

MUNICIPALITY OF BRAGA

Regulation No 789/2016

Grant Regulation for Investment Incentives

Preamble

Given that the municipalities have specific responsibilities in regards to the promotion of development, as evidenced by point m) of paragraph 2 of Article 23.º of Law no. 75/2013 of 12 September (Local Government Law).

Considering that, for the implementation of the conferred duties, local authorities are assigned competences in terms of providing support in, attracting and retaining companies, employment and investment within the respective municipalities, as is clear by the provisions of point ff) of paragraph 1 of Article 33.º of the Local Government Act.

Considering the need to encourage business investment in the municipality of Braga, namely, all the investment that is relevant to sustainable development, as well as for maintaining and creating employment, based on skills, innovation and technology, this Regulation aims to define concrete measures of support and encouragement for business activity, establishing the rules for the same.

Taking into account that IB - Economic Promotion Agency, MS (InvestBraga) has as its main object, on behalf of the Municipality, the pursuit of activities for the economic growth and promotion of Braga, via initiatives that promote their appreciation, internationalization and to domestic and foreign investment attraction, positioning itself as the appropriate entity to ensure all instructions and conducts of the procedure aimed at the granting of incentives, as well as for monitoring investment contracts concluded under this Regulation;

Thus:

Under the provisions of Article 241.º of the Constitution of the Portuguese Republic, established in point d) of Article 15.º and paragraph 2 and 3 of article 16.º, both from Law No. 73 / 2013 of 3 September, in conjunction with points m), paragraph 2 of Article 23.º, g) of paragraph 1 and k) of paragraph 2 of Article 25.º, point k) of No. 1 of Article 33.º, all from Annex I of Law No. 75/2013 of 12 September, and Article 23.º - A to the Investment Tax Code, approved in annex to Decree-Law No.º 162/2014 of 31 October, of the Municipal Assembly of Braga, at the proposal of the Municipal Council of 23 June 2016, approves the present regulation.

The draft regulation for the granting of investment incentives was subject to public consultation via its publication in the “Diário da República”.

CHAPTER I

General Provisions

Article 1.º

Subject

This Regulation establishes the rules and conditions that govern the granting of investment incentives by the Municipality of Braga.

Article 2.º

Scope

1 - The provisions of this Regulation covers all private sector investment projects aimed at the installation, relocation or expansion within the Municipality of Braga.

2 - Investment projects that are susceptible for the incentive grants, are those that:

- a) are relevant to the sustainable development of the Municipality;
- b) contribute to strengthening the chain of value of the Municipality and of the region;
- c) contribute to the diversification of local businesses, particularly in innovative sectors and / or with a technological base;
- d) contribute to the agricultural , industrial, commercial or tourist reorganization of the Municipality;
- e) are generators of new jobs;
- f) involve the maintenance of existing jobs and / or increasing their qualifications;
- g) are based on production innovation processes, namely:
 - i) in the production of new goods and services in the municipality and in the country or significant improvement of current production through the transfer and application of knowledge;
 - ii) in the expansion of production capacity in high-tech sectors or with dynamic international demand;
 - iii) in the organizational and marketing innovation process;
 - iv) in qualified entrepreneurship, giving prominence to creating companies based on knowledge or technologically-based or high value-added activities.

Article 3.º

Granting incentives

1 - The incentives to be granted may take various forms, including:

- a) full or partial, exemption of municipal taxes under the Municipal Regulation of Fees and Licenses;
- b) the granting of tax benefits in income taxes to which the municipality is entitled to under the law and of the present Regulation;

2 - The value of the incentive should be proportional to the amount of investment, the number of jobs created or those maintained and the positive

external effects generated by investment projects supported by local, regional and national economy's.

3 - Where the investment project involves the leasing of property, tax benefits related to the property tax may be granted to the respective owner, although not being the promoter, provided that the benefit will result in a reduction of rent and is expressly reflected in the terms and conditions of the lease.

4 - In addition to the incentives referred to in the preceding points, the administrative procedures related to business initiatives of municipal interest, the City Council, via InvestBraga, will ensure the swiftness and efficiency of the proceedings.

CHAPTER II

Procedure

Article 4.º

General access conditions

1 - Eligible for the provided incentives in this Regulation are legally and actively established companies, that on the date of submission:

a) have their social security contributions in Portugal, in their national State/ Country or in which the company's main Headquarters is located in order;

b) have their obligations relating to tax debts to the Portuguese State or to national State/ Country or in which the company's main Headquarters is located in order;

c) have their situation in order regarding tax debts or of any other nature to the municipality of Braga;

d) comply with the necessary legal conditions for the exercise of their activity, particularly regarding the necessary licensing;

e) reflect a balanced economic and financial situation or, in cases of high density technological investment projects, demonstrate the capacity and evidence of the financing of the investment project;

f) are not in a state of insolvency, liquidation or cessation of activity, nor have a process pending;

g) not be a company in difficulty, in accordance with the definition in Article 2 of (EU) Regulation No 651/2014 of 16 June;

h) present an investment project that includes the creation or maintenance of at least 10 jobs or of an investment of no less than € 250,000;

2 - Individual entrepreneurs/self-employed persons that meet the requirements set out in the preceding paragraph may also apply for the incentives provided for in this Regulation.

3 - Notwithstanding paragraph 1, so that the investment project can be encouraged under this Regulation, it is necessary that the project demonstrates economic and financial viability and, where applicable, be adequately funded by equity.

4 - In exceptional and duly justified cases, applications may be accepted that do not comply with the requirements in f) and g) of paragraph 1.

Article 5.º

Formalizing the incentive request

1 - The requisitions for the incentives must be submitted to InvestBraga with the application form, according to the model adopted by InvestBraga, in which the promoter declares knowledge and acceptance of the terms of this Regulation.

2 - Incentives applications may be formulated at any time.

Article 6.º

Verification and appreciation of the incentive application

1 - InvestBraga is responsible for examining and assessing the incentive applications.

2 - InvestBraga shall articulate the guidelines of the procedure with the relevant municipal services.

Article 7.º

Criteria for assessment of incentive applications

1 - The incentives applications submitted that fulfill the foregoing conditions of access, which fall within the scope of and comply with all the other requirements of this Regulation, shall be evaluated by InvestBraga, meeting the following objectives:

a) The promotion of the economic and corporate structure of the Municipality, particularly taking into account the volume of investment, the synergies and economic ties with the businesses installed in the Municipality, the introduction of new technologies and production models or business and the volume of exports foreseen;

b) Development of human resources, in particular the number of job positions to be created, the number of skilled job positions to be created, the number of job positions to be retained, the number of skilled job positions to be maintained, the relationship between the number of graduates and job positions, along with professional training and ongoing training;

c) Environmental impact and environmental commitment of the project;

d) Entrepreneurial Competitiveness, with regards to the product and / or service innovation to be provided, the research/ investigation and development processes, the quality in management and the economic structure of the project.

2 - In case of receiving a favourable assessment, InvestBraga shall issue a statement of the economic interest of the application.

3 - The incentives to be awarded to investment projects set out in the application are allocated according to the following factors:

a) Investment to be carried out - VI - (40%);

i) ≥ € 1,000,000.00 - 100%

ii) ≥ € 750,000.00 and < € 1,000,000.00 - 75%

iii) ≥ € 500,000.00 and < € 750,000.00 - 50%

iv) ≥ € 250,000.00 and < € 500,000.00 - 25%

b) Number of net job positions to be created - PT - (30%):

- i) ≥ 30 job positions - 100%
- ii) ≥ 20 and <30 job positions - 70%
- iii) ≥ 10 and <20 job positions - 40%

c) Implementation time for the project - TI - (10%):

- i) ≤ 1 year - 100%
- ii) >1 year and ≤ 2 years - 75%
- iii) >2 and < 4 years - 25%

d) Investment promoters aged 35 or under and, in the case of commercial companies, provided that at least 50% of the respective capital stock be held by a natural person aged up to 35 - IP - (5%)

e) Company based within the municipality of Braga - SE - (5%)

f) Located in Business Hosting areas or in other areas classified as areas of economic activities within the city's Urban Master Plan or in which it may involve the regeneration of derelict industrial buildings - ZAE / REID (5%)

g) Investment projects resulting from academic projects or new entrepreneurial initiatives, especially by companies belonging to StartupBraga ecosystem or in the learning centres - StB (5%)

4 - Incentives will be awarded taking into account the classification obtained by using the following calculation formulas:

$$CP = VI + EN + IP + IF + IT + ZAE / REID \text{ StB}$$
$$VR = (cp * IMI) + (cp * IMT) + (cp * TM)$$

In which:

IMI - Gross value of IMI (Municipal Property Tax) (€)

IMT - gross value of IMT (Municipal Tax on Property Transfer) (€)- if any

TM - payable municipal fees for administrative titles issued related to the approval of the city's urban planning and construction development operations and its usage (€) - if any

CP - Final classification of the project (%)

VR - Total reduction / benefits amount (€)

5 - In the case provided for in paragraph 3 of Article 3, and notwithstanding Article 9, the incentive granting depends on the allocation of a final classification to the application (CP) equal to or greater than 50% and still, of the approval of the municipality, based on opportunity and merit criteria.

6 - In the case of the preceding point, the Municipality may condition the granting and maintenance of incentives with the fulfilment of additional requirements to be included in the investment agreement.

Article 8.º

Additional information

InvestBraga may request any additional information it deems necessary for the purpose of admission and assessment of the incentives applications, in which, the promoter should provide them, within 10 days of receipt of the requested elements.

Article 9.º

Decision

1 - The verification procedure should be completed within 30 days of receiving the application or of any additional information requested under the preceding paragraph.

2 - After verification and assessment of the grant application, and in the event of a favourable decision, InvestBraga, shall prepare the draft decision accompanied by the respective investment agreement which will be submitted to the City Council within 15 days for the purpose of approval by the City Council at the first meeting to take place after the referral of the process and its resolution proposal for submission to the City Council Assembly, to be submitted as soon as legally possible.

3 - It is up to the City Council Assembly, on proposal from the City Council, elaborated in accordance with the preceding paragraph, the final decision on the incentives to be granted and on the terms of the Investment Agreement.

4 - The decision, duly justified, should refer the form, the terms and the value of the incentives to be granted properly quantified, as well as, set all conditions, including the time limits for the completion of the investments and also the sanctions applied for non-compliance.

Article 10.º

Investment Agreement

1 - The granted incentive will be formalized by an Investment Agreement, signed between the Municipality of Braga, InvestBraga and the beneficiary of the incentive, setting out the rights and obligations of the parties, enforcement and implementation timings, the penalty clauses and the quantification of the total amount granted.

2 - For the effects of the previous determination, it is considered that, in the cases specified in paragraph 3 of Article 3, the property owner is also an incentive beneficiary, although not being the promoter, providing that the benefit results in a reduction in rent and it is expressly reflected in the terms and conditions of the lease.

3 - Investment contracts may be subject to modifications by prior deliberation of the City Council Assembly at the proposal of the City Council, and provided that the reasons and the nature of the changes are duly substantiated.

4 - The approval of the application for incentives expires if, within 180 days from the notification date of its approval, the investment contract is not granted.

5 - In the case of the preceding paragraph, the beneficiary of the awarded incentive can only apply for the same investment after a period of 1 year.

CHAPTER III

The Obligations and Penalties of the Beneficiaries

Article 11.º

Obligations of Beneficiaries

1 - The beneficiaries of the incentives undertake to:

a) Maintain the business initiative in the municipality of Braga for a period of no less than 10 years;

b) Meet the execution and implementation deadlines;

c) Comply with all legal obligations and with the exact terms of the granted licenses;

d) Annually provide InvestBraga with:

i) proof of tax obligations fulfilment;

ii) proof of obligations to social security fulfilment;

iii) personnel charts;

iv) balance sheets and income statements;

v) any other documents that are justifiably requested;

e) Allow InvestBraga, to carry out site visits to the investment projects either by InvestBraga or via their legal or institutional representatives;

2 - The period referred to in points a) of n.º 1 of this Article shall count from the date of the signing of the Investment Agreement.

3 - Notwithstanding the provisions of points d) and e) of paragraph 1 of this Article, the beneficiaries of the incentives undertake to provide InvestBraga, on request and within 10 days of receipt of the request, of all documents and information necessary for the monitoring, controlling and surveillance of the Investment Agreement.

4 - The investment agreement may set additional obligations to the beneficiaries in the case of the incentive arrangements in point 3 of Article 3 of the present Regulation.

Article 12.º

Penalties

1 - The non-compliance of the obligations under the Investment Agreement will lead to the termination of the contract and the application of penalties provided for therein.

2 - The sanctions should be proportionate and at least equal to the amount granted by the municipality and quantified in the Investment Agreement, implying its refund, together with interest at the legal rate applicable, as from the conclusion of the respective contract.

3 - The termination of the contract should always be notified in advance to the concerned party.

4 - It is up to InvestBraga, to monitor the implementation of the investment agreement and, if there is any default situation, then a proposal for the contract's rescission should be drafted with the applicable sanctions for approval by the City Council.

5 - It is up to the Municipal Assembly, by proposal of the City Council, to prepare in accordance with the preceding paragraph, the final decision regarding the settlement of investment contract and the application of sanctions.

CHAPTER IV

Final Provisions

Article 13.º

Doubts and omissions

Any omissions or questions concerning the interpretation and application of this Regulation shall be settled by the Municipality Council of Braga, in compliance with the legislation in force.

Article 14.º

Effectiveness

This Regulation shall become effective on the immediate day following the publication of the final version.

24 June, 2016 - The Mayor of Braga,

Ricardo Bruno Antunes Machado Rio.

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