in each year of the investment project implementation (Art.23)

IV. Which investments cannot be stimulated?

The Regulation does not apply to the investments in the following fields: transport, software development (unless in the function of product improvement, production process or centres for the provision of service), hospitality industry, gambling, trade, production of synthetic fibres coal and steel, tobacco and tobacco products, weapons and ammunition, shipbuilding of self-propelled marine merchant vessels over 100 gross registered tons, airports, utilities sector, energy sector, broadband networks, as well as fisheries and aquaculture. (Art.4)

V. Collaterals to be provided

The Regulation stipulates the collaterals to be provided with each Request for Payment of each instalment. In addition to a certified auditor's report on fulfilment of conditions for payment of an instalment, the funds beneficiary also encloses a bank guarantee for repayment of the paid instalment, along with two registered and signed blank solo promissory notes with a signed letter of authorisation for collecting the statutory default interest. The promissory notes may be replaced by a bank guarantee covering the amount of total awarded incentive funds.

VI. Control of existing contracts under provisions of new Regulation?

It is worth noting that the new Regulation for year 2019 governs the control of performance of contractual obligations under the concluded contracts on awarding incentive funds, as well as the decision-making based on the performed control.

VII. Abolished rules from previous Regulation

The investment projects and criteria for the analysis of investment projects are no longer divided according to the number of new jobs to be created, whether there will be up to, or more than, 100 new employees.

Furthermore, funds can no longer be awarded for hotel accommodation services projects in the territory of a local self-government with a spa or climatic area, nor for investment projects in the agricultural sector.

The earlier prohibition on awarding funds to the sector of logistic centres no longer applies, thus relevant projects are now eligible for the funds granting procedure.

The notion of "investment of special importance for the Republic of Serbia" has been retained as previously defined.

The term "period of guaranteed investment and employment" has been deleted from the Regulation, which we assume to be a technical omission, (or the term will have to be defined in the future draft contract on granting incentive funds), because the Regulation refers to the term in the articles governing the reporting on implementation of the investment project as well as the control and monitoring of the contractual obligations (Article 25, 26 of the Regulation)

VIII. Coming into force of the new Regulation

Regulation on Determining the Criteria for Giving Incentives for Attracting Direct Investments ("Official Gazette of the Republic of Serbia", No. 1/2019) came into force on 19 January 2019, following in the footsteps of regulations previously designated as "Regulation on Terms and Conditions for Attracting Direct Investments".

Please contact our team if you have any questions regarding incentives for specific investment projects.