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NEWSLETTER

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Decree on Terms and Conditions for Attracting Direct Investments ("Off. Gazette of RS", no. 110/2016)



The Government of the Republic of Serbia adopted the Decree on Terms and Conditions for Attracting Direct Investments ("Official Gazette of the RS", no. 110/2016, hereinafter: the „Decree") which entered into force on December 31st, 2016. As of entering into force of the Decree, the Decree on Terms and Conditions of Attracting Investments ("Official Gazette of RS", no. 27/2016) ceases to be valid and applicable.

Decree primarily introduces certain changes in the definitions of terms and institutes, by defining certain terms in simpler way or by separating these in few definitions. It also introduces specific terms, such as the implementation period of the investment project which is determined by agreement on allocation of incentives funds. Some terms are now defined differently, which refers to the definition of direct investments under the Decree, whereas it is now specified that the acquisition of shares or stocks in a company is not considered a direct investment. Costs related to the purchase of passenger cars and means of transport are now excluded from eligible costs and incentive funds may not be used for financing projects in the field of software development, according to the Decree.

Investors and beneficiaries required to return illegal state aid and whose agreements on allocation of incentive funds had been terminated are now eligible for funding under the Decree.

One of the most significant changes relates to the changes in the value of the investment projects that are eligible for funding under the Decree, whereas the following changes have been implemented:

- the value was decreased from EUR 150,000.00 to EUR 100,000.00 for investing in devastated areas, where it is necessary to ensure the employment of at least 10 employees for an indefinite period, unlike previous solution that prescribed at least 20 new jobs;
- the value was changed from EUR 150,000.00 to EUR 200,000.00 for investing in the local government units that are classified in the fourth group of development;
- the value was decreased from EUR 600,000.00 to EUR 400,000.00 for investing in the local government units that are classified in the second group of development;
- the value was decreased from EUR 600,000.00 to EUR 500,000.00 for investing in the local government units that are classified in the first group of development; and
- projects in the agriculture and fisheries sector whose minimum value is EUR 2,000,000.00, and which must ensure the employment of at least 25 employees for indefinite period, have been added.

According to the Decree, the deadline for implementation of the investment project and employment of new employees starts on the date of applying for incentive funds, and not from the date of signing the agreement on allocation of incentives funds, as it was stipulated before.

The Decree particularly distinguishes and defines the investments of special importance, which are now defined as investments in fixed assets of beneficiaries of funds, in the amount of at least EUR 5,000,000.00 or investments that include opening of more than 500 jobs, for investing in local government units which are classified into first and second group of development, unlike the previous solution which prescribed minimal value of investment in amount of EUR 20,000,000.00.

The procedure of allocating funds is regulated by the Decree in detail. Some of the novelties are: specified period of 30 days in which the investor is obliged to respond to the notification of the Development Agency of Serbia ("**RAS**") on the possible level of incentives, based on the previously submitted letter of intent; certain deadlines in the procedure have been extended from 15 to 30 days; there is still the possibility of payment of allocated funds in instalments, but there is no limit to three instalments, as it was included in the previous solution.

Unlike the previous provisions which prescribed the possibility of Ministry of Economy to terminate the agreement of allocation of funds and request the return of allocated funds if the investor fails to remedy the previously determined deficiency within 30 days after receiving notice on deficiency of the Ministry of Economy, the Decree now introduces the possibility of signing the Annex to the agreement, according to the decision of the Council for the Economic Development.

Finally, in accordance with the transitional and final provisions of the Decree, control of fulfilling the obligations from concluded agreements on the allocation of funds, as well as deciding upon conducted controls, will be done in accordance with the provisions of this Decree.