



ISSUES OF TAXATION OF FREE ECONOMIC ZONE PARTICIPANTS (UZBEKISTAN AND POLAND'S EXPERIENCE)

Javlon Zoilboev

Lecturer at Tashkent State

University of Law

j.zoilboyev@tsul.uz

+99894 679 66 49

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Abstract.

This article analyzes the activity of free economic zones, which form the basis of the modern economy. The activity includes the introduction and payment of direct taxes and benefits related to them. The article is written in the method of comparative legal analysis, in which the tax incentives of the participants of the Free Economic Zone in the Republic of Uzbekistan and the tax incentives introduced for the existing free economic zones in Poland are discussed. The article contains legal documents, statistical data and conclusions.

Key words: taxes, tax reliefs, free economic zones, special economic zones, special tax regime. Uzbekistan's experience.

Taxation is an essential component of any country's economy, as it helps to fund various public services and infrastructures. However, the taxation of participants in free economic zones can be a complex issue, as these zones are designed to attract foreign investment and promote economic growth. In this article, we will explore the issues surrounding the taxation of free economic zone participants, using Uzbekistan and Poland's experiences as examples.

Free economic zones (FEZs) are designated areas within a country that offer various tax incentives and other benefits to businesses operating within them. These zones are intended to attract foreign investment and promote economic growth by providing a favorable business environment. However, the taxation of companies operating within FEZs can be a challenging issue, as it raises questions about fairness, transparency, and sustainability.

Uzbekistan is one of the countries that have established FEZs to attract foreign investment. The country has four FEZs, which are located in Tashkent, Navoi, Jizzakh, and Angren. These zones offer various tax incentives, including exemption from corporate income tax, value-added tax, and customs duties. The government hopes that these incentives will attract foreign investment and help to develop the country's economy.

However, the taxation of FEZ participants in Uzbekistan has faced criticism from some quarters. Critics argue that the tax incentives offered to FEZ participants are unfair to domestic businesses that do not enjoy similar benefits. They also point out that the government relies heavily on revenue from natural resources, such as oil and gas, rather than from taxes. This over-reliance on natural resources can lead to volatility in the economy and make it difficult to sustain economic growth.

Currently, in Uzbekistan some changes are being adopted and implemented. This also, let public authorities to legislate new projects. The project documents created by the tax authorities are being discussed in accordance with the principles of the Tax Code, including cooperation with taxpayers and the correct application of tax legislation.

In particular, all taxpayers, including participants in free economic zones (FEZs), have the right to use tax benefits granted on a legal basis. FEZ participants are exempt from land tax, property tax, corporate income tax, value-added tax, and customs duties for a period of 3 to 10 years, depending on the volume of investment received.

According to the Decree of the President of the Republic of Uzbekistan dated October 28, 2016 "On additional measures to activate and expand the activities of free economic zones"¹ No. PF-4853 land tax, profit tax of SEZ participants Legal entities are exempted from property tax and turnover tax for a period of 3 to 10 years in proportion to the amount of their investment.

In accordance with Article 48 of the Law of the Republic of Uzbekistan "On Special Economic Zones"² No. ORQ-604, registered and investment projects in the territory of the SEZs before the entry into force of this Law (17.05.2020) it is determined that the privileges and preferences stipulated by the law for the participating participants will be preserved until the expiration of the period for which they were provided (from 3 to 10 years).

Tax legislation is defined to consist of the Tax Code and other regulatory legal documents, the adoption of which is directly provided for in this Code. Also, it is established that the adopted regulatory legal document or its part is not in accordance with the provisions of this Code if it contradicts the norms or the content of the provisions of the Tax Code.

According to the Decree of the President of the Republic of Uzbekistan dated June 19, 2020 "On the abolition of special tax and customs privileges"³ No. PF-6011, starting from October 1, 2020, the Tax Code⁴ and "The Law on Special Economic Zones" stipulates specific features of the application of special tax incentives.

On April 13, 2022, in the Legislative Chamber of the Oliy Majlis of the Republic of Uzbekistan, the State Tax Committee made the following decisions during the discussion of the draft law aimed at "Giving benefits to entrepreneurs operating in special economic zones" will know⁵.

In addition to the discussion of draft normative documents developed by the Tax Committee in full compliance with the principle of transparency of the Tax Code, cooperation with taxpayers on the correct application of tax legislation is being systematically continued.

For information: in 2020-2021, companies registered in SEZs benefited from a benefit tax in the amount of 242.2 billion soums. In particular, during 2020, 117 enterprises used the privilege, and the amount of the privilege used was about 104 billion soums. During 2021, the number of enterprises was 68, and the amount of benefits used exceeded 138 billion soums.

For example, "AKFA EXTRUSIONS" Limited Liability Company, which operates in the Navoi economic zone, used a profit tax benefit of 45 billion soums in 2020 and 62 billion soums in 2021. Similarly, the joint venture "PENG SHENG" LLC, operating in the Syrdarya economic zone, used a profit tax benefit of 3.1 billion soums in 2020 and 3.3 billion soums in 2021.

Taking into account the suggestions made by the SEZ participants at the open dialogue of the President of the Republic of Uzbekistan with entrepreneurs on August 20, 2020, the decision

¹ Decree of the President of the Republic of Uzbekistan No. PF-4853 of 26.10.2016. On additional measures to activate and expand the activity of free economic zones// Available at: <https://lex.uz/docs/-3056978>

² Law of the Republic of Uzbekistan, from 17.02.2020 y. № LRU-604, "On special economic zones". Available at: <https://lex.uz/docs/4821319>

³ Decree of the President of the Republic of Uzbekistan No. PF-6011 dated 19.06.2020. On the abolition of special tax and customs benefits// Available at: <https://lex.uz/docs/-4861558>

⁴ Tax code of Republic of Uzbekistan. //Available at: <https://lex.uz/docs/-4674902>

⁵ <https://www.soliq.uz/press-services/news/show/erkin-iqtisodiy-zonalar-ishtirokchilari-uchun-soliq-imtiyozlari>

“On measures to further support the participants of special economic zones” (PQ-5243) was accepted.

The unused part of the profit tax benefits for participants included in the register of special economic zone participants until October 1, 2020, depending on the volume of investments, will be fully retained for periods of 3 to 10 years from the date of their entry into the register. application was determined.

The draft law on the reflection of the requirements of the decision in the Tax Code was submitted to the legislative chamber of the Oliy Majlis together with the competent ministries, and after its approval, a full legal basis for the use of the privilege will be created for the registered taxpayers. The State Tax Committee will consistently continue to develop tax legislation, discuss it openly and transparently, and focus on the unconditional implementation of the norms that have come into force.⁶

Poland experience.

Poland's experience with FEZs provides an interesting contrast to Uzbekistan's. The country has 14 FEZs⁷, which offer various tax incentives and other benefits to businesses operating within them. However, Poland's approach to taxation of FEZ participants is different from Uzbekistan's. While FEZ participants in Poland enjoy tax incentives, they are still subject to various taxes, including corporate income tax, value-added tax, and personal income tax. It is almost 20 years since the establishment of Special Economic Zones, the Act of the 10th May 2018 amended the instruments of income tax exemption (CIT or PIT) in order to adjust the provisions to the current market situation and entrepreneur's needs. The major difference introduced is that tax exemption is now available across the entire territory of Poland, for companies carrying out new investments, on publicly as well as privately owned land. At the same time, the currently binding Special Economic Zone (SEZ) permits, already granted to investors within the old SEZs shall remain in force until 2026. What is more, the amendment of 31 July 2019 also allowed support for investments in areas with undeveloped mineral deposits, thus significantly expanding the offer of locations, in which entrepreneurs can be granted tax exemption. On 1 January 2022, an amendment to the Act came into force, which was largely related to a change in the regional aid map.⁸

This approach has helped to promote fairness and transparency in the taxation of FEZ participants in Poland. It ensures that domestic businesses are not disadvantaged by the tax incentives offered to FEZ participants. It also helps to ensure that the government can generate revenue from taxes, which is essential for sustaining economic growth.

The maximum amount of state aid in the form of CIT or PIT tax exemption is determined on the basis of the regional aid map for 2022-2027 (representing the percentage of costs eligible for regional aid):

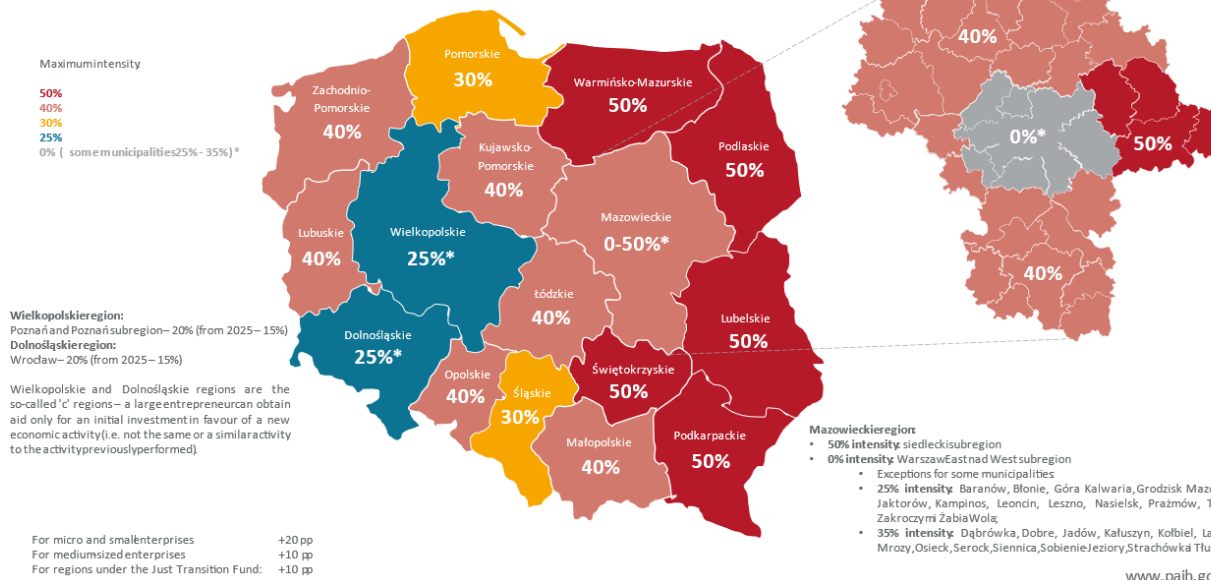
Figure 1. Regional state aid map 2022-2027

⁶<https://soliq.uz/press-services/news/show/erkin-iqtisodiy-zona-ishtirokchilariga-foyda-soligi-imtiyozini-qollanishi-yuzasidan-davlat-soliq-qomitasining-axboroti>

⁷ <https://www.paih.gov.pl/>

⁸ https://www.paih.gov.pl/why_poland/Polish_Investment_Zone

Regional state aid map 2022-2027



What is more, PAIH operates a Generator of Investment Offers, in which you can check the conditions for obtaining tax exemption for a specific piece of real estate.

Support for medium and small/ micro enterprises is increased by 10 and 20 percentage points respectively (i.e. 25% becomes 35% or 45% respectively).

The exemption shall only be applicable to income generated from business activities carried out as part of an investment, covered by the decision on support. Therefore, if the entrepreneur simultaneously conducts activities which are not covered, the supported activities have to be organizationally separated and the level of exemption shall be determined on the basis of data (revenues and costs) of the separated activity. What is more, the Ministry of Finance has published explanatory notes on the method of determining tax-exempt income achieved from economic activity, as defined in the decision on support (referred to in the Act of 10 May 2018 on support for new investments⁹), which clarified, inter alia, how to interpret situations when, because of the way in which a new and existing investment (located on the same site) are integrated, it is impossible to determine the income (revenue) exclusively from the new investment, without taking into account the integrated part of the existing investment (close links). The explanatory notes help to establish the best practice of applying the above-mentioned provisions, i.e. the most predictable, uniform and appropriate interpretation of the tax law.

In accordance with the regulations on state aid, the eligible costs of the new investment are:

- land acquisition cost, cost related to its purchase, the development or modernization of fixed assets (e.g. machines), cost related to the acquisition of intangible assets (computer programs, licenses, certificates, etc.)¹⁰, or
- 2-year labour costs of newly hired employees¹¹.

The decision on the support has to specify the completion date of the new investment, after which the costs of the new investment incurred by the entrepreneur cannot be considered as eligible costs, apart from the two-year labour costs, costs related to renting or leasing of land,

⁹ <https://www.paih.gov.pl/index/?id=7eea1f266bfc82028683ad15da46e05e#8>

¹⁰ <https://www.paih.gov.pl/index/?id=7eea1f266bfc82028683ad15da46e05e#9>

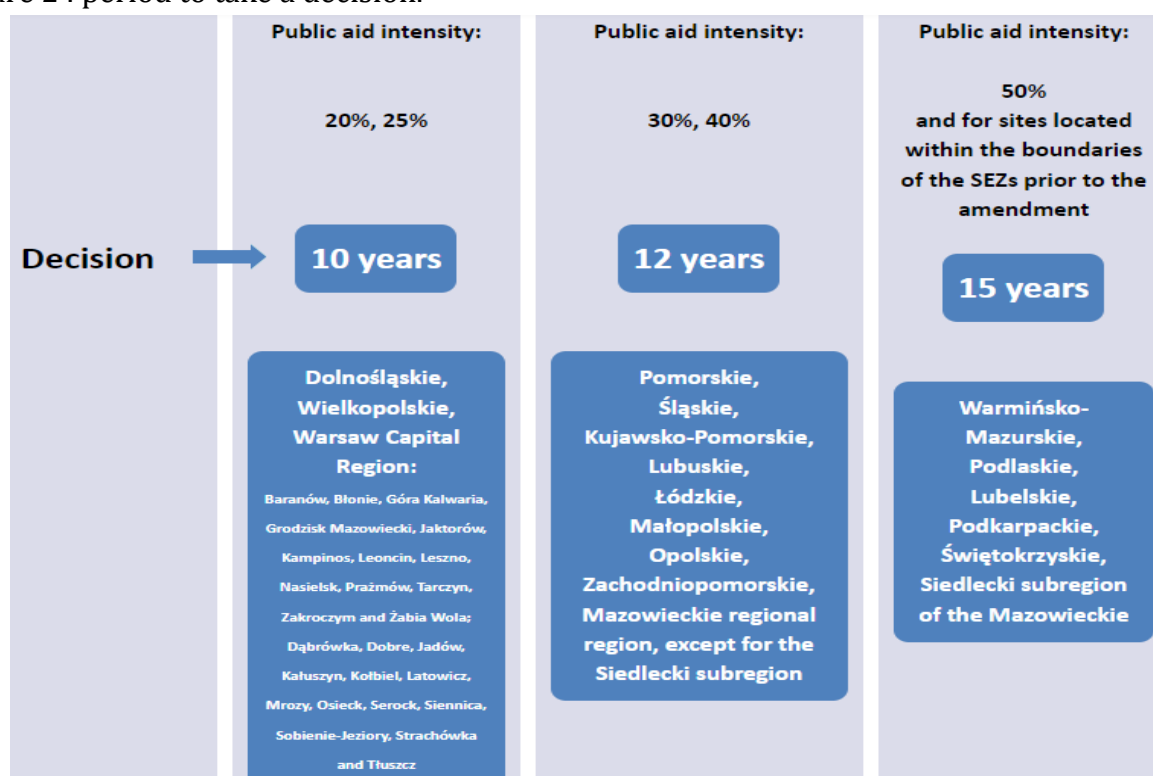
¹¹ <https://www.paih.gov.pl/index/?id=7eea1f266bfc82028683ad15da46e05e#10>

buildings, structures and financial leasing, which may be considered as eligible even after the investment completion date.

The period for which the decision on support is issued shall depend on public aid intensity in a given area. This period is the same for all companies, regardless of the type of economic activity conducted and the size of the company. The decision on support shall be issued for a definite period, not shorter than 10 years and not longer than 15 years. The exemption period shall be counted from the date of receipt of the decision on support and shall stand at:

If, on the day the decision on support is issued, at least 51% of the area of land on which the new investment is to be located is situated within the boundaries of a special economic zone (as defined in Article 2 of the Act of 20 October 1994 on special economic zones), the decision on support for a new investment is issued for a period of 15 years.

Figure 2 : period to take a decision.



Comparative analysis.

In Uzbekistan, tax reliefs are granted to investors who implement investment projects within free economic zones (FEZs). FEZ participants are exempt from land tax, property tax, corporate income tax, value-added tax, and customs duties for a period of 3 to 10 years, depending on the volume of investment received. These tax reliefs are regulated by the Law of the Republic of Uzbekistan "On Special Economic Zones" and the Tax Code of Uzbekistan.

In Poland, tax reliefs are available to both individuals and companies. Some of the tax reliefs include:

- Personal income tax relief for low-income earners
- Corporate income tax relief for small and medium-sized enterprises (SMEs)
- Tax relief for research and development (R&D) activities
- Tax relief for investments in new technologies and equipment
- Tax relief for donations to non-profit organizations

These tax reliefs are regulated by the Polish Tax Code and other relevant laws and regulations.

Overall, while both Uzbekistan and Poland offer tax reliefs to investors and taxpayers, the specific types and conditions of these reliefs may vary between the two countries. It is important for taxpayers to consult with tax professionals or authorities in their respective countries for up-to-date information on available tax reliefs.

Conclusion.

In conclusion, the taxation of free economic zone participants is a complex issue that requires careful consideration. Uzbekistan and Poland's experiences provide valuable insights into the challenges and opportunities associated with this issue. While tax incentives can be beneficial in attracting foreign investment and promoting economic growth, they must be balanced with fairness, transparency, and sustainability. By adopting a balanced approach to taxation of FEZ participants, countries can create a favorable business environment that benefits both foreign and domestic businesses alike.

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