



New Stimulus Legislation in the Slovak Republic May Improve Bottom Line of R&D Operations

The recently adopted Slovak Republic stimulus act (the Stimulus Act) provides both direct financing and potential tax breaks for companies pursuing a specific Research & Development (R&D) project in the Slovak Republic. The Stimulus Act is an approved state aid scheme that supplements the State Aid Act of 1999. Beginning in August and for the remainder of 2009, the Slovak Republic intends to distribute €26.6 million in state aid to approximately 20 recipients under the Stimulus Act. The Slovak Republic has not yet published the amounts to be distributed in subsequent years. Potential tax breaks on the already low 19-percent Slovak Republic flat tax make this an opportunity worth considering.

Besides the substantial financial benefits available under the Stimulus Act, there are a number of other favorable conditions to consider in locating your R&D operations in the Slovak Republic including:

- Low cost and highly qualified labor force:
 - Lower salaries than in other European Union (EU) and Central and Eastern European (CEE) countries including capped social security contributions with no extra or hidden costs.
 - Highly qualified workforce boasting a 95-percent secondary or higher education, one of the highest rates in Europe.
- 19-percent flat tax rate:

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- No double taxation and a zero-percent dividend tax make this one of the most favorable corporate tax schemes in the EU.
- Stability in the midst of the financial crisis:
 - The Slovak Republic recently adopted the euro, making the country less vulnerable to economic fluctuations and helping to maintain its status as one of the strongest economies in CEE.
- Proximity to both Eastern and Western Europe:
 - The Slovak Republic borders Austria to the west and also shares borders with the Czech Republic, Poland, Hungary and Ukraine.

There are risks, however, that should be considered including:

- Financing awards under the Stimulus Act are discretionary and subject to the decision of the Slovak Republic government.
- Bureaucracy in the Slovak Republic could delay or impede the purpose of the Stimulus Act.
- Companies receiving Stimulus Act funding must comply with ongoing requirements under the Stimulus Act (such as minimum length of time operating in the Slovak Republic) or they must return any incentives received.
- Stimulus Act funding can be used only for a defined set of eligible costs directly related to the R&D project, which specifically excludes real estate and R&D infrastructure purchases, such as laboratories, information and communication technologies, and other unclear tangible and intangible R&D assets.

Projects considered for financing under the Stimulus Act must involve either basic or applied research or experimental development (a Project). The Stimulus Act sets forth distinct requirements for each grant, depending on the type of Project pursued. The Project must have a specific aim, meaning that financing will not be granted merely for creating or expanding generic R&D operations in the Slovak Republic without identifying a specific, new R&D project.

A detailed grant application including the following information must be submitted to the Ministry of Education:

- Detailed Project description including:
 - Aims of the Project.

- Positive effects of the Project with respect to both the applicant and the Slovak Republic economy.
- Calculation of the requested amount of state funding and the applicant's committed investment related to the Project. The applicant's minimum investment in the Project depends on its size, and certain companies may be wholly exempt from any required investment.
- Location of the Project.
- Information on initial and final estimated number of R&D employees.
- Commitment to complete the Project within three years, while maintaining operations in the Slovak Republic for at least five years.

A properly submitted application is subject to the following approval process:

- The Ministry of Education must obtain two expert opinions within three months of delivery of the application.
 - Experts are chosen by the Ministry of Education at its discretion to assess the application.
- Depending on the amount of requested financial aid, a final decision will be made by the Ministry of Education (up to €2 million) or the government of the Slovak Republic (more than €2 million).
- The Ministry of Finance decides on the amount of tax relief.
 - However, tax relief guidelines will not become effective until January 2010.

Although the funding decision is discretionary, there are identifiable criteria, such as the quality of the Project and the financial background of the applicant, which can be used as a guide by those making the funding decisions.

If the company leaves the Slovak Republic before the five-year period has expired, it must repay all incentives received including tax breaks. The company also must repay incentives if it significantly decreases the number of employees that it proposed in its application.

As evidenced by this description of the Stimulus Act, many provisions are unclear and require direct consultation with appropriate governmental officials to

provide you with a definitive roadmap to obtaining the proposed financial incentives. Squire Sanders has substantial experience representing global companies in a number of diverse industries setting up operations in the Slovak Republic and applying for various forms of available state aid. We are a US-based global firm with a presence in the Slovak Republic for more than 18 years. Our experience in the region will be crucial in assisting you to navigate the state aid financing maze and receive the significant benefits available.

For further information on incentives available in the Slovak Republic, please contact your principal Squire Sanders lawyer or one of the individuals listed in this Alert.

The contents of this update are not intended to serve as legal advice related to individual situations or as legal opinions concerning such situations. Counsel should be consulted for legal planning and advice.

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