

INCENTIVES AVAILABLE FOR SEZ UNITS

Special Economic Zone (“SEZ”) constitutes a defined and delineated duty-free zone that is governed by SEZ Policy. A SEZ is treated as a deemed foreign territory even though it is physically located within India. SEZ has been used as developmental measure to promote foreign investments into India, by offering tax and other fiscal incentives. The SEZ policy was introduced in April 2000, as a part of the Export-Import policy. The objective behind SEZ scheme was to offer an internationally competitive ecosystem for exports. To provide a stable economic environment for the promotion of export-import of goods in a quick, efficient, and hassle-free manner, Government of India enacted the SEZ Act, which received the assent of the President of India on June 23, 2005. The SEZ Act and the SEZ Rules, 2006 (“SEZ Rules”) were expected to give a thrust to exports and Foreign Direct Investment (“FDI”) into India.

This note summarises the benefits to establish a presence with a notified SEZ.

CUSTOMS

- SEZ units are allowed to import or procure their requirements for capital goods, raw materials, office equipments and other services without the liability to pay any duty on them.
- Goods which have been procured / imported locally are permitted to be employed over the 5-year approval period.
- SEZ units can sub-contract a part of their production through other units located in DTA or SEZ or Export

Oriented Units or Export Processing Zones with prior approval of customs authorities.

- Exemption from other duties under the Customs Act, 1962 or the Custom Tariff Act, 1975 or any other law for the time being in force, on goods imported into, or service provided in, a SEZ or SEZ unit, to carry on the authorised operations by the Developer or entrepreneur.
- Exemption from duties under the Customs Act, 1962 or the Customs Tariff Act, 1975 or any other law for the time being in force, on goods exported from, or services provided, from a Special Economic Zone or from a Unit to any place outside India.

BANKING / EXTERNAL

COMMERCIAL BORROWINGS

- SEZ units are permitted to bring in External commercial borrowings up to USD 500 million a year without any maturity restrictions.
- SEZ Units are permitted to credit all its receipts up to a limit of 100 per cent received to its Exchange Earner’s Foreign Currency Account (“EEFC”) except for acquisition of foreign exchange by purchase against rupees from any person resident in India other than a unit in a SEZ.
- SEZ units are permitted to write-off unrealized export bills. They are permitted to “net-off” export receivables against import payments provided that the “netting off” is in respect of the same Indian entity.

- SEZ Units are further permitted to bring in export proceeds without any limitations on time.
- AD Category-I banks are permitted to allow SEZ Units to undertake hedging transactions in the overseas commodity exchanges/ markets to hedge their commodity price risk on import/export. Such transactions are permitted only when the unit in the SEZ is completely isolated from financial contacts with its parent or subsidiary in the mainland or within the SEZs as far as import/export transactions are concerned.
- Bank finance will be exempt from the levy of interest rate surcharge for all bona fide imports including import of capital goods.

ENVIRONMENT

- Environment clearances for SEZ units relating to Ministry of Environment and Forests have been simplified. Regulations and approval mechanisms currently vesting with Central / State governments have been delegated to the concerned State Pollution Control Boards.
- SEZ units have been exempted from public hearing in cases where the SEZ as a whole has undergone public hearing.

LABOUR

- Various labour laws which are usually under the purview of different State departments have been streamlined and the unified authority for providing approvals has been granted to the Development Commissioner.

INCOME TAX

- Under Section 10AA of Income Tax Act, 1961 SEZ units are eligible for deduction up to 100 percent of export profits for the first five years from the year of commencement of services and a deduction of 50 percent of export profits for the subsequent five years. This however is restricted and only those SEZ units which started production on or before June 30, 2020, will be eligible for such benefit.
- SEZ units are exempted from the liability to pay Capital Gains tax on asset transfers which may include shifting of industrial undertakings from an urban area to any SEZ area wherein such exemption is permitted within one year / three years post transfer.

GOODS & SERVICE TAX

- SEZ units are exempted from the payment of goods and service tax on “zero rated supplies”. Section 16 of the IGST Act, 2017 categories the following taxable supplies as “zero rated supplies”:
- Export of goods and / or services, all goods enumerated and defined under Section 2(5) of the GST Act are exempt.
- Supply of goods and / or services to an SEZ unit, all services enumerated and defined under Section 2(5) of the GST Act are exempt.
- Though supply of goods and services to SEZs unit from a supplier located outside the SEZ area i.e., Domestic Tariff Area (DTA) shall be considered as zero rated supply, supply of goods and services by SEZ units from SEZ area to DTA shall be taxed at the prescribed rates.

MISCELLANEOUS

- Single window clearance for Central and State level approvals enhances the ease of doing business.
- The Indian Stamp Act, 1899 provides that no stamp duty shall be chargeable in respect to any instrument executed by or on behalf of or in favour of an SEZ unit or in connection with carrying out of purposes of the Special Economic Zone.
- Exemption from port restriction under Drugs & Cosmetics Rules.
- All inward and outward movement of goods into or from the Zone by the Unit shall be based on self-declarations and no routine examinations of such goods shall be carried out unless specific orders have been received from the Development Commissioner.
- SEZ units are permitted to dispose of in DTA any waste or scrap, including any form of metallic waste and scrap generated during manufacturing or processing activity, without an authorisation, on payment of applicable custom duties.
- Employees working in Information Technology / Information Technology Enabled Service units [IT/ ITeS] are allowed to work from home or a place outside the SEZ unit. The general advisory issued by the Department of Commerce – SEZ division requires adherence to the stipulated guidelines.

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