

## ACT

of 10 May 2018

### on support for new investments<sup>1)</sup>

1) This Act amends the Act of 26 July 1991 on personal income tax, the Act of 19 October 1991 on the management of State Treasury property, Act of 15 February 1992 on corporate income tax and the Act on 20 October 1994 on special economic zones.

Chapter 1.

#### General provisions

**Article 1.** The Act determines the principles of granting the support for new investments to economic entities, competent authority for supporting new investments, its competence and mode of operation, as well as tasks of area administrators responsible for supporting new investments.

**Article 2.** The terms used in this Act shall mean:

1) new investment - an investment in tangible fixed assets or intangible assets related to the establishment of a new enterprise, the increase in the production capacity of an existing enterprise, diversification of the enterprise production through introduction of products which previously were not produced in the enterprise or the fundamental change concerning the production process of the existing enterprise, excluding the enterprise against which insolvency proceedings have been initiated or a petition for bankruptcy has been filed;

2) area - sites determined in provisions issued under Article 5(3) in which the administrator performs tasks stipulated in the Act;

3) economic entity- the economic entity within the meaning of Article 4(1) and (2) of the Act of 6 March 2018 - Entrepreneurs Law Act (Dz. U., item 646);

4) area administrator - a manager of a special economic zone established pursuant to the Act of 20 October 1994 on special economic zones (Dz. U. of 2017, item 1010 and of 2018, item 650);

5) qualitative criteria - the conditions of compliance with the medium-term national development strategy, referred to in the Act of 6 December 2006 on the principles of the development policy (Dz. U. of 2017, item 1376 and 1475) set out in detail in the provisions issued pursuant to Article 14(3)(3);

6) quantitative criteria - the minimum investment costs, depending on the level of unemployment in a given poviát in which a new investment will be carried out, set out in detail in the provisions issued pursuant to Article 14(3)(2); if the investment is located in more than one poviát, the unemployment level is determined on the basis of that poviát, in which there will be a larger part of the site of a new investment's location;

7) eligible costs of a new investment - investment costs qualifying for inclusion in public aid due to a new investment less input tax on goods and services and excise duty if their deductibility results from other provisions, incurred during the period of validity of the support decision or two-year labour

costs that may be taken into account in determining the maximum public aid incurred during the period of validity of the decision on the support.

**Article 3.** Support to a new investment, hereinafter referred to as the “support” is granted in the form of an exemption from income tax on rules specified respectively in the provisions on corporate income tax or in the provisions on personal income tax. The support may be granted in the situation of the investment location in the areas of undeveloped mineral deposits, except for the investments concerning these deposits.

**Article 4.** The exemption from the income tax on rules specified respectively in the provisions of corporate income tax or in the provisions on personal income tax shall constitute the regional aid and the amount of this public aid cannot exceed its maximum permitted amount stipulated in the provisions issued pursuant to Article 14(3).

Chapter 2.

### **Competent authority and area administrator**

**Article 5.** 1. The competent minister in charge of economy is the competent authority for supporting new investments within the meaning of the Act.

2. The support may be granted on the territory of the Republic of Poland divided into the areas in accordance with Section 3, including the territorial cohesion, economic relations and borders of poviats.

3. The competent minister in charge of economy shall determine, by regulation, the areas in which particular area administrators will perform tasks stipulated in the Act through assigning the areas located on administrative territories of poviats to area administrators, with a view to the criteria determined in Section 2 and the efficient management of particular areas.

4. The competent minister in charge of economy, by regulation, shall entrust the area administrator constituting the company set out in the provisions issued pursuant to Article 31(2) of the Act of 16 December 2016 on rules of government property management (Dz. U., item 2259 of 2017, item 624, 1491 and 1529 and of 2018, item 538 and 702) the performance of tasks determined herein on the site separated from the area assigned to the area administrator in accordance with Section 2 and 3, taking into account the necessity of creating appropriate conditions for a new investment contributing to the development of the area.

5. On the date of entry into force of the provisions issued pursuant to Section 4, the area administrator who has been indicated in accordance with Section 3 shall lose the existing rights and obligations for the performance of these tasks in the separated area.

### **Article 6.**

1. If the site of a planned new investment is located in two or more areas assigned to various area administrators, the performance of tasks defined in the Act is under the responsibility of that administrator, in the area of which there is a larger part of the site of the new investment location.

2. If the site of a new investment is located in equal part on the territory of competence of several area administrators, the competent minister in charge of economy shall decide on the competence of the administrator about which he informs these administrators and the economic entity implementing a new investment.

3. A competent administrator at the time of issuing the decision shall remain competent until the expiry of the period for which such a decision was issued.

4. If the economic entity implements more than one investments, the competence of the area administrator for every new investment shall be separately determined.

#### **Article 7.**

1. The area administrator shall support the development of new investments in a given area, taking into consideration the development needs of the region and economic objectives stipulated in strategic documents referred to in the Act of 6 December 2006 on the principles of the development policy.

2. The tasks of the area administrator shall comprise activities aiming at new investments and their development in the areas assigned to the area administrator, including:

1) making available, pursuant to the agreement, assets, the area administrator of which is the owner, dependent possessor or were put into administration of it;

2) utilising the assets, the area administrator of which is the owner, dependent possessor or were put into administration of it in the manner making it easier for economic entities to carry out economic activity;

3) rendering free of charge information services for economic entities applying for the support and benefiting from support as well as other services indicated in the investment development plan referred to in Article 9;

4) undertaking activities which promote economic activity and new investments;

5) providing economic entities with the information obtained from poviát labour offices and social partners functioning in the area assigned to the area administrator relevant from the point of view of the new investment's implementation.

6) undertaking activities which contribute to the improvement of the collaboration between economic entities, local community and social partners;

7) assistance for economic entities in contacts with public administration.

8) collaboration in taking into consideration labour market needs in the education process:

a) with secondary schools, in particular with vocational schools, lifelong learning institutions, practical learning institutions and vocational training centres referred to in Article 2 point 2 (b) and (4) of the Act of 14 December 2016 - Education Law (Dz. U. of 2017, item 59, 949 and 2203 and of 2018, item 650),

b) with universities referred to in Article 2(1)(1) of the Act of 27 July 2005 - Higher education law (Dz. U. of 2017, item 2201 and 2201 and of 2018, item 138,398,650 and 730);

9) creating tools for the development of innovative economy;

10) recommending the optimal new investments' location to economic entities.

3. The area administrator performing tasks determined in the investment development plan referred to in Article 9 shall have the right to subcontract the tasks referred to in Section 2 point 3, 4, 6, 8 to 9 to be performed by third parties.

#### **Article 8.**

1. The area administrator shall cooperate with other area administrators in granting the support for new investments, in particularly in recommending the optimal new investments' location to the economic entity, having regard to the legitimate interests of the economic entity and the development of regions and economic objectives stipulated in strategic documents referred to in the Act of 6 December 2006 on principles of the development policy.

2. The activities of the area administrator undertaken as part of the cooperation with other area administrators which result in the new investment location in the other area shall not constitute acting to the detriment of the area administrator.

#### **Article 9.**

1. The area administrator shall perform its tasks in accordance with the investment development plan.

2. The investment development plan shall be prepared by the area administrator and shall include strategic documents referred to in the Act of 6 December 2006 on principles of the development policy and planning documents referred to in the Spatial Planning and Development Act of 27 March 2003 (Dz. U. of 2017, item 1073 and 1566),

3. The investment development plan shall determine in particular:

1) detailed objectives pursued by the area administrator in the period covered by the plan;

2) services rendered by the area administrator referred to in Article 7(2)(3);

3) rules of determining remuneration for services other than information ones rendered by the area administrator.

4. The area administrator shall draw up the investment development plan not later than within 60 days, counting from the date of entering into force of the provisions issued pursuant to Article 5(3).

5. The area administrator shall review the investment development plan and adjust thereof to the current conditions at least once in 2 years and in the event referred to in Article 5(4) within 30 days, counting from the date of entry into force of the provisions issued pursuant to this provision.

6. The competent minister in charge of economy shall approve the investment development plan within 60 days, counting from the date of its submission by the area administrator and if it reports his reservations - after their inclusion.

7. The area administrator shall present the information on the implementation of the investment development plan for a given calendar year to the competent minister in charge of economy until the end of February of the next year.

**Article 10.** 1. The area administrator shall render services other than information ones for the economic entity benefiting from the support for a new investment pursuant to the agreement which determines remuneration for rendering thereof.

2. Services referred to in Section 1 shall be considered as:

1) advisory services;

2) support and intermediary services with business support institutions, research units referred to in Article 2 point 9 (a)-(e) of the Act of 30 April 2010 on the rules for financing of science, entities with R&D facilities, entities referred to in Article 7(2)(8), economic entities and clusters.

3) promotion services;

4) training services;

5) other services directly related to the implementation of the decision on the support.

3. The detailed catalogue of services referred to in Section 2 is defined in the investment development plan.

4. The economic entity which obtained the decision on the support is obliged to conclude an agreement referred to in Section 1.

**Article 11.** 1. The area administrator shall establish the economic area development council hereinafter referred to as the "council".

2. The Council shall consist of representatives of economic entities, representatives of local government units situated within the area and representatives of voivodeship social dialogue councils.

3. Economic entities shall be represented by representatives:

1) micro, small and medium economic entities,

2) large economic entities

- within the meaning of Commission Regulation (EU) No. 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty OJ L 187, 26.6.2014, p. 1, as amended 2))

2) changes in the consolidated text of the abovementioned act were announced in OJ L 329, 15.12.2015, p. 28, OJ L 149, 7.06.2016, p. 10, OJ L 156, 20.06.2017, p. 1 and OJ L 236, 14.09.2017, p. 28,

4. Local government units are represented by representatives:

1) voivodeships - one representative per each voivodeship located within the area;

2) gminas and poviats.

5. The area administrator shall select members of the council from among the proposed candidates. The area administrator shall select members of the council, taking into consideration the qualifications and experience of candidates. In the selection of members of the council the area administrator shall seek to maintain a balance between groups of entities which are represented in the council.

6. The council shall present the opinions and conclusions in the matters concerning economic activity carried out within the area and shall propose course of action to improve the business environment and the development of social and geographical area.

7. The council may present recommendations regarding the activities which may contribute to the improvement of investment attractiveness of a given gmina or powiat to the authorities of gminas or poviats located within the area.

8. The rules and regulations adopted by the council at its first meeting shall determine its organisation and mode of operation.

9. The members of the council shall not be remunerated for the participation in the council's work.

10. The service of the council shall be provided by the area administrator.

**Article 12.** 1. The competent body pursuant to the act of 21 August 1997 on real property management (Dz. U. of 2018, item 121, 50 and 650) shall have the right to order the area administrator to prepare the real property for the purpose of its sale as well as to organize and conduct the tender for the sale of such real property, by means of an agreement.

2. The area administrator, while performing the activities referred to in Section 1, shall be obliged to follow the provisions of the Act of 21 August 1997 on real property management.

Chapter 3.

### **Decision on the support**

**Article 13.** 1. The support is granted to the economic entity implementing a new investment, by decision, hereinafter referred to as the "decision on the support".

2. The decision on the support is issued by the competent minister in charge of economy upon request of the economic entity applying for the support which contains a new investment implementation plan.

3. The decision on the support shall be issued for a fixed term, not shorter than 10 years and not longer than 15 years.
4. The period for which the decision on the support is issued shall depend on the intensity of the state aid established for a given area.
5. If on the day of issuing the decision on the support the site in which a new investment is to be located, is situated within the special economic zone within the meaning of Article 2 of the Act of 20 October 1994 on special economic zones, the decision on the support of a new investment shall be issued for the period of 15 years.
6. If the economic entity has at least two decisions on the support, the settlement of the public aid takes place in accordance with the order of issuance of the decisions on the support.
7. If the economic entity benefits from the public aid pursuant to the decision on the support and the permit referred to in Article 16 (1) of the Act of 20 October 1994 on special economic zones, the provision of Section 6 shall apply accordingly for the settlement of the total public aid granted to it.
8. The settlement of public aid granted to the economic entity pursuant to the decision on the support shall apply exclusively to the decision, as part of which the investment is implemented and on the basis on this investment the economic activity is carried out.

**Article 14.** 1. Decision on the support shall be issued for the implementation of a new investment:

1) which fulfils:

a) quantitative and

b) qualitative criteria;

2) as part of not covered economic activity pursuant to the provisions issued under Section 3(1).

2. Decision on the support shall not be issued to the economic entity being a natural person which has been convicted of an offence against the natural environment and the economic entity being a legal person or non-corporate entity,

which as a partner or member of the Management Board has been convicted of such an offence.

3. The Council of Ministers shall determine, by regulation:

1) types of economic activity for which the decision on the support shall not be issued,

2) detailed qualitative criteria,

3) detailed quantitative criteria,

4) a manner of verifying the compliance with the requirements, referred to in Section 1,

5) conditions of granting public aid,

6) maximum permitted amount of public aid which the economic entity may be granted,

- 7) a manner of determining the term of validity of the decision on the support for a given investment,
  - 8) types of costs qualifying for the inclusion in public aid due to a new investment,
  - 9) a manner of discounting the investment costs and the amount of public aid as of the date of issuing the decision on the support,
  - 10) a manner of establishing the amount of permitted public aid in the case of carrying out the activity pursuant to more than one decision on the support,
  - 11) a manner of organizational separation of the activity covered by the decision on the support and a manner of conducting settlements if economic activity carried out by the economic entity is not covered by the decision on the support,
  - 12) application form to issue the decision on the support containing in particular the definition of the economic entity as well as elements of the new investment implementation plan
- taking into account the need for compliance of public aid granted with the European Union law, the development of areas as well as the need for evaluation of fulfilling the conditions of granting the support and the need for ensuring a uniformity of applications and smooth implementation of a new investment in this respect.

**Article 15.** Decision on the support shall determine the term of its validity, object of economic activity and conditions which the economic entity is required to fulfil concerning:

- 1) the employment of a specified number of employees in relation to a new investment for a specific period of time;
- 2) incurring the eligible costs of a new investment by the economic entity within a specified period;
- 3) term of completion of a new investment, after which the investment costs incurred by the economic entity cannot be considered as eligible;
- 4) maximum amount of eligible costs which may be taken into account when determining the maximum amount of public aid;
- 5) quantitative and qualitative criteria, which the economic entity has undertaken to meet;
- 6) the site, in which the new investment will be implemented taking into account the real estate record data.

**Article 16.** The competent minister in charge of economy shall forward a copy of the decision on the support issued to the head of tax office competent for the economic entity's place of residence or registered office regarding the income tax within 14 days from the date on which the decision has become final.

**Article 17. 1.** The right to benefit from the exemption from the income tax on rules specified respectively in the provisions on corporate income tax or in the provisions on personal income tax

shall expire at the end of the period for which the decision on the support was issued, in case of annulment or declaring the invalidity of the decision on the support.

2. The competent minister in charge of economy shall annul the decision on the support, if the economic entity

1) has ceased an economic activity specified in the decision on the support on the area indicated therein or

2) grossly failed to fulfil the conditions specified in the decision on the support or

3) has not removed infringements referred to in Point 2 found in the course of the control referred to in Article 22 within the time limit for their removal set out in the notice of the competent minister in charge of economy.

3. The competent minister in charge of economy shall annul the decision on the support also upon request of the economic activity.

4. The competent minister in charge of economy, upon request of the economic entity, may change the decision on the support, except for the cases where the change would result in the increase in the maximum amount of eligible costs.

5. The competent minister in charge of economy shall declare the expiry of the decision on the support upon request of the economic entity which has not benefited from the public aid or the economic entity which has benefited from the public aid and fulfilled all conditions stipulated in the decision on the support and conditions of granting public aid referred to in the provisions issued pursuant to Article 14(3).

6. The request referred to in Section 5 shall be accompanied by the declaration on not benefiting from public aid pursuant to the decision on the support concerned by the request or the declaration on the implementation of conditions related to granting public assistance referred to in Section 5.

7. Declarations referred to in Section 6 are filed under the pain of criminal liability for making false statements. A person submitting a declaration is obliged to include therein the clause with the following content: "Being aware of criminal liability for making false statements resulting from Article 233 § 6 of the Polish Criminal Code I hereby declare that the data contained in the request is true". This clause shall replace the instruction of the authority on the criminal liability for making false statements.

**Article 18.** 1. If the decision on the support is annulled, the economic entity is obliged to recover the public aid. Until the date of recovering this aid, the economic entity shall not be issued a new decision on support.

2. In case of annulment or ascertainment of expiration of a decision on the support the competent minister in charge of economy shall forward a copy of the decision issued to the head of tax office competent for the economic entity's place of residence or registered office regarding the income tax within 14 days from the date on which the decision has become final.

3. In the case the decision on the support is annulled the head of the tax office shall determine, by decision, the amount of public aid to be recovered less the amount of tax due referred to in Article 21(5c) of the Act of 26 July 1991 on personal income tax (Dz. U. of 2018, item 200, as amended<sup>3</sup>) or Article 17 (6) of the Act of 15 February 1992 on corporate income tax (Dz. U. of 2017, item 2343, as amended<sup>4</sup>).

3) changes in the consolidated text of the abovementioned act were announced in Dz. U. of 2017, item 2494 and of 2018, item 106, 138, 317, 398, 650 and 685.

4) changes in the consolidated text of the abovementioned act were announced in Dz. U. of 2017, item 2175, 2201 and 2369 and of 2018, item 317, 398, 650 and 685.

4. The amount of public aid to be recovered, referred to in Section 3, shall include interest calculated as for tax arrears. With respect to public aid resulting from the exemption referred to in Article 21 (5c)(1) of the Act of 26 July 1991 on personal income tax and Article 17(6)(1) of the Act of 15 January 1992 on corporate income tax, interest shall be calculated for the period from the date of granting the aid to the date of issuing the decision on annulment and with respect to the remaining public aid to be recovered until the date of its recovery. With respect to public aid resulting from the exemption referred to in Article 21(5c)(2) of the Act of 26 July 1991 on personal income tax and Article 17(6)(2) of the Act of 15 February 1992 on corporate income no interest shall be calculated.

5. The limitations period for claims related to the recovery of public aid granted under the Act is 10 years counting from the end of the calendar year in which the economic entity benefited from this aid.

**Article 19.** Economic entities benefiting from public aid referred to in Article 3 shall be obliged to maintain tax records and keep books and documents related to their maintenance until the limitations period for claims related to the recovery of public aid determined in Article 18(5) expires.

**Article 20.** 1. The Council of Ministers, upon request of the competent minister in charge of the budget shall have the right to suspend, by regulation, the issuance of the decision on the support, indicating the period in which they are not issued, with a view to forecast state budget revenue and planned state budget deficit resulting from the State Multi-Year Financial Plan.

2. The provision of Section 1 shall not apply to the suspension of issuing the decision on the support in the case of ongoing proceedings regarding the issuance of the decision on support and investments entered into the New Investment Support Register as the planned new investments.

**Article 21.** The provisions of the Act of 14 June 1960 - the Code of Administrative Proceedings (Dz. U. of 2017, item 1257 and of 2018, item 149 and 650) shall apply to proceedings concerning issuance, annulment, cancellation, expiry and declaration of invalidity of the decision on the support.

**Article 22.** The competent minister in charge of economy shall control the implementation of conditions contained in the decision on the support stipulated in Article 40 and Chapter 5 of the Act of 6 March 2018 - Entrepreneurs Law.

**Article 23.** 1. The competent minister in charge of economy shall have the right, by regulation, to entrust the area administrator with:

1) issuance, on his behalf, of the decision on the support in the areas assigned thereto,

2) control, on his behalf, of conditions contained in the decision on the support

- taking into account the efficiency of the procedure and the specificity of the area.

2. In the case of entrusting the area administrator with the issuance of the decision on the support the provision of Article 16 shall apply accordingly.

3. In the case of entrusting the area administrator with the control referred to in Section 1 Point 1, the provision of Article 22 shall apply accordingly.

4. The area administrator shall immediately notify the competent minister in charge of economy on the circumstances justifying annulment the decision on the support referred to in Article 17(2).

Chapter 4.

#### **The control related to the performance of tasks of the area administrator**

**Article 24.** The competent minister in charge of economy shall control the area administrator in terms of the performance of tasks referred to in Article 7 and tasks entrusted to it pursuant to the regulation referred to in Article 23, hereinafter referred to as the “control”, pursuant to rules laid down in this Act.

**Article 25.** 1. The control shall be carried out by the employee of the office providing the service of the competent minister in charge of economy, hereinafter referred to as the “controller”, on the basis of the written personal authorisation to carry out a control and upon presentation of a document allowing for establishing his/her identity. The control may be carried out by more than one employee of the office.

2. The control shall be carried out as the planned or ad hoc control.

3. The plan control covers all or specific tasks of the area administrator.

4. The planned control shall be carried out no more frequently than once in two years. The ad hoc control shall be carried out at any time.

5. The ad hoc control shall consist in the immediate checking whether the area administrator performs the tasks correctly. The basis for carrying out the ad hoc control may be, in particular, information on circumstances that have a significant negative impact on the performance of tasks by the area administrator, especially those revealed as a result of another control.

6. The ad hoc control may be carried out also upon request of the area administrator.

**Article 26.** 1. The control is carried out in the seat of the area administrator when it is performing its tasks or, if it is necessary, outside its seat.

2. If the controlled documentation is kept outside the seat of the area administrator, the control may be carried also in the place in which the documentation is kept.

3. The control or particular control activities may be also carried out in the seat of the competent minister in charge of economy if this may enhance carrying out the control.

**Article 27.** 1. In the course of the control the controller shall have a right to:

- 1) enter structures and premises of the area administrator;
- 2) see the documents concerning the activity of the area administrator, take upon receipt and secure the documents related to the scope of the control;
- 3) make and in the case of the request for making copies, duplicates, excerpts of documents as well as statements and calculations necessary for the control;
- 4) request employees of the area administrator to submit oral or written explanations concerning the scope of the control;
- 5) carry out the examination of structures or other assets;
- 6) participate in activities related to the performance of tasks by the area administrator.

2. The controller is obliged to protect business secrets and other information subject to protection which he/she obtained in relation to carrying out activities referred to in Section 1 Points 2-4 and 6.

**Article 28.** 1. A report shall be drawn up on the control carried out, in two counterparts, one for the controller and the area administrator.

2. The report shall contain in particular:

- 1) place and date of drawing up thereof;
- 2) designation of the area administrator;
- 3) names and surnames of controllers as well as the date and number of the issued authorisation to carry out the control;
- 4) date of the control commencement and completion;
- 5) scope of the control and the period controlled;
- 6) detailed list of documents under examination;
- 7) information concerning written and oral explanations;
- 8) description of factual findings and their evaluation;
- 9) recommendations or conclusions concerning the removal of the irregularities;
- 10) signatures of the controller and initials on every page of the report.

3. The report is drawn up and transferred to the area administrator within 30 days, counting from the date of the control completion.

4. The term referred to in Section 3 shall be extended by a period necessary to obtain additional explanations from the area administrator.

5. The person authorised to represent the area administrator shall have the right, before the report is signed, to report explanations or reservations concerning findings contained therein to the controller.

6. Explanations or reservations referred to in Section 5 shall be reported in writing within 7 days, counting from the date of service of the report.

7. If the controller takes into consideration explanations and reservations in whole or in part referred to in Section 5 the amendments or additions to the report shall be made.

8. If the controller does not take into consideration explanations and reservations in whole or in part referred to in Section 5, the area administrator shall be provided with the written information indicating the reasons why explanations and reservations were not taken into consideration. The information shall be an attachment to the report.

Chapter 5.

#### **Register of New Investment Support**

**Article 29.** 1. The competent minister in charge of economy shall maintain the Register of New Investment Support, hereinafter referred to as the “register”.

2. The register is a central register maintained in the communication and information system aiming at collecting data used to: service investment process, conduct analyses of effects related to the functioning of the support granted pursuant to the act, to adjust objectives of investment and economic policy to current conditions and to monitor public aid.

**Article 30.** The competent minister in charge of economy shall manage the data collected in the register. The company referred to in the regulation issued pursuant to Article 31(2) of the Act referred to in Article 5(4) may be an operator of the communication and information system if the delegation of this task to other entity shall be justified due to the effectiveness of its performance.

**Article 31.** 1. The register shall collect:

1) data and information concerning economic entities interested in new investment's location in the area and participating in the proceedings of granting the decision on the support for carrying out the activity in the area and benefiting from the support of new investments in the areas covering:

a) name or business name of the economic entity, designation of the form of economic activity,

B) identification number REGON and tax identification number NIP, where it has them,

c) contact details of the economic entity, in particular its seat and address, electronic address, website address, phone number,

d) date of commencement of the economic activity,

e) determining the objects of economic activity in line with the Polish Classification of Business Activity (PKD),

f) type of economic activity and investments implemented in the area (sector, the Polish Classification of Goods and Services (PKWiU)),

g) declaration of bankruptcy, completion of such proceedings and the details of the receiver,

h) designation of the foreign economic entity together with determination of its organisational-legal form as well as the seat and address - in the case of branches of foreign enterprises operating on the territory of the Republic of Poland,

i) value of investments implemented by the economic entity in a given area,

j) new investment's implementation plan;

k) offers addressed to the economic entity by the area administrator,

l) value of the support granted,

m) amount of public aid other than support granted to the economic entity with respect to eligible costs stipulated in the decision on the support,

n) value of investments implemented by the economic entity in a given area and in other areas of the country,

o) carried out and planned controls at economic entities benefiting from the support, time for the implementation of recommendations and conclusions of the control and the amount of eligible costs incurred,

p) issued or annulled decisions on the support;

2) information concerning the area covering:

a) value of investments implemented by the economic entities in a given area,

B) existing or planned infrastructure in the area, fostering new investments or the development of existing investments in specific sectors or industries of economic activity.

2. Throughout the period for which the decision on the support was issued, the economic entity is obliged to inform the area administrator on public aid granted, referred to in Section 1(1)(m).

3. The entry into the Register is equivalent to the consideration of the investment as a planned new investment.

**Article 32.** 1. The area administrator shall have a direct access to the information and data collected in the register, referred to in Article 31(1)(1)(n) and Article 31(1)(2) and the extent to which they concern the area assigned to it, to the information and data collected in the register, referred to in Article 31 (1)(1)(a)-(m), (o) and (p).

2. The data collected in the register shall be directly obtained from:

- 1) economic entities interested in the new investment's location in the area;
  - 2) economic entities participating in the proceedings of granting the decision on the support on the basis of requests filed for issuing the decision on the support;
  - 3) economic entities which were granted the decision on the support;
  - 4) area administrators.
3. The data referred to in Article 31(1)(l) and (m) shall be provided in the Public Information Bulletin at the website of the area administrators.
4. The authorities of the National Revenue Administration shall have a direct access to the register.

**Article 33.** The competent minister in charge of economy in the full range of data covered by the register, and the area administrators, in the range of data concerning the area of operation of the area administrators, shall obtain and process data for the needs of records without notifying data subjects, if the data is used for the tasks specified in the Act.

**Article 34.** Area administrators shall transfer the data to the register without unreasonable delay by means of the communication and information system.

Chapter 6.

#### **Changes in provisions, transitional and final provisions**

**Article 35.** In the Act of 26 July 1991 on personal income tax (Dz. U. of 2018, item 200, as amended 5)) is amended as follows:

5) changes in the consolidated text of the abovementioned act were announced in Dz. U. of 2017, item 2494 and of 2018, item 106, 138, 317, 398, 650 and 685.

1) in Article 21:

a) in Section 1:

- in point 63a words "Sections 5a-5c" shall be replaced by words "Sections 5a-5cd",

- after point 63a the following point 63b shall be added:

"63b) the incomes of taxpayers, subject to Sections 5a-5cd, obtained from economic activity stipulated in the decision on the support referred to in the Act of 10 May 2018 on the support for new investments (Dz. U. item ....) and the amount of public aid granted in the form of such an exemption cannot exceed the amount of public aid for the economic entity permitted for the area qualifying for granting the highest amount of aid under the separate provisions;"

b) Section 5a shall be amended as follows:

" 5a. The taxpayer shall be entitled to the tax exemption referred to in Section 1 points 63a and 63b only due to the income obtained from economic activity carried out in the zone or in the area stipulated in the decision on the support.",

c) Sections 5b and 5c shall be amended as follows:

“5b. In the case of cancellation of the permit referred to in Section 1(63a) or annulment of the decision on the support referred to in Section 1(63b), the taxpayer shall lose its right to the exemption and shall be obliged to pay the tax on rules stipulated in Section 5c.

5c In the event of circumstances referred to in Section 5b, the taxpayer shall be obliged to pay the tax due on the income resulting from the cancelled permit or annulled decision on the support within the term applicable to the settlement of the advance for the first period to pay the advance referred to in Article 44 following the month in which these circumstances occur and if it loses its right in December - in the annual tax return. The amount of the tax due is:

1) the unpaid tax on the income obtained from the economic activity determined in the cancelled permit or annulled decision on the support - if the taxpayer benefited from public aid granted in the form of exemption referred to in Section 1(63a) or (63b), exclusively within one exemption or exclusively within one decision, or

2) the amount of maximum permitted public aid stipulated in the permit or in that annulled decision on the support - if the taxpayer benefited from public aid granted in the form of exemption referred to in Section 1(63a) or (63b) within more than one decision on the support or within the exemption or exemptions and the decision on the support”,

d) after Section 5c the following Sections 5ca-5cd shall be added:

“5ca. In the event of carrying out economic activity by the economic entity also beyond the special economic zone stipulated in the permit or the area determined in the decision on the support, the activity carried out within the zone or in the area stipulated in the decision on the support shall be organisationally separated out and the amount of exemption shall be determined on the basis of revenues and tax deductible expenses of the organisational unit carrying out the activity determined in the permit or the decision on the support.

5cb When determining the amount of the exemption from the income tax which the economic entity carrying out economic activity pursuant to the permit or the decision on the support through the organisational entity referred to in Section 5ca is entitled to, the provisions of Article 25 shall apply accordingly to the transactions between that organisational entity and the remaining part of the taxpayer’s company.

5cc The provisions of Section 1(63a) and (63b) shall not apply if:

1) its income from business activity carried out pursuant to the permit within the special economic zone or from business activity stipulated in the decision on the support has been earned in connection with the conclusion of a contract or undertaking of other legal activity or many interconnected legal activities primarily in order to obtain an income tax exemption or

2) activities referred to in point 1 are not of true nature or

3) the taxpayer benefiting from tax exemptions referred to in Section 1(63a) and (63b) undertakes legal activity or many interconnected legal activities, including those related to the activity not

covered by these exemptions, the main or one of the main aims of which is to avoid or evade taxation.

5cd The taxpayer shall lose its right on the day of undertaking the first activity referred to in Section 5cc. In such a case Section 5b and 5c shall apply accordingly, with the effect from that date.”,

2) in Article 26e Section 6 shall be amended as:

6. The taxpayer which in the fiscal year benefits from tax exemptions referred to in Article 21(1)(63a) or (63b) shall have the deduction right only with respect to eligible costs which are not taken into account by the taxpayer in the calculation of the income exempted from tax pursuant to these provisions”.

**Article 36.** In the Act of 19 October 1991 on the management of State Treasury property (Dz. U. of 2018, item 91), after Article 29c the following Article 29d shall be added:

“Article 29d. The Director General for the National Agriculture Support Centre, upon request of the competent minister in charge of rural development, in consultation with the competent minister in charge of economy, may give, free of charge, the ownership to the special economic zone administrator by means of the agreement within the meaning of the Act of 20 October 1994 on special economic zones (Dz. U. of 2017, item 1010 and of 2018, item 650 and ...) real estate for the purposes of supporting the development of new investments included into the Resource intended for the industrial and service purposes in the local spatial management plan. Costs related to the surveying and legal preparation shall be borne by the administrator.

**Article 37.** In the Act of 15 February 1992 on corporate income tax (Dz. U. of 2017, item 2343, as amended 6)) is amended as follows:

6) changes in the consolidated text of the abovementioned act were announced in Dz. U. of 2017, item 2175, 2201 and 2369 and of 2018, item 317, 398, 650 and 685.

1) in Article 1a in Section 2(3)(a) shall be amended as follows:

a) do not benefit from tax exemptions determined in Article 17(1)(34) or (34a) and from exemptions from income tax pursuant to separate acts,”;

2) in Article 16 in Section 1 Point 58 shall be amended as follows:

“58) expenditures and costs directly financed from the income (revenues) referred to in Article 17(1)(14a)(23)(24)(42)(47)(48)(52)(53)(55) and (59)”;

3) in Article 17:

a) in Section 1:

- in point 34 words “Sections 4-6” shall be replaced by words “Sections 4-6d”,

- after point 34 the following point 34a shall be added:

“34a) the income of taxpayers, subject to Sections 4-6d, obtained from economic activity stipulated in the decision on the support referred to in the Act of 10 May 2018 on the support for new

investments (Dz. U., item ....) and the amount of public aid granted in the form of such an exemption cannot exceed the amount of public aid for the economic activity, permitted for the area qualifying for granting the highest amount of aid under the separate provisions;”

- in point 58 the full stop shall be replaced by a semicolon and the following point 59 shall be added:

“59) the income of the administrator referred to in the Act of 10 May 2018 on the support for new investments spent for the purposes listed in Article 7(1) of this Act in a tax year or year following it

b) Section 4 shall be amended as follows:

4. The taxpayer shall be entitled to the tax exemption referred to in Section 1 points 34 and 34a only due to the income obtained from economic activity carried out in the zone or in the area stipulated in the decision on the support.”,

c) Sections 5 and 6 shall be amended as follows:

5. In the case of cancellation of the permit referred to in Section 1(63a) or annulment of the decision on the support referred to in Section 1 point 34a, the taxpayer shall lose its right to the exemption and shall be obliged to pay the tax on rules stipulated in Section 6.

6. In the event of circumstances referred to in Section 5, the taxpayer shall be obliged to pay the tax due on the income resulting from the cancelled permit or annulled decision on the support within the term applicable to the settlement of the advance for the first period to pay the advance referred to in Article 25 following the month in which these circumstances occur and if it loses its right in the last month of the tax year - in the annual tax return. The amount of the tax due is:

1) the unpaid tax on the income obtained from the economic activity determined in the cancelled permit or annulled decision on the support - if the taxpayer benefited from public aid granted in the form of exemption referred to in Section 1(34) or (34a), as part of only one exemption or as part of only one decision, or

2) the amount of maximum permitted public aid stipulated in the permit or in that annulled decision on the support - if the taxpayer benefited from public aid granted in the form of exemption referred to in Section 1(34) or (34a) within more than one decision on the support or within the exemption or exemptions and the decision on the support”,

d) after Section 6 the following Sections 6a-6d shall be added:

“ 6a. In the event of carrying out economic activity by the economic activity also beyond the special economic zone stipulated in the permit or the area determined in the decision on the support, the activity carried out within the zone or in the area stipulated in the decision on the support shall be organisationally separated out and the amount of exemption shall be determined on the basis of revenues and tax deductible expenses of the organisational unit carrying out the activity determined in the permit or the decision on the support.

6b When determining the amount of the exemption from the income tax which the economic entity carrying out economic activity pursuant to the permit or the decision on the support through the organisational entity referred to in Section 6a is entitled to, the provisions of Article 11 shall apply

accordingly to the transactions between that organisational entity and the remaining part of the taxpayer's company.

6c Provisions of Section 1(34) and (34a) shall not apply if:

1) the income from economic activity stipulated in the decision on the support or from economic activity carried out pursuant to the permit within the special economic zone shall be obtained in relation to the conclusion of an agreement or undertaking other legal activity or many interconnected legal activities primary in order to obtain the exemption from income tax or

2) activities referred to in Point 1 are not of true nature or

3) the taxpayer benefiting from tax exemptions referred to in Section 1(34) and (34a) undertakes legal activity or many interconnected legal activities, including those related to the activity not covered by these exemptions, the main or one of the main aims of which is to avoid or evade taxation.

6d The taxpayer shall lose its right on the day of undertaking the first activity referred to in Section 6c. In such a case Section 5 and 6 shall apply accordingly, with the effect from that date.”,

4) in Article 18d Section 6 shall be amended as:

6. The taxpayer which in the fiscal year benefits from tax exemptions referred to in Article 17(1)(34) or (34a) shall have the deduction right only with respect to eligible costs which are not taken into account by the taxpayer in the calculation of the income exempted from tax pursuant to these provisions”.

**Article 38.** The Act of 20 October 1994 on special economic zones (Dz. U. of 2017, item 1010 and of 2018, item 650) shall be amended as follows:

1) in Article 5:

a) in Section 3 Point 4 shall be amended as follows:

“4) it will be necessary to increase the zone area by not more than 2 hectares, as a result of the investment commenced”,

b) Section 4 shall be amended as follows:

4. By means of a regulation, the Council of Ministers shall determine the detailed criteria concerning the conditions regarding the conditions listed in Section 3(1)-(3), taking into consideration the necessity of criteria differentiation, stipulated in Section 3(1), depending on the unemployment rate in the poviats competent as to the location of such a zone, as well as taking into consideration the Polish Classification of Goods and Services.

2) in Article 5a:

a) in Section 1 words “change its area or” shall be deleted,

b) Section 1a shall be repealed;

3) in Article 6a Section 1 shall be amended as follows:

1. The function of the member of the management board of the company which is the zone administrator shall not be combined with employment with the economic entity conducting business activity within a given zone or the economic entity benefiting from the support for a new investment pursuant to the decision on the support referred to in the Act of 10 May 2018 on the support for new investments (Dz. U., item .....), irrespective of the legal basis for such employment.”;

4) in Article 7 Section 2 shall be amended as follows:

2. A person who is a member of the supervisory board, management or employee of an economic entity carrying out business activity within a zone, or an economic entity benefiting from the exemption from income tax pursuant to the decision on the support referred to in the Act of 10 May 2018 on the support for new investment or is in relationship referred to in Article 11(4)-(8) of the Act of 15 February 1992 on corporate income tax with such an economic entity, shall not be appointed a member of the Supervisory Board referred to in Section 1 and 1a (Dz. U. of 2017, item 2343, as amended 7)).”;

7) changes in the consolidated text of the abovementioned act were announced in Dz. U. of 2017, item 2175, 2201 and 2369 and of 2018, item 317, 398, 650, 685 and ....

5) Article 19 shall be replaced by:

“Article 12. 1. The income obtained from the economic activity carried out within the zone as part of the permit referred to in Article 16(1) by legal persons or natural persons carrying out the economic activity shall be exempted from the income tax on rules stipulated in the provisions on corporate income tax or in the provisions on corporate income tax, respectively. The exemption shall be public aid and the amount thereof cannot exceed its maximum amount stipulated in the provisions issued pursuant to Article 4(4).

2. If the economic entity has at least two permits referred to in Article 16(1) it shall be assumed that public aid is settled in line with the order of permits issuance.

3. The settlement of public aid granted to the economic entity pursuant to the permit referred to in Article 16(1) shall apply exclusively to the permit, as part of which the investment is implemented and on the basis on this investment the economic activity is carried out.”;

6) in Article 12b Sections 3 and 4 shall be replaced by:

3. If the permit referred to in Article 16(1) is cancelled the head of the tax office referred to in Section 2 shall determine, by decision, the amount of public aid to be recovered less the amount of tax due referred to in Article 21 (5c) of the Act of 26 July 1991 on personal income tax (Dz. U. of 2018, item 200, as amended 8)) or Article 17(6) of the Act of 15 February 1992 on corporate income tax.

8) changes in the consolidated text of the abovementioned act were announced in Dz. U. of 2017, item 2494 and of 2018, item 106, 138, 317, 398, 650 and 685.

4. The amount of public aid to be recovered, referred to in Section 3, shall include interest calculated as for tax arrears. With respect to public aid resulting from the exemption referred to in Article

21(5c)(1) of the Act of 26 July 1991 on personal income tax and Article 17(6)(1) of the Act of 15 January 1992 on corporate income tax, interest is calculated for the period from the date of issuing the public aid to the date of issuing the decision on annulment and with respect to the remaining public aid to be recovered until the date of its recovery. With respect to public aid resulting from the exemption referred to in Article 21(5c)(2) of the Act of 26 July 1991 on personal income tax and Article 17(6)(2) of the Act of 15 February 1992 on corporate income no interest shall be calculated.”;

7) in Article 16:

a) Section 3 shall be repealed,

b) in Section 4 the word “grants” shall be deleted;

c) in Section 5 the word “granting” shall be deleted;

d) in Section 6 the word “granting” shall be deleted;

8) Article 17 and Article 17a shall be repealed;

9) in Article 19 Sections 5 and 6 shall be amended as follows:

5. The competent minister in charge of economy shall declare the permit to be expired upon request of the economic entity which:

1) has not benefited from public aid granted under the Act pursuant to the permit - if the economic entity has only one permit or

2) has not obtained the income and has not benefited from the exemption as part the exemption within the meaning of the Act of 26 July 1991 on personal income tax or the Act of 15 February 1992 on corporate income tax from the investment for which the permit was issued - if the economic entity has more than one permit or

3) which has benefited from the public aid granted pursuant to the Act and fulfilled all conditions stipulated in the permit and conditions of granting public aid referred to in the provisions issued pursuant to Article 4 (4).

6. The request referred to in Section 5 shall be accompanied by the declaration on not benefiting from public aid granted under the Act pursuant to the permit concerned by the request or not obtaining the income from the investment for which the permit was issued or the declaration on the implementation of conditions related to granting public aid referred to in Section 5.”;

10) in Article 20:

a) in Section 1 Point 1 shall be repealed,

b) Section 1a shall be repealed,

c) the following Section 4 shall be added:

4. The competent minister in charge of economy shall be entitled to control the administrator in terms of the performance of tasks entrusted pursuant to the regulation referred to in Section 1 and

the tasks referred to in Article 8, on rules stipulated in Chapter 4 of the Act of 10 May 2018 on the support for new investments.”;

11) in Article 25 Section 2 shall be repealed.

**Article 39.** The New Investment Support Register shall be established.

**Article 40.** 1. The proceedings on permits referred to in Article 16 of the Act amended in Article 38 initiated before the date of entry into force hereof shall be subject to the legislation hitherto in force.

2. Permits referred to in Section 1 shall remain the validity in the scope and for the time stipulated therein.

3. Requests for issuing the permit issued due to the change in borders of the special economic zone filed after the date of entry into force hereof pursuant to the Act amended in Article 38 made after the date of entry into force hereof, the issuance of permit shall be subject to the legislation hitherto in force.

**Article 41.** 1. Special economic zone administrators entitled to benefit from the exemption from corporate income tax under the provisions issued pursuant to Article 25(2) of the Act amended in Article 38 shall keep their right in the current wording on conditions hitherto.

2. The provision of Article 1a(2)(3)(a) of the Act amended in Article 37 as provided for under this Act shall apply to tax capital groups established from the date of entry into force hereof.

3. If the operation period of tax capital group established before the date of entry into force of this act has been extended in the period from the date of entry into force hereof, Article 1a(2)(3)(a) of the Act amended in Article 37 as provided for under this Act shall apply from the date of extending the operation of this tax capital group.

**Article 42.** The provision of Article 7(2)(8)(a) shall apply accordingly to upper secondary schools until the education in these schools is completed.

**Article 43.** The competent minister in charge of economy shall review the application of provisions of the act by 30 September 2024 in order to assess the functioning of the system of providing support for new investments.

**Article 44.** 1. The provisions of Article 21(1)(63a), Section 5a, 5c and 5ca–5cd and Article 26e(6) of the Act amended in Article 35 as provided for hereunder as well as Article 1a(2)(3)(a),

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Printed on the order of the Speaker of the Senate

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Article 16(1)(58), Article 17(1)(34), Section 4-6d and Article 18d(6) of the Act amended in Article 37 as provided for hereunder and Article 12(3), Article 12b(4) of the Act amended in Article 38, as provided for hereunder to the extent in which they concern the economic activity carried out by the economic

entity within the special economic zone pursuant to the permit referred to in the Act amended in Article 38 shall apply to the income obtained from this activity until 1 January 2019.

2. The provision of Article 12(3) of the Act amended in Article 38 as provided for under this Act shall apply to permits issued after the date of entry into force hereof.

**Article 45.** This Act shall enter into force after 14 days from its publication, except for Article 38 Point 2, 7, 8, Point 10(a)(b) which shall enter into force after 12 days from the publication.

THE MARSHAL OF THE SEJM

(-) Marek Kuchciński