

MINISTRY OF THE ECONOMY, LABOUR AND ENTREPRENEURSHIP

**REGULATION
ON INVESTMENT INCENTIVES,**



Pursuant to Article 13, Point 8, of the Investment Incentives Law („National Gazette”, No. 138/2006), the Government of the Republic of Croatia at its session held on 15 June 2007, adopted the following

REGULATION ON INVESTMENT INCENTIVES

GENERAL PROVISIONS

Article 1.

1. This Regulation on Investment Incentives concerns companies that pursuant to an Application to Utilise Incentive Investment Measures, are eligible for status of a beneficiary of incentive investment measures in keeping with the Investment Incentives Law

This Regulation prescribes:

- the form and compulsory contents of the Application to Utilise Incentive Investment Measures including the relevant forms;
- application and approval procedures and use of incentive investment measures; and
- compulsory contents for annual reports on the use of incentive investment measures.

2. Trading companies in hardship that cannot realise the status of a beneficiary of incentive measures pursuant to Article 2, Points 1 & 3 of the Investment Incentives Law, are those companies that are not in a position to prevent losses with their own funds or owner's funds or creditors' funds and where without external assistance, their existence would be threatened.

Regardless of the size of the company, it is considered that a company is in hardship in the following circumstances:

- if the amount of the founding capital has decreased to less than half and more than a quarter of that capital decreased in the preceding twelve months;
- if the company meets the requirements to initiate bankruptcy proceedings or proceedings to be struck out of the Company's Register;
- if it is obvious from financial reports that the company shows signs which typically indicate hardship, that is, if negative indicators are obvious in the company's financial reports: liquidity, debts, economy, profitability and rentability (increasing losses, declining total income, increasing reserves, surplus capacities, declining cash turnover, increasing debts, increasing interest rates, declined or nullified value of assets); or if the company is already insolvent or bankruptcy proceedings or proceedings to strike it out of the Company's Register have already begun.

3. Trading companies in the steel or synthetic fibres sectors not eligible for status of a beneficiary of incentive investment measures pursuant to Article 2, Points 1 & 3 of the Investment Incentives Law, are those companies who are on the most part involved with activities defined in Supplement I & Supplement II of the Rules on Regional Subsidies, Sections 5b, Point I. of the Decision to Advertise the List of Rules for Government Subsidies (“National Gazette”, No. 121/2006).
4. Companies that execute replacement investments are not eligible for status of a beneficiary of incentive investment measures pursuant to Article 2, Points 1 & 3 of the Investment Incentives Law. Replacement investments are considered to be those investments replacing existing buildings and equipment/machinery, or parts of equipment/machinery with new buildings and equipment/machinery with an increased production capacity of less than 25% or without any change to the basic production or applied technology. Replacement investment does not include complete demolition nor significant reconstruction of an existing building that is more than 30 years old and replacing it with a new building. Reconstruction is considered to be significant if the costs amount to at least 50% of the value of a new building.
5. Pursuant to Article 2, Point 3, of the Investment Incentives Law, a company that wishes to utilise subsidies for initial investment, submits an application to the Ministry of the Economy, Labour and Entrepreneurship to be granted incentive measures prior to commencing the investment project. The commencement of the investment project, that is, commencement of works to the project include: the commencement of construction works or the first accepted obligation to order equipment which excludes preparatory feasibility studies.
6. When calculating the maximum intensity of subsidy for an initial investment, prescribed in the provisions of Article 2, Point 8, of the Investment Incentives Law, the difference between the total maximum intensity of subsidy for initial investment and all other incentive measures granted from the Investment Incentives Law, including support from other sources, is calculated.

Article 2.

Depending on the size of the company that is approved eligibility for status of a beneficiary of incentive measures and in this regard, the maximum intensity of subsidies pursuant to the provisions of Article 2, Point 8 of the Investment Incentives Law, when determining the size of a company, consideration is given to the classification of company sizes pursuant to the provisions of the Accounting Law (“National Gazette”, No. 146/2005).

APPLICATIONS FOR INVESTMENT INCENTIVE MEASURES

Article 3.

1. Applications for investment incentive measures are submitted on application forms for use of incentive measures, which form a constituent part of this Regulation and consist of the following:
 - Application for Investment Incentive Measures Form (Form P-1)
 - General Applicant Information about the Applicant for Investment Incentive Measures Form (Form P-2)
 - Description of the Investment Project (Form P-3)
 - Specification of Justified Costs of the Investment Project (Form P-4)
 - Specification of the Sources of Financing for the Investment Project (Form P-5)
 - Specification of the Total Equipment and Equipment to be Imported, (pursuant to Article 6, Investment Incentives Law) (Form P-6)
 - Specification of Creating New Jobs and Training Related to the Investment Project (Form P-7)
 - Effects of the Investment Project on the Economy of the Republic of Croatia Calculated on a Cost/Benefit Analysis (Form P-8)
 - Constituent part of the Application consists of the following attachments:
 - Extract from the Court Register of the Applicant for Investment Measures – issued within the last three months
 - Information about the financial status of the investor, that is, Applicant (annual financial report for the preceding three years, audit report);
 - Business Plan for the following five years with a forecasted financial report.
2. The Application for Investment Incentive Measures must be accompanied by a list of references for the Applicant in addition to other attachments that the Applicant considers significant to support the justification to be granted incentive measures.

PROCEDURE TO APPROVE STATUS OF A BENEFICIARY OF INCENTIVE MEASURES

Article 4.

1. Pursuant to an Application as noted in Article 3 of this Regulation, the Ministry of the Economy, Labour and Entrepreneurship, based on previously obtained approval from:

- The Ministry of Finance – Tax Department & Customs Office; where the applicant requests custom benefits noted in Article 6 of the Investment Incentives Law;
 - Other relevant ministry dealing with the investment in question;
- and a previously obtained opinion from:

- The Investment & Exports Incentives Agency;

issues an Endorsement confirming that the applicant for incentive measures meets all the requirements prescribed in the Investment Incentives Law and that the Applicant has been granted status of a beneficiary of investment incentive measures.

2. The Ministry of the Economy, Labour and Entrepreneurship shall issue confirmation of being granted status of a beneficiary of investment incentive measures or notice of failure to meet requirements to be granted status of a beneficiary of investment incentive measures within 60 days of the date of receiving the Application if it meets all the requirements prescribed in the Investment Incentives Law and the provisions of this Regulation.

Article 5.

1. If the application for investment incentive measures indicates the intent to import equipment and eligibility for customs benefits as noted in Article 6, of the Investment Incentives Law, the Endorsement noted in Article 4 of this Regulation shall note:
 - The provision that the equipment to be imported is relevant to the activity registered by the Applicant of customs benefits;
 - A specification of the equipment to be imported and itemised according to the tariff items at the Customs Office including the quantity and total value;
 - Approximate time-frame for equipment to be imported.
2. Exemption of customs can be realised by submitting an Endorsement as noted in Article 4 of this Regulation accompanied by a declaration issued by the relevant Customs Office releasing the goods into free circulation.

Article 6.

1. Equipment imported that has been exempted of customs pursuant to Article 6 of the Investment Incentives Law must not be sold or alienated, lent, given to a third person for usage, leased, rented or offered as a guarantee for other obligations without prior written notice from the Customs Office prior to customs calculations and payment of customs dues.
2. Should circumstances noted in Point 1 of this Article arise, customs shall be calculated at the rate applicable on the date that these circumstances occurred and according to the type of goods and customs value that the Customs Office determined and accepted for that day.

Article 7.

1. If the application for investment incentive measures indicates the intention to utilise subsidies for justified costs incurred to create new jobs related to the investment, that is, subsidies for justified costs for training related to the investment as noted in Articles 7 & 8 of the Investment Incentives Law, the Endorsement noted in Article 4 of this Regulation shall contain:

- provision that new jobs created, or training is related to the implementation of the investment project and that these were opened due to the increased efficiency of the beneficiary's capacities resulting from the investment and that they are directly related to the investment project's activities and enable the beneficiary's registered activity;
- the amount of non-returnable financial support issued to create new jobs and subsidies for staff training related to the investment, with the condition that the amount of non-returnable financial support for training related to the investment can amount to a maximum of 50% of the amount of the non-returnable financial support to create new jobs related to the investment and pursuant to the maximum allowed intensity of subsidies for cases of general and special training as prescribed in the provisions of Article 8, Point 3 of the Investment Incentives Law.

Article 8.

1. When determining the justification to approve non-returnable financial support as noted in Article 7, of this Regulation, the term; new jobs created and training related to the investment shall mean employment and training of:

- Unemployed persons who prior to signing an employment contract with the beneficiary of incentive measures were registered in the unemployment records of the Croatian Employment Institute for at least three months;
- Persons who are being employed for the first time and these being without any specific vocation, persons under 25 years of age with subsidiary vocations or trades who had not been registered in the unemployment records;
- Persons under 29 years of age who are being employed for the first time and have secondary, senior secondary or tertiary qualifications who had not been registered in the unemployment records; and
- Persons under 29 year of age who registered in the unemployment records at the Croatian Employment Institute within 90 days of graduating, obtaining a trades certificate, completion of regular secondary education or persons without a specific vocation who have completed primary school education.

2. When determining the dynamics of approving non-returnable financial support noted in Article 7 of this Regulation and pursuant to Article 10 of the Investment Incentives Law, the Ministry of the Economy, Labour and Entrepreneurship shall approve non-returnable financial support noted in

Article 7 of this Regulation upon the expiry of the first year of the new jobs being created; completion of training related to the investment under the condition that the beneficiary of incentive measures is obliged within that period to submit to the Ministry of the Economy, Labour and Entrepreneurship:

- a) Employment contract;
 - b) Registration Form for the Croatian Pension Institute;
 - c) Registration Form for the Croatian Health Insurance Institute;
 - d) Financial documents indicating that all the requirements have been met to be approved non-returnable financial support (average number employed and amount paid for gross salaries) – ID Form certified by the Tax Department for the preceding 12 months of the date of the application;
 - e) Evidence of payment of compulsory contributions for the preceding 12 months;
 - f) Training Programme;
 - g) Cost Listing for training containing:
 - Invoices and other documents as evidence of the costs incurred for training and issued by a third person conducting training and authorised and certified by a government administration or other authorised body or institution of the Republic of Croatia; and/or
 - Evidence of the cost of trainers and mentors, travel allowances for trainees and other running costs related to conducting the training programme – consulting services.
3. Evidence referred to in Point 2. a), b) & c) of this Article are to be submitted for each individual for whom the employer is applying for non-returnable financial support.
4. In addition to submitting the documentation referred to in Point 2 of this Article, the beneficiary of incentive measures is obliged to submit to the Ministry of the Economy, Labour and Entrepreneurship an instrument of guarantee to pay dues in cases of violation of the provisions of Article 9 of the Investment Incentives Law – blank Promissory Note certified by a Public Notary.

Article 9.

1. If the Application for investment incentive measures indicates the intention to apply for non-returnable financial support for long-term assets related to the investment project, that is, to use incentive measures to found and develop a technological development-innovation centre as referred to in Article 11, Point 4 of the Investment Incentives Law, the Endorsement referred to in Article 4 of this Regulations shall contain:

- the provision for long-term assets, that is, equipment for a technological development-innovation which represents the investment into the beneficiary of incentive measures representing equipment classified as high-tech equipment pursuant to international classification of equipment that falls into the category of high-tech equipment and that is directly related to the investment project's activities and enables the activities of the registered business of the beneficiary of incentive measures;

- the amount of non-returnable financial support for long-term assets, that is, equipment for technological development-innovation centre that represents the investment of the beneficiary of incentive measures.

Article 10.

1. When determining the dynamics of approving non-returnable financial support referred to in Article 9 of this Regulation, and pursuant to the maximum allowable intensity of support referred to in Article 11, Point 4 of the Investment Incentives Law, the Ministry of the Economy, Labour and Entrepreneurship shall approve non-returnable financial support referred to in Article 9 of this Regulation following the entry of long-term assets, that is, technological, development-innovation centre equipment owned by the beneficiary of incentive measures, increasing from the expiry of the first year of the investment, that is, commencing from the expiry of the first year of being granted status of a beneficiary of incentive measures with the conditions that the beneficiary of incentive measures is obliged to submit the following to the Ministry of the Economy, Labour and Entrepreneurship:
 - Financial report from the beneficiary of incentive measures from which the input of long-term assets is obvious, that is, technological development-innovation centre equipment owned by the beneficiary of incentive measures and as such meets the requirements for payment of non-returnable financial support;
 - Evidence of constructing or purchasing long-term assets, that is, technological, development-innovation centre equipment with a specification of the costs of construction or procurement;
 - Material evidence that the said long-term assets, that is, technological, development-innovative centre equipment that represents the investment into the beneficiary of incentive measures represents equipment classified as high-tech equipment, pursuant to the national classification of equipment.
2. The category of high-tech equipment is considered to be investments exclusively into new equipment that is used for production-development and innovation processes and not business administration processes.
3. The term high-tech is considered as those industries and activities that are based on knowledge requiring significant investment into research and development; relatively rapid technological progress; long-term development phases and potentially rapid growth in production volume.

Article 11.

1. If the Application for investment incentive measures indicates the intention to apply for non-returnable financial support for long-term assets relating to the incentive measures for large investment projects – “Investment Projects of Significant Economic Interest”, and pursuant to Article 12, Points 3 & 4 of the Investment Incentives Law, the Endorsement referred to in Article 4 of this Regulation shall contain:
 - provision that long-term assets relating to large investment projects – “Projects of Significant Economic Interest”, represents investments

into the beneficiary of incentive measures and are directly related to the investment project activities that enable the activities registered for the beneficiary of incentive measures;

- the amount of non-returnable financial support for investment into long-term assets input into large investment projects – “Projects of Significant Economic Interest”.

2. Application to use incentive measures for large investment projects pursuant to Article 12, of the Law on Government Subsidies shall be submitted by the Ministry of the Economy, Labour and Entrepreneurship to the Agency for the Protection of Market Competitiveness for its approval.

Article 12.

1. When determining the dynamics to approve non-returnable financial support referred to in Article 11 of this Regulation and pursuant to the maximum allowable intensity of support referred to in Article 12, Points 3 & 4 of the Investment Incentives Law, the Ministry of the Economy, Labour and Entrepreneurship shall approve non-returnable financial support referred to in Article 11 of this Regulation following the input of long-term assets to the proprietary of the beneficiary of incentive measures, commencing with the expiry of the first year of the investment, that is, commencing from the expiry of the first year of being granted status of a beneficiary of incentive measures with the conditions that the beneficiary of incentive measures in that period submits the following to the Ministry of the Economy, Labour and Entrepreneurship:

- Finance reports by the beneficiary of incentive measures that determine the input of long-term assets to the assets of the beneficiary of incentive measures;
- Extract from the Court Register for the beneficiary of incentive measures as evidence of the input of the value of long-term assets into the founding capital of the company (the proprietary of the beneficiary of incentive measures), hence meeting the requirements for payment of non-returnable financial support;
- Building Permit, or Permit of Use for the construction of a new factory, that is, industrial plant and construction, extension or expansion of infrastructural complexes and utilities relating to the investment project;
- Specification of the costs of construction of the new factory or industrial plant, that is, specification of the costs of construction of new machines, that is, production equipment;
- Specification of the costs of construction of new, extension or expansion of existing infrastructural complexes and accessories related to the investment project;
- Invoices/receipts for the purchase, construction, extension or expansion of the said long-term property, issued by a third person;
- Material evidence that part of the investment into machinery, that is, production equipment amounts to at least 40% of the total value of the investment;

- Material evidence that at least 50% of the machinery purchased, that is, production equipment represents equipment classified as high-tech equipment pursuant to the national classification of equipment included in the category of high-tech equipment.

ANNUAL REPORT OF THE USE OF INVESTMENT INCENTIVE MEASURES

Article 13.

1. Annual reports that are submitted to the Ministry of the Economy, Labour and Entrepreneurship – Tax Department pursuant to Article 13, Point 5 of the Investment Incentives Law, must contain the following information:

- Annual report of business for the past year, profit/loss statement and balance sheet with profit tax statement;
- Amount of investments in the report period in Croatian kuna;
- Input into new equipment – type & value;
- Number employed at the beginning and end of the report period (Specification according to insurees of calculated contributions for compulsory pension insurance – R-Sm Form);
- Type and use of incentive measures for the report period;
- Calculation of profit and amount of tax benefits that the beneficiary of incentive measures is using pursuant to the provisions of Article 4, Point 5 of the Investment Incentives Law;
- Other information relevant to the use of incentive measures, that is, tax or customs benefits.

2. The beneficiary of investment incentive measures is obliged to submit the annual report by 30 April of the current year for the preceding year along with a profit tax statement which expresses tax benefits.

3. The beneficiary of incentive measures may submit other documents with the annual report in evidence of the information expressed.

TRANSITIONAL & CONCLUDING PROVISIONS

Article 14.

1. At the request of the Ministry of the Economy, Labour and Entrepreneurship, the beneficiary of incentive measures is obliged to submit additional information required to evaluate the validity of the Application referred to in Article 3 and reports referred to in Article 13 of this Regulation.

2. With this Regulation coming into force the Regulation of the Contents of Reports to Utilise Investment Measures, Tax and Customs Benefits and

the Method to Realise them, ceases to be valid (“National Gazette” No. 53/01).

Article 15.

This Regulation comes into force on the eighth day of it being announced in the “National Gazette”.

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Zagreb, 15 June 2007

PRESIDENT