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Ordinance on the Granting of Tax Relief within the Scope of the Regional Policy

of 28 November 2007 (version: 1 January 2013)

The Swiss Federal Council,

based on Art. 12 Para. 3 of the Federal Act of 6 October 2006¹ on Regional Policy,

decrees:

Art. 1 Purpose

Tax relief within the scope of the regional policy may be granted to companies in the areas named in this Ordinance (areas of application).

Art. 2 Criteria

An area of application consists of several communes adjoining one another that are linked in terms of economic structure and labour market and meet the following criteria:

- a. There is an important reason for adjusting structures, namely due to below-average demographic development, significantly below-average income levels, and a clearly above-average percentage of industrial activities.
- b. Average unemployment is considerably higher than the national average.
- c. The number of employed people has developed much more unfavourably than the national average.
- d. There are strong signs that the conditions pursuant to letters b and c will be met shortly, namely developments in the key industries and largest companies are forecast to be unfavourable.

Art. 3 Determination of the areas of application

¹ The Federal Department of Economic Affairs, Education and Research (EAER)² determines the areas of application in accordance with the criteria pursuant to Art. 2 after hearing the cantons.

AS 2007 6865

¹ **SR 901.0**

² Pursuant to Art. 16 Para. 3 of the Publication Ordinance of 17 November 2004, (**SR 170.512.1**), the name of the administrative district was updated as of 1 January 2012. The adjustment was made throughout the text.

² Areas whose population is clearly above-average or that have a particularly high development potential due to their central location, may not be determined as areas of application by EAER.

Art. 4 Conditions for granting federal tax relief

¹ Tax relief may be granted to industrial companies and production-related service providers in the areas of application for enterprises with a high degree of innovation, high value creation, and cross-border sales markets.

² Enterprises pursuant to Para. 1 must be of particularly high importance to the regional economy and ensure that the company or its suppliers and partners:

- a. create new jobs; or
- b. adjust existing jobs to a changing environment so that they are preserved in the long term.

³ The special regional importance of an enterprise is determined by the following criteria:

- a. Number of newly created jobs within the area of application;
- b. Extent of the planned investments within the area of application;
- c. Scope of purchases, orders, and services required within the area of application;
- d. Cooperation with research institutes and educational facilities with a direct relevance to the planned enterprise.

⁴ If the applicant is a product-related service provider with comparatively low investment in Switzerland, the federal government only grants tax relief if the company creates at least 20 jobs in the area of application.

⁵ Tax relief is only granted if the deadline and modality for repayments of wrongfully claimed tax relief are specified in the canton's decision to grant tax relief. Tax relief shall count as having been wrongfully claimed if the company:

- a. did not implement the key components of the business plan submitted to the canton; or
- b. realises an enterprise that differs fundamentally from the original business plan.

Art. 5 Scope of tax relief

¹ The granted conditions of tax relief such as amount and duration may not exceed those granted by the canton.

² Tax relief pursuant to Art. 4 Para. 4 shall amount to a maximum of 50%. If the enterprise is of particular importance to the regional economy, additional tax relief may be granted in exceptional circumstances.

Art. 6 Limitation

No tax relief shall be given if jobs are moved from one canton to another.

Art. 7 Tax relief applications

An application for federal tax relief must be submitted to the canton. The document must include a business plan and its assessments by a bank or an independent expert.

Art. 8 Canton application

¹ If the canton decides to grant tax relief to the applicant, it must pass the full dossier as well as its decision and its application for federal tax relief to the State Secretariat for Economic Affairs (SECO).

² The canton must

- a. confirm to SECO that its decision complies with Art. 23 Para. 3 of the Federal Act of 14 December 1990 on the Harmonisation of Direct Taxes of the Cantons and Communes;
- b. submit to SECO the information pursuant to Art. 3 required for assessing the application; and
- c. ensure that the business plan required pursuant to Art. 4 contains an estimate of expected tax savings.

Art. 9 EAER decision

EAER may approve the application wholly or in part. It may attach conditions and obligations to the granting of tax relief to secure the enterprise.

Art. 10 Monitoring

¹ SECO monitors compliance with the conditions and obligations pursuant to Art. 4, 8, and 9. The canton must check compliance with the conditions attached to the granting of tax relief pursuant to Art. 4, namely that tax relief has not been wrongfully claimed.

² The canton shall submit annual reports to SECO on the amount of taxable net profits that were not subject to direct federal tax.

³ The canton submits to SECO information on the number of created jobs, investments made, and all other data that are deemed to be necessary for evaluating the effects of the tax relief granted.

Art. 11 Reporting to the Federal Council

Every four years, EAER reports to the Federal Council on the determination of areas of application.

Art. 12 Rescission

The rescission of a decision made by the canton to grant tax relief always results in the decision made by the federal government also being rescinded.

Art. 13 Transitional tax relief provisions

¹ Tax relief may be granted in areas that were determined pursuant to former law up to three years after the effective date of this Ordinance.

² EAER upkeeps the list of areas pursuant to former law and adjust the areas in the Canton of Waadt.

³ The maximum tax relief to be granted in these areas is 50%.

⁴ If tax relief was granted to companies pursuant to former law, EAER may amend the Ordinance with regard to the company's location until 31 December 2008. For tax relief granted before the expiry date of the deadline pursuant to Art. 1, amendments may be made until 31 December 2011.

Art. 14 Transitional provisions for guarantees

¹ Guarantees issued on the basis of the Federal Act of 6 October 1995⁴ in favour of economic regeneration areas before the effective date of this Ordinance benefit from the transitional provisions pursuant to Art. 12 until their expiry date.

² Guarantee commitments resolved before the effective date of this Ordinance may be extended by a maximum of eight years.

³ The rescission of a decision made by the canton concerning countersecurities always results in the decision made by the federal government also being rescinded.

⁴ AS 1996 1918, 2001 1911, 2006 2197 Appendix No. 144 4301. AS 2007 681 Appendix No. I 4]

Art. 15 Annulment of former law

The Ordinance of 10 June 1996⁵ on Help for Economic Regeneration Areas shall be annulled.

Art. 16 Effectiveness

This Ordinance shall become effective on 1 January 2008.

⁵ [AS 1996 1922, 2000 187 Art. 22 Para. 1 No. 29, 2001 3033, 2004 5113, 2006 4305]

