

STRATEGIC INVESTMENTS IN GREECE

A Short Description

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The new legislation on strategic investments adopted by Greek Parliament induces five (5) radical changes for the treatment of strategic investments. It characterizes an investment as “**strategic**” on the base of proposed budget. For the first time the limit of capital is below of 20 millions of Euros, which means that investments can be benefit by the positive provisions of the law and more investment plans could take place.

General Provisions of the law – Amendments

1. The leaders of the international investments automatically enjoy the positive provisions of the law, concerning the fast track licensing and the tax exemption regime, without taking into account the budget or the number of employees.
2. The approval of the strategic investments bypasses the red tape procedures, thus proving the investor the guarantees of the immediate action of public services within 45 days from the submission of the business proposal. In the case of a delay the minister of Economy and Development within a month must approve or reject accordingly the proposal.
3. The strategic investments are included to a special and highly beneficiary frame of tax treatment while the investor has the guarantee of stable tax rates for 12 years at least and two tax exemption options: 1) on the tax of income and 2) through the acceleration of depreciation.

Analysis of the new law (in general)

A. Strategic Investments – New Definition/ Categorization

Strategic investments according to the law: Investments with total budget up to 100 millions of Euros or those who create at least 150 new jobs.

1. Investments creating at least 100 new jobs or the total budget up to 40 millions of Euros. Especially for the investments in the industrial sector, the new limits are reduced to 75 new jobs and a budget of 30 millions of Euros. In the case of investments taking place into industrial zones then the new limits are reduced to the creation of 50 new jobs and 25 millions of Euros as total budget.

2. “Leading Investments” are those made of extinguish firms ranking at the leading posts globally.
3. “Strategic Investments of fast track licensing” are those creating at least 20 new jobs and up to 20 millions of Euros total budget.
4. “Direct Strategic Investments” such as public-private partnership projects approved by the Interministerial Committee and subjected to European Fund of Strategic Investments (EFSI) and the Projects of Common Interest (PCI).

B. End of the “red tape”

The law aims to eliminate the bureaucratic procedures. Especially it establishes a deadline of 45 days for the approval and authorization of any licensing, advisory opinion concerning the commencement or the operation of the strategic investment. The deadline is not irrevocable. The person in charge is the Minister of Economy and Development who has the jurisdiction to approve or reject accordingly to the law any strategic investment. In case of a delay, the Minister of Economy and Development can prolong the deadline to a period of a month in order to approve or reject the licensing. The procedure of approval or rejection takes into consideration the portfolio and the proposal of the strategic investment. It’s important to mention that the Greek State makes strong and continuous efforts to establish a favorable environment in order to attract foreign direct investments.

C. Tax Exemptions

All the investments under the provisions of this law can have a stable tax rate for 12 years similarly to investments subjected to Law 4399/2016 of Greek State. Furthermore, the investments characterised as “strategic investments” could be favoured by two kinds of tax exemptions:

1. Tax exemption based on the amount of the investment connected to earnings before the tax of income according the Greek tax legislation. The earnings represent the total gains of the enterprise. It is worthy to add that the tax exemption is activated with the implementation of the 25 % of the investment.
2. Acceleration of tax depreciations of the capital which they have subjected to the approved investment plan with double rates up to 40%.

D. Arbitration (in some cases remains under the jurisdiction of Council of State)

1. Every dispute arising from the Memorandum of Cooperation between the investor and the State can be arranged definitely with an arbitration procedure accordingly to the “Rules on Transparency in Treaty based Investor - State Arbitration” of UNCITRAL.
2. The Arbitration Tribunal consists of 3 arbitrators: 1 arbitrator appointed by the Greek State, 1 arbitrator appointed by the investor and the third arbitrator as president appointed by the two mentioned before. The arbitration procedure always takes place in Athens and the official language is the Greek. During the arbitration none of the contracting parties can suspend their obligations derived by the Memorandum of Cooperation.
3. The tribunal’s decision is justified, final and irrevocable to the contracting parties.

Sectors to Invest: Manufacturing, Energy, Tourism, Transport, Communications, Health, Waste Management, Projects of high-end technology and innovation, Education, Culture, Primary sector and processing of agri-food stuffs, Services of tertiary sector in general.

1. Special Conditions

- a. Approval of Environmental Conditions
- b. Urban Planning Conditions
- c. Foreshore and Backshore Utilization License
- d. Auxiliary and Accompanying Works
- e. Expropriations Procedure for the Realization of Strategic Investments
- f. Challenge of Expropriations before Courts

1. Procedure for the inclusion of the Strategic Investment of the Private Sector

- ✓ Inclusion Procedure
- ✓ Obligations of Investors included in the Strategic Investments Procedure
- ✓ Management Fee

1. Procedure for the inclusion and award of Public Strategic Investments

- Inclusion
- Manner of Award
- Award Procedure

1. Licensing Procedure

Issuance of Licenses

Agricultural Land of High Productivity

Residence Permits

Tourism Investments

E. Basic Goals of the Law:

- Creation of new jobs for highly educated employees
- Enhancement of sustainable growth and regional convergence
- Rural Development of remote regions
- Reindustrialization of the country
- Growth of innovation and competitiveness of enterprises
- Development of high added value synergies in economy
- Establishment of a new national branding
- Attraction of Foreign Direct Investments