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Tax flash



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Law 5338/2026: New Incentives for Foreign Direct Investments (F.D.I.)

Introduction

Law 5338/2026 (Government Gazette A' 159/05.10.2026) was published, titled **"New Incentives for Foreign Direct Investments, Restructuring of the Directorate of Foreign Direct Investments, and other provisions."**

The law establishes a special regime for granting state aid to investment projects financed by non-domestic investment capital. It defines the beneficiaries, the categories of investment projects, the eligible expenses, the incentives, and the procedure for evaluation, control, and completion.

The eligible cost may not be less than €10 million nor exceed €50 million. Specifically for research, applied innovation, artificial intelligence, and biotechnology, the minimum amount is €5 million.

The most important provisions of Law 5338/2026 are summarized below:

Establishment of the foreign direct investment regime

Law 5338/2026 establishes the Foreign Direct Investment Regime, which is announced annually by decision of the Minister of Development and is governed by EU state aid rules (the General Block Exemption Regulation, the Regional Aid Map, and the cumulation rules).

The aid must have an incentive effect — meaning the application for inclusion must be submitted before the start of work on the investment project — and entities for which recovery of unlawful aid is pending are excluded (the Deggendorf principle).

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Eligible sectors of investment activity

The regime provides for the inclusion of investment projects operating in the following sectors:

- Manufacturing and Industrial Production
- Research, Applied Innovation, and Artificial Intelligence
- Industrialized Primary Production, Biotechnology
- Defense Industry and Aerospace
- Supply Chain – Logistics/Storage
- Health Sector – Rehabilitation and Recovery Centers
- Social Welfare – Elderly Care Service Centers

Eligible beneficiaries and excluded entities

Beneficiaries of the regime's incentives are investment entities that are either new companies established in Greece or existing foreign companies establishing a new branch in Greek territory, provided that the companies are in the form of a société anonyme, a private capital company, a limited liability company, or an equivalent corporate form under foreign law.

Companies are considered **"new"** if their date of establishment does not exceed twelve (12) months prior to the date of submission of the application for inclusion in the FDI Regime. Shareholders of investment entities may be individuals who are permanent residents abroad, or legal entities with their registered seat outside Greek territory.

The following are excluded from the incentives and from inclusion in the FDI regime:

- Companies against which, at the time of submission of the investment project application, a procedure for the recovery of aid under the Deggendorf principle is pending.
- Companies against which, at the time of submission of the application, proceedings are pending or a conviction has been issued for violation of labor and social security legislation, as provided for in Articles 18 and 73 of Law 4412/2016 (A' 147).
- Companies in difficulty, as defined in point 18 of Article 2 of the GBER.
- Companies that, within a period of more than two (2) years prior to submitting the application for inclusion, have relocated the business establishment where the initial investment is to take place.
- Companies that refuse to commit not to relocate the aforementioned business establishment for a period of two (2) years following completion of the initial investment.
- Companies implementing investment projects carried out on the initiative of, and on behalf of, the State, based on a works contract, concession, or service provision agreement.
- Companies against which sanctions have been imposed for violations of Article 40 of Law 4488/2017 (A' 137), concerning the exclusion of potential beneficiaries from participation in a program or inclusion in an aid regime due to violations of labor legislation.

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Tax exemption And other investment Incentives

The central incentive of the regime is **the tax exemption from income tax on pre-tax profits** arising from all of the company's activities.

The tax corresponding to profits that are distributed or withdrawn by the partners is deducted from the calculation. The exemption amount is calculated as a percentage of the value of the aided expenses, or of the value of new machinery and other equipment acquired through finance leasing and will appear as an equivalent reserve in a distinct account in the financial statements.

Beyond the tax exemption, the following are also provided for:

- **a fast-track licensing incentive,** with a two-month deadline for the issuance of the required permits or approvals from the submission of a complete file,
- **the possibility of obtaining loans** only for small and medium-sized enterprises, guaranteed by the Hellenic Development Bank, subject to the restrictions of state aid rules,
- **facilitation in granting residence permits** to investors and employees from third countries for the realization and operation of the investment.

The total state aid, including the gross aid equivalent from any guaranteed loan, must remain within the limits of the Regional Aid Map. If this limit is exceeded, the inclusion decision will be amended, and the excess amount will be recovered with interest.

Special tax-exempt reserve

The special reserve formed from the tax exemption may not be distributed or capitalised during the period in which the long-term obligations must be maintained.

Any premature distribution or capitalisation of the reserve shall result in the repayment of the aid and the imposition of the applicable tax penalties.

Upon expiry of the relevant period, the reserve may be distributed or capitalised. In that case, the corresponding amount shall be added to the taxable profits of the enterprise and shall be taxed in the tax year in which the distribution or withdrawal takes place, in accordance with Article 47(1) of the Income Tax Code.

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Investment project size thresholds

For inclusion in the regime, a minimum and maximum eligible cost for the investment project is set, determined on the size of the entity, and specified in the announcement decision.

Parameter	Amount
Minimum eligible investment cost	10,000,000 €
Maximum eligible investment cost	50,000,000 €
Maximum state aid per investment project	20,000,000 €

Specifically for investment projects in **the sectors of research, applied innovation, artificial intelligence, and biotechnology**, the eligible cost of the investment project **may not be less than the amount of five million (5,000,000) euros.**

Eligible and ineligible Costs

Eligible costs include, inter alia, the following expenditure categories, subject to specific conditions:

Category	Eligible Costs
Tangible Assets	• Building construction, expansion and upgrades, disability access and site works (up to 45% of eligible costs; 70% for logistics). • Acquisition of existing assets of a closed establishment (SMEs only, subject to acquisition requirements and provided the seller is not related to the purchaser). • Purchase and installation of new machinery, equipment and on-site transport vehicles. • Finance lease payments for new equipment, provided ownership is transferred upon expiry of the lease. • Modernisation of specialised (non-building) and mechanical installations.

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Eligible and ineligible Costs (cont.)

Category	Eligible Costs
Intangible Assets	• **Technology transfer**, including intellectual property rights, licenses, patents and know-how. • **Quality management systems, certifications**, software, and business organisation systems. • Intangible asset costs are capped at **30%** of eligible investment costs for large undertakings and **50%** for SMEs.

The following costs are excluded from eligibility inter alia:

Ineligible Costs
Operating Expenses
Purchase of office furniture and equipment
Purchase of passenger vehicles with a seating capacity of up to six (6) persons
Acquisition of land and plots
Contribution of real estate or other fixed assets to the company's share capital
Construction or expansion of facilities on land not owned by the investment undertaking, except where expressly permitted by law.

Assessment, Monitoring and Completion of Investment Projects

Submission and Evaluation: Applications are submitted electronically through the Development Law Information System. The evaluation process includes an assessment of legal compliance, financial standing, project costs and economic viability, as well as a scoring exercise based on predefined criteria. The evaluation must be completed within 90 days from the submission of the application.

Monitoring and Completion: Investment projects are subject to audits during their implementation, upon completion, and at the start of operations, conducted by either certified statutory auditor or competent public authorities. In addition, at least 30% of completed projects are selected annually for random audits. Projects must be completed within three years of the publication of the inclusion decision.

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Application fees under the FDI regime

The regime provides for the payment of administrative fees in connection with the inclusion, audit and amendment of investment projects, as follows:

- **Application for inclusion:** An administrative fee equal to 1‰ of the eligible cost of the investment project.
- **Completion audit:** An administrative fee equal to 1‰ of the eligible cost, subject to a minimum amount of €10,000. For interim implementation audits (upon completion of 25%, 50% or 65% of the project), the fee is set at 0.5‰ of the eligible cost, capped at €50,000. No fee is payable where the audit is conducted by the authority referred to in Article 20(1)(a).
- **Amendment requests**: An administrative fee equal to 0.7‰ of the eligible cost of the investment project.

Long – term obligation and sanctions

- Beneficiaries must maintain separate accounting records for the investment project under a double-entry book-keeping system. For six years following completion, they are required to maintain the operation, employment levels, and core characteristics of the investment.
- Beneficiaries are required to submit annual reports on operations, financial standing, employment and financial performance. Relevant records must be retained for ten(10) years following the receipt of the last aid payment.
- Non-compliance with key obligations may lead to the revocation of the aid approval, the full or partial loss of the tax incentive, and the recovery of unpaid taxes with interest. Penalties may range from 0.5% to 30% of the approved aid amount, with additional fines of 0.5% to 3% per reporting violation.

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Let’s talk

For a more in-depth discussion on the above you may contact:



Antigoni Tsirou
PwC | Tax | Partner
Mobile: +30 6940478795
Email: antigoni.tsirou@pwc.com



Matina Mykoniati
PwC | Tax | Senior Manager
Mobile: +30 694 043 4905
Email: matina.mykoniati@pwc.com

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