

# **U.P. Special Economic Zone (Amended) Policy– 2007**

## **Part – 'A'**

### **Fiscal Incentives / Facilities, Rationalisation of Procedures**

The Section–50 of Central SEZ Act, 2005, expects that the State Governments should also notify Policies and enabling Act to provide facilities/exemptions to SEZs.

After studying the Central SEZ Act - 2005, SEZ Rules - 2006, and also relevant Policies of various States, new U.P. SEZ Policy is being hereby notified, in order to foster the industrial and economic development and creating conducive environment for the development of SEZ.

To encourage development of SEZs in the State and make available all the necessary facilities, this Policy is hereby, being notified, as follows :

#### **2. SALIENT FEATURES OF SEZs :**

- i. Integrated Areas with the world-class infrastructure facilities will be developed through establishment of SEZ.
- ii. Apart from achieving a rapid economic & industrial growth in the Country and the State, new avenues for employment generation will be created by the setting up of SEZs. Therefore, SEZs have a vital role to play to foster the economic development, in the Country & the State.
- iii. The Exports will be boosted by the establishment of SEZs. Domestic investments , FDI and foreign & modern technology will be attracted.
- iv. Provisions for the exemption of taxes etc., for rationalisation/exemption in the legal provisions related to labour, environment, electricity etc. has been provided for in this Policy.

#### **3. POLICY FOR STATE LEVEL EXEMPTIONS/ FACILITIES/ RATIONALISATION**

##### **(1) Policy related to Exemptions of State Level Taxes, Levies, Cess, Fee, and Duties etc.**

(Following exemptions shall be applicable from the date of issuance of Notification, by the concerned deptt.)

1. SEZ Developer and SEZ units shall be exempt from all kinds of taxes, cess or levies of the Government of Uttar Pradesh or taxes of any other local authority/ agency for any transactions within the SEZ or on any

procurement of goods, supplies or services from the Domestic Tariff Area. Units in DTA would also be exempt from these on sales made by them to a SEZs unit or SEZ developer. These include UP Trade Tax, Turnover Tax, Mandi Tax, **Entry Tax, Development Tax, Local Bodies Tax** etc.

2. SEZ Developer and Units would also be exempt from taxes levied by local bodies, as SEZs would be an industrial township under constitution of India and would be responsible for providing services within the Zone.
3. Developers, Co-developers of SEZs and Units established/to be established will get total exemption from the Stamp-duty & Registration-Fee on first transaction but on implementation of amendments in the Indian Stamp Act-1899, as per 3<sup>rd</sup> schedule of SEZ Act-2005, exemption will be applicable as provided therein.

EXPLANATION :

- (A) "Policy related to Exemptions of State Level Taxes, Levies, Cess, Fee, and Duties etc., it was proposed by the Tax & Registration Deptt. regarding sub-point 1, 2 & 3 of the above Para 3(1) that according to the decision taken by the Empowered Committee of State Finance Ministers in the meetings dated 05.05.2007 and 15.06.2007, all the exemptions in State level taxes, levy, fee and duties (including stamp duty) shall be applicable only in the processing area of SEZ ".

"In this regard, in principle consent of the Government of U.P. can be expressed and Government of India may be requested to implement this. But till such time Government of India takes a decision in this regard, it shall not be appropriate to make any amendment by the Government of U.P. on this point in the SEZ Policy as this might result in pushing U.P. behind other States in the competition. It shall be proper to continue the existing Policy in U.P. regarding the above exemptions provided by Government of India in the whole SEZ until the Government of India makes the provision in this regard. Exemption in Stamp Duty shall be applicable on first transfer only".

- (B) Registration-Fee on the Vehicles shall be payable. Permanent/temporary registration will be mandatory as required and under the Rule-33 of concerned Rules, trade-certificate shall have to be procured on payment of applicable fees. Passenger/Goods Carriers, which will operate within the SEZ only and in no case, will move out of SEZ, will be exempt from the Tax & Additional Tax whereas other types of vehicle shall not be eligible for the same.
- (C) There is no provision of exemption on the Royalty on Minerals.

**(2) Policy related to Electricity**

1. Electricity Duty and taxes shall be exempted on generated or purchased electricity for use in processing area of the SEZ for a period of 10 years from the date of production or start of service.
2. SEZ will have freedom of generation, transmission and distribution of electricity within the SEZ subject to provision of Electricity Act 2003. Wherever the consent of U.P. State Regulatory Commission will be required, same shall be obtained.
3. Under the U.P. Power Policy all admissible facilities shall be available to SEZs also.

**(3) Rationalising Labour Laws**

1. Powers of Labour Commissioner related to implementation of labour laws will be delegated to the Development Commissioner of SEZ and nominated Officers of Labour Deptt. will be posted in the concerned SEZ.
2. In order to provide Single Window Service under the labour laws in the SEZ, a system of making the services of officers of Labour Deptt. available at the disposal of Development Commissioner, will be developed.
3. For inspections relating to workers' health and safety, Government of Uttar Pradesh will use best international practices by permitting units to get such inspections done through such accredited agencies (outside Labour Deptt.) as may be notified by the Government. Under the Factories Act 1948 and Environment Conservation Act 1985, efforts will be made by the Labour Deptt, Govt. of U.P. to allow inspection by outside accredited agencies with the permission of Government of India in Safety Management System of hazardous goods required as per Central Acts.
4. Units located in the SEZ will be endowed with public utility status under the Industrial Dispute Act.
5. GoUP would notify a single reporting format covering all the Labour Laws. Labour department will make efforts to further rationalise/simplify the existing Single Format.

**(4) Policy related to Inspection**

1. For all physical inspections, a schedule would be worked-out in consultation with the Development Commissioner and then only inspections would be carried-out.

2. In case of any specific information of any violation, the inspecting agency will be required to take prior approval of the Development Commissioner before conducting the proposed inspection.

EXPLANATION :

Appropriate arrangements for monitoring of manufacturing process under the jurisdiction of Excise Department will be made within the rules.

**(5) Clearance Procedure (Single Points/ Window Clearance System)**

1. In respect of all State level clearances will be given at a single point. All concerned departments of State government will make arrangements, issue instructions/guidelines for issuing these clearances through a single point i.e. Development Commissioner or through a Committee constituted under the Development Commissioner.
2. A Committee will be constituted under the Development Commissioner of each SEZ and representatives of different departments/ specialists will be included in the Committee. This Committee will have all the authority to issue clearances related to State government and also facilitate the clearances related to Central government and will ensure that time bound clearances to all departments are issued within a fixed time period from the date of receipt of application from the units.
3. Under the Section – 14 (G) of SEZ Act 2005 all the concerned departments for the purpose of approvals will delegate their powers / work allocation to approval Committee to be constituted under the Section 13 of SEZ Act-2005.
4. Most of the State level clearances shall be brought under automatic clearance route, meaning thereby that ex-post-facto information by the developer or unit entrepreneur shall be sufficient.
5. For all clearances required from State government agencies, GoUP shall notify a single form of application and Letter of Permission issued by the Development Commissioner shall contain approvals of subjects covered by the application form.

EXPLANATION

Clearances etc. for establishing units under the jurisdiction of the Excise Deptt. shall not be covered by above-said system.

**(6) Rationalization of Environmental Procedures**

1. A list of non-polluting industries will be notified for which separate environmental NOC will not be required in SEZ. For the remaining industries and matters, where delegation of powers is possible legally, these Powers will be delegated to Regional Officer of U.P. Pollution Control Board/ Officers of UPPCB posted in SEZ. Procedure prescribed in the relevant acts / rules will be followed.
2. State Govt. will take necessary steps to stop the un-planned development around the SEZs and best possible shall consider developing green belt.
3. A system of periodic self certification for all industries in the SEZ, assisted by private certification agencies will be implemented. Development Commissioner will be authorised to supervise & monitor these through a mechanism random sampling of units.
4. As per the list provided in the notification issued by the Ministry of Environment of Government of India (list of projects or activities requiring prior Environmental Clearance under E.I.A. Notification No. S.O. 1533 dated 14.09.2006) dated 14.09.2006, regarding industries/projects/EPZ/SEZ etc., a system has been put in place for environmental clearance.

**(7) Policy related to the developmental structure and other commitments of the State Government for SEZs.**

1. SEZs shall be established in the public sector, private sector and through PPP route.
2. Government of U.P. will declare SEZs as industrial townships, as provided under article 243 (Q), of the Constitution.
3. SEZs shall be provisioned as a special area in the local master plan. Sufficient flexibility shall be available to the Developer, within the broad parameters of zoning regulations and applicable land use.
4. State Government shall act as a facilitator for ensuring the availability of water to the developer and units.

- (8)** An empowered Committee shall be constituted under the Chairmanship of Chief Secretary, GoUP, for taking the actions required by the State Govt. under the SEZ Act 2005 and Rules 2006 of Govt. of India, wherein Principal Secretary/ Secretary and other related officers of concerned departments shall be included as Members. Officers and Developers of SEZs shall also be invited as and when required.

**Powers and functions of above mentioned Empowered Committee shall be as follows :**

1. To examine and recommend to Govt. of India under section 3 of SEZ Act - 2005, the proposals received for all SEZs (including private sector proposals received till now) as per SEZ Act & Rules and UPSEZ Policy.
2. All other works to be allocated by the state Govt. for the establishment and implementation of the SEZs.
3. To make necessary arrangements for the redressal of problems coming in the way of rapid & effective implementation of any SEZ.



# U.P. Special Economic Zone (Amended) Policy – 2007

## Part – 'B'

### **Selection of Developer, Allotment of Land and Arrangement of Master Plan Land Use etc.**

#### **1. APPLICABILITY/ EFFECT AND LAND ARRANGEMENT**

1.1 **Applicability/ Effect:** Paragraphs 2, 3, 4 & 5 relating to the selection of developer and allotment of land will be applicable to such SEZs which will be implemented on PPP model. Therefore, SEZs to be implemented in the public sector or private sector shall not be governed by these points. These points will be applicable on those cases of private sector where land will be demanded from the Government/ Government Agency, as well. Facilities stated under para 6, 7 & 8 will be applicable on all the SEZs to be established in the State.

1.2 **Land Arrangement:** In view of the Policy decided by Government of India in their letter dated 15.06.2007 regarding acquisition of land for establishment of SEZ "Policy related to non-sanction of SEZ on compulsory land acquisition land" compulsory land acquisition shall not be done by Government of U.P. for establishment of SEZ. Rather, private developers shall arrange/purchase the land on their own for establishment of SEZ. In future, whatever Policy shall be decided by the Government of India for land acquisition for SEZ, the same shall automatically be adopted by the Government of U.P. and necessary action shall be taken accordingly. If an SEZ is to be established on Public Private Partnership (PPP) basis, then the selection of private partner shall be according to the guidelines decided by the Government. If Government/ Govt. Institute desires to establish an SEZ on its own or through a joint venture, then it shall arrange for the land under its prevailing rules.

#### **2. PUBLIC NOTIFICATION AND RECEIPT OF PROPOSALS**

2.1 In order to promote establishment of SEZs, Nodal Agency indicated under para 3.3 of this Policy will issue public notice for consideration on proposals received.

2.2 As per this Policy, proposals received under bid process (PPP process) shall be received by the Nodal Agency and they shall be considered. All the proposals shall be considered under bid process (PPP process). If SEZ is to be established on the basis of Public Private Partnership (PPP) then the selection of private partner shall be according to the guidelines decided by the Govt. for Public Private Partnership (PPP) projects. First of all, Nodal agency will immediately consider that proposal received is worth planning or not. If decision is in negative then entire application fee shall be refunded and if it is positive then immediate detailed consideration/ examination will be done under this policy.

### 3. SELECTION OF DEVELOPER

3.1 Selection of Developer shall be undertaken under Public Private Partnership (PPP) process of the Government on the basis of bid process.

3.2 SEZs to be developed shall be divided into following three categories on the basis of area:-

Category - 'A'	-	Notified area of Noida/ Greater Noida
Category - 'B'	-	Notified areas of other development authorities of the State (including Industrial Development Authorities)
Category - 'C'	-	Remaining areas of the State.

3.3 The concerned Industrial Development Authority (Noida/ Greater Noida) shall be the nodal agency for category 'A' and UPSIDC or concerned Development Authority, as directed by the Government, shall be the nodal agency for the category 'B' and UPSIDC shall be the nodal agency for category 'C' as land acquisition in this area (if permissible under other provisions of this policy, then) shall be done by them for providing the land for SEZ.

3.4 If there is requirement of land acquisition in category 'C' SEZs, then the land acquisition (if permissible under other provisions of this policy, then) will be done by UPSIDC.



3.5 Duties/ Liabilities and Rights of the Developer and Nodal Agency shall be fixed as per DRA (Development Rights Agreement). For the purpose, proposed DRA can be used as given in the referred report of consultant, Ernst&Young.

3.6 Following arrangements shall be made in DRA :-

- (1) DRA shall be valid for 70 years from the date of execution, which can be terminated before 70 years as per conditions of the agreement. The agreement can be extended for further 20 years with mutual consent.
- (2) Developer Company shall be fully empowered to fix, levy and collect the fees / charges against usage and creation of various services & facilities provided by them, related to planning, design, financing, marketing, development of basic infrastructure & maintenance, operation, management and administration of zone.
- (3) Developer Company shall have to develop the zone in fixed phases, under development milestones as per terms & conditions of DRA. If Developer is failed to achieve the milestone within stipulated period then a cure period of 90 days can be granted on the payment of damages as fixed in DRA.
- (4) Minimum and maximum limitations of various land use shall be fixed.
- (5) Developer will have to produce an implementation scheme. This implementation scheme will be made on six monthly basis. As per this follow-up of work disposal shall be done by an independent engineer firm.
- (6) Maximum time limit for the entire development of SEZ shall be mentioned in the DRA. Consultant Company has given advise for the development of all three phases in 10 years.
- (7) Developer has to make available the performance bank guarantee. This guarantee will satisfy availability of various services & facilities and liabilities related to maintenance against a proper fees apart from other liabilities. For the redressal of complaints to be lodged by the established

units against the developer, there will be a Committee be constituted under the chairmanship of Development Commissioner of SEZ.

- (8) Works/ liabilities of concerned nodal agency shall be mentioned in DRA.
- (9) Wherever applicable, as per requirement, to make arrangements for Lease Deed execution in favour of Developer for every phase and arrangement of land value & lease deed by the nodal agency.

#### 4. **VALUE OF LAND**

- 4.1 Value of the land to be made available for the SEZs of category 'A' & 'B' shall be fixed on the basis of the prevailing rules of the Institution/ Authority providing/ allotting land. Therefore, it will be necessary that authorities shall keep on fixing the land rates (developed & undeveloped) for the various purposes from time to time. These will have to be mentioned in DRA. Because there are no development authorities in category 'C', therefore in the absence of fixed rates of land for the various purposes, nodal agency will charge entire amount (inclusive of interest and all other charges) spent on land acquisition for the SEZ.
- 4.2 Total cost of land shall be recovered upfront as lease premium before the execution of lease. If developer offers share in revenue also, that can be accepted but this cannot be accepted as an alternative of lease premium in part or in total.
- 4.3 There will be no interference of development authority / UPSIDC, as far as charges to be levied by the developer from the units to be established under the SEZ. This will be market regulated.

#### 5. **USE OF LAND FOR VARIOUS PURPOSES**

As minimum 50% processing area has been fixed by the Government of India, in this context the land utilisation has been fixed for different purposes as under :-

LAND USE	LIMIT
1. Processing Area	Minimum 50%
2. Green belt and basic amenities	Minimum 25-25% of both processing and non-processing areas.
3. Commercial, Institutional and Residential	Maximum 10, 10 and 15% of total area respectively.

## 6. SPECIAL ECONOMIC ZONE LAND USE UNDER MASTER PLAN

- 6.1 The master plan land use of approved area for SEZ shall be SEZ which shall be a separate land use. After the notification of Government of India is issued under section 4(1) of Special Economic Zone Act, 2005, the State Government shall issue the notification for change of land use of concerned area into SEZ without any changing fee in the case of para 6.2.2 and after the payment of necessary changing fee in the case of 6.2.3, the procedure of this land use shall be kept separate from the normal legal procedure. A suitable amended legal procedure shall be made for this purpose.
- 6.2 Since residential, commercial etc. purposes are also admissible in non-processing area beside industrial (processing area) in SEZ, therefore -
- 6.2.1 Under SEZ land use commercial and social purposes such as educational, medical, hotel, entertainment, residential and commercial complex etc. shall be admissible upto such extent which are admitted/sanctioned by notified regulations or under provisions under Special Economic Zone Act, 2005 by the Government of India same F.A.R/F.S.I shall be admissible in processing area which shall be admissible for industrial land use in that development area. But in case of I.T., gems & jewellery and Biotech SEZ this shall be admissible F.A.R/F.S.I for institutional land use. The FAR/ FSI in the non-processing area of the SEZ shall be decided on the basis of the land use applicable in the concerned development authorities/updated master plan of the corporation and as mentioned in the building regulation. In case of contradiction in the provisions of FAR/ FSI of the Master Plan and Building Regulations, FAR/ FSI shall be as per the provisions of National Building Code. This FAR/ FSI shall be as applicable on the date of submission of the map. For above mentioned admissibility of F.A.R/F.S.I for SEZ in category 'C', the provisions of U.P. State Industrial Development Authority shall be followed.
- 6.3 If any land is made available or allowed for SEZ by the nodal agency, the land use of such land shall be assessed without fee in S.E.Z.

- 6.4 If sanction of SEZ is given on the land allotted earlier and situated in the development area of any development authority, the land use shall be changed in SEZ after taking prescribed changing fee for change into industrial land use for processing area and after taking prescribed changing fee for change into residential land use for non processing area. If the norms for changing fee are not prescribed, it shall get prescribed by the government.
- 6.5 If the land of SEZ is outside of the development area of any development authority, the land use SEZ shall get prescribed - provided that the construction map of non processing area shall be sanctioned only when minimum 50 per cent processing area has got developed. But even then the construction map of non processing area shall be sanctioned only for that proportionate area. Such areas shall be included in the development area of U.P. State industrial development authority for bringing them in the area of proper planning authority.

**7. PAYMENT OF DEVELOPMENT FEE AND SANCTION OF LAY-OUT PLAN/SUB LAY-OUT PLAN/ BUILDING MAP**

- 7.1 Since the internal development shall be made/caused to be made by the developer itself, there shall be no payment of internal development fee.
- 7.2 If necessary external development work is done by SEZ Developers on their own then no external development fee shall be charged. In case any external development work done by the Government / Government Institution then its cost shall be payable as per rules.
- 7.3 No outer development fee of any kind shall be charged for any existing public infrastructure but if fortification/ upgradation of those infrastructural facilities for SEZ shall be necessary then proportionate expenditure shall be payable by SEZ developer.
- 7.4 **Sanction of plan of development works:**  
Where there is an agreement on D.R.A., this work shall be done accordingly. In other cases the lay-out plan shall be sanctioned by the development authority concerned. The building map shall be deemed to be automatically sanctioned on the authentication of empanelled Architects (if empanelment done, otherwise

any registered Architect) of concerned land allotting Institution/ Authority (as per building bye-laws/ sanctioned lay-out plan/master plan).

## 8. **Admissibility of sub-lease**

8.1 Lease/sub-lease will be admissible on land made available for SEZ by Government or Government Institution according to the requirement of regulations by the Government of India or the state government. The lease or sub-lease holder developer or units may avail financial facilities by mortgaging the lease or sub-lease.

8.2 If the land marked for SEZ was made available for industrial purposes/institutional purposes by the government or any government institution but there was no admissibility of sub-lease in the conditions of the lease, the sub-lease will be made available according to the requirements of the SEZ regulations exempting the conditions of the lease and charging the following fee on such land:-

- On payment of transfer fee payable for transfer in accordance with the normal procedure of the allotting institution but if there is no procedure as such in the institution, then the policy of any other suitable institution shall be followed for this purpose.
- If such land is proposed to give on sub-lease to a cent-percent subsidiary company of the allotting institution/company, then no transfer fee shall be charged.

## 9. **Special provisions for I.T.S.E.Z.**

### 9.1 Land use of I.T. S.E.Z.:

If a SEZ is proposed on any land/plot allotted earlier for I.T. Park/ITES by any authority, then the fixed land use conversion charges shall be payable only on the non-processing area of the ITSEZ. Accordingly, for calculating the land use conversion charges, if any norms have been approved in the past regarding ratio of processing area and non-processing area for IT activities of any institute, then the conversion charges shall be charged only in case of non-processing area is more than the above ratio.

- 9.2 In view of the para 10.6 of U.P. IT Policy - 2004 " the Mega Investment units shall be made available land at a rate which is atleast 25% lesser than the sector rate, by Development Authorities, Industrial Development Authorities, Housing Development Board", 25% exemption on land allotment rate for only SEZ Processing Area of ITSEZ shall be applicable and accordingly at the time of calculating the land allotment rate, if any norms have been approved in the past regarding the ratio of processing area and non-processing area, then 25% exemption shall be applicable as it is on the above ratio limit on processing/non-processing area and in case non-processing area is more than the said ratio, then institutional usage rate shall be charged on the additional area. In cases where this 25% exemption is already been availed and SEZ has been approved on that land subsequently or an SEZ is proposed to be established, then in these cases the difference, if any, according to this system shall be charged and recovered.
- 9.3 In view of the para 10.17 of U.P. I.T. Policy-2004, 50% more FAR to be allowed for IT units in earmarked areas/ I.T. Parks (STPs), it has been decided that 50% additional FAR shall be available for only the processing area of ITSEZ. No additional FAR shall be allowed in the non-processing area but in case additional FAR has already been approved for any area, and it is not possible to withdraw it, then the increased FAR should continue. But in no case the additional FAR in non-processing area shall be approved for future land allotments.
- 9.4 The norms laid by Government of India shall be followed for processing area/non-processing area of IT SEZ.
- 9.5 As only 25 acres the land is required for IT SEZ, which is a very small land area, there seems no proper justification to execute DRA (Development Rights Agreement) for the purpose. However, the concerned authority/institute may decide on the necessary security measures, as required, on their own.