

LAW ON FOREIGN INVESTMENT IN THE REPUBLIC OF TAJIKISTAN

This law determines the general legal, economic and social conditions for foreign investment in the Republic of Tajikistan.

This law aims to provide equal protection of all rights, interests and property of an investor regardless of his property status, and ensure the effective functioning of the economy of the Republic of Tajikistan within the framework of a market economy.

CHAPTER I General Provisions

Article 1 Investment refers to all the property and intellectual values invested by foreign investors into goods production, works and service rendering, when as a result profit (income) is generated or the social effect is being achieved. Such investments may be:

- a) Money, special bank deposits, shares and other securities;
- b) Movable and immovable property (buildings, constructions, equipment and other values);
property (real estate)
- c) Property rights resulting from copyright, know-how, experience and intellectual values;
- e) Right to use land and other natural resources, and other property rights.
- f) Other values

Investments aimed at replenishment of operating business funds may be done in the form of capital inputs.

Article 2 Investment activities concern the totality of practice actions of citizens, legal entities, and states when selling the investments.

Article 3 Foreign investors in the Republic of Tajikistan can be:

- a) Foreign legal entities;
- b) Foreign citizens, stateless persons and citizens of the Republic of Tajikistan with permanent residence abroad;
- c) Foreign associations without rights of a legal entity;
- d) Sovereign states;

e) International agencies.

Article 4 Foreign investors may invest within the Republic of Tajikistan in the following ways:

- a) By acquiring shares of enterprises and organizations jointly with legal entities and citizens of the Republic of Tajikistan;
- b) By establishing enterprises entirely belonging to foreign investors;
- c) By acquiring property, including shares and securities;
- d) By acquiring the right to use land and other natural resources and by acquiring other property rights, independently or jointly with the participation of legal entities and citizens of the Republic of Tajikistan;
- e) By concluding treaties with legal entities and citizens of the Republic of Tajikistan, providing other ways to engage in foreign investments.

Article 5 Foreign investors may participate in privatization of the republican and municipal property of the republic of Tajikistan according to the order set up by the law (Law as of 11.12.1999 № 893).

Article 6 The legal procedures for foreign investment in the territory of the Republic of Tajikistan must be similar to the corresponding procedures laid down for acquiring property and property rights and for the investment activities of enterprises, organization and citizens of the Republic of Tajikistan.

The laws of the Republic of Tajikistan may provide for additional tax or other privileges for foreign investment in priority sectors of the economy and in certain regions of the Republic of Tajikistan. Legislative acts of the Republic of Tajikistan may determine areas where the activities of foreign investors and enterprises which have received foreign investment are limited or forbidden on grounds of national interest.

Article 7 Foreign investors and enterprises, which have received foreign investment, may carry out any activity if otherwise provided by the laws of the Republic of Tajikistan. Certain kinds of activities of foreign investors and enterprises which have received foreign investment, may be carried out only with a license, the list of these activities is included in the laws of the Republic of Tajikistan.

CHAPTER II

Foreign Investment Guarantees

Article 8 In case the previous legislation of RT results in increment of total tax load for the foreign investors activities and enterprises with foreign investments then during 10 years the legislation acting at the moment of the state registration is in place (the law № 65 as of 2.12.02)

This provision does not apply to amendments to legislative acts of the Republic of Tajikistan made in the interest of national defense, national security, the maintenance of social order, and the protection of the environment, health and morals of the population. (Law № 65 as of 2.12.02)

The results of foreign investments may not be requisitioned except in the event of natural calamities, accidents, epidemics and other cases of emergency. Requisitioning measures are taken by the Majlisi Oli of the Republic of Tajikistan. Requisition must not be undertaken in a discriminatory way. In case such measures are taken, the foreign investor must be promptly, adequately and effectively compensated without irregular delay, and the compensation must correspond to the real cost of the investment at the time the decision of requisition was made. Compensation is paid in foreign currency and may be remitted abroad if the investors so desires.

Claims concerning the amount, terms, and form of compensation are settled by the courts of the Republic of Tajikistan or other court authorities if so provided for in the bilateral or international agreement between the state and the other party.

Article 9 Upon suspension of investment activities, a foreign investor has the right to be compensated for his investments and income generated, in form of money or goods, at the real cost at the day of the suspension of the investment activities.

Article 10 Investors are allowed to transfer income and other money abroad, in foreign currency, if legally earned by their investments.

Article 11 Profits of foreign investors, earned in the territory of the Republic of Tajikistan, may be reinvested according to the investor's orders and the law of the Republic of Tajikistan. Foreign investors may maintain accounts in national or foreign currency in authorized banks of the Republic of Tajikistan and abroad.

Foreign investors may use the money deposited in bank accounts in national currency to acquire foreign currency according to the procedures of exchange defined by the law of the Republic of Tajikistan.

CHAPTER III

Establishment and operation of enterprises with foreign investments

Article 12 Enterprises which have received foreign investments are those to which foreign investors have provided foreign capital; these enterprises may be joint ventures or enterprises belonging to foreign investors. Enterprises which have received foreign investment are treated as legal entities.

Enterprises which have received foreign investment may be established as joint-stock companies, limited companies, societies or associations, and any other form, unless provided for otherwise by the laws of the Republic of Tajikistan.

The decision to establish an enterprise is made by the founders of the enterprise. If a founder from the Republic of Tajikistan is a state enterprise, or an enterprise belonging to a social organization, the decision to establish the enterprise with foreign investments is taken by the founder with the consent of the owner of the property or his agent.

The establishment of a bank with foreign investment is regulated by the laws of the Republic of Tajikistan on banks and banking activities.

Article 13 The approval of an experts commission is necessary prior to the establishment of an enterprise with foreign investment in the large-scale construction and reconstruction sectors. Occasionally the establishment of an enterprise with foreign investment requires the approval of health, sanitation, and ecological experts. Inspection and licensing is carried out according to the laws valid in the territory of the Republic of Tajikistan.

Article 14 The activity of all enterprises having received foreign investment is subject to obligatory registration at the state Notary's office according to the financial conclusion of the Ministry of Finances of the republic of Tajikistan. State registration of enterprises having received foreign investment is carried out at the local State Notary's office. Representatives, branch enterprises and other subsidiaries having received foreign investment not having the rights of a legal entity are officially registered at the authorized body two weeks after handing in their application form. A registration certificate is given to registered enterprises having foreign investment. An enterprise acquires the rights of a legal entity from the moment it is registered.

The registered enterprise having received foreign investment is issued a certificate on registration according to the set order.

The enterprise becomes a legal entity starting from the moment of the state registration. The following documents must be submitted in order to register an enterprise having received foreign investment:

- A written application from one of the founders for registration of the enterprise
- An agreement for establishment (when having several founders)
- Statue of the enterprise
- Certificates form banks for the participants confirming solvency and level of credit when contributing into the starting required capital (with certified translation in state official language)
- Legal certification of the documents for establishment, issued by the Ministry of Justice of the Republic of Tajikistan;
- Codes of classification form the Statistics body
- Certificates confirming location of the enterprise
- Receipts for payment of the state fees
- Financial certification of the Ministry of Finances of the Republic of Tajikistan

The following documents must be submitted for the registration of a branch, office, agent, or other structure:

- An application for state registration;

- A copy of the written decision of the main office to establish a branch office;
- The parent company's statute, approved by its executive board;
- A legal certification of the Ministry of Justice of the Republic of Tajikistan;
- Code of classification of the Statistic body
- A receipt of the payment of the registration fee.
- Financial certification of the Ministry of Finances of the republic of Tajikistan.

An application for registration may be declined if the law of the Republic of Tajikistan on establishing enterprises with foreign investment is violated, or the application is submitted in an improper way. Should such be the case, the applicant may appeal to court.

Amendments into the documents on establishment are registered in a way set up in this article.

The size of state fee for registration is defined by the acting legislation of the republic of Tajikistan. (Law of RT No. 498 as of 12.12.1997)

The body that have registered the enterprise that have received foreign investment during ten days informs the Ministry of Finances of the Republic of Tajikistan about registration of the enterprise. (Law as of 11.12.1999 No.893)

Article 15 Enterprises which have received foreign investment may establish their branch offices, representations and other subdivisions in the Republic of Tajikistan and abroad. They are established according to the procedures required to found an enterprise.

Article 16 Enterprises having received foreign investments may merge into associations, companies, consortiums, and unite with other previously established associations if such actions are not restricted by the anti-monopoly laws of the Republic of Tajikistan.

Article 17 The terms, amount and the percentage of each partner's investment into the capital of a joint venture is indicated in the founding charter. The capital share of property procurement expenses between the partners of a joint venture must be agreed upon. (Law as of 11.12.1999 No. 893)

The minimal size of foreign investment into the starting required capital is defined as no less than 10000 (ten thousand) of minimal salaries in the Republic of Tajikistan at the moment of registration of the enterprise. The participants of an enterprise having received foreign investment contribute into the starting required capital of the enterprise in money or other form. (Law as of 2.12.02)

Each one of the participants is obliged during one year after the registration to contribute the set forth amounts into the starting required capital having received foreign investment. In case when the obligations are not fulfilled the Ministry of Finances of the Republic of Tajikistan applies to the court in order to recognize the enterprise having received foreign investment as unsupported. A decision by the court made about recognizing the enterprise having received foreign investments as unsupported is given to the body that registered the enterprise and is publish in the media. (Law as of 11.12.1999 No. 893)

Should the payment of a partners capital share not be confirmed within one year after registration, the office which registered the joint venture rules the registration invalid and deletes the company from its register.

Article 18 Enterprises having received foreign investment, have the right to fix prices for their products and services, sell them and choose their suppliers. An enterprise having received foreign investment has the right to proceed with its external economic activities only after having acquired a certificate of participation in foreign economic activities. (Law of the republic of Tajikistan No.223 as of 1.02.1996)

Article 19 Enterprises having received foreign investment amounting to over 30 % of their founding budget, have the right to export their products and services generated by them without a license. Enterprises having received foreign investment have the right to import products and services for their activities without a license. The allowed products and services produced and rendered under a joint venture are determined by the law of the Republic of Tajikistan.

Article 20 Property imported into Tajikistan, as the foreign investor's contribution to the required starting capital of the enterprise, receives incentives according to the Tax code of the republic of Tajikistan and the Law of the Republic of Tajikistan "On customs rates". (Law as of 2.12.02 No. 65)

Article 21 Insurance of property and risk carried by the joint ventures is optional as long as the law of the Republic of Tajikistan does not require it.

Article 22 Enterprises having received foreign investment pay taxes as determined by the law of the Republic of Tajikistan

Article 23 Empowered tax authorities and other officials investigating certain aspects of the activities of a joint venture, must conduct their investigation within the limits of their jurisdiction. Enterprises are required to provide them with all the relevant documents on their business activities. Tax authorities and other government authorities must maintain the confidentiality of their findings.

Article 24 Enterprises having received foreign investment maintain accounts, files and other statistical reports in accordance with the laws of the Republic of Tajikistan.

Article 25 The property of enterprises having received foreign investment may be used to guarantee the company's obligations, including loans. The right to own houses, buildings, equipment, and other property rights including the right to use land and other natural resources may also be used as a guarantee.

Article 26 The laws of the Republic of Tajikistan protect the non-property rights (know-how, managerial technologies) provided as foreign investment. The use of the results of intellectual activities of enterprises having received foreign investment is carried out in accordance with the laws of the Republic of Tajikistan.

Article 27 Participation of representatives of the republic of Tajikistan working at an enterprise with foreign investment is obligatory and should make not less than 70% out of total of employees. The minimal size of a salary for employees of the Republic of Tajikistan working at enterprises with foreign investment is set forth by the Government of the Republic of Tajikistan.

Article 28 Welfare of employees working at an enterprise that has received foreign investment and their social security (but retirement security of foreign employees) is regulated by the laws of RT.

Enterprises having received foreign investment may remit to retirement plan funds in the country of the employee's permanent residence in the currency of the country. Enterprises having received foreign investment are allowed to deduct social insurance expenses from the monthly retirement plan remittance of employees as required for enterprises and organizations in the Republic of Tajikistan.

Article 29 Enterprises having received foreign investment may be liquidated if an application of liquidation is filled by the founders of the enterprise, or in case of bankruptcy in accordance with the laws of the Republic of Tajikistan. (Law of RT No. 223 as of 1.02.1996)

The accumulated assets of enterprises having received foreign investments are subject to taxation based on the real cost of the assets.

CHAPTER IV

Acquisition of securities by foreign investors

Article 30 Foreign investors are allowed to acquire securities as determined by the laws set forth by the Ministry of Finance of the Republic of Tajikistan. (Law of RT No. 223 as of 1.02.1996)

Article 31 Foreign investors have the right to acquire shares and other securities of legal entities of the Republic of Tajikistan with both national and foreign currency. If payment for shares of stocks of an enterprise is remitted by the foreign investor in foreign currency, the enterprise in question is considered as an enterprise having received foreign investment. If the payment is made in roubles and the foreign investors hold 50 % or more of the shares, the enterprise is considered as an enterprise having received foreign investment. Should such be the case, the enterprise enjoys the privileges described in Article 20 of this law. The purchase of shares and other securities by foreign investors must be registered at the Ministry of Finance.

CHAPTER V

Acquisition of the right to use land and other property by foreign investors

Article 32 Foreign investors and enterprises having received foreign investment may be provided with land for their use, through purchase or lease in accordance with the laws of the Republic of Tajikistan. Acquiring ownership rights on houses and buildings also entitles one to acquire the right to use the plot of land on which the house or building is located on terms provided by the law of the Republic of Tajikistan.

Article 33 Foreign investors and enterprises having received foreign investments may be granted the right to explore, research and use natural resources within the economic zone of the Republic of Tajikistan, provided the enterprise holds a valid license issued by the Government. (Law of RT No. 223 as of 1.02.1996).

Article 34 A lessor leases his property to foreign investors and enterprises having received foreign investments on the basis of a leasing contract and according to the legislation on leasing and leasing activities in the Republic of Tajikistan.

Article 35 Foreign investors and enterprises having received foreign investments may enjoy the use of concessions for the exploration of natural resources and the implementation of other economic activities according to the agreements between the foreign investors and state authorities. These agreements determine the conditions for the operation of the activities of foreign investors.

CHAPTER VI

Final provisions

Article 36 Disputes between the foreign investors and the state are subject to consideration in the Republic of Tajikistan at courts, if otherwise not provided by the international treaty.

Disputes between foreign investors and state enterprises having received foreign investment; disputes between foreign investors and enterprises, social organizations and other legal entities; and disputes between the partners of a joint venture are settled by the courts of the Republic of Tajikistan or if otherwise agreed by the parties, at the arbitrary court, also abroad and in cases provided by the laws of the Republic of Tajikistan it is settled at economic or other courts.

Article 37 If an international agreement settled by the Republic of Tajikistan provides for conditions which differ from those provided by the law of the Republic of Tajikistan on foreign investment, the provisions of the international agreement are applied.

Article 38 Free economic zones are established in the Republic of Tajikistan in order to attract foreign capital, technology, managerial experience, and to build economic capacity of the Republic of Tajikistan. In the free economic zones, foreign investors and enterprises having received foreign investments are provided with the most favorable conditions.

Article 39 Foreign investors and enterprises that have received foreign investment and operating in free economic zones may enjoy the following additional privileges, besides the rights and guarantees provided by the laws of the Republic of Tajikistan:

- a) A incentive tax regime: foreign investors and enterprises having received foreign investment pay taxes at lower rates, including taxes on profits transmitted abroad. At the same time the low tax rates can not make less than 50% of the tax rates for foreign investors and enterprises with foreign investment valid on the territory of the Republic of Tajikistan;
- b) A reduced payment rate for land and other natural resources use; the right to rent on long terms and to sublease properties which have been leased;
- c) A special customs regime, including decreased customs duties on the export and import of goods and simplified rules when crossing the border;
- d) Simplified entry-exit rules for foreign citizens including no-visa rule.

The terms and conditions of the privileges granted in the territory of free economic zones are decided by the Government and approved by the Majlisi Oli of the Republic of Tajikistan.

**President of the
Republic of Tajikistan**

R. Nabiev

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