

Pursuant to Article 14, paragraph 2 of the Law on Investments (Official Gazette of the RS, No. 89/15 and 95/18) and Article 42, paragraph 1 of the Law on Government (Official Gazette of the RS, No. 55/05, 71/05 – corrigendum, 101/07, 65/08, 16/11, 68/12 – CC, 72/12, 7/14 – CC, 44/14 and 30/18 – other law),

The Government has passed

REGULATION ON CONDITIONS, METHOD AND PROCEDURE OF RELIEF FROM CUSTOMS AND OTHER DUTIES ON IMPORT OF EQUIPMENT

I INTRODUCTORY PROVISIONS

Scope of Regulation

Article 1

This Regulation shall regulate the conditions, method and procedure of relief from customs and other duties on import of equipment by the investors, other than the value added tax, in more detail.

Notions

Article 2

The terms used in this Regulation shall have the following meaning:

1) *Import duties* are customs duties and other duties, except for VAT, which have the same effect and which are to be paid when importing goods;

2) *Investor* is a domestic or foreign legal or natural person which has made an investment in the territory of the Republic of Serbia, in compliance with the law;

3) *Equipment* is new production plans, machines and equipment acquired and kept for the purpose of producing products, for the import of which a customs relief is granted, and which the investor imports and invests as their non-monetary contribution in the company, or which the company acquires directly and registers as an investment in the form of an annotation, for the purpose of carrying out the business activity for which granting incentives is permitted in compliance with the regulations governing criteria, conditions and method of attracting foreign investments;

4) *A customs relief* is a relief from payment of import duties on import of equipment;

5) *A small economic entity* is an economic entity with less than 50 employees and the annual turnover or total annual balance sheet worth less than EUR 10 million, in compliance with the regulation governing state aid (hereinafter: a small company);

6) *A medium-sized economic entity* is an economic entity with 50 to 250 employees and with the annual turnover which does not exceed EUR 50 million or the total annual balance sheet worth less than EUR 43 million in compliance with the regulation governing the state aid (hereinafter: a medium-sized company);

7) *A large economic entity* is an economic entity with more than 250 employees and with the annual turnover exceeding EUR 50 million or the total annual balance sheet worth more than EUR 43 million in compliance with the regulation governing the state aid (hereinafter: a large company);

8) *A customs authority* is the Customs Administration, a customs office and its organisational units competent for application of customs and other regulations, as well as the authorized customs officer, in compliance with the Law on Customs Service (Official Gazette of the RS, number 95/18);

9) *An agreement on incentive funds granting* is an agreement regulating mutual rights and obligations of the provider of incentive funds and the beneficiary of incentive funds in compliance with the regulation governing the criteria, conditions and method of attracting direct investments;

10) *A beneficiary of a customs relief* is a company registered in the Republic of Serbia for the pursuit of economic activity for which granting of incentives is permitted in compliance with the regulations governing the criteria, conditions and method of attracting direct investments and which is the importer of the equipment for which the customs reliefs are granted.

II AMOUNT OF INCENTIVE FUNDS

Maximum Permitted Amount of Incentive Funds

Article 3

The maximum permitted amounts of incentive funds shall be determined in compliance with the regulations governing the rules for allocation and control of state aid and regulations governing the conditions and method of attracting direct investments.

The maximum permitted amount of funds for large companies can be determined up to 50% at the maximum of the eligible costs for realisation of an investment project.

The maximum permitted amount of funds for medium-sized companies can be determined at the maximum up to 60% of eligible costs and for small companies at the maximum up to 70% of eligible costs for realisation of an investment project.

III CONDITIONS FOR PREFERENCE GRANTING

Exercising the Right to Relief

Article 4

A company shall exercise the right to a customs relief on the import of equipment in compliance with the rules for allocation of state aid and specifically:

1) In compliance with the rules for allocation of regional investment state aid, for the economic entities that are beneficiaries of incentive funds in accordance with the agreement on incentive funds granting;

2) In compliance with the *de minimis* state aid allocation rules, for the economic entities which are not beneficiaries of incentive funds in accordance with the agreement on incentive funds granting.

The right to customs relief may not be exercised for the acquisition of equipment in the sectors of transport, software development unless where they are used for the purpose of improving the product, the production process or provision of services by the service centres, hospitality industry, games of chance, trade, production of synthetic fibres, coal and steel, mining, tobacco and manufactured tobacco, arms and ammunition, shipbuilding of self-propelled seagoing trade vessels exceeding 100 gross registered tons, airports, utility activities, energy sector, broadband network sector, fisheries and aquaculture sectors.

Relief Amount

Article 5

The customs relief on the import of equipment can be used up to the amount of subscribed non-monetary contribution into the company.

The amount of customs relief can be granted up to the amount that:

1) When added to the amount of incentive funds granted does not exceed the amount referred to in Article 3, paragraphs 2 and 3 of this Regulations, for the companies that are beneficiaries of incentive funds in accordance with the agreement on incentive funds granting;

2) Does not exceed the ceiling for the *de minimis* state aid in the amount of RSD 23,000,000.00 per a single investor in any period during three consecutive fiscal years, in compliance with the regulations governing the rules for allocation and control of state aid, for the companies that are not beneficiaries of incentive funds in accordance with the agreement on incentive funds granting.

Time Limit for Exercising the Right to Relief

Article 6

The right referred to in Article 4 of this Regulation can be exercised within two years from the registration date of the annotation on the company's decision on investment or registration of capital increase, in compliance with the Law on Registration Procedure with the Serbian Business Registers Agency.

By way of exception from paragraph 1 of this Article, if a delivery period longer than two years has been envisaged in the agreement on equipment delivery or where the supplier of equipment is defaulting, the investor's right referred to in Article 4 of this Regulation can be exercised within six months from the occurrence of above mentioned circumstances.

Annotation on Investment

Article 7

In order to exercise the right to customs relief in compliance with this Regulation, the company shall be obliged to enter an annotation, in the Register of Economic Entities, on the investment – acquisition of equipment that will be imported as the contribution of the investor.

By means of the annotation referred to in paragraph 1 of this Article, the contract or the company's decision on the investment which shall include the specification of equipment as an integral part of the decision, the code and name of the business activity for which the equipment is being acquired as well as information on the supplier of the equipment shall be entered.

The specification of equipment referred to in paragraph 2 of this Article shall mandatorily include: the name of the equipment, the name of the manufacturer and the value of the equipment.

IV PROCEDURE FOR RELIEF EXERCISING

Recording and Exchange of Information

Article 8

The company that is requesting a customs relief shall deliver the following to the central office of the Customs Administration, within 30 days, to be entered in the record, depending on the basis:

1) To exercise the right to relief from customs duty based on the decision on capital increase, the decision on capital increase and the excerpt from the Companies' Register shall be delivered to the Customs Administration within 30 days from the date of registration of initial capital increase;

2) To exercise the right to relief from customs duty based on the annotation on the Agreement on non-monetary investment in the company or based on the annotation of investment based on the Incentive Funds Grant Agreement, following the entry of annotation on investment in the Register of Economic Entities, the Serbian Business Registers Agency shall deliver information on entered annotations on investments to the Customs Administration by means of the information system.

Until the establishment of the electronic communication referred to in paragraph 1 of this Article, information on annotations on investments entered shall be delivered to the Customs Administration by the company that is requesting a relief from customs duty.

The Customs Administration shall introduce and allocate a record number to the company that is requesting relief from customs duty on the basis of information referred to in paragraph 1 of this Article.

Application for Relief for Investor

Article 9

The company that is requesting a relief from customs duty in order to exercise the right to relief shall submit to the customs authority which is conducting the customs procedure of release of equipment for free circulation the following:

1) The decision on capital increase and the appraisal of value of the non-monetary contribution;

2) The warranty card or another adequate documentation from which it can be determined that the equipment that is being imported is new;

3) The Incentive Funds Grant Agreement, if the beneficiary of the customs relief is also the beneficiary of funds under the agreement mentioned;

4) The statement that they are not a beneficiary of *de minimis* state aid, and/or the statement on the realized amount of *de minimis* state aid in the current fiscal year and in the previous two consecutive fiscal years, if they are not a beneficiary of funds under an Incentive Funds Grant Agreement;

5) The statement that the equipment that is being imported serves for pursuit of business activity of the beneficiary of the relief;

6) The statement on all other state aids granted for the same eligible costs.

Enclosed with the proof referred to in paragraph 1, points 1) through 6) of this Article shall be an excerpt on registered information on the company which is entered in the Register of Economic Entities on the amount of subscribed non-monetary contribution of the investor in the company's capital or an excerpt on registration of an annotation on investment, which shall be acquired by the customs authority *ex officio*.

Based on the application submitted and proof enclosed, the customs authority shall pass a decision on relief from payment of customs duties on the import of equipment.

A copy of the decision referred to in paragraph 4 of this Article shall be delivered by the customs authority to the Ministry in charge of economy and to the Commission for State Aid Control without delay, within 30 days from the date of decision passing at the latest, and

at the end of each six monthly period, a report on companies that have exercised the right to relief from customs duty shall be delivered to the Development Agency of Serbia.

V PROHIBITION OF ALIENATION AND LIMITATION OF DISPOSAL

Duration of limitation in respect of the right to dispose of equipment imported which is relieved from payment of import duties

Article 10

Equipment may not be alienated, given to another for use or used for other purposes within a period of three years from the date of release of the goods for free circulation in compliance with customs regulations.

If the equipment referred to in paragraph 1 of this Article is alienated, given to another for use or used for other purposes before the expiry of the time limit referred to in paragraph 1 of this Article, import duties shall be paid on such equipment.

The amount of the import duties referred to in paragraph 2 of this Article shall be calculated according to the condition of the goods and in accordance with the regulations in force on the date of submission of the application for calculation and payment of import duties, and/or on the date of passing of the decision on collection of import duties if the application for calculation and payment of import duties has not been submitted.

Customs Supervision

Article 11

The equipment relieved from payment of customs duties based on the investor's contribution, which has been released for free circulation in compliance with the provisions of this Regulation shall remain under customs supervision.

The customs supervision shall cease:

- 1) When the conditions due to which the equipment has been released for free circulation without payment of import duties have ceased to exist;
- 2) When the equipment is exported or destroyed;
- 3) When the use of equipment for purposes other than those prescribed by this Regulation is permitted and when the import duties have been paid.

VI TRANSITIONAL AND FINAL PROVISIONS

Completion of Initiated Proceedings

Article 12

The procedures for exercising customs reliefs commenced by the date of entry into force of this Regulation shall be completed in compliance with the regulations in accordance to which they have been initiated.

Exchange of Information through Information System

Article 13

The Serbian Business Registers Agency shall be obliged to, within 60 days from the date of entry into force of this Regulation, by means of the information system deliver information to the Customs Administration on the entered annotations on investments.

Termination of Regulation

Article 14

On the day of entry into force of this Regulation, the Regulation on conditions, method and procedure for relief from customs and other duties on import of equipment (Official Gazette of the RS, number 48/18) shall cease to be in force.

Entry into Force

Article 15

This Regulation shall enter into force on the eighth day from the date of its publication in the Official Gazette of the Republic of Serbia.

05 Number: 110-3883/2019-1
In Belgrade, on May 16, 2019

THE GOVERNMENT

PRIME MINISTER

Ana Brnabic, own signature