



Council of the European Union
General Secretariat

Brussels, 12 November 2018

WK 13663/2018 ADD 3

LIMITE

**FISC
ECOFIN**

WORKING PAPER

This is a paper intended for a specific community of recipients. Handling and further distribution are under the sole responsibility of community members.

MEETING DOCUMENT

From:	General Secretariat of the Council
To:	Code of Conduct Group (Business Taxation)
Subject:	(Draft) Progress Report by the Code of Conduct Group (Business Taxation) to the ECOFIN Council of December 2018 - Annex: Croatia's Investment Promotion Act regime (HR011)

Delegations will find attached a document in view of the meeting of the Code of Conduct Group (Business Taxation) on 15 November 2018.

Croatia's Investment Promotion Act regime (HR011)

In March 2018, the Croatian Parliament adopted the Act on Amendments to the Investment Promotion Act (OG 25/18), and fully amended Article 15 of the Act.

Amendments to the Act on Investment Promotion Act included:

- the activation of inactive assets owned by the Republic of Croatia by leasing immovable assets for new project investments (fully amended Article 15 of the Act)
- introduction of new conditions for granting micro-enterprise investment projects - allowing entry and used equipment / machines up to 5 years of age (not just new equipment), as well as extension of condition to open 3 new jobs from one year to three years from the start of the project
- introduction of new conditions to support ICT investment projects - reduction of the minimum initial investment amount from € 150,000 to € 50,000 with the opening of at least 10 new jobs
- expanding the notion of Logistics and Distribution Centers as eligible projects for the use of investment grants, which are not solely linked to the production and processing activities of the investment project

At its meeting of 23 July 2018, the Code of Conduct Group (business taxation) agreed that the regime does not need to be assessed as it falls out of scope after replacing the tax incentives under Article 15 of the previous regime (HR009) with non-tax incentives in the form of leasing of State owned assets.

ACT ON AMENDMENTS TO THE INVESTMENT PROMOTION ACT

Article 1.

In the Investment Promotion Act (Official Gazzete No. 102/15), Article 2, paragraph 1 is amended to read:

"(1) This Act regulates the implementation of Commission Regulation (EU) No. 651/2014 of 17 June 2014 on amending the EU Regulation no. 651/2014 on the assessment of 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), and Commission Regulation (EU) 2017/1084 of 14 June. June 2017 amending Regulation (EU) No. 651/2014 as regards aid for port and airport infrastructure, notification thresholds for aid for culture and heritage conservation and for aid for sport and multifunctional recreational infrastructures, and regional operating aid schemes for outermost regions and amending Regulation (EU) No 702/2014 as regards the calculation of eligible costs.

Article 2.

In Article 5 (3), the following is added to the Investment Promotion Act (Official Gazette No. 102/2015):

"- economic activation of inactive assets owned by the Republic of Croatia"

Article 3.

In Article 6, paragraph (1), point 1) c) is amended to read:

"c) at a minimum amount of HRK equivalent of EUR 50,000.00 and subject to the requirement of at least ten new posts for the Center for Development of Information and Communication Systems and Software referred to in Article 12 of this Law"

In point 3, sub-paragraph (a) is replaced by the following:

"Individual regional State aid for investment planned to be granted under this Act shall be required to report to the European Commission in accordance with Article 108 (3) of the Treaty on the Functioning of the European Union if the aid from all sources exceeds the thresholds for the application under this paragraph or in the event of its transfer or a similar activity or part thereof from a facility in a Contracting Party to the European Economic Area Agreement (start-up facility) to an object in which the investment takes place in the other Contracting Party to the Agreement in the European Economic Area (the facility to which the aid is granted). The transfer occurs where the product or service in the initial facilities and the facilities to which it is granted is at least in part serving the same needs and meets the requirements or needs of the same type of user, and job

vacancies are lost in the same or similar activity in one of the initial user facilities in the European Economic Area .

Intensity of support: Entry thresholds:

25% of the kuna equivalent of 18.750.000,00 euros

35% of kuna countervalue of 26.250.000,00 euros

The specific threshold for application to the European Commission for Regional State Aid for Investment is determined on the basis of the "adjusted amount of aid" calculated in accordance with the mechanism referred to in point 13, subpoint c. of this Article for investments with eligible costs in the amount of kuna equivalent of 100,000,000.00 euros. "

Pont 7 is amended to read:

"7 The minimum period of conservation of the investment concerned shall be five years after the completion of the investment for large entrepreneurs and for micro, small and medium-sized enterprises three years after the completion of the investment, but not shorter than the period of utilization of the aid under this Act. This does not prevent the replacement of installations or equipment that were outdated or corrupted in that period but without the right to use new aid and provided that the economic activity remained in the area concerned during the relevant shortest period. As an end of an investment, a date is considered when tangible assets associated with an investment project become operational. If the account support is based on salary costs, the new job must be completed within a period of three years from the start of the investment project. The new workplace must be linked to the implementation of the investment project and preserved in a particular area five years after its first completion for large entrepreneurs, ie three years for micro, small and medium-sized enterprises, but not shorter than the period of utilization of the grant under this Act for which it is Workplace prerequisite. For seasonal employment in the tourism sector, the entrepreneur does not realize incentives for job creation.

In point 8, subsection a) is changed and reads:

"a) Eligible costs of investment in tangible and intangible assets.

Acceptable costs of investing in tangible assets means that the acquired assets should be new or not used before.

Costs associated with the lease of tangible property may be considered provided that for installations or machines, the lease must be in the form of financial leasing and include the obligation of beneficiaries to support the purchase of property after the lease term expires.

Value of buildings and equipment / machines (standard base). The eligible investment costs will not include land, pre-built buildings / facilities and pre-used equipment / machinery. "

For micro-enterprise investment projects referred to in Article 6, paragraph (1), item 1, subparagraph b) of this Law, the eligible investment costs shall include the entry of the equipment / machines used up to a maximum of five years. "

For grants awarded to large entrepreneurs for a thorough change in the production process, eligible costs must exceed the amortization of assets associated with the activity being modernized over the previous three tax years.

When investing in the diversification of an existing business unit, eligible costs must be at least 200% of the book value of the asset being reused as it is registered in the fiscal year preceding the commencement of the works.

Eligible costs of investing in intangible assets may include the acquisition of intangible assets through the transfer of technology such as patents, licenses, know-how, or unconditional professional knowledge. For large entrepreneurs, the cost of acquiring intangible assets is only acceptable up to a limit of 50% of the total eligible investment cost for the project. In the case of micro, small and medium-sized enterprises, total costs associated with intangible assets are taken into account. Intangible assets justified by the calculation of investment costs must be linked to the area in which the aid is granted and should not be relocated to other regions. Intangible assets that represent eligible investment costs must meet the following conditions:

- must be used exclusively in the business unit receiving support
- must be considered as assets with a write-off (amortizable assets)
- Must be purchased by third parties under market conditions, excluding buyer-related businesses
- must be included in the beneficiary of the aid, ie it must be stated in the beneficiary balance sheet and remain associated with the project for which the aid has been granted for at least five years or three years in the case of micro, small and medium-sized undertakings.

Point 14 is amended to read:

"Ministry responsible for economy, entrepreneurship and crafts, as the competent state authority for investment promotion".

After paragraph (3), paragraph (4) is added:

“(4) The beneficiary shall confirm that it has not carried out a relocation to the establishment in which the initial investment for which aid is requested is to take place, in the two years preceding the application for aid and give a commitment that it will not do so up to a period of two years after the initial investment for which aid is requested is completed”

Article 4.

In Article 7, point 8 is amended to read:

"8. Aid for the economic activation of inactive assets owned by the Republic of Croatia "

Article 5.

In Article 8, paragraph 1 shall be amended to read:

"(1) For the investment of a microprocessor in the amount of the countervalue of HRK of a minimum of EUR 50,000.00 to the beneficiary of the tax on income tax shall be reduced by 50% of the prescribed profit tax rate for a period of up to five years from the beginning of the investment, subject to the requirement of at least three New jobs associated with the investment project, within a period of three years from the start of the investment. "

Article 6.

In Article 9, paragraph 1 shall be amended to read:

"(1) For investments in the amount of countervalue of HRK 150,000.00 to. € 1,000,000.00 to the beneficiary, the tax rate is reduced by 50% of the prescribed profit tax rate for a period of up to 10 years from the start of the investment, subject to the requirement of at least five new jobs linked to the investment or the investment in The Center for Development of Information and Communication Systems and Software from Article 12 of this Law in the amount of the countervalue of 50,000.00 to 1,000,000.00 euros to the beneficiary of the grant, the tax rate shall be reduced by 50% of the prescribed tax rate in the period up to 10 years from the start of the investment, subject to the requirement of at least 10 new jobs linked to the investment "

Article 7.

Article 12, paragraph 1 (b), point 3 shall be replaced by the following:

"3. Logistic and distribution centers are:

Aimed at the establishment and construction of high-tech logistic and distribution centers that enable: intermodal transport of goods, warehousing, packaging and handling of goods to significantly improve logistics and distribution operations within business processes and delivering goods. "

In point (c), sub-paragraph 2, subparagraph 2 shall be replaced by the following:

"Projects of tourist facilities - hotel heritage, diffuse hotel and other types of accommodation facilities created by the renewal of cultural and historical heritage with the mandatory delivery of conservation conditions of reconstruction."

Substitute 4 is amended to read:

"Projects of health, congress, nautical, cultural, golf tourism, entertainment and / or recreational centers and theme parks, tourist-ecological projects and other innovative projects in high value tourism".

Subsection 3 is deleted

Article 8.

Article 13 paragraph 1 is amended to read:

"(1) A project for which investment grants are granted for capital expenditures of an investment project shall be invested in long-term assets of the beneficiary's business unit in the amount of kuna equivalent of at least EUR 5,000,000.00, subject to completion of at least 50 new jobs related to the investment project , and within a period of three years from the start of the investment. "

Article 9.

In Chapter II INVESTMENT PURSUANT The name of Section 8 above Article 15 and Article 15 shall be amended to read:

"Grants for investment projects through the economic activation of inactive assets owned by the Republic of Croatia

(1) For the purposes of this Law, inactive assets are land and/or buildings owned by the Republic of Croatia, which is managed by the Ministry responsible for the management of state property, which is not in operation and in which no economic activity is performed.

(2) A project for which an aid is granted for the economic activation of inactive assets owned by the Republic of Croatia is an investment in long-term assets of the beneficiary of the aid in the amount of kuna equivalent of at least EUR 3,000,000.00, subject to completion of at least 15 new jobs related to the investment project; within a period of three years from the beginning of the investment.

(3) To the beneficiary of the aid that realizes the investment project referred to in paragraph 2 of this Article in the areas of the local self-government units classified according to the classification of the units of local and regional self-government according to the value of the development index from I to IV. the group will be granted lease without compensation of inactive assets owned by the Republic of Croatia, administered by the Ministry of State Property for a period of 10 years from the beginning of the investment, if such assets make the economic unit eligible for the realization of

the investment project. In the area of those local self-government units classified according to the value of the development index from V to VIII. groups of local self-government units will be approved to be leased free of charge, only after the three rounds of a public tender for the sale of inactive assets, conducted by the ministry responsible for managing the state property within a period of 90 days from the date of the submission of a request for lease of inactive assets free of charge by the investor or beneficiary.

(4) The total amount of aid granted under this Act, including the support for the economic activation of inactive assets owned by the Republic of Croatia, respects the maximum permissible intensity or the amount of the total aid referred to in Article 6, paragraph 1, item 13 of this Act

(5) During the investment realization period referred to in paragraph 2 of this Article, the beneficiary shall be required to make a direct financial investment in inactive assets leased without remuneration at least 50% of the estimated value of the inactive asset at the time of lease- not including in this calculation the value of the input equipment that represents the investment

(6) The leasing of inactive assets owned by the Republic of Croatia without remuneration from the portfolio of the Ministry responsible for the management of State Property for a period of 10 years from the start of the investment in accordance with the prescribed condition referred to in paragraph 5 of this Article, shall be awarded to the beneficiary of the investment grant under the Lease Contract of inactive assets concluded between the ministry responsible for managing the state property on the one hand and the beneficiary of the investment grant under this Act, on the other hand, in accordance with the regulations regulating the management of state property owned by the Republic of Croatia after the application for granting the status of beneficiary of investment aid.

(7) In the case of non-fulfillment of the conditions referred to in paragraph 5 of this Article, if the beneficiary of an investment grant under this Law after a three-year period of investment project realization does not increase by 50% the estimated value of the inactive asset at the time of the lease without charge, Lease Contract from paragraph 6 of this Article shall be terminated without the right of beneficiaries of investment grants under this Law to repay the funds invested into inactive assets.

(8) Upon expiration of the lease period of inactive assets owned by the Republic of Croatia free of charge referred to in paragraph 3 of this Article or at the end of the period of reaching the limit of the maximum amount of total investment aid referred to in Article 6, item 13 of this Law, and fulfillment of contractual obligations from paragraph 5 of this Article, beneficiary of an investment grant under this Law, may conclude a Purchase Agreement of this property with the State Property Management Ministry in the amount of the estimated value of the inactive asset at the time of lease without charge.

(9) State aid in the form of leasing of immovable property owned by the Republic of Croatia free of charge or below market value is allowed only when the estimated market value of such property is determined by an independent expert authorized for real estate valuation, and in relation to the public available, regularly updated and generally accepted reference values.

(10) The Investment Promotion Regulation referred to in Article 11 of this Law shall prescribe the procedure and methodology for determining the calculation of the value of state aid in the form of leasing of inactive assets owned by the Republic of Croatia free of charge as well as the methodology for calculating the sales value of the inactive asset in the case of the contract referred to in paragraph 8 of this Article. "

Article 10.

Article 16, paragraph 1 shall be amended to read:

"(1) Grants shall be secured in the state budget of the Republic of Croatia in the position of the competent ministry referred to in Article 6, paragraph 14 of this Act."

Article 11.

Article 17, paragraph 2 shall be amended to read as follows:

"(2) On the basis of the application submitted, the competent ministry referred to in Article 6, paragraph 14 of this Act shall, in cooperation with the central state administration body responsible for finance and other competent central state administration bodies, within whose scope the investment project and other bodies responsible for Shall determine whether the application has been filed in accordance with the provisions of this Act and shall inform the applicant of the status of the beneficiary of the investment aid, not later than 60 days after filing the application in accordance with the provisions of this Act. Work on individual start-ups can only start after the application for support is filed. "

Paragraph 9 is changed to read:

"(9) The competent ministry referred to in Article 6, paragraph 14 of this Act, in cooperation with the central state administration body responsible for finance and other competent central state administration bodies within whose scope the project investment project is concerned, shall carry out monitoring of the use of the aid to the beneficiary of the aid in order to detect and Sanctioning any irregularity and illegality. "

V. TRANSITIONAL AND FINAL PROVISIONS

Article 12.

Within 60 days from the date of entry into force of this Law, the Government of the Republic of Croatia shall align the Investment Promotion Decree (OG 31/2016) with the provisions of this Law.

Article 13.

In the event that during the prescribed period of the preservation of newly created jobs, a reduction of the prescribed number has occurred during one calendar year, to the beneficiaries of investment grants realized under the Investment Promotion Act (Narodne novine, Nos. 138/06 and 61/11) and The Act on Investment Promotion and Investment Enhancement (Official Gazette 111/12 and 28/13) due to unfavorable market conditions in the Republic of Croatia, as negative trends of gross domestic product indicators in the Republic of Croatia during the period 2009-2015, prolongs a prescribed period of conservation of the number of newly created jobs linked to the investment project for a year, without the application of the provisions of the said Law defining the termination of the right to use the investment aid.

Article 14.

This Act shall enter into force on the eighth day after its publication in the Official Gazette