

English is not an official language of the Swiss Confederation. This translation is provided for information purposes only and has no legal force.

Ordinance of the EAER on the Granting of Tax Relief within the Scope of the Regional Policy

3 June 2016

Based on Articles 1 Paragraph 2, 10 Paragraph 2 and 11 Paragraph 3 of the Ordinance of 3 June 2016¹ on the Granting of Tax Relief within the Scope of the Regional Policy (Ordinance of the Federal Council), the Federal Department of Economic Affairs, Education and Research (EAER) decrees:

Article 1 Industrial companies

Within the meaning of the Ordinance of the Federal Council, industrial companies are companies with head offices either in Switzerland or abroad and operations in the following industrial sectors:

- a. Manufacturing in accordance with Section C of the General Classification of Economic Activities of the Federal Statistical Office (FSO) of 2008²;
- b. Computer programming, consultancy and related activities in accordance with Section J Department 62 of the General Classification of Economic Activities of the Federal Statistical Office (FSO) of 2008.

Article 2 Production related service providers

Within the meaning of the Ordinance of the Federal Council, production related service providers are industrial companies which implement a project outside the industrial sectors stated in Article 1.

Article 3 Project

The project plans to found or restructure a legal entity or a permanent establishment.

Article 4 Restructuring

Jobs are restructured if all or part of the operating activities have been substantially changed. A change is substantial if it:

¹ SR 901.022

² www.noga.bfs.admin.ch

- a. results in a new solution for the improvement of products, production processes and business processes, and
- b. triggers investments that do not serve exclusively to replace existing investments.

Article 5 Apprenticeships and supply of staff

¹ Apprenticeship positions are counted as job positions.

² Positions staffed by employees in accordance with Article 27 of the Ordinance of 16 January 1991 on Recruitment and the Hiring of Services³ are not counted as jobs.

Article 6 Importance to the regional economy

¹ A project is important to the regional economy if it matches at least four criteria stated in Article 8 Paragraph 1 a-h of the Ordinance of the Federal Council.

² The canton has to state the four applicable criteria.

Article 7 Start of the federal tax relief

¹ The tax relief starts on the day newly founded companies or new permanent establishment opened in accordance with Article 54 Paragraph 1 of the Federal Act of 14 December 1990 ⁴ on Direct Federal Taxation (DFTA) become taxable. If the tax liability has not yet started at the time of application, the tax relief starts no later than 1 January of the calendar year following the calendar year in which the complete application in accordance with Article 13 Paragraph 2 of the Ordinance of the Federal Council has been submitted to SECO.

² Tax relief for projects by existing companies starts on 1 January of the calendar year in which the respective project generates revenue for the first time on the basis of recognised accounting principles in accordance with Swiss law on obligations⁵.

³ If the project of an existing company has not yet generated any revenue at the time of application, the tax relief starts no later than 1 January of the calendar year following the calendar year in which the complete application in accordance with Article 13 Paragraph 2 of the Ordinance of the Federal Council has been submitted to SECO.

⁴ The federal tax relief does not have to start at the same time as the cantonal tax relief.

Article 8 Exceptions

¹ In substantiated situations, where a company may experience delay in the commencement of the activity which creates added value, namely due to construction

³ SR 823.111

⁴ SR 642.11

⁵ SR 220

measures, the tax relief may start at a later date, contrary to Article 7 Paragraphs 1 and 3.

² The tax relief in accordance with Article 1 starts no later than 1 January of the sixth calendar year after the submission of the application.

³ The calendar year in which the application in accordance with Article 13 Paragraph 2 of the Ordinance of the Federal Council has been submitted to SECO is not included in Paragraph 2.

⁴ The application by the canton for a delayed start in accordance with Paragraph 1 must contain an explanatory statement and detailed timetable.

Article 9 Maximum amount

¹ The maximum amount of tax relief in accordance with Article 11 Paragraph 3 of the Ordinance of the Federal Council is calculated on the basis of the following indicators:

- a. $Jobs_{new}$: Number of jobs to be created by the project;
- b. $Jobs_{maintained}$: Number of jobs to be maintained by the project and restructured in accordance with Article 4;
- c. $Amount_{new}$: Amount per new job to be created;
- d. $Amount_{maintained}$: Amount per job to be maintained and restructured in accordance with Article 4;
- e. Duration: Duration of the federal tax relief in calendar years.

² The EAER calculates the maximum amount of tax relief for the entire duration on the basis of the following formula:

$$[(Job_{new} \times Amount_{new}) + (Job_{maintained} \times Amount_{maintained})] \times Duration$$

³ $Amount_{new}$ is CHF 95,000. $Amount_{maintained}$ is CHF 47,500.

⁴ The EAER reviews the formula and key amounts at least every second legislative period.

⁵ Tax reliefs previously granted are not affected by any changes to the formula and key amounts.

Article 10 Determination of new jobs to be created (Job_{new})

¹ If at least 50% of the new jobs stated in the business plan for the entire duration of the federal tax relief are created in the first half of the duration of tax relief, $Jobs_{new}$ corresponds with the total number of these jobs stated in the business plan.

² If less than 50% of the new jobs planned over the entire duration of the federal tax relief are created in the first half of the duration of tax relief, $Jobs_{new}$ corresponds with the number of jobs created in the first half multiplied by the factor 2.

³ If the tax relief is granted for an uneven number of years, the completion period is extended by six months.

⁴ Projects by production related service providers must meet the requirements in accordance with Article 6 Paragraph 2 of the Ordinance of the Federal Council at the halfway point of the duration.

Article 11 Offsetting tax liabilities against tax relief

¹ Subject to Article 15 Paragraph 6 of the Ordinance of the Federal Council, the cantonal authority responsible for the tax assessment of the company offsets the direct federal tax owed against the tax relief granted until the latter has been used up, but only until the tax relief has ended.

² Only taxes raised on the project may be offset against tax relief.

³ The canton implements controls for the settlement of each tax relief period.

Article 12 Processing time

SECO processes the application by the canton within three months from the submission of the complete application. If it is impossible to process the application within this period, SECO informs the canton of the further process.

Article 13 Annual report

¹ The canton submits the data in accordance with Article 16 Paragraph 3 of the Ordinance of the Federal Council in an annual report form (annual report) provided by SECO.

² The annual report must be signed by:

- a. the company to confirm the accuracy of the information provided;
- b. the canton to confirm that it has performed a plausibility check with regard to the information provided.

³ The annual report is considered as incomplete and unsubmitted if any of the signatures are missing.

⁴ Instead of signing the annual report, the company may also sign a separate report containing the information required for the annual report.

⁵ The confirmation of the auditing entity in accordance with Article 17 of the Ordinance of the Federal Council must be attached to the annual report. Instead of attaching a separate signed confirmation, the auditing entity may also sign the annual report.

Article 14 Continuation of tax relief

¹ SECO reviews compliance with the conditions and obligations for the continuation of tax relief, particularly on the basis of the annual reports.

² Insofar as required for such audit, SECO may request additional information and documents, particularly copies of employment contracts.

³ Once half of the duration of tax relief has expired, SECO sends written information on the continuation or expiry of tax relief and provides the company with a period for submitting a statement. At the same time, SECO informs the canton which submitted the application, the cantonal authority responsible for the tax assessment of the company and the Federal Tax Administration.

⁴ Once this information has been issued, the company may request a decision of the EAER, subject to the right of appeal, from SECO within the period stated in Paragraph 3.

Article 15 Effective date

This ordinance shall become effective on 1 July 2016.

...

Federal Department of Economic Affairs,
Education and Research:

Johann N. Schneider-Ammann