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The Decree-Law 55/2008 of March 26, 2008, set out the regulatory provisions necessary for implementing incentive measures for the speedier recovery of areas in Portugal that suffer most from typical inland regional problems, as provided for in the Tax Benefits Statute (EBF).

Decree-Law 55/2008 has retained the bulk of former Decree-Law 310/2001, of December 10, 2001 — which has now been repealed — governing matters including the conditions of eligibility for benefits, obligations to which the beneficiary entities are subject, and consequences in the event of breach. For the first time, a review mechanism has been introduced for these beneficiary areas, in accordance with criteria that have been defined and tested in conjunction with the minister of finance and the remaining members of the government responsible for local government and regional planning.

With article 43 of the EBF as its backdrop, along with the provisions in the new regulatory decree, below is a general outline of the tax benefits currently in force for inland regions.

Framework

Companies whose core activity is an economic activity that is agricultural, commercial, or industrial in nature or provides services in one of the beneficiary areas may benefit from the outset from a reduced corporation tax (IRC) rate, as follows:

- As a rule, the IRC rate applicable to the taxable income will be 15 percent.
- For new entities whose core activity is situated in the beneficiary areas, the IRC rate will be 10 percent for the first five years:
  - — regarding asset reintegration and amortization of investment expenses of up to €500,000, excluding those used for the acquisition of land and light passenger vehicles, these companies may also benefit from the deduction of an additional 30 percent for the purposes of determining taxable income;
  - — an additional 50 percent of the compulsory social charges paid by employers regarding the net creation of jobs for an indeterminate period is also deductible for the purposes of determining taxable income; and
  - — the tax losses incurred during a given accounting period under the terms of the IRC code may be deducted from the taxable profits, if any, of one or more of the seven subsequent accounting periods.
- Regarding the property transfer tax (IMT), properties acquired by young persons between age 18 and 35 and used solely as their own first permanent home will benefit from an IMT exemption, provided that the value of such properties does not exceed the maximum controlled cost residence value plus 50 percent, and the acquisition of buildings or apartments situated in the beneficiary areas and allocated permanently to the business activity of these companies.

Conditions

The grant of the above tax benefits is conditional on the applicants meeting the following legal requirements:

- the direct core activity is an economic activity of an agricultural, commercial, or industrial nature or the provision of services in inland regions;
- the applicant uses direct assessment methods for the purposes of determining IRC on profit;
- the status of the company regarding the tax authorities, social security, and the municipality is in order;
- there are no salaries in arrears;
- the company provides proof that it has not come about as a result of a split-off in the previous two years;
- the company is legally incorporated and complying with the legal requirements governing its business activity; and
- the company keeps organized accounts, in accordance with the Official Chart of Accounts (POC).

Also, for applicant companies to qualify for this benefit, the law also requires them to fulfill the following obligations:

- provide the responsible entity with all the information related to the benefit;
- communicate to the responsible entity any changes that may affect its eligibility for the benefit;
- maintain the legal conditions necessary for carrying on the business activity; and
- keep an organized tax dossier at the company containing all documentation proving that it qualifies for the benefit.

Territorial Areas

The law sets down criteria for territorial areas to qualify for these benefits. In acknowledging the existence of less favored areas in the country, the legislature has defined the following as essential criteria for delimiting the beneficiary areas low population density; the compensation or tax discrepancy index; and the inequality of social, economic, and cultural opportunities.

However, for 2007 and 2008, and also for the purposes of implementing incentive measures for the speedy recovery of inland regions as set out in the EBF, the beneficiary areas are those identified in former Ministerial Order 1467-A/2001.

Final Considerations

Although the tax benefits in question are not cumulative with others of an identical nature, they do not affect the possibility of opting for more favorable alternatives. Further, the tax benefits established under Ministerial Order 170/2002 will continue until a new one is approved. This will now be prepared jointly by the minister of finance and the minister for work and social solidarity to ensure full compliance with the decision of the European Commission on the incentives in question.

Finally, although EC Regulation 1998/2006, currently in force, provides for an upper limit of €200,000 for de minimis aid, Ministerial Order 170/2002 continues to provide that tax benefits for inland regions may not exceed €100,000, per beneficiary, for a period of three years from the date the first incentive is attributed. ◆