

Special Economic Zone

1 What is a Special Economic Zone?

Special Economic Zone (SEZ) is a specifically delineated duty free enclave and shall be deemed to be foreign territory for the purposes of trade operations and duties and tariffs. In the year 2000 government of India formulated SEZ Policy and SEZ Act came into force in 2005. It came into force with effect from 10th February 2006, with SEZ Rules being legally approved.

2. Where in India SEZs are located?

At present there eight functional Special Economic Zones located at Santa Cruz (Maharashtra), Cochin (Kerala), Kandla and Surat (Gujarat), Chennai (Tamil Nadu), Visakhapatnam (Andhra Pradesh), Falta (West Bengal) and Nodia (Uttar Pradesh) in India. Further a Special Economic Zone at Indore (Madhya Pradesh) os now ready for operation.

In addition 18 approvals have been given for setting up of SEZ at Positra (Gujarat), Navi Mumbai and Kopata (Maharashtra), Nanguneri (Tamil Nadu), Kulpi and Salt Lake (West Bengal), Paradeep and Gopalpur (Orissa), Bhadohi, Kanpur, Moradabad and Greater Noida (U.P.), Vishakhapatnam and Kakinada (Andhra Pradesh), Vallarpadam/Puthuvypeen (Kerala) Hassan (Karnataka), Jaipur and Jodhpur (Rajasthan) on the basis of proposals received from the State Governments.

3. What are the special features of the SEZ?

The units would be entitled for a package of Incentives and a simplified operating environment

4. Who can set up SEZs?

Any private/public/joint sector or State Government or its agencies can set up Special Economic Zone (SEZ).

4.Can Foreign Companies set up SEZs ?

Yes

5. How one applies for setting up of SEZs?

- Location of the proposed Zone with details of existing infrastructure and that proposed to be established;
- Its area, distance from the nearest sea port / airport / rail / road head etc.
- Financial details, including investment proposed, mode of financing and viability of the project.
- Details of foreign equity and repatriation of dividends etc., if any
- Whether the Zone will allow only certain specific industries or will be a multi-product Zone.

The State Government shall, forward it along with their commitment to the following to the Department of Commerce, Government of India:

- That area incorporated in the proposed Special Economic Zone is free from environmental restrictions;
- That water, electricity and other services would be provided as required;
- That the units would be given full exemption in electricity duty and tax on sale of electricity for self generated and purchased power;
- To allow generation, transmission and distribution of power within SEZ;
- To exempt from State sales tax, octroi, mandi tax, turnover tax and any other duty/cess or levies on the supply of goods from Domestic Tariff Area to SEZ units;
- That for units inside the Zone, the powers under the Industrial Disputes Act and other related labour Acts would be delegated to the Development Commissioner and that the units will be declared as a Public Utility Service under Industrial Disputes Act.
- That single point clearances system and minimum inspections requirement under State Laws/Rules would be provided.

The proposal incorporating the commitments of the State Government is considered by an Inter-Ministerial Committee in the Department of Commerce.

6. Are there any terms & conditions for setting up of SEZ?

- Only units approved under SEZ scheme would be permitted to be located in SEZ.
- The SEZ units shall abide by local laws, rules, regulations or bye-laws in regard to area planning, sewerage disposal, pollution control and the like. They shall also comply with industrial and labour laws as may be locally applicable.
- Such SEZ shall make security arrangements to fulfill all the requirements of the laws, rules and procedures applicable to such SEZ.
- The SEZ should have a minimum area of 1000 hectares and at least 35 % of the area is to be earmarked for developing industrial area for setting up of processing units.
- Minimum area of 1000 hectares will not be applicable to product specific and port/airport based SEZs.
- Wherever the SEZs are landlocked, an Inland Container Depot (ICD) will be an integral part of SEZs.
- Detailed guidelines on setting up of SEZ in the Private/Joint/State Sector is given in Appendix 14-II.N of Handbook of Procedures Volume I.

7. What is role of State Governments?

State Governments will have a very important role to play in the establishment of SEZ. Representative of the State Government, who is a member of the Inter-Ministerial Committee on private SEZ, is consulted while considering the proposal. Before recommending any proposals to the

Ministry of Commerce & Industry (Department of Commerce), the States must have to satisfy themselves that they are in a position to supply basic inputs like water, electricity, etc.

8. What are the facilities Incentive/ Facilities to SEZ Developer?

100% FDI allowed for:

- (a) townships with residential, educational and recreational facilities on a case to case basis,
- (b) franchise for basic telephone service in SEZ.

- Income Tax benefit under (80 IA) to developers for any block of 10 years in 15 years.
- Duty free import/domestic procurement of goods for development, operation and maintenance of SEZs
- Exemption from Service Tax /CST.
- Income of infrastructure capital fund/co. from investment in SEZ exempt from Income Tax
- Investment made by individuals etc in a SEZ co also eligible for exemption u/s 88 of IT Act
- Developer permitted to transfer infrastructure facility for operation and maintenance.
- Generation, transmission and distribution of power in SEZs allowed
- Full freedom in allocation of space and built up area to approved SEZ units on commercial basis.
- Authorised to provide and maintain service like water, electricity, security, restaurants and recreation centres on commercial lines.

9. What is the approval mechanism for the units?

All approvals to be given by the Unit Approval Committee headed by the Development Commissioner. Clearance from the Department of Policy and Promotion/Board of Approvals, wherever required will be obtained by the Development Commissioner, before the Letter of Intent is issued.

10. What are the incentive/facilities available for SEZ units?

Following incentive/ facilities to SEZ enterprises:

Customs and Excise :

SEZ units may import or procure from the domestic sources, duty free, all their requirements of capital goods, raw materials, consumables, spares, packing materials, office equipment, DG sets etc. for implementation of their project in the Zone without any licence or specific approval.

Duty free import/domestic procurement of goods for setting up of SEZ units.

Goods imported/procured locally duty free could be utilised over the approval period of 5 years.

Domestic sales by SEZ units will now be exempt from SAD.

Domestic sale of finished products, by-products on payment of applicable Custom duty.

Domestic sale rejects and waste and scrap on payment of applicable Custom duty on the transaction value.

Income tax :

Physical export benefit

100% IT exemption (10A) for first 5 years and 50% for 2 years thereafter.

Reinvestment allowance to the extent of 50% of ploughed back profits

Carry forward of losses

Foreign Direct Investment :

100% foreign direct investment is under the automatic route is allowed in manufacturing sector in SEZ units except arms and ammunition, explosive, atomic substance, narcotics and hazardous chemicals, distillation and brewing of alcoholic drinks and cigarettes , cigars and manufactured tobacco substitutes.

No cap on foreign investments for SSI reserved items.

Banking / Insurance/External Commercial Borrowings:

Setting up Off-shore Banking Units allowed in SEZs.

OBU's allowed 100% Income Tax exemption on profit for 3 years and 50 % for next two years.

External commercial borrowings by units up to \$ 500 million a year allowed without any maturity restrictions.

Freedom to bring in export proceeds without any time limit.

Flexibility to keep 100% of export proceeds in EEFC account. Freedom to make overseas investment from it.

Commodity hedging permitted.

Exemption from interest rate surcharge on import finance.

SEZ units allowed to 'write-off' unrealized export bills.

Central Sales Tax Act :

Exemption to sales made from Domestic Tariff Area to SEZ units.

Income Tax Act:

Service Tax:

Exemption from Service Tax to SEZ units

Environment :

SEZs permitted to have non-polluting industries in IT and facilities like golf courses, desalination plants, hotels and non-polluting service industries in the Coastal Regulation Zone area

Exemption from public hearing under Environment Impact Assessment Notification

Companies Act:

Enhanced limit of Rs. 2.4 crores per annum allowed for managerial remuneration

Agreement to opening of Regional office of Registrar of Companies in SEZs.

Exemption from requirement of domicile in India for 12 months prior to appointment as Director.

Drugs and Cosmetics :

Exemption from port restriction under Drugs & Cosmetics Rules.

Sub-Contracting/Contract Farming:

SEZ units may sub-contract part of production or production process through units in the Domestic Traffic Area or through other EOU/SEZ units

SEZ units may also sub-contract part of their production process abroad.

Agriculture/Horticulture processing SEZ units allowed to provide inputs and equipments to contract farmers in DTA to promote production of goods as per the requirement of importing countries.

11. Whether SEZs have been exempted from Labour laws?

Normal Labour Laws are applicable to SEZs, which are enforced by the respective state Governments. The state Government have been requested to simplify the procedures/returns and for introduction of a single window clearance mechanism by delegating appropriate powers to Development Commissioners of SEZs.

12. Who monitor the functioning of the units in SEZ?

Performance of the SEZ units monitored by a Unit Approval Committee consisting of Development Commissioner, Custom and representative of State Govt. on annual basis. Development Commissioner is the nodal officer for SEZs and help in resolution of problem, if any, faced by the units / developer.

16. Are SEZ's controlled by Government?

In all SEZ's, the statutory functions are controlled by the Government. Government also controls the operation and maintenance function in the 7 Central Government controlled SEZs. In rest of the operation and maintenance are privatized.