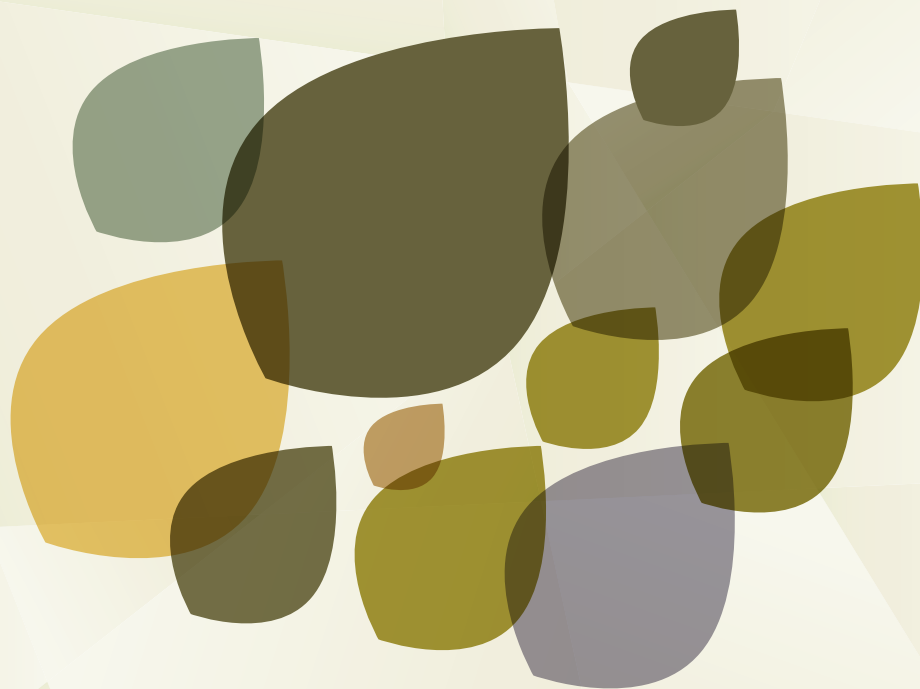




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4399/2016

New Development Law



On 16 June 2016, the Greek parliament passed the new development law proposed by the Ministry of Economy, Development and Tourism. The law 4399/2016, entitled the “Regulatory framework for the establishment of state aid schemes for private investments for the regional and economic growth of the country,” aims to generate more than EUR 11 billion in private investment by 2023 by providing incentives to the private sector.

The main goals of the new development law are to:

- stimulate “extroversion” and innovation
- create new jobs
- utilize the country’s human resources with emphasis on the employment of skilled human capital to reverse the migration of young Greek scientists
- encourage the production of high added value products and services
- improve the technological level and competitiveness of enterprises
- achieve smart specialization
- develop networks, synergies, cooperative initiatives and generally support the social economy
- encourage mergers
- strengthen through reform and intervention healthy and specialized entrepreneurship with an emphasis on small and medium-sized enterprises (SMEs)
- re-industrialize the country
- reduce the ecological footprint.

The law will become effective gradually, with each state aid scheme commencing when relevant ministerial decisions are issued. The state aid will be available to any investor, as long as the entity executing the investment plan is established in Greece.

A summary of the main features of the new investment law is presented below.

State aid incentives under the new law include:

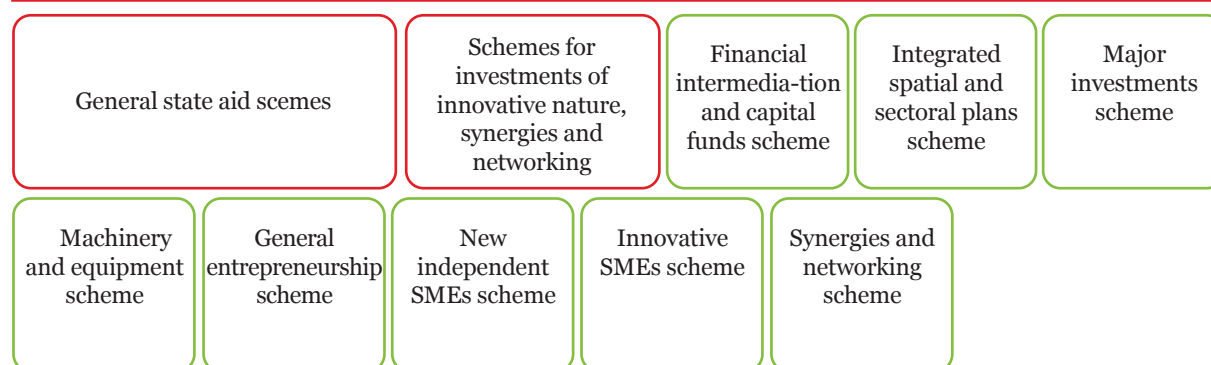
- Tax exemptions
- Cash grants
- Leasing subsidies
- Subsidy for costs incurred to create employment
- Stable corporate income tax rate
- Financing of business risk

Structure of the law 4399/2011

General framework

The new development law provides a framework on which several state aid schemes will be based. The foundation of the law is the EU General Block Exemption Regulation 651/2014, thus guaranteeing ex-ante compliance with EU state aid rules.

Common rules based on EU General Block Exemption Regulation 651/2014



State aid schemes under law 4399/2016

1. General state aid for machinery and equipment

Beneficiaries

All legal entities, as stated in the general rules of the law, that intend to implement an eligible investment plan.

Eligible expenditure

Purchase and installation of new machinery Purchase and installation of used machinery that is up to seven years old (special conditions apply) Lease payments made for new machinery (equipment leases are eligible, but operating leases are not) Purchase of vehicles for on-site use

Type of state aid provided

Tax exemption up to the maximum state aid available within regional state aid limits

Evaluation & state audit processes

Investment plans will be evaluated under a “direct assessment” procedure. Administrative audits will be carried out for all projects and 20% of approved investment plans will be subject to spot audits.

2. State aid for general entrepreneurship

Beneficiaries

All legal entities, as stated in the general rules of the law, that intend to implement an eligible investment plan.

Eligible expenditure

Investment costs in tangible assets Investment costs in intangible assets Estimated wage costs arising from the creation of jobs as a result of an initial investment, calculated over a period of two years Studies and consultancy services Start-up costs Energy efficiency costs High-efficiency cogeneration costs Investment costs for the production of energy from renewable energy sources Energy-efficient district heating and cooling

Type of state aid provided

A tax exemption, leasing subsidy and a subsidy for the costs of created employment, up to the maximum state aid available for each expenditure category. Cash grants are available only for the special categories of state aid as defined in the common rules of the law, up to 70% of the maximum state aid for each expenditure category.

Evaluation & state audit processes

Investment plans will be evaluated under a “comparative assessment” procedure. On-site audits will be carried out for all investment plans.

3. General state aid for new independent SMEs

Beneficiaries

Enterprises that are being established or that have been established within seven years of the date they submitted their application for the investment (conditions apply).

Eligible expenditure

Investment costs in tangible assets Investment costs in intangible assets Estimated wage costs arising from the creation of jobs as a result of an initial investment, calculated over a period of two years Studies and consultancy services Start-up costs Energy efficiency costs High-efficiency cogeneration costs Investment costs for the production of energy from renewable energy sources Energy efficient district heating and cooling

Type of state aid provided

Tax exemption, leasing subsidy and subsidy for the costs of created employment, up to the maximum state aid for each expenditure category. Cash grants are available up to 70% of the maximum state aid for each expenditure category. For the special categories of state aid defined in the common rules, the percentage is 100%.

Evaluation & state audit processes

Investment plans will be evaluated under a comparative assessment procedure. On-site audits will be carried out for all investment plans.

4. State aid for innovative SMEs

Beneficiaries

Innovative SMEs with investment plans that aim to develop technology or to technologically develop services, produce innovative products or introduce procedural and organizational innovation.

Eligible expenditure

Investment costs in tangible assets Investment costs in intangible assets Estimated wage costs arising from job creation as a result of an initial investment, calculated over a period of two years Studies and consultancy services Start-up costs Energy efficiency costs Investment costs for the production of energy from renewable energy sources

Type of state aid provided

Tax exemption, leasing subsidy and subsidy for the costs of created employment, up to the maximum state aid for each expenditure category. Cash grants are available up to 70% of the maximum state aid for each expenditure category. For the special categories of state aid defined in the common rules, the percentage is 100%.

Evaluation & state audit processes

Investment plans will be evaluated under a comparative assessment procedure. On-site audits will be carried out for all investment plans.

5. State aid for synergies and networking

Beneficiaries

Clusters of at least six enterprises in the Attika region and Thessaloniki prefecture, or of at least four enterprises in all other regions that are formed under a management legal entity. Participating enterprises may be universities, R&D centers, and public and private legal bodies. For the investment plan to be approved, the cluster already must be in existence or must be in the process of establishment.

Investment plans must include activities relating to enterprises participating in the cluster, although investment plans under the following NACE codes are eligible:

- 69 – Legal and accounting activities
- 70.2 – Management consultancy activities
- 71 – Architectural and engineering activities; technical testing and analysis
- 73 – Advertising and market research

Innovation clusters must satisfy the following conditions to be included in the scheme:

- Access to the cluster's premises, facilities and activities must be open to several users and be granted on a transparent and non-discriminatory basis.
- Enterprises that have financed at least 10% of the investment costs of the innovation cluster may be granted preferential access under more favorable conditions. To avoid overcompensation, such access must be in proportion to the enterprise's contribution to the investment costs.
- The fees charged for using the cluster's facilities and for participating in the cluster's activities must correspond to the market price or reflect their costs.

6. State aid for synergies and networking

Eligible expenditure

Investment costs in tangible assets Investment costs in intangible assets Estimated wage costs arising from job creation as a result of an initial investment, calculated over a period of two years Innovation clusters costs

Type of state aid provided

Clusters that are comprised of SMEs may receive tax exemptions, cash grants, leasing subsidies and subsidies for the costs of created employment, up to the maximum state aid for each expenditure category. Clusters in which at least one larger enterprise participates may receive tax exemptions, leasing subsidies and subsidies for the costs of created employment, up to the maximum state aid for each expenditure category. State aid will be provided only to the management entity of the cluster.

Evaluation & state audit processes

Investment plans will be evaluated under a comparative assessment procedure. On-site audits will be carried out for all investment plans.



7. State aid for financial intermediation and capital funds

Beneficiaries

Intermediary risk financing entities (funds of funds and funds, according the GBER 651/2014 definition) that invest through financial instruments in SMES and have a specific legal entity form (according to the Law 4209/2013), and that target:

- The creation of new and the scale-up of existing enterprises, especially those focusing on innovation and employment, that are export-oriented and have potential for further growth
- The restructuring of viable businesses
- The development of capital markets for SMEs
- Enhancing the competitiveness of enterprises, including those employing between 250-500 persons.

Type of state aid provided

For financial intermediaries, risk finance aid to independent private investors may be in the form of:

- Equity or quasi-equity, or financial endowments to provide risk finance investments directly or indirectly to eligible investors
- Loans to provide risk finance investments directly or indirectly to eligible investors

For eligible enterprises, the state aid will take the form of risk finance aid provided through the financial intermediaries and can include equity investments, quasi-equity investments, loans, guarantees or a combination there of.

Management & Supervision

Management of these funds may be entrusted to venture capital companies. The selection of managers, their remuneration, leverage, control, duration and operating mode will be specified by the fund body.



8. State aid for integrated spatial and sectoral plans

Beneficiaries

Enterprises and clusters participating in sectoral or local production systems or specific productive value chains. Such systems or value chains may be developed at the regional or interregional level. At least eight enterprises must participate in each investment plan. Up to 10% of the overall investment cost may be made by research and knowledge dissemination institutions, non-profit organizations, local authorities and other relevant economic bodies. The investment plan application must be submitted by investment vehicles in the form of integrated investment programs, including the individual investment plans for enterprises and clusters. Integrated investment programs are defined as the overall framework for the activities that form an integrated spatial and/or sectoral development project with multiplying benefits.

Type of state aid provided

For individual investment plans, the state aid will be granted in the form of a tax exemption, cash grant, lease subsidy and subsidy for the cost of created employment, up to the maximum state aid for each expenditure category. Larger enterprises will not be entitled to a cash grant. Clusters that are comprised of SMEs will be able to receive a tax exemption, cash grant, lease subsidy and subsidy for the cost of created employment, up to the maximum state aid for each expenditure category. Clusters that have at least one large enterprise that accounts for more than 50% of the overall investment cost may receive a tax exemption, leasing subsidy and subsidy of the cost for the created employment, up to the maximum state aid for each expenditure category.

Evaluation & state audit processes

Integrated investment programs will be evaluated under a special evaluation procedure that follows the comparative assessment procedure for the overall investment plan and the direct assessment procedure for the individual investment plan.



9. State aid for major investments

Beneficiaries

All legal entities, as stated in the general rules of the law, that intend to implement an eligible investment plan, provided the following conditions are fulfilled:

- The overall eligible investment plans budget exceeds EUR 20 million;
- The investment plan creates at least two new jobs for each EUR 1 million of eligible investment cost.

Eligible expenditure

Investment costs in tangible assets Investment costs in intangible assets Estimated wage costs arising from job creation as a result of an initial investment, calculated over a period of two years Studies and consultancy services Innovation costs Process and organizational innovation costs Energy efficiency costs Promotion of energy from renewable sources



10. State aid for major investments

Type of state aid provided

A stable and unchanged corporate income tax rate for 12 years after the investment plan following the completion of the investment plan and the commissioning of the investment. Alternatively, the beneficiary can receive a tax exemption equal to 10% of eligible expenditure, capped at EUR 5 million. The beneficiary also may have access to the “fast track” procedure for approval and issuance of relevant permits and licenses for the investment, as per article 22 of Law 3894/2010.

Evaluation & state audit processes

Investment plans will be evaluated under a direct assessment procedure. On-site audits will be carried out for all investment plans.



Common rules for state aid schemes

Below is a summary of the most important common rules of the law 4399/2016, as defined in articles 1–31.

What is the scope of an eligible investment plan?

An investment plan should address any of the following:

- Creation of a new business unit;
- Expanding the capacity of an existing business unit;
- Transformation of a business unit by provisioning products or services that previously were not provided if the investment plan budget exceeds at least 200% of the book value of the transformed assets in the fiscal year before the investment plan commenced;
- Fundamental change in the overall production process of an existing business unit, provided the eligible expenditure is greater than the total depreciation of the assets related to the investment plan for the three years before the plan commenced; and
- Purchase of all of the assets of a non-operating facility by the beneficiary (a purchase of just shares is not eligible).

What is the minimum budget of an eligible investment plan?

The minimum budget of an eligible investment plan depends on the size of the beneficiary:

Size of beneficiary	Minimum budget of investment plan (€)
Large enterprises	500,000
Medium enterprises, cooperatives and business clusters	250,000
Small enterprises	150,000
Very small enterprises	100,000
Social cooperative enterprises	50,000

What is the financial structure of an eligible investment plan?

Beneficiaries must contribute capital to the investment plan equal to at least 25% of the eligible investment cost. The contribution must be in the form of a share capital increase or by capitalization of existing taxed reserves (provided the beneficiary has sufficient liquidity). The remaining investment amount, apart from the state aid contribution, may be obtained by a bank loan or a bond loan with a term of at least three years.

Which sectors of the economy may be the target of an investment plan?

Eligible investment plans can be in most sectors of the economy, with the following exceptions:

- Investment plans in the steel, coal, shipbuilding, synthetic fibres and transport sectors (as well as related infrastructure), energy generation, distribution and infrastructure, are not eligible;
- The following activities (some exceptions are defined explicitly in the state aid schemes) are not eligible:

NACE rev. 2	Non eligible activity
05	Mining of coal and lignite
36	Water collection, treatment and supply
41	Construction of buildings
42	Civil engineering
43	Specialized construction activities
45	Wholesale and retail trade and repair of motor vehicles and motorcycles
46	Wholesale trade, except motor vehicles and motorcycles
47	Retail trade, except motor vehicles and motorcycles
52	Warehousing and support activities for transportation, with the exception of 52.22.11.05 (marinas services - marinas), 52.22.11.06 (waterways operation services) and 52.29.19.03 (Transportation services with supply chain management - logistics), which are eligible
53	Postal and courier activities
55	Accommodation

NACE rev. 2	Non eligible activity
56	Food and beverage service activities
60	Programming and broadcasting activities
64	Financial service activities, except insurance and pension funding
65	Insurance, reinsurance and pension funding, except compulsory social security
66	Activities auxiliary to financial services and insurance activities
68	Real estate activities
69	Legal and accounting activities
70	Activities of head offices; management consultancy activities
71	Architectural and engineering activities; technical testing and analysis
72	Scientific R&D
73	Advertising and market research
75	Veterinary activities
77	Rental and leasing activities
78	Employment activities
79	Travel agency, tour operator and other reservation services and related activities
80	Security and investigation activities
81	Services to buildings and landscaping activities
82	Office administrative, office support and other business support activities
84	Public administration and defense; compulsory social security
85	Education
86	Human health activities
87	Residential care activities
88	Social work activities without accommodation
90	Creative, arts and entertainment activities
91	Libraries, archives, museums and other cultural activities, with the exception of 91.01.11 (library services) and 91.02 (museum activities) which are eligible
92	Gambling and betting activities
93	Sports activities and amusement and recreation activities
94	Activities of membership organizations
95	Repair of computers and personal and household goods
96	Other personal service activities
97	Activities of households as employers of domestic personnel
98	Undifferentiated goods- and services-producing activities of private households for own use
99	Activities of extraterritorial organizations and bodies

In certain cases and based on future ministerial decisions, the following investment plans may participate in the schemes:

- Small hydroelectric stations (up to 15MW);
- High-efficiency energy cogeneration from renewable sources;
- Hybrid small renewable sources power generation stations in disconnected islands (up to 5MW);
- Energy heating and cooling from renewable sources;
- Energy efficient district heating and cooling;
- Production of sustainable biofuel and conversion of existing power generation to sustainable biofuels, under conditions;
- Hotels units with at least three stars;
- Hotels units with at least two stars that are sited in designated historical preservation buildings;
- Tourism organized camps (camping) with at least three stars;
- Special tourism infrastructure facilities (convention centers, golf courses, tourist ports, ski resorts, theme parks, spa tourism facilities (units for healing therapy, spa tourism-thermalism, thalasso therapy centers, spas), coaching sports tourism centers, mountaineering shelters, car racing);
- Agro-tourism and wine tourism facilities;
- Establishment of new youth hostels;
- Processing and trading of agricultural products;
- Fisheries and aquaculture; and
- Agriculture.

How will the state aid be provided to beneficiaries?

State aid may be provided in the form of a tax exemption, cash grant, leasing subsidy and subsidy for employee costs. The state aid may be provided to the beneficiary at the time the investment plan is completed and productive operations commence, or gradually if the following conditions are fulfilled:

Tax exemption

The beneficiary is entitled to a tax exemption after an audit and approval of the implementation of 50% of the budget for the investment plan and the beneficiary has made its entire own capital contribution. The beneficiary can utilize the full tax exemption over 15 years from the fiscal year of the entitlement, with the following restrictions:

- The annual tax exemption cannot exceed 20% of the total approved tax exemption, except where the beneficiary was unable to fully use tax exemptions during previous fiscal years because of a lack of sufficient taxable profits. In that case, the remaining tax exemption from previous years will be added to the annual tax exemption.
- The tax exemption cannot exceed 50% of the overall tax exemption before the project is completed. The amount of the tax exemption that corresponds to equipment procured through leasing will be calculated on an annual basis as part of the value of the equipment included in the leasing of the equipment. The tax exemption claimed every year must be included in a special reserve and ledger in the beneficiary's books.

Cash grant

A beneficiary will be entitled to a cash grant equal to 50% of the total approved grant following the audit and approval of implementation of 50% of the investment plan budget and if the beneficiary has made its full capital contribution. The remaining 50% will be provided when the investment plan is completed and productive operations commence. The cash grant will not be deducted from the investment costs in calculating the taxable profits of the beneficiary. The cash grant will be paid directly to the bank account of the beneficiary through electronic means. The grant cannot be made to a third party, except to a bank that provided an equivalent amount via a short-term loan so the investment could be made.

Leasing subsidy

The first payment of the leasing subsidy will be made after the state auditors certify that all of the leased equipment has been installed according to the lease agreement.

The leasing subsidy will be paid every six months following the payment of the lease installments by the beneficiary. The amount payable will be calculated on the acquisition value of the equipment, which is included in the installments and in accordance with approved state aid rates. The subsidy may not exceed 60% of the approved amount before the completion of the investment plan and the commencement of productive operations. A beneficiary may be permitted to make advance lease payments during the last 12 months of the lease agreement if approval of the authorities is obtained. The leasing subsidy will not be deducted from the investment cost in calculating the taxable profits of the beneficiary.

Subsidy for the cost of created employment

The payment of the subsidy will commence after the state auditors certify that the relevant new employment has been created. The subsidy will be paid every six months following the payment of the relevant salary costs by the beneficiary in accordance with approved state aid rates, and up to 60% of the approved amount before the completion of the investment plan and the commencement of productive operations.

Especially for the following cases, emphasis is given to cash grants:

- Extrovert SMEs
- Innovative SMEs
- Independent SMEs entering mergers
- SMEs with growing workforce
- Cooperatives
- Enterprises operating in the ICT and Agro food sectors
- High added value enterprises
- Investment plans in Industrial and Business Zones, Business/Technology Parks etc., not related to modernization or expansion of existing business units
- Investment plans in remote areas (mountain areas, border areas etc.)
- Investment plans in migrant-affected areas

How much state aid will be provided?

The amount of state aid to be granted will depend on various factors, such as the location of the investment, the size of the beneficiary, the type of investment and the relevant state aid scheme. The amount of state aid for regional development (tangible assets, intangible assets and new employee costs) will range from 10% to 45% of expenditure, while the state aid for specific types of expenditure (start-up costs, consulting costs, innovation costs, etc.) can reach 80% of expenditure in some cases. The total amount of state aid for each single investment plan is limited to EUR 5 million. State aid provided is limited to EUR 10 million for each single beneficiary and up to EUR 20 million for a group of companies, subject to the restrictions.

What is the state aid budget of the investment law?

According to the impact analysis submitted to parliament, the initial budget of the development law will provide: • EUR 480 million in the form of cash grants and subsidies during the period 2016-2022 • More than EUR 3 billion in tax exemptions until 2031

Amoiridis Law Services can provide significant support to your company both at the stage of selecting the scheme of aid and the type of aid, which are suitable to your financial and business needs, and at the stage of implementation of the investment project up until its completion.

This information is intended only as a general update for interested persons and should not be used as a basis for decision making. For further details please contact Amoiridis Law Services: