**Question:**

How should the Guidelines on Regional State Aid be applied, and in particular point 2, paragraph 23 and Annex 5, point 1, hyphen 5, in cases where:

- a company, including on a group level, had no intention at the moment of aid application to close down the same or similar activity within a period of two years after the completion of the subsidized investment (the initial idea and the decision to close down have been taken later)? Is it necessary to prove the lack of intention and if yes, how?

**Reply:**

We suppose that your question concerns the automatic tax scheme approved under the RAG (SA.39869).

This scheme includes a provision stating that the tax relief does not apply as regards taxable persons that close the same or similar production activity in another party to the Agreement on the European Economic Area, two years before the date of filing of an application form for an aid or if by the time of its filing he intends to close such production activity within two years after the end of the initial investment, for which corporate tax will be remitted.

Also the Commission decision excludes the possibility to grant aid to beneficiaries that have closed down the same or similar activity in another area in the EEA two years preceding the date of applying for aid or at the moment of the aid application has the intention to close down such an activity within a period of two years after the investment to be subsidised is completed. This requirement also refers to activities carried out at group level.

Companies benefiting from the scheme shall explicitly confirm that they respect this provision.

If the Bulgarian authorities realize that despite the declarations of the beneficiary there has been a closure, they have to investigate whether the condition (of having no intention to close down the same or similar activity within a period of two years after completion of the investment at the moment of aid application) has been fulfilled.

*Disclaimer: This reply does not represent a formal and definite position of the European Commission but is only an informal guidance provided by the services of DG Competition to facilitate the application of the GBER. It is therefore not binding and cannot create legal certainty or legitimate expectations.*