Investment Guarantees and Incentives Law

Overview

Investment Law No. 8 of 1997 (which cancelled Law 230 of 1989) is a combination of incentives, customs exemptions and many new investor protections and guarantees. Investment Law No. 8 of 1997 and Companies Law No. 159 of 1981 and their amendments are two key laws that regulate the investment environment in Egypt.

Main Provisions

Among the guarantees that Law No. 8 offers investors are the following:

- Companies may not be confiscated or nationalized.
- Companies and their assets cannot be sequestered, seized or expropriated by administrative order.
- No administrative body can interfere in setting prices or profit margins.
- Projects are allowed to repatriate their capital and profits.
- Projects may be entirely owned by foreigners. Furthermore, their boards of directors may be wholly composed of foreigners.
- Companies have the right to own building lands and develop real estate as needed for implementing and expanding their activities, regardless of the nationality or place of residence of partners and shareholders or the percentage of their participation.[1] (Except for Sinai, as Foreign ownership is only allowed in the case of partnership with an Egyptian partner who has to own 51 per cent of the land)
- Projects are exempted from certain labor requirements of the Egyptian Companies' Law and the Labor Law.[2]
- Foreign experts' salaries are exempted from income tax if their stay in Egypt is shorter than one year.
- Projects are free to maintain foreign currency bank accounts.
- Projects are subject to a flat rate of 5 per cent in customs duties on imported equipment and machinery.
- Projects are exempt from stamp duties and notarization fees for 3 years from the date of registration with the commercial register.
- Projects are exempt from all registration and notarization charges normally levied on contracts.

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[1] Law No. 15 of 1963, however, prohibits foreign ownership of areas designated as agricultural lands, except for desert reclamation projects.

[2] Joint stock companies established under this law are not exempted from the obligation to distribute 10 per cent of their profits to their employees.

In June 2000, the People's Assembly approved an amendment to Article 23 of the Investment Law to provide full benefits to project expansions, provided that new capital is injected and new assets are added to increase productive capacity.

The tax holidays that were previously provided by Investment Law No. 8 were abolished by the new Income Tax Law No. 91 of 2005, with the understanding that the lowering of the income tax rate by 50 per cent is fair compensation for the abolition of the foresaid tax holidays.

Dispute Settlement

Law No. 8 stipulates that settling investment disputes in connection with the implementation of its provisions may be carried out in accordance with the convention or agreement of the investor's choice. Settlement of such disputes may be reached using the provisions of any one of the following:

- Conventions in force between the Arab Republic of Egypt and the country of the investor
- Agreement on Settlement of Disputes which Arise in Respect of Investments Between the Countries and the Nationals of Other Countries (a.k.a. the Washington Convention of March 18, 1965), which Egypt adopted in 1971;
- Law No. 27 of 1994 on Arbitration in Civil and Commercial Matters, as amended.

Disputes may also be settled by means of arbitration before the Cairo Regional Center for International Commercial Arbitration.

Activities Covered by the Law

For companies to benefit from the incentives provided by Investment Law No. 8, their projects must fall within the areas of investment permitted under the Investment Law, of which there are sixteen:

- Reclamation and cultivation of barren and desert land
- Animal, poultry and fish production
- Manufacturing and mining
- Tourism: hotels, hotel flats, motels, resorts and tourist transportation
- Transport of goods
- Air transport and related services
- Sea transport
- Oil services relating to digging and exploration, as well the installation of natural gas facilities and natural gas transport
- Housing projects for non-administrative purposes
- Infrastructure projects for drinking water, sewage, electricity, roads and communications
- Medical facilities

- Financial leasing
- Underwriting subscription to securities
- Venture capital
- Computer software and high-tech products
- Projects funded by the Social Fund for Development[3]

Moreover, the Investment Law allows the Council of Ministers to add other fields to those mentioned above. Decree No. 740 of 2000, for example, expanded the scope of some of the aforementioned activities and increased the types of investment that benefit from the Investment Law to include construction and operation of underground transportation systems and tunnels; new towns and industrial zones; software development; establishment of technology and incubator zones; market and credit analysis; financial planning, factoring and securitization activities; river transportation; utilities for industrial projects and waste treatment [4]. In 2005, an amendment to the Investment Law extended most of its benefits to all corporations in Egypt.

Free Zones

Investment Law No. 8 also regulates the projects carried out in free zones by Egyptian, Arab and foreign investors. There are two types of free zones:

- Public Free Zones are established in specific locations by the government's investment authority. Eleven public free zones currently exist in locations such as Cairo, Alexandria, Suez and Port Said.
- Private Free Zones are established exclusively for a specific project or company, subject to the approval of the investment authority.

Incentives offered to projects operating in free zones include the following:

- Profits and dividends of such projects enjoy exemption from all Egyptian income taxes for an unlimited period of time.[5]
- Most of the goods and materials imported to a free zone with the purpose of maintaining the licensed activities of the project are exempt from customs tax, general sales tax and any other taxes or duties (except for passenger cars).
- Goods imported from a free zone have the customs tax levied only on the foreign components, based on the components' condition upon entry into the free zone.

[3] The social fund for development is the Egyptian official fund for SME's.

[4] Detailed overview of all the activities covered by the law is provided in sections "10.2.Investment Regimes" and "11.1. Free Zones".

[5] Free zone projects are only subject to a duty fee of 1 per cent of the value of goods entering or leaving the free zone or to an annual duty fee of 1 per cent..

The activities permitted in the free zones are mixing, blending, repacking, manufacturing, assembling, processing and repair operations. The general rule, however, is that any of the activities covered by Investment Law No. 8 may be implemented in a free zone, subject to the approval of the investment authority.

GAFI and the

Investment Law No. 8 designated the General Authority for Investment and Free Zones (GAFI) as the sole authority responsible for investor incentives and guarantees. GAFI's role also includes assisting the investor in finding and acquiring an appropriate piece of land for his project.

The law also established that a "One-Stop Shop" for investors will be located at the General Authority for Investment and Free Zones (GAFI) office in Nasr City, Cairo as well as in other locations to simplify the process of approval, registration, licensing and certification for new projects.[6]

[6] Some projects still require prior approval from relevant ministries in addition to GAFI, including investments in Sinai, all military products and related industries, as well as tobacco products.