

REVIEW OF THE SPECIAL LEGAL REGIMES

GRANTED ON THE BASIS OF LOCATION

The Republic of Belarus provides broad opportunities and attractive conditions for implementation of investment activities. At present, the legislative basis contains various special law regimes for implementation of activities of foreign investors in the territory of the Republic of Belarus.

Let us review the following out of their number:

1. Activities in free economic zones
2. Activities in small towns
3. Activities in rural areas
4. Implementation of investment projects on the basis of investment agreements concluded between investors and the Republic of Belarus

1. ACTIVITIES IN FREE ECONOMIC ZONES (FEZ)

At present, there are six free economic zones in the Republic of Belarus:

- FEZ Brest
- FEZ Minsk
- FEZ Gomel-Raton
- FEZ Vitebsk
- FEZ Mogilev
- FEZ Grodno-Invest

Terms of Activity Organization

In order to register an economic subject in a free economic zone, it is first of all necessary that the economic subject is located within the borders of the correspondent FEZ.

The procedure of registration of economic subjects in FEZ is regulated by the Regulation of the corresponding free economic zone approved by regulation of the Cabinet of the Republic of Belarus. The registration process comprises of the following stages.

1. Submission of documents to FEZ administration by the stakeholder:

- application in the form approved by the administration of the relevant FEZ;
- copies of constitutive documents certified as required with producing of authentic documents (for legal entities);
- copy of the certificate of state registration with producing of the authentic document;
копия свидетельства о государственной регистрации с предъявлением оригинала документа;

- business plan of the investment project in the form approved by the administration of the relevant FEZ. In accordance with its business plan, the investment project must provide for:
 - the amount of investments into implementation of the investment project of at least 1 million euros or equivalent;
 - creation and (or) development of production facilities aimed at export and (or) replacement of import.
- the payment document confirming the payment of the state duty for registration as a resident of the free economic zone in the amount stated

2. Review of the documents by FEZ administration for the term of not more than fourteen business days.

The said term may be prolonged in case of necessity to hold a tender. A tender is held in case of presence of two and more applicants with investments projects providing for creation and development of similar production facilities or with investment projects applied for implementation at the same vacant land plot or production premise.

3. Conclusion of the agreement on the terms of activities within FEZ.

The draft agreement is sent by the FEZ administration to the applicant after review of the documents submitted by the applicant. The agreement must be concluded within five days after the applicant receives their project but not later than a month after the day the project has been sent to the applicant. This agreement is concluded (prolonged) for the term of implementation of the investment project stipulated in the business plan.

Tax Preferences

- profit tax rate decreased by 50% (but not less than 12%);
- releasing from the profit tax of the profits gained from sales of own goods (works, services) for five years after profits announcement;
- releasing from the real estate tax concerning the fixes assets (incomplete construction objects) located in the territory of relevant FEZ;
- releasing from the tax for acquisition of vehicles irrespectively of the purpose of such acquisition;
- payment of VAT in the amount of 50 percent of the amount of the said tax subject to payment from sales of own goods manufactured in the territory of FEZ and replacing import in accordance with the list determined by the Government of the Republic of Belarus in coordination with the President of the Republic of Belarus;
- releasing of payment of duty to the state fund of support of agricultural manufacturers, manufacturers of foodstuffs, and agrarian science.

Part of the preferences mentioned above is applied only concerning:

- the goods sold beyond the territory of the Republic of Belarus;
- the goods sold in the territory of the Republic of Belarus concerning own goods manufactured by FEZ residents in the territory of FEZ and replacing import;
- own goods (works, services) manufactured by FEZ residents in the territory of FEZ and sold to other FEZ residents.

Customs privileges

- customs regime of free economic zone (without the tax obligation for payment of import fees, taxes, except for customs registration duty);
- releasing from accrual of the value added tax and excise taxes concerning import customs duties charged by customs authorities as a result of processing of goods under the customs regime of free economic zone and released to the customs regime of free circulation.

Governmental Guarantees to FEZ Residents

Guarantees of investors' rights and protection of investment stipulated by the applicable law of the investment activities shall apply to residents of free economic zones.

2. ACTIVITIES IN SMALL TOWNS

Terms of Regime Application

The special preferential regime applies to enterprises incorporated in towns (with the population of under 50 thousand people) on April 1, 2008, and later on:

Tax Preferences

General preferences:

For 5 years after formation, releasing from:

- the profit tax and payment of duty to the state fund of support of agricultural manufacturers, manufacturers of foodstuffs, and agrarian science concerning sales of own products;
- other taxes and duties, except from the VAT, excise taxes, stamp and offshore duties, state fee, customs duties and charges, payments for land, tax for usage of natural resources (environmental tax), taxes accrued, charges, and transferred in course of implementation of the tax agent activities.

Additional preferences:

The process equipment, its components and spare parts imported into the customs territory of the Republic of Belarus as contribution into the authorized capital of commercial entities with

foreign investments under the preferential tax regime are released from import customs duties and VAT (except for the value added tax charged in course of importation of goods from the Russian Federation).

Individual Preferences

In accordance with the Complex State Program of development of regions, small and medium towns for 2007 to 2010, the following preferences are established for the entities included into the list approved by the President of the Republic of Belarus:

- the rate of the profit tax decreased by 50 percent;
- releasing from payment of the tax from road users;
- releasing of payment of duty to the state fund of support of agricultural manufacturers, manufacturers of foodstuffs, and agrarian science.

Preferential regime of performance of activities in towns shall not apply to the following:

- bank, non-banking credit and financial institutions, investment funds, insurance organizations;
- professional participants of the securities market;
- residents of free economic zones and the High Technologies Park;
- commercial entities, commercial organizations with foreign investment that apply simplified taxation system;
- commercial entities, commercial organizations with foreign investment that perform the following activities:
 - manufacturing of agricultural products and paying the unified tax for manufacturers of agricultural prod;
 - activities in gambling sphere;
 - activities on arrangement and holding electronic interactive games;
 - activities associated with defense of the state concerning investment, entrepreneurship, and other economic activities;
 - recycling, storage, sales of arms, ammunition, explosives, and explosion devices;
 - recycling, storage, neutralization, sales of radioactive and other hazardous materials;
 - recycling, storage, sales of drugs, psychotropic substances, their precursors;
 - planting, growing, processing, storage, sales of plants containing drug substances, psychotropic or poisonous substances;
 - manufacturing and (or) sales of alcohol products, tobacco articles;
 - manufacturing of securities, banknotes and coins, post stamps;
 - publishing activities, incorporation of mass media, production and issue of mass media,

including activities in the field of radio and television broadcasting, as well as preparation and broadcasting of radio and TV programs, except from maintenance of radio and television;

- treatment of persons suffering with diseases hazardous for public health;
- treatment of animals with particularly hazardous disease.

3. ACTIVITIES IN RURAL AREAS

Terms of Regime Application

The preferential regime applies to the enterprises meeting the following requirements:

- activities on manufacturing of goods (performance of works, rendering services)осуществление;

- implementation of the said activities only in the territory of rural areas.

Cases of not application of the preferential regime:

- implementation of simultaneous activities in another territory;
- production of goods subject to excise taxes;
- manufacturing and (or) sales of jewelry articles of precious metals and (or) gems;
- lottery, commercial and intermediary, tourism (except for agroecotourism), realtor's, insurance, banking activities, professional activities at securities market, activities in the sphere of gambling, arrangement and holding electronic interactive games, as well as within the scope of simple partnership and (or) economic group;

- limitations in connection with application of another preferential regime (simplified taxation system; unified tax for agricultural manufacturers; unified tax charged from individual entrepreneurs; duty for implantation of handcraft activities, etc.).

Tax Preferences

Releasing from:

- profit tax from sales of products manufactures in rural areas;
- real estate tax from the cost of objects located in the territory of rural areas;
- deductions into innovational funds in case of implementation of construction activities from January 1, 2008, to December 31, 2010.

Customs Privileges

The process equipment, its components and spare parts imported into the customs territory of the Republic of Belarus as contribution into the rest of authorized capital (its increasing) of the organizations under the preferential regime considered.

4. IMPLEMENTATION OF INVESTMENT PROJECTS ON THE BASIS OF INVESTMENT AGREEMENTS CONCLUDED BETWEEN INVESTORS AND THE REPUBLIC OF BELARUS

In accordance with the Investment Code of the Republic of Belarus, investment activities shall mean the activities of the investor for making investments into manufacturing of products (works, services) or their other usage for gaining profits (income) and (or) achievement of another material result.

The investor shall mean the person (in particular, legal entities and individuals, foreign organizations which are not legal entities) that performs investment activities.

On November 8, 2009, Decree of the President of Republic of Belarus No.10 of August 8, 2009 “On Formation of Additional Conditions for Investment Activities in the Republic of Belarus” (hereinafter referred to as Decree No.10) was effected. The Decree provides for a number of privileges for the investors that perform investment projects on the basis of agreements concluded with the Republic of Belarus.

Terms of Conclusion of the Investment Agreement

The general prerequisite for conclusion of the investment agreement is the investor’s intention of performance of an investment project in the territory of the Republic of Belarus.

The agreement is concluded on the basis of resolution of the relevant governmental body of the Republic of Belarus:

- state governmental authority, other governmental organization subordinate to the Government of the Republic of Belarus (hereinafter referred to as the governmental authority), regional (Minsk municipal) executive committee (hereinafter referred to as the executive committee) in case of investment project implementation within a corresponding branch of industry, within a certain administrative and territorial unit, and within the scope of capacity of a governmental authority or an executive committee. In this case, neither business plan of the investment project nor complex expertise of the investment project is required;

- Cabinet of the Republic of Belarus, in cases where the investment agreement does not provide for benefits and preferences to the investor except from the ones stipulated by legislative acts, this Decree, and other resolutions of the President of the Republic of Belarus as of the date of its conclusion, including resolutions on privatization issues. In this case, neither business plan of the investment project nor complex expertise of the investment project is required;

- Cabinet of the Republic of Belarus in coordination with the President of the Republic of Belarus in case of granting benefits and preferences not stipulated by legislative acts, Decree No.10, and other resolutions of the President of the Republic of Belarus to the investor, including resolutions on privatization issues. In this case, both business plan of the investment project nor

complex expertise of the investment project is required.

Guarantees and Privileges for Investors

1. ***Guarantee of reimbursement of damages*** occurred as a result of unlawful acts (inaction) of officers of governmental bodies and (or) executive committees.

2. ***Right of investors to:***

- construct objects stipulated by the investment project simultaneously with development, expertise and approval of the design and estimate documentation for each construction stage in accordance with the procedure established, as well as simultaneously design the subsequent stages of such construction;

- have the land plot of the appropriate area required for construction of objects provided by the investment project (hereinafter referred to as the land plot) allocated for lease without an auction, with drawing up of the documents required for the land plot allocation simultaneously with implementation of the construction works;

- keeping the amount of rent for the land plot determined as of the date of conclusion of the lease agreement unchanged for the whole term of investment project performance.

3. ***Releasing of investors from:***

- charges to the state budget for the right to lease the land plot;
- reimbursement of agricultural and (or) forestry losses incurred by withdrawal of land for investment project implementation, as well as from compensation charges associated with transfer and cutting down of green planting on the lands in areas;

- payment of import customs duties and VAT (except for the value added tax charged in course of importation of goods from the Russian Federation) for the process equipment, its components and spare parts imported into the customs territory of the Republic of Belarus in connection with performance of the investment project;

- payment of state duty for issuing permissions for the right to work in the Republic of Belarus to foreign citizens and persons with no citizenship involved into investment project implementation by the investor. The said foreign citizens and persons with no citizenship shall be released from the state duty for issuing of permissions for temporary residence in the Republic of Belarus.