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Opole, on this 5 February 2016

Item 347

RESOLUTION NO XXII/389/16 OF THE OPOLE CITY COUNCIL

Of 28 January 2016

concerning real estate tax exemptions constituting regional investment aid for entrepreneurs conducting business activity in the Opole Municipality

Pursuant to art 18 sec. 2 pt. 8, art 40 sec. 1 and sec. 2 pt. 3 and art 41 sec. 1 of The Municipal Government Act of 8 March 1990 (unified act, Journal of Laws of 2015, item 1515, as amended, item 1045, item 1890), in relation to art 7 sec. 3 of the Act of 12 January 1991 on taxes and local levies (unified act, Journal of Laws of 2014, item 849, amendment of 2015, item 699, item 735, item 912, item 1029, item 1045, item 1283, item 1777, item 1890), the Opole City Council has ruled the following:

§ 1.1 The aid hereunder shall be awarded pursuant to the provisions set forth herein, and pursuant to the provisions of the Ordinance of the Council of Ministers of 9.01.2015 on the conditions for the award of tax exemptions applicable to the real property tax and the means of transport tax, which constitutes regional investment aid, aid for culture and conservation of national heritage, aid for sports infrastructure and multifunctional recreational infrastructure, and aid for local infrastructure (Journal of Laws of 2015, item 174), hereinafter referred to as the “*ordinance*”.

2. This resolution complies with the definition of single market, as within the meaning set forth in art 107 sec. 3(a) and (c) of the Treaty on the Functioning of the European Union and the provisions 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 Text (Official Journal of the European Union L 187 of 26.06.2014), hereinafter referred to as *regulation no 651/2014*.

§ 2. Whenever used in this resolution, the terms shall have the following meaning:

- 1) investment – an investment referred to in § 3 pt. 10 of the *ordinance*, considering the conditions set forth in § 4 of this resolution;
- 2) maximum regional aid intensity – the ratio of value of regional aid, expressed as an equivalent of gross subsidy, and the eligible costs assumed with this aid, which is 35%, considering the provisions of § 11 sec. 2 pt. 2 and sec. 3 of the *ordinance*;
- 3) new technology – the technology referred to in art 2 sec. 1 pt. 9 of the Act of 30 May 2008 on certain forms of support of innovative activity (Journal of Laws of 2014, item 226);
- 4) office building – a building serving for office purposes, as set forth in the building permit decision and in the occupancy permit decision;
- 5) modern business services – services in business process outsourcing (BPO), information technology outsourcing (ITO), services provided by the so-called shared services centers (SSC), research and development services (R&D);
- 6) net increase of the number of employees – an increase of the number of employees, as referred to in § 3 pt. 8 of the *ordinance*;

- 7) newly built buildings or their parts, newly built structures or their parts – buildings or structures, for which construction commenced after the *notification* date, as referred to in § 8 sec. 1 pt. 1 and 2 of this resolution.

§ 3. As set forth herein, buildings or their parts, structures or their parts, which are situated in the Opole Municipality, involved in conducting a business activity assuming the investment shall be exempt from the real property tax as part of regional investment aid, subject to the provisions of § 7, for a period of 5 years, considering the provisions of § 4 of this resolution.

§ 4. The exemption referred to in § 3 of the resolution shall be awarded:

- 1) when an investment, for which at least 25% of the financial expenditure was borne for the implementation of a new technology, is carried out in newly built buildings or their parts, in newly built structures or their parts;
- 2) for a completed investment resulting in the construction of a new office building of at least 1500 m² in total footprint, intended to house companies from the sector of modern business services;
- 3) when an investment in newly built buildings or their parts, in newly built structures or their parts, of minimum PLN 7 000 000 in total value is completed, and when a minimum of 40 workplaces are created within 3 years from the completion date of this investment.

§ 5. The aid awarded to companies in the form of real property tax exemption, as referred to in § 4 pt. 1 and pt. 2 of this resolution shall be calculated in reference to the eligible costs indicated in § 5 sec. 2 pt. 1 of the *ordinance*, subject the provisions of § 6 sec. 1 of the *ordinance*.

§ 6. The aid awarded to companies in the form of real property tax exemption, as referred to in § 4 pt. 3 of this resolution shall be calculated in reference to the eligible costs indicated in § 5 sec. 2 pr. 3 of the *ordinance*, subject the provisions of § 6 sec. 1 and 2 of the *ordinance*.

§ 7. This resolution shall not apply:

- 1) in cases referred to in art 1 sec. 2-5 and art 13 of *resolution no 651/2014*
- 2) to companies in arrears in terms of liabilities payable to the Opole Municipality;
- 3) to companies undergoing tax procedures to verify the size of tax liabilities and liabilities in payments for municipal waste disposal;
- 4) to real properties or their parts, which are occupied by commercial activity.

§ 8.1. The condition for qualifying an investment for the regional aid program hereunder is:

- 1) submitting a written notification of intent to use the aid, hereinafter referred to as the “*notification*”, to the President of the City of Opole, before commencing any works related to the investment;
- 2) paying the eligible costs after making the *notification*;
- 3) maintaining the investment in the Opole Municipality for 5 years from its completion date;
- 4) paying the financial contribution of at least 25% of the eligible costs, from the company’s own resources or from external sources of financing, with the exclusion of public financial resources;
- 5) when the eligible costs are calculated as set forth in § 6 of the resolution:
 - a) leading, as a result of implementing the subject investment, to an increase of the number of employees in a given company, compared to the average value from the last 12 months, filling every position within three years from the completion of works and
 - b) maintaining every workplace created in the outcome of the investment in the Opole Municipality for at least 5 years from the date of first position filling.

2. A notification shall include, in particular:

- 1) the name of the company;
- 2) information on the size of the company (small, medium, large company, in accordance with appendix I to *regulation no 651/2014*);

- 3) a description of the project, including the commencement and completion dates for the investment, as counted from the *notification* date;
- 4) the location of the investment;
- 5) a list of planned project costs.

3. The company applying for aid hereunder shall be obligated to:

- 1) commence works related to the investment within six months, as counted from the *notification* date;
- 2) submit to the President of the City of Opole a statement of the commencement of works – on a template included in appendix 1 to this resolution.

4. Commencement of works related to the investment shall take place in cases listed in § 3 pt. 3 of the *ordinance*.

5. A company applying for aid hereunder shall be obligated to complete the investment within a period of up to 3 years, as counted from the commencement of works related to the new investment.

6. The date the occupancy permit for the building or structure, as issued by the Poviát Construction Supervision Inspectorate, becomes legally binding, or the date the completion of construction is notified to the Poviát Construction Supervision Inspectorate, if this body (Poviát Construction Supervision Inspectorate) does not issue an opposing decision within 21 days, shall be construed as the date of completion of the decision.

§ 9. The real estate tax exemption referred to in § 3 of this resolution shall be awarded under a submitted real estate tax declaration or information, according to the template accepted by resolution of the Opole City Council for a given fiscal year, containing data of real properties, to which the tax exemption applies.

§10. The exemption referred to in § 3 of this resolution shall be effective as of the tax liability date, pursuant to the provisions of the Act of 12 January 1991 on local taxes and levies, until the end of the month preceding the month, in which the maximum intensity of work was exceeded, but no later than 5 years.

§ 11.1 Within 30 days from the date of completion of the investment, the company which has fulfilled all of the conditions listed in this resolution, shall be obligated to submit the following documents to the President of the City of Opole:

- 1) an investment completion statement – on the template included in appendix 2 to this resolution;
- 2) an investment value statement, including a statement of the financial expenditure concerning innovative activity, as referred to in § 4 pt. 1, of the eligible costs of the investment, and of the company's own share in the value of eligible costs related to the investment – on the template included in appendix 3 to this resolution;
- 3) a list of eligible costs incurred in the completion of the investment – on the template included in appendix 4 to this resolution;
- 4) a copy of the occupancy permit decision for the buildings or structures assumed with the investment, as received from the Poviát Construction Supervision Inspectorate, as well as a document confirming the legal title to the real property;
- 5) a declaration of maintaining the investment in the Opole Municipality for a period of at least 5 years – on the template included in appendix 5 to this resolution;
- 6) all and any required information, in accordance with the provisions of the Ordinance of the Council of Ministers of 29 March 2010 on the information presented by a company applying for aid other than de minimis aid or de minimis aid in agriculture or fishery (Journal of Laws, No. 53, item 312, as amended).

2. Furthermore, within 30 days from the date of creation of the first workplaces, when the eligible costs are calculated as set forth in § 6 of the resolution, the company which fulfills the conditions formulated in this resolution, shall be obligated to submit the following documents to the President of the City of Opole:

- 1) a statement of the anticipated two-year costs of labor of newly employed employees, in relation to the investment, as calculated in accordance with § 6 sec. 2 of the *ordinance*, on a template included in appendix 6 to this resolution;
- 2) a statement of the creation of new workplaces related to the investment – on a template included in appendix 7 to the resolution;

- 3) a statement of the net increase of the number of employees – on a template included in appendix 8 to the resolution;
- 4) a declaration of maintaining each workplace created in relation to the investment in the Opole Municipality for a period of at least 5 years – on a template included in appendix 5 to this resolution.

3. A company using the aid hereunder shall be obligated:

- 1) until the 15th of January of each year of using the aid, counting from the investment completion date and/or the date of creating new workplaces, to submit:
 - a) the required information according to the provisions of the ordinance referred to in § 11 sec. 1 pt. 6 of the resolution,
 - b) a statement of maintaining the workplaces created – on a template included in appendix 9 to this resolution, whereas the last piece of information must be submitted within 14 days from the date, on which the exemption period has lapsed.

4. Furthermore, the company which has not received aid intended for the same eligible costs, for which it has applied for public aid, shall submit a statement of the lack of receipt of such aid to the President of the City of Opole.

5. The company shall lose the right to the real estate tax exemption for the entire period of exemption when it has not fulfilled the conditions listed in § 8 sec. 1 of this resolution.

6. Upon the lapse of the conditions entitling the company to an exemption hereunder, the company shall be obligated to notify the tax authority of this fact in writing within 14 days from the date of occurrence of the circumstances causing the lapse of the right.

7. In the event of losing the right to the real estate tax exemption, the company shall be obligated to pay the tax, including the required interest for the period of unlawful use of the exemption.

8. For a company, with which the maximum permissible aid intensity was exceeded due to the real estate exemption through this resolution, the sum of aid awarded above the permissible intensity shall be returned.

9. A company which provided untrue information as to the fulfilment of the conditions, on which this tax exemption depends, shall lose the right to this exemption for the entire exemption term.

§ 12.1 The President of the City of Opole shall have the right to inspect the company using the exemption in terms of the conditions for the award of the real estate tax exemption and the obligations stipulated by this resolution.

2. The fiscal authority shall have the right to verify the conformity of documents and information submitted by the companies with the factual state.

3. A company using the exemption shall be obligated to submit, in the required term, at the request of the fiscal authority, all and any additional information required for confirming the fulfilment of conditions for the real estate tax exemption.

§ 13. The President of the City of Opole shall be in charge of enforcing the resolution.

§ 14. The resolution shall enter into force on the day it is announced in the Official Journal of the Opolskie Voivodeship and shall remain effective until 31 December 2020.

Council Chairman

Marcin Ociepa