



New Development Law 4399/2016

The new Development Law will soon be available to private sector investors seeking state aid for their investment plans in Greece

Introduction

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 “Institutional framework for establishing Private Investment Aid schemes for the country’s regional and economic development”, aims to generate more than EUR 11 billion in private investments by 2023 by providing incentives to the private sector.

The main goals of the new Development Law are to:

- stimulate openness and innovativeness;
- create new jobs;
- develop the country’s human resources with an emphasis on the employment of trained human resources to reverse the migration of young scientists;
- attract direct foreign investments;
- 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;
- develop sections and interventions to enhance healthy and targeted entrepreneurship with a special emphasis on small and medium entrepreneurship;
- re-industrialize the country;
- support areas with reduced growth potential and reduce regional disparities.

The law will become effective gradually, with each 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.

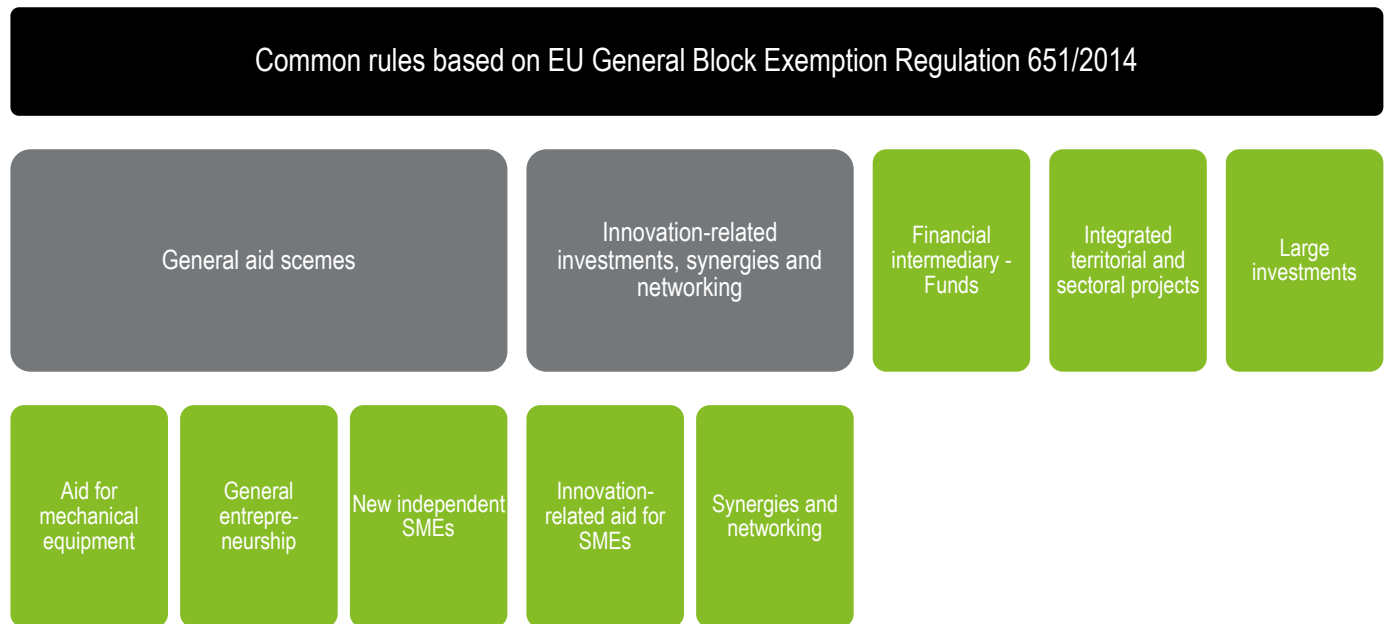
State aid incentives under the new law include:

- Tax exemptions
- Cash grants
- Leasing subsidies
- Job creation cost subsidy
- Stabilization of income tax rate
- Risk finance through equity fund

Structure of the law 4399/2016

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.



State aid schemes under Law 4399/2016

Aid for mechanical equipment

Beneficiaries	All legal entities, as stated in the general rules of the law, that intend to implement an eligible investment plan.
Eligible costs	<p>Purchase and installation of new machinery</p> <p>Purchase and installation of used machinery not older than seven (7) years from the date of first purchase (special conditions apply)</p> <p>Leasing rents for new machinery (equipment leases are eligible, but operating leases are not)</p> <p>Purchase of vehicles for on-site use</p>
Type of aid provided	Tax exemption up to the maximum rates of the Regional Aid Map
Evaluation & control process	Investment plans will be evaluated under a "direct evaluation" procedure. Administrative audits will be carried out for all projects and a random 20% of approved investment plans will be subject to on-site audits.

General entrepreneurship

Beneficiaries	All legal entities, as stated in the general rules of the law, that intend to implement an eligible investment plan.
Eligible costs	<p>Capital expenditure in tangible assets</p> <p>Capital expenditure in intangible assets</p> <p>Wage cost of new jobs created as a result of the implementation of the investment project, calculated over a period of 2 years from the creation of each position</p> <p>Studies and consultancy services</p> <p>Start-up costs</p> <p>Investment costs for energy efficiency measures</p> <p>Investment costs for high-efficiency cogeneration from renewable energy sources</p> <p>Costs for energy production from renewable sources</p> <p>Energy-efficient district heating and cooling</p> <p>Costs for the remediation of contaminated sites</p>
Type of aid provided	<p>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.</p> <p>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.</p>
Evaluation & control process	Investment plans will be evaluated under a "comparative evaluation" procedure (benchmarking). On-site audits will be carried out for all investment plans.

New independent SMEs

Beneficiaries	SMEs under establishment or newly established (registered with the General Commercial Registry within the last seven years from the date of submitting the inclusion application and have not been established by merger. Conditions apply.
Eligible costs	<ul style="list-style-type: none"> Capital expenditure in tangible assets Capital expenditure in intangible assets Wage cost of new jobs created as a result of the implementation of the investment project, calculated over a period of 2 years from the creation of each position Studies and consultancy services Start-up costs Investment costs for energy efficiency measures Investment costs for high-efficiency cogeneration from renewable energy sources Costs for energy production from renewable sources Energy-efficient district heating and cooling Costs for the remediation of contaminated sites
Type of aid provided	<p>Tax exemption, leasing subsidy and subsidy for the costs of created employment, up to the maximum state aid for each expenditure category.</p> <p>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%.</p>
Evaluation & control process	Investment plans will be evaluated under a "comparative evaluation" procedure (benchmarking). On-site audits will be carried out for all investment plans.

Innovation-related aid for SMEs

Beneficiaries	Innovative SMEs that aim to develop technology or provide services through technological development, production of innovative products or the introduction of procedural or organizational innovations.
Eligible costs	<ul style="list-style-type: none"> Capital expenditure in tangible assets Capital expenditure in intangible assets Wage cost of new jobs created as a result of the implementation of the investment project, calculated over a period of 2 years from the creation of each position Studies and consultancy services Start-up costs Innovation costs Costs for process and organizational innovation Energy efficiency costs Investment costs for the production of energy from renewable energy sources High-efficiency cogeneration costs Energy efficient district heating and cooling Investment costs for the remediation of contaminated sites

<p>Type of aid provided</p>	<p>Tax exemption, leasing subsidy and subsidy for the costs of created employment, up to the maximum state aid for each expenditure category.</p> <p>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%.</p>
<p>Evaluation & control process</p>	<p>Investment plans will be evaluated under a "comparative evaluation" procedure (benchmarking). On-site audits will be carried out for all investment plans.</p>

Synergies and Networking

<p>Beneficiaries</p>	<p>Clusters of at least six undertakings for investment projects to be implemented in the Region of Attika or in the Prefecture of Thessaloniki and at least four enterprises for investment projects to be implemented in all other Regions that are managed and coordinated by a managing body with legal personality. Participating undertakings may be universities, R&D centers, and public/private law entities. Applications may be submitted by the operator of existing clusters or clusters under establishment, not by individual or potential members thereof.</p> <p>Investment projects must include joint actions of and are in connection with or serve and support key business activities of undertakings and entities that make up the clusters, although investment projects may be also included that fall within the following NACE codes:</p> <p>69 – Legal and accounting activities 70.2 – Management consultancy activities 71 – Architectural and engineering activities; technical testing and analysis 73 – Advertising and market research</p> <p>Innovation clusters must satisfy the following conditions to be included in the scheme:</p> <ul style="list-style-type: none"> • Access to facilities, equipment and activities of the innovation cluster shall be open to various users, provided in a transparent and non-discriminatory manner, and its terms shall be published. • Undertakings that have funded at least 10% of the investment costs of the innovation cluster can access on more favorable terms. Access is proportional to the contribution of the undertaking in the investment costs to avoid overcompensation. • The fees charged for using the cluster's facilities and for participating in its activities correspond to the market price or reflect the costs involved.
<p>Eligible costs</p>	<p>Capital expenditure in tangible assets Capital expenditure in intangible assets Wage cost of new jobs created as a result of the implementation of the investment project, calculated over a period of 2 years from the creation of each position Expenditure on innovation clusters</p>

Type of aid provided	<p>Clusters consisting of SMEs shall be assisted by the tax exemption incentive, grant, leasing subsidy and job creation cost subsidy, up to the maximum state aid for each expenditure category.</p> <p>Clusters including a large undertaking with a stake in the managing body exceeding 50% shall be granted the tax exemption incentive, the leasing subsidy and the job creation cost subsidy, up to the maximum state aid for each expenditure category.</p> <p>Aid shall be granted only to operators managing clusters.</p>
Evaluation & control process	<p>Investment plans will be evaluated under a "comparative evaluation" procedure (benchmarking). On-site audits will be carried out for all investment plans.</p>

Financial intermediary - Funds

Beneficiaries	<p>Financial intermediary agencies (funds of funds and funds, according to the GBER 651/2014 definition) that invest through new financing tools to strengthen SMES and have the legal form of the alternative investment agency of Law 4209/2013. The funds shall aim to:</p> <ul style="list-style-type: none"> • the creation of new and the growth of existing undertakings, especially those emphasizing innovation and employment, export-oriented and presenting potential for further growth; • the restructuring of viable businesses; • the development of capital markets for SMEs; • the improvement of competitiveness of the undertakings, including those employing between 250-500 workers.
Type of aid provided	<p>For financial intermediaries, risk finance aid to independent private investors may be in the form of:</p> <ul style="list-style-type: none"> • Equity or quasi-equity, or financial endowment to provide risk finance investments directly or indirectly to eligible undertakings • Loans to provide risk finance investments directly or indirectly to eligible investors <p>For eligible undertakings, risk finance aid may take the form of investments of equity or quasi-equity, loans or a combination thereof.</p>
Management & supervision	<p>The management of the funds may be entrusted to sociétés anonymes of alternative investment fund management. The selection of managers, their remuneration, the level of leverage, control, duration and their operating methods shall be the subject of the Funds of Funds.</p>

Integrated territorial and sectoral projects

Beneficiaries	<p>Undertakings and clusters participating in sectoral or local production systems or individual productive value chains. Such systems or value chains may be developed at regional or interregional level. At least eight beneficiaries 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 entities.</p>
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	The proposals shall be submitted by investment vehicles in the form of integrated investment projects, including the individual investment plans for undertakings and clusters. Integrated investment projects shall be defined as the overall framework for actions with integrated territorial and/or sectoral development proposal with multiple benefits.
Type of aid provided	Individual investment projects of the participating undertakings are awarded tax exemption, cash grant, leasing subsidy and job creation cost subsidy, up to the maximum state aid for each expenditure category. Large enterprises are not entitled to receive cash grants. Clusters consisting of SMEs shall be assisted by the tax exemption incentive, grant, leasing subsidy and job creation cost subsidy, up to the maximum state aid for each expenditure category. Clusters including a large undertaking with a stake in the managing body exceeding 50% shall be granted the tax exemption incentive, the leasing subsidy and the job creation cost subsidy, up to the maximum state aid for each expenditure category.
Evaluation & control process	Integrated investment programs shall be evaluated with the method of benchmarking, whilst individual investment projects shall be evaluated by the method of direct evaluation.

Large 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 cumulatively met: <ul style="list-style-type: none"> • The total eligible project cost is more than twenty (20) million; • The investment project creates at least two (2) new jobs per one (1) million euros of eligible investment costs.
Eligible costs	Capital expenditure in tangible assets Capital expenditure in intangible assets Wage cost of new jobs created as a result of the implementation of the investment project, calculated over a period of 2 years from the creation of each position Energy efficiency costs Investment costs for the production of energy from renewable energy sources Investment costs for the remediation of contaminated sites
Type of aid provided	Fixed income tax rate for legal persons and legal entities, which applies on the date of the inclusion application, for a period, which is set at twelve (12) years from the completion of the investment project. Alternatively, the operator of the investment can make use of tax exemption at an aid rate of 10% of the investment's aided cost, regardless of the investment size by way of derogation from the regional aid intensities and up to the amount of five million (5,000,000) euros. The operators of the investment projects may also make use of the accelerated authorization procedure ("fast track") by the Directorate General for Strategic Investments of the Ministry of Economy, Development and Tourism, by analogy with Article 22 of Law 3894/2010. The operators of the above projects cannot make use of any other favorable arrangement of Law 3894/2010.

Evaluation & control process

Investment plans will be evaluated under a direct evaluation 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:

- setting-up a new establishment;
- extension of the capacity of an existing establishment;
- diversification of the output of an establishment into products not previously produced in the establishment provided that the eligible costs are higher than 200% of the book value of assets used again as recorded in the fiscal year preceding the application for inclusion of the investment project;
- fundamental change in the overall production process of an existing establishment, provided that the eligible costs exceed the depreciation during the three previous fiscal years of the assets related to the activity, which is to be modernized; and
- acquisition of assets belonging to an establishment that has closed or would have closed had it not been purchased by an investor unrelated to the seller and excludes sole acquisition of the shares of an undertaking.

What is the minimum budget threshold 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 (EUR)
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?

The aided beneficiary may participate in the cost of the investment project either through its own resources or by external financing, provided that at least 25% of the total investment cost does not contain any State aid, public support or provision.

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
06	Extraction of crude petroleum and natural gas
07	Mining of metal ores
08	Other mining and quarrying
09	Mining support service activities
36	Collection, processing and supply of water excluding seawater desalination services exclusively using RES
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 for motor vehicles and motorcycles
47	Retail trade, except for motor vehicles and motorcycles
52	Warehousing and support activities for transportation, with the exception of 52.22.11.05 (touristic port services - marinas), 52.22.11.06 (water airports operation services) and 52.29.19.03 (Transportation services with supply chain management - logistics), which are eligible
53	Postal and courier activities
55	Accommodation
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 Hydropower plants stations (up to 15MW);
- Cogeneration units of high efficiency by RES;
- Hybrid RES plants in non-interconnected islands with a guaranteed capacity of up to 5 MW;
- Generation of heat and cooling from renewable energy sources;
- Energy efficient district heating and cooling;
- Production of sustainable biofuels which are not based on edible plants and conversion of existing biofuel plants based on edible plants in sustainable biofuel production plants, under conditions;
- Hotel units of at least three (3) stars;
- Hotel units of at least two (2) stars in designated traditional or listed buildings;
- Tourism camping sites of at least three (3) stars;
- Special tourism infrastructure facilities [conference centers, golf courses, touristic ports, ski resorts, theme parks, spa tourism facilities (spa care units, spa tourism centres - thermalism, thalassotherapy centres, spas), coaching sports tourism centers, mountain refuges, car racing];
- Agritourism 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 job creation costs. The aid may be provided to the beneficiary either once with the issue of the decision of completion and commissioning of the investment project, or gradually if the following conditions are fulfilled:

Tax exemption	<p>The right to start using the benefit of the tax exemption incentive is established with the certification of implementation of 50% of the investment project cost by the competent control body. The operator may use the entire aid of the tax exemption within 15 tax years from the year of establishing the benefit, under the following restrictions that apply cumulatively:</p> <ul style="list-style-type: none"> • the receiving aid shall not exceed, annually, 20% of the total approved amount of the tax exemption, except in the case of incomplete use in the previous tax years due to lack of adequate profits. In this case, any remaining amount of aid from previous tax years shall be added up to the maximum annual amount of receiving aid, as calculated above. • the receiving aid shall not exceed 50% of the total approved amount of the tax exemption until the tax year of the issue of the decision on completion and commissioning of the investment. <p>The amount of the tax exemption for the part of the equipment of the investment project acquired under a leasing agreement shall be determined for each tax year as a percentage on the part of the purchase price of the equipment, which is included in the rents paid by the end of the tax year.</p> <p>The yearly spent amount of the tax exemption shall appear on the special reserve and the respective account in the books of the company, formed by the income tax which was not paid because of the provided tax exemption.</p>
Cash grant	<p>An amount up to 50% of the approved grant may, following relevant request, be paid to the beneficiary after the certification by the competent auditing body of the implementation of the 50% of the total cost of the project. The remaining amount of the grant, or the entire amount thereof in case point (a) has not been applied, shall be paid after the issue of the decision on completion and commissioning of the investment.</p> <p>The amounts of the grant shall not be deducted from the value of the investment costs in order to determine the taxable profits.</p> <p>The grant shall be paid directly by electronic payment to a bank account of the project operator and cannot be assigned to third parties, except to a bank that provided an equivalent amount via a short-term loan for the implementation of the investment project.</p>
Leasing subsidy	<p>The commencement of payment of the leasing subsidy may take place after the competent auditing body has certified that all leased equipment has been installed at the plant as provided for in the leasing contract.</p>

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

- Extrovert SMEs
- Innovative SMEs
- Independent SMEs entering mergers
- SMEs that increased their employment
- Cooperatives
- Undertakings, whose investment projects are implemented in ICT and Agrifoods, as their principal activity sector
- Undertakings that achieve high added value
- Undertakings whose investment project is implemented in Industrial and Business Zones, Business / Technology Parks etc., not related to modernization or extension of existing structures of the aided undertaking
- Investment plans in special areas (mountainous, border, with population decline etc.)
- Investment plans in areas with particularly high refugee and migration flows

	<p>The subsidy shall be paid every six months and after each payment of the rent instalments by the investor operator. The amount payable shall be calculated on the equipment acquisition value, which is included in the instalments paid, in accordance with the approved aid rates and with the limitation of not exceeding the payment of 60% of the approved amount until the issue of the decision on completion and commissioning of the investment project.</p> <p>A beneficiary may be permitted to make advance lease instalments during the last 12 months of the lease agreement if approval of the competent authorities is obtained.</p> <p>The leasing subsidy will not be deducted from the investment cost in calculating the taxable profits of the beneficiary.</p>
Subsidy for the cost of created employment	<p>The start of the job creation cost subsidy may take place after the certification by the competent auditing body of the creation of jobs associated with the investment project.</p> <p>The subsidy shall be paid every six months and after each payment of wage costs by the investment operator, with the limitation of not exceeding the payment of 60% of the approved amount until the issue of the decision on completion and commissioning of the investment.</p>

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 aid per submitted investment project cannot exceed the amount of five million (5,000,000) euros. 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 limitations.

What is the state aid budget of the development 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

Deloitte Services

How Deloitte can help you with the new Development Law 4399/2016

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- Investment Incentives Advisory Services
- Proposal Preparation & Submission Services
- Project Management Services
- Long-Term Support Services

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