



Grants and tax incentives for investments in Poland

Poland has been successful in improving its business environment over the past decade as evidenced by its move up in international rankings comparing countries in terms of competitiveness and ease of doing business (e.g. Global Competitiveness Report, World Bank's Doing Business). This improvement is reflected in recognition of Poland as one of the top prospective location for foreign investors (not only in the CEE region but in Europe as a whole) and continuous inflows of foreign capital into Poland. In fact, between 2004 and 2015, the stock of Foreign Direct Investment in Poland has increased from EUR 67 bn to over EUR 204 bn.

There are several reasons why foreign companies view Poland as an attractive location for their investment:

- ▶ Poland was one of few countries in the EU where real unit labor costs have decreased since 2004. Importantly, the real ULC are generally more stable in Poland than in other EU countries, including large, developed economies
- ▶ Poland has access to the EU Single Market of over 500 million customers, as well as a large domestic market of approx. 38 million customers
- ▶ Poland is a source of young, skilled workforce with good knowledge of foreign languages

- ▶ Poland has built a system of incentives (both domestic and from EU sources) to encourage foreign investment.

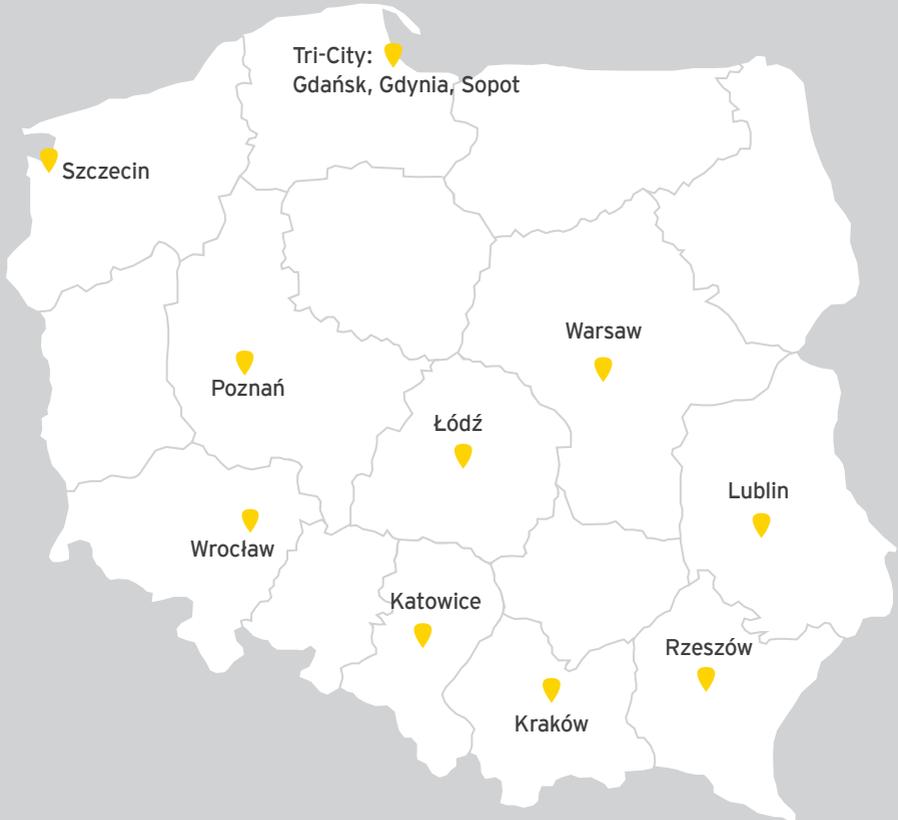
As of December 2015, the most important sources of foreign direct investment in Poland included large euro area economies and important international financial centers, among others: Netherlands, Germany, Luxembourg, France and Spain.

Top 10 sources of FDI in Poland (2015)

1	Netherlands
2	Germany
3	Luxembourg
4	France
5	Spain
6	UK
7	Italy
8	Austria
9	Cyprus
10	Belgium

Source: *Narodowy Bank Polski*

Selected main SSC/BPO and R&D centers' locations in Poland



Source: EY

Selected BPOs/SSCs operating in major Polish cities

Tri-city

Amazon
Bayer
First Data Corp.
Geoban
Intel Europe Inc.
Lufthansa
Luxoft
Nordea Bank
Sony Pictures Global Business Service
State Street
Thomson Reuters
ThyssenKrupp
WNS Global Services

Szczecin

Arvato
Coloplast
Convergys
Convergys International
Dansk Supermarked
DGS
Metro Services
Tieto
Unicredit

Bydgoszcz

Alcatel Lucent
Atos
JPMorgan Chase
Mobica

Nokia Networks

Teleplan

Poznań

Arvato
Bridgestone
Carl Zeiss
Carlsberg
CenturyLink
Dalkia
Franklin Templeton
GlaxoSmithKline Services
IKEA
Jeronimo Martins
MAN
MARS
McKinsey
Roche
Veolia

Warsaw

3M
Accenture
AVON
BNP Paribas
Citi Group
Coca-Cola
Colgate-Palmolive Services
Faurecia
GE
Google

Hewlett-Packard

IBM

ITMAGINATION

Jones Lang LaSalle

Microsoft

MoneyGram

Oracle

Procter & Gamble

Roche

Royal Bank of Scotland (RBS)

Samsung

SAP

Siemens

TNT Express

Xerox

Łódź

Accenture
Bosch-Siemens
Citi Group
DHL Express
Ericpol
Fujitsu
Hewlett-Packard
Infosys
SAP
Takeda
Teleca
TomTom
UPS Global Business Services

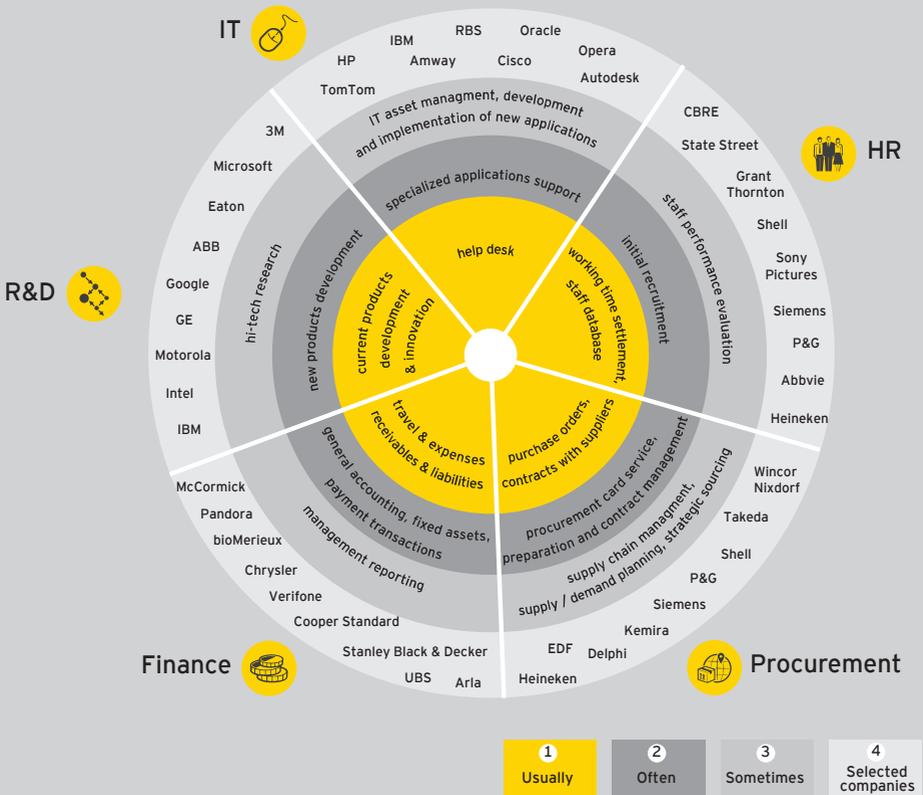
Veolia	IBM	Euroclear
Wrocław	ING Services	Google
Alstom	Kroll Ontrack	Heineken
Atos	Orange	Hitachi
BNY Mellon	PwC	HSBC
Capgemini	Rockwell Automation	IBM
Credit Suisse	Saint Gobain	International Paper
Dolby	Sopra Steria	Lufthansa Global Business Services
EY Global Services	Unilever	Luxoft
Google	Wincor Nixdorf	Motorola
Hewlett-Packard	Lublin	Nokia
HP	Asseco Business Solutions	Philip Morris International
IBM	Compugroup Medical	Rolls-Royce
Luxoft	Convergys	RWE
McKinsey	Genpact	Sabre
Merck	Orange	Shell
Nokia Networks	Sii	State Street
Qatar Airways	Kraków	Uber
Ruukki	ABB	UBS
UBS	Akamai	Rzeszów
UPS	Alexander Mann Solutions	Asseco
Viessmann	Amway	BorgWarner
Volvo IT	Brown Brothers Harriman	Deloitte
Katowice	Capgemini	Hamilton Sundstrand
ArcelorMittal	CH2M	Mobica
Capgemini	Cisco	MTU Aero Engines
Dunlop	Delphi	Nestlé
General Motors	Electrolux	Pratt & Whitney

Source: EY, ABSL

Starting from basic accounting and call-center functions, the range of processes realized by BPOs/SSCs, along with their maturing presence in Poland became more complex and diverse. It is clearly visible

that companies investing in this sector in Poland, recognizing local potential, are interested in developing their activities in more advanced areas, such as high-tech R&D and substantive process management.

Diversity of processes and functions executed in BPOs/SSCs in Poland



Source: EY

Investment incentives in Poland

There are many opportunities for companies to obtain financial support for projects in Poland from both European Union Funds and domestic sources. In this publication we focus on the most popular of the aid schemes available for companies but it is worth noting that there are many more that can be utilised. Therefore, when considering a new investment in Poland, it is important for each case to be analysed individually - various sources and types of support may be available, depending on the scope of the project.

Regardless of the form of support, the incentive system as a whole complies with EU legislation and requirements concerning state aid.

General provisions on the admissibility of state aid are set out in the Treaty on the Functioning of the European Union¹, the relevant European Commission regulations, e.g. 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 Treaty² and the Act of 30 April 2004 on Proceedings in State Aid Cases³.

¹ Consolidated version of the Treaty on the Functioning of the European Union, European Union, October 2012.

² Official Journal L 187/1, 26.06.2014.

³ Journal of Laws of 2016, item 1808, unified text.

Regional aid for new investments

Regional aid is the most popular type of aid for companies carrying out investment projects in Poland. It is granted only for "initial" or "new" investments, which are generally defined as investments related to:

- ▶ Setting-up of a new establishment
- ▶ Extension of the capacity of an existing establishment
- ▶ Diversification of the output of an establishment into products not previously produced
- ▶ Fundamental change in the overall production process of an existing establishment
- ▶ Acquisition of assets belonging to an establishment that has closed or would have closed had it not been purchased, and is bought by an investor unrelated to the seller and excludes sole acquisition of the shares of an undertaking.

However, in the case of large companies executing investment projects in mazowieckie voivodeship aid can only be granted for investments related to:

- ▶ Setting up of a new establishment, or
- ▶ Diversification of the activity of an establishment, under the condition that the new activity is not the same or a similar activity⁴ to the activity previously performed in the establishment.

⁴ The same or a similar activity - an activity falling under the same class (four-digit numerical code) of the NACE Rev. 2 statistical classification of economic activities as laid down in Regulation (EC) No 1893/2006 of the European Parliament and of the Council of 20 December 2006 establishing the statistical classification of economic activities NACE Revision 2 and amending Council Regulation (EEC) No 3037/90 as well as certain EC Regulations on specific statistical domains, OJ L 393, 30.12.2006, p. 1.

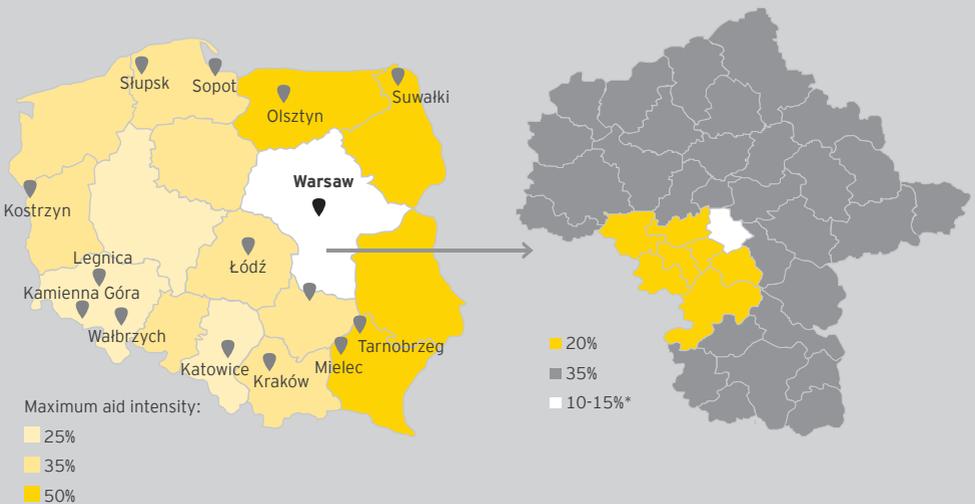
How do I calculate the maximum level of regional aid available for my investment in Poland?

The maximum level of aid a project can receive depends on the size of the company and where in Poland the project is to be located, and is calculated as a percentage of the higher amount of:

- a) investment costs in tangible and intangible assets;
- b) the estimated wage costs arising from job creation as a result of an initial investment, calculated over a period of two years; or
- c) a combination of points (a) and (b) not exceeding the amount of (a) or (b), whichever is higher.

The percentage is the so-called “maximum aid intensity” applicable in a given region where the project is to be located - please see on the map below.

Map of regional aid intensities in Poland, 2014-2020



*Warsaw:

15% until 31.12.2017

10% from 01.01.2018

All aid intensities increased by:

10 p.p. for medium-sized companies

20 p.p. for small companies

Please note, however, that additional restrictions apply for calculating levels of aid for so-called “large investment projects”, i.e. projects exceeding the expenditure level of EUR 50mn - such projects are eligible for “adjusted aid amount” (i.e. aid lower than the amount which would normally arise from the calculation: regional aid intensity x eligible costs)⁵. Additionally, if the following levels of aid are exceeded, the aid has to be individually notified to the European Commission (i.e. presented for verification and approval):

Aid intensity in the region	Notification threshold (level of aid)
10%	EUR 7.5mn
15%	EUR 11.25mn
25%	EUR 18.75mn
35%	EUR 26.25mn
50%	EUR 37.5mn

⁵ Basic formula for calculating the adjusted aid amount is as follows:

maximum aid amount = R × (A + 0,50 × B + 0 × C), where:

- ▶ R is the maximum aid intensity applicable in the area concerned established in an approved regional aid intensity map and which is in force on the date of granting the aid, excluding the increased aid intensity for SMEs
- ▶ A is the initial EUR 50 mn of eligible costs,
- ▶ B is the part of eligible costs between EUR 50 mn and EUR 100 mn and
- ▶ C is the part of eligible costs above EUR 100 mn

Please also note that any initial investment started by the same beneficiary (at a group level) within a period of 3 years from the date of start of works on another aided investment in the same region (at the level 3 of the Nomenclature of Territorial Units for Statistics) is considered to be part of a so-called “single investment project”.

If the amount of investment expenditures of such combined investment exceeds the level of EUR 50mn the above rules for “large investment projects” would be applied.

What types of costs are eligible for regional aid?

As mentioned above, aid available for a given project is calculated on the basis of either investment costs or employment costs. Companies applying for aid are entitled to choose the higher of the two amounts as the basis for calculating the aid pool.

If the aid pool is based on investment costs, expenses eligible for aid may include

- ▶ Expenditure on land, buildings and plant/machinery
- ▶ Technology transfer costs (purchase of patent rights, licenses, know-how or unpatented technical knowledge) - if additional conditions are met
- ▶ Costs of financial lease of assets other than land and buildings, provided that the assets are purchased on expiry of the lease term
- ▶ Costs of leasing land and buildings if the lease continues for at least 5 years (3 years for SME) after the investment is finished.

In the case a large enterprise applies for the aid, the assets it purchases must be new in order to qualify those expenses as eligible for funding. This does not apply to SMEs and takeovers.

If the aid pool is based on employment costs, expenses eligible for aid are two-year employment costs of new employees (costs related to job creation resulting from the new investment). The two-year employment costs cover:

- ▶ Gross wages, and
- ▶ All obligatory employment-related payments (e.g. social security contributions) made by the company.

Please note that new jobs are defined as a net increase in the number of employees directly employed in a company compared with the average level of employment over the previous 12 months.

Can different types of aid received from different sources be combined?

Regional aid available in Poland can be granted in different forms, such as:

- ▶ CIT exemption in so-called special economic zones (SEZ)
- ▶ Government grants (support from domestic budget)
- ▶ Cash grants or loans from EU funds.

Different types of regional aid can be combined together. The only limitation is the aid intensity level set for the region where the investment is located. Please note that this rule applies only to aid granted for a single investment. It is not forbidden to receive new aid for other investments in Poland.

What are the most important rules related to regional aid?

Firstly, in general, the project for which the funding is pursued must not be started before the application is submitted to the respective authority.

Secondly, regional aid cannot be granted to a beneficiary that has closed down the same or a similar activity in the European Economic Area in the 2 years preceding its application for regional investment aid or which, at the time of the aid application, has concrete plans to close down such an activity within a period of up to 2 years after the initial investment for which aid is requested is completed in the area concerned. Please, however, note that there are plans to amend provisions regulating the above in 2017.

Thirdly, if the aid has been granted, one of the most important requirements is to maintain the investment and its results (such as new jobs, assets bought) in the region for a minimum of 5 years (3 years for SME) after the investment is finished.

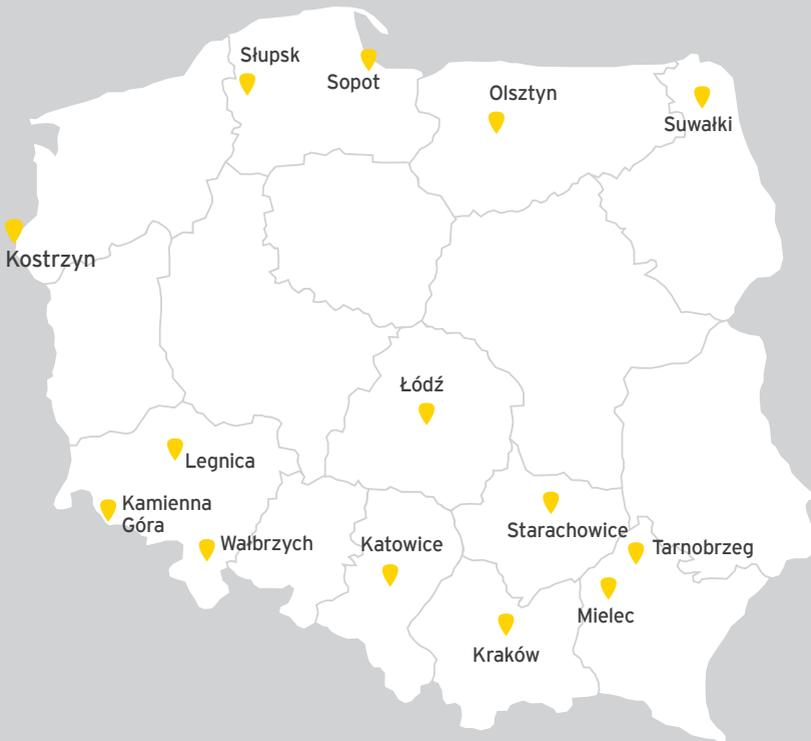
State aid in Special Economic Zones

Companies investing in Poland are able to benefit from corporate income tax (CIT) exemption for business activities conducted within SEZs. SEZs were created in the mid-1990s and cover selected parts of Poland where companies can operate on preferential terms and conditions. This type of support is also a type of regional aid and is available based on a SEZ permit until the SEZ ceases existence - which at present is set for 31 December 2026 for all 14 SEZs.

There are 14 headquarters, one for each of the SEZs (see map), while each SEZ consists of several sub-zones located in different places, not necessarily adjacent to each other.

Please note that the SEZ regulations are planned to be amended in 2017.

SEZs headquarters' locations



How do I calculate the maximum aid available in the form of CIT exemption in SEZs?

The amount of support available in SEZs is calculated in the same way as other types of regional aid, i.e. according to the map of regional aid intensities. However, in this aid scheme there are no cash payments (as with EU and domestic grants) - the

benefit is CIT exemption. We explain below how the CIT exemption limit is determined.

The support is granted for a new investment or costs of new jobs created. Therefore, the maximum aid available is calculated according to the map of regional aid intensities (and based on investment or employment costs). Afterwards, this aid "pool" is utilised as CIT exemption in

relation to income generated on business activities carried out by an investor in the SEZ area and listed in the SEZ permit.

The investor can utilise the aid pool until the end of the SEZ's existence.

What is a SEZ permit?

To benefit from CIT exemption the investor must obtain a permit to operate in a SEZ. The permit specifies the conditions which the investor must meet, e.g. the value of the planned investment, the intended level of employment, and deadlines by which all the obligations set out in the permit must be met.

The SEZ permit also specifies (by reference to Polish statistical classifications) the activities to be performed in the SEZ which qualify for CIT exemption. Revenues from activities not explicitly mentioned in the SEZ permit are taxable on standard rules.

According to regional aid rules, generally the investment activities can be started only after the SEZ permit is issued. Moreover, only investment costs borne (invoices paid) and new jobs created after the SEZ permit is issued may be treated as eligible for state aid.

How can I locate my investment in a SEZ?

Investors can locate their investments (business activity) in the area already covered by SEZ status or they can apply for a SEZ border extension to cover private land where the planned investment is to be located. In the latter case, the investor has to fulfil specific criteria. The SEZ extension process takes at least 6 months as it requires an amendment to the Council of Ministers Resolution. Planned amendments to the SEZ regulations currently proceeded by the Polish Government foresee measures improving the procedure.

How do I apply?

There are no calls for proposals in SEZs. Companies can submit an application at any time during the year. A decision to extend the SEZ and/or issue a SEZ permit is taken within a formal negotiating procedure.

Government grant

The government grant (Multi-Annual Support Programme - MASP) is a regional aid scheme financed from the Polish budget and dedicated to supporting large investments considered vital to the Polish economy. It has recently been prolonged to the year 2023, however, some changes to the Programme are expected to be introduced as soon as this year.

Support within MASP may be granted to:

- ▶ Investments in the so-called "priority sectors": automotive, electronics, aviation, biotechnology, modern services (particularly IT centres, BPOs and telecommunications) and R&D
- ▶ "Significant" investments in other sectors.

As a rule, support cannot be granted if the local unemployment ratio is lower than 75% of the national average, unless:

- ▶ Investment is executed in the modern services or R&D sector, or
- ▶ Investment is executed in the warminko-mazurskie, podlaskie, lubelskie, świętokrzyskie or podkarpackie voivodship or
- ▶ Eligible costs and new jobs meet the threshold for "significant" investments.

Support may be based on a two-year employment costs of new staff hired or eligible investment costs. Depending on the type of eligible costs there are different entry criteria for projects.

What are the entry criteria?

A Support based on two year employment costs of newly created jobs

Support can be granted to entrepreneurs meeting the following entry criteria:

- ▶ For “priority” production sectors: incurring investment costs of at least PLN 40mn and creating at least 250 new jobs
- ▶ For modern services sector: creating at least 250 new jobs with minimal investment in fixed assets (excluding rental costs) in the amount of PLN 1.5 mn
- ▶ For R&D sector: incurring investment costs of at least PLN 1.0 mn and creating at least 35 new jobs (for employees with university degrees)
- ▶ For other sectors: only “significant” investments.

“Significant” investments mean investments with eligible costs of at least PLN 750mn and creating at least 200 new jobs or with eligible cost of at least PLN 500mn and creating at least 500 new jobs.

The level of support based on newly created jobs ranges from PLN 3,200 to PLN 15,600 per job, depending on a specific set of criteria.

In the case of investments in voivodships: warmińsko-mazurskie, podlaskie, świętokrzyskie, lubelskie, podkarpackie, the above level of support is increased by 20%.

B Support based on eligible investment costs

Support can be granted to entrepreneurs fulfilling the following entry criteria:

- ▶ For “priority” sectors: incurring investment costs of at least PLN 160mn and creating at least 50 new jobs
- ▶ For R&D sector: incurring investment costs of at least PLN 10mn and creating at least 35 new jobs (for employees with university degrees)
- ▶ For other sectors: only “significant” investments.

“Significant” investments mean investments with eligible costs of at least PLN 750mn and creating at least 200 new jobs or with eligible cost of at least PLN 500mn and creating at least 500 new jobs.

The level of support based on eligible investment costs ranges between 2%-7.5% of eligible investment costs, depending on a specific set of criteria.

In the case of investments in voivodships: warmińsko-mazurskie, podlaskie, świętokrzyskie, lubelskie, podkarpackie, the level of support is increased by 5 p.p. of eligible investment costs up to the level of 12,5%.

Having fulfilled the entry criteria, projects are evaluated against additional detailed criteria, including i.a.:

- ▶ Processes performed by the company (services provided to other parties)
- ▶ Human capital (% of employees with a university degree)
- ▶ Investment location
- ▶ Other (e.g. cooperation with universities, the company's reputation, unique operations performed).

How do I apply?

There are no calls for proposals. Companies can submit applications at any time during the year.

Cash grants from EU funds

EU member states are currently implementing the 2014-2020 financial perspective, i.e. the seven-year framework for EU spending. Over this period Poland is to receive the largest share of aid from EU Funds of all EU members. In particular, EUR 82.5bn has been allocated for various operational programmes to be distributed among defined beneficiaries, including companies.

Operational programmes set out the general terms and conditions for projects for which aid will be granted. In the case of companies registered in Poland aid will be focused on R&D but other activities can also receive support, e.g.:

- ▶ Innovative new investments, which use new technologies, by SMEs

- ▶ Energy efficiency projects
- ▶ Production of energy from renewable sources.

How are cash grants from EU funds accessed?

In order to be eligible for a cash grant from EU funds, applications have to be filed within calls for proposals.

When applications are submitted they are thoroughly evaluated in accordance with specified criteria. The assessment process takes approx. 3-5 months and covers a formal and content evaluation. In the content evaluation the application has to be awarded a minimum number of marks to secure the right to the grant. However, in the most popular aid schemes the minimum number of points can be insufficient to actually receive the grant, due to the limited budget and high competition; if this is the case, cash grants go to applicants with the highest scores.

State aid for Research and Development

State aid for R&D-related projects can be granted for:

1. **R&D projects** - that assume carrying out:
 - ▶ Fundamental research⁶
 - ▶ Industrial research⁷
 - ▶ Experimental development⁸

⁶ Fundamental research - experimental or theoretical work undertaken primarily to acquire new knowledge of the underlying foundations of phenomena and observable facts, without any direct commercial application or use in view.

⁷ Industrial research - planned research or critical investigation aimed at the acquisition of new knowledge and skills for developing new products, processes or services or for bringing about a significant improvement in existing products, processes or services. It comprises the creation of components parts of complex systems, and may include the construction of prototypes in a laboratory environment or in an environment with simulated interfaces to existing systems as well as of pilot lines, when necessary for the industrial research and notably for generic technology validation.

⁸ Experimental development - acquiring, combining, shaping and using existing scientific, technological, business and other relevant knowledge and skills with the aim of developing new or improved products, processes or services; this may also include, for example, activities aiming at the conceptual definition, planning and documentation of new products, processes or services.

Experimental development may comprise prototyping, demonstrating, piloting, testing and validation of new or improved products, processes or services in environments representative of real life operating conditions where the primary objective is to make further technical improvements on products, processes or services that are not substantially set. This may include the development of a commercially usable prototype or pilot which is necessarily

- ▶ Feasibility studies⁹.

2. **R&D infrastructure** - required for setting up or developing R&D unit (centre).

Eligible costs of R&D projects include mainly operational costs (e.g. remuneration, depreciation, external R&D services, materials) while in the case of R&D infrastructure the eligible costs include investment expenditures.

The maximum support for large companies carrying out industrial research and development works is 65% and 40% of eligible costs respectively (provided that certain conditions are met). Support for R&D infrastructure is calculated according to the map of regional aid intensities.

the final commercial product and which is too expensive to produce for it to be used only for demonstration and validation purposes.

Experimental development does not include routine or periodic changes made to existing products, production lines, manufacturing processes, services and other operations in progress, even if those changes may represent improvements.

- ⁹ Feasibility study - evaluation and analysis of the potential of a project, which aims at supporting the process of decision-making by objectively and rationally uncovering its strengths and weaknesses, opportunities and threats, as well as identifying the resources required to carry it through and ultimately its prospects for success.

How do I calculate the maximum level of support available for my R&D project?

The maximum level of aid a project can receive depends on the type of the project.

In the case of R&D projects the value of aid is calculated as a percentage of eligible costs, whereby the percentage depends on the specific category of research and development works within the project outlined above. The specific aid intensities are presented in the table below:

Category of R&D	Maximum level of support			
	Small companies	Medium-sized companies	Large companies	Bonuses
Fundamental research		100%	n/a	
Industrial research	70%	60%	50%	+15 p.p. if additional conditions are met, e.g. effective collaboration between undertakings among which at least one is a SME, international collaboration, collaboration with a research and knowledge-dissemination organisation, or dissemination of the results of the project. Total aid cannot exceed 80% of eligible costs.
Experimental development	45%	35%	25%	
Feasibility studies	70%	60%	50%	n/a

In the case of R&D infrastructure projects aid is calculated based on the regional aid rules described above, i.e. as a percentage (regional aid intensity) of eligible costs.

There are certain levels of aid which - when

exceeded - cause the obligation to notify the aid to the European Commission, for example:

- If the project is predominantly fundamental research (more than half of the eligible costs of the project are incurred through activities which fall

within the category of fundamental research), the notification threshold is EUR 40 million per undertaking, per project

- ▶ If the project is predominantly industrial research - EUR 20 million per undertaking, per project
- ▶ If the project is predominantly experimental development - EUR 15 million per undertaking, per project
- ▶ Aid for feasibility studies in preparation for research activities - EUR 7.5 million per study.

What types of R&D projects' costs are eligible for aid?

In the case of R&D projects expenses eligible for funding may include:

- ▶ Personnel costs: researchers, technicians and other supporting staff to the extent employed on the project
- ▶ Costs of subcontracting parts of substantive R&D works within the project
- ▶ Costs of instruments, equipment and intellectual property rights to the extent and for the period used for the project - depreciation costs corresponding to the life of the project, as calculated on the basis of accounting principles are considered as eligible
- ▶ Costs for of buildings and land, to the extent and for the duration period used for the project; with regard to buildings, only the depreciation costs corresponding to the life of the project, as calculated on the basis of accounting principles are considered as eligible; for

land, only costs of a lease or perpetual usufruct corresponding to the life of the project are eligible

- ▶ Additional overheads and other operating expenses, including costs of materials, supplies and similar products, incurred directly as a result of the project
- ▶ Indirect costs related to the project and its management.

In the case of **R&D infrastructure** projects expenses eligible for aid may include:

- ▶ Purchase of land - if additional conditions are met
- ▶ Purchase or creation of fixed assets other than land
- ▶ Purchase of construction works and materials
- ▶ Purchase of patent rights, licenses, know-how or unpatented technical knowledge - if additional conditions are met
- ▶ Costs of lease of assets - if additional conditions are met.

Am I a large enterprise or an SME?

As shown above, the level of aid an investor can receive depends directly on its size. It is therefore crucial to assess whether the investor meets the definition of a small or medium-sized enterprise (SME). If not, it will constitute a large enterprise.

Please see the following chart for a definition of SME:

Enterprise category	Level of employment (Annual Work Unit)	Annual turnover	Annual balance sheet total
Medium-sized	< 250	<div style="text-align: center;">AND / OR</div> ≤ EUR 50 mm	<div style="text-align: center;">AND / OR</div> ≤ EUR 43 mm
Small	< 50	<div style="text-align: center;">AND / OR</div> ≤ EUR 10 mm	<div style="text-align: center;">AND / OR</div> ≤ EUR 10 mm
Micro	< 10	<div style="text-align: center;">AND / OR</div> ≤ EUR 2 mm	<div style="text-align: center;">AND / OR</div> ≤ EUR 2 mm

However, it is important to note that even if a company itself fulfils the definition of an SME, it can in fact be a large company due to its shareholding structure. Therefore, apart from the general definition, one also has to learn what “linked” and “partner” enterprises are and what are the consequences of being one.

A company is a “linked enterprise” when it holds more than 50% of the capital or voting rights in another enterprise or another enterprise holds more than 50% of the capital or voting rights in the company. In the case of linked enterprises the size of the company in question is calculated by adding together the data (shown in the table above) of the company and that

of the linked enterprises. Additionally, enterprises which have one or other of such relationships through a natural person or group of natural persons acting jointly are also considered linked enterprises if they engage in their activity or in part of their activity in the same relevant market or in adjacent markets.¹⁰

A company is a “partner enterprise” when it holds independently or with other linked enterprises 25-50% of the capital or voting rights in another enterprise or another enterprise holds 25-50% of the capital or voting rights in the company. If this is the case, the size of the company in question is calculated by adding together the data (shown in the table above) of the company and that of the partner companies situated immediately upstream or downstream from it. Aggregation is proportional to the percentage interest in the capital or voting rights (whichever is greater).

When to start the project so as not to lose aid opportunities?

As a general rule, a written application for the aid has to be submitted before work on the project or activity starts. Start of works means the earlier of either the start of construction works relating to the investment, or the first legally binding commitment to order equipment or any other commitment that makes the investment irreversible. Buying land and preparatory works such as obtaining permits and conducting feasibility studies are not considered start of works.

¹⁰ An ‘adjacent market’ is considered to be the market for a product or service situated directly upstream or downstream of the relevant market.

What should I additionally take into account when applying for R&D support?

In the case of grants for R&D infrastructure, a company has to present R&D agenda for which the infrastructure is required. No fulfilment of the agenda in the future may result in the proportional return of aid granted.

The subject of R&D works planned to be carried out has to be justified by market needs and from a financial perspective.

The results of R&D works should be commercialized internally or externally (if justified economically) preferably in Poland.

Depending on the aid scheme, the minimum and maximum levels of eligible costs for R&D projects may be different.

R&D tax relief

From the beginning of 2016, entrepreneurs conducting activities in the area of research and development (except from those, who pursue SEZ activities) may benefit from an income tax relief. Part of the following costs related to R&D works may be additionally deducted from the tax base:

- ▶ Gross wages and compulsory contributions of R&D employees
- ▶ Cost of materials and resources directly related to R&D activities
- ▶ Cost of expertise, opinions, advisory and other equivalent services as well as costs associated with the acquisition of R&D results provided or performed by scientific institutions
- ▶ Costs of use of R&D equipment dedicated exclusively to R&D activities

- ▶ Tangible and intangible assets' depreciation write-offs for the assets used within R&D activities

Small and medium entrepreneurs may additionally deduct the costs of obtaining a patent for an invention.

The additional write-off from the tax base in the year 2016 amounted to:

- ▶ 30% of the wages and compulsory contributions of R&D employees;
- ▶ 20% for micro, small and medium entrepreneurs and 10% for large entrepreneurs of all the other costs.

However, from 1st January 2017 the amount of tax credit is increased to:

- ▶ 50% of all the costs for SMEs;
- ▶ 50% of the wages and compulsory contributions of R&D employees for large entrepreneurs;
- ▶ 30% of all the other costs for large entrepreneurs.

Please note that the government currently considers increasing the additional write-off to 100% of eligible costs starting from the beginning of 2018.

Additionally, if the amount of the entrepreneur's taxable revenue for the specific year is lower than the amount of R&D tax credit write-off, the eligible costs may be deducted during the following six years (tax credit carry-forward).

Entrepreneurs may, if their taxable revenue in the first year of business activity is lower than a possible write-off, obtain a cash refund of the R&D expenditures described above, limited to the amount of potential tax benefit (write-off x tax rate).

As the R&D tax relief is not considered as state aid under EU regulations, the definitions of micro, small and medium entrepreneurs outlined in those regulations do not apply. Thus, while establishing the entrepreneur's size, relations to other entities are not verified.

Other types of support

As already mentioned, there are many other sources of support available in Poland. Please find below some examples.

CIT and other incentives (not state aid)

The following R&D incentives are also available under Polish tax law:

- ▶ Costs of finished R&D work can be deducted from the tax base regardless of the result (unless they can be classified as an intangible asset and depreciated)
- ▶ 12-month depreciation period for finished R&D work (shortened from 36 months).

Research & Development Centres

The status of an R&D centre may be granted to entities with income generated on sales of goods and products and on financial operations worth at least EUR 1,200,000, where min. 20% is generated on sales of own R&D activity results (in the year prior to the year of filing the application). Additionally, there is a requirement of no outstanding tax and social security liabilities.

These conditions must be fulfilled each consecutive year of holding the R&D center status. The centers may create the so

called “innovativeness funds” - up to 20% of their monthly income can be allocated to the fund and recognized as tax deductible costs for CIT purposes. The requirement necessary to create the fund is that its resources must cover expenses linked with own R&D activity.

Real-Estate Tax (RETAX) exemption for new investment projects

It is possible to benefit from support in the form of real estate tax exemption. This source of support is available based on resolutions of City or Commune Councils where the investment is to be located. As a rule, the resolutions are issued based on a general regulation. The RETAX exemption applies to land and buildings and structures erected in relation to a new investment within the area of the City or Commune.

RETAX exemption may be available in the form of either regional aid or de minimis aid.

In order to benefit from the RETAX exemption the following conditions need to be met:

- ▶ A resolution of a relevant municipal council establishing RETAX exemption within its jurisdiction has to be in place,
- ▶ Planned new investment should meet the conditions set in the resolution (i.e. minimum value of eligible costs, number of new jobs and/or other conditions.

Conditions of RETAX exemption depend on particular city council in each location and therefore may differ. However, the maximum value of potential RETAX exemption:

- ▶ Cannot be higher than it results from the map of regional aid intensities (in case of regional aid), or
- ▶ Cannot be higher than EUR 200.000 over the period of 3 fiscal years (in case of de minimis aid).

Individual application

In some circumstances, the taxpayer may also apply to the tax authorities for an individual decision which may result in:

- ▶ deferred tax payment
- ▶ tax liability spread into instalments
- ▶ partial or full waiver of tax arrears.

The application is based on various EU state aid regulations. The decision is made entirely at the tax authorities' discretion.