

INVESTMENT LAW OF THE REPUBLIC OF TAJIKISTAN

This law regulates relations which are associated with investment in the Republic of Tajikistan and defines the legal economic basis of the stimulation of investments, guarantees the rights of investors carrying out the investments in the republic of Tajikistan.

The objective of present Law is to attract and to utilize effectively material and financial resources, advanced technology, administrative experiences, to the economy of the Republic of Tajikistan; to provide encouraging investing atmosphere; defines the measures of state support of investments and maintains international law and international investment cooperation.

The present Law shall not regulate relations associated with the investments by the funds of the Government of the Republic of Tajikistan and also non-commercial organizations investment.

CHAPTER 1. GENERAL PROVISIONS

Article 1. The basic concepts

The following terms are defined to mean:

Investment - all types of property (except for the goods of personal use), including money resources, securities, industrial - technological equipment and the results of intellectual activity belonging to the investor on the basis of property right.

The investor - physical or legal entity who is investing in the Republic of Tajikistan.

Foreign investors - foreign investors in the Republic of Tajikistan are:

-foreign states and their administrative - territorial units represented by authorized entities;

-International organizations;

-foreign legal entities;

-foreign organizations, not the legal entities, established in accordance with the legislation of the foreign states;

-foreign citizens and persons without citizenship;

domestic investor - physical and legal entities, not being the foreign investor and carrying out investment activity in the Republic of Tajikistan;

Investment activity – activity of investor in production or investing in other ways with the purpose of gaining profits.

Reinvestment - investing in the Republic of Tajikistan from the profit of investment in the Republic of Tajikistan;

Investment dispute – dispute which ensues between the investor and state bodies, officials of the Republic of Tajikistan and other participants of the investment activity, in connection with investment activities;

Authorized state body - the body authorized by the Government of Republic of Tajikistan, in the investment sphere.

Main state grant – property - being a property of state, and being not imposed with tax on property or tax on land tenure is given to the juridical persons for development or investments.

Article 2. Legislation of the Republic of Tajikistan on investments

1. The Legislation of the Republic of Tajikistan on investments is based on the Constitution of the Republic of Tajikistan and consists of the provisions of this Law, normative legal acts of the Republic of Tajikistan and also international legal acts recognized by the Republic of Tajikistan.

2. In case of contradictions between provisions of the present Law and conditions of the international legal acts ratified by Tajikistan, provisions of the international legal acts shall apply.

Article 3. Objects and types of investment activity

1. Objects of investment activity are:

- real estate;
- securities;
- intellectual property;
- other objects in which investment activity is not prohibited by the legislation of the Republic of Tajikistan.

2. Types of investment activity

- The private investment activity which is carried out by citizens, not state enterprises, establishments, the organizations and other structures of the Republic of Tajikistan;

- The state investment activity which is carried out by state and the executive agencies, state enterprises, establishments and the organizations due to budgetary and not budgetary funds, own and credit means;

- The foreign investment activity which is carried out by foreign citizens, legal persons, foreign states, the international financial establishments, and also persons without citizenship;

- The joint investment activity which is carried out by citizens, legal persons of the Republic of Tajikistan and foreign states.

CHAPTER 2. GUARANTEES OF PROTECTION OF THE INVESTMENT AND THE RIGHTS OF THE INVESTOR

Article 4. Equal treatment guarantee for foreign and domestic

investors.

The state guarantees equal treatment for foreign and domestic investors, without any discrimination on the basis of citizenship, nationality, language, gender, race, religion, place of carrying out economic activities and also the country of origin of the investor or investments.

Article 5. Guarantee of legal protection of investor and Investment activity

1. The Present Law and other normative legal acts of the Republic of Tajikistan, and also international legal acts ratified by Tajikistan, guarantee to the investor full and unconditional protection of the rights and legitimate interests.

2. In case of modification and additions to the investment legislation of the Republic of Tajikistan, investors, during the five years from the date of the official publication of such changes or additions, have the right to choose the favorable conditions for them. This treatment does not apply to the changes and additions, in the Constitution of the Republic of Tajikistan and in the legislation of the Republic of Tajikistan, regarding national security, public health, environment protection, moral and ethics.

3. According to legislative acts of the Republic of Tajikistan, Investor has right to compensation for the harm caused to him as a result of editing acts which are contradicting the legislative of the Republic of Tajikistan and also as a result of illegal actions of state bodies and officials.

4. The Republic of Tajikistan guarantees stability of conditions of the contracts signed between investors and authorized state bodies, except cases when changes and additions are incorporated in the contracts and both parties are agreed upon.

Article 6. A guarantee of the right for movings of foreign investors.

Foreign investors, their representatives and the foreign workers who are being in the Republic of Tajikistan with a view of investment activity, have the right to free movement in the all territory of the Republic of Tajikistan, except for territories, where conditions and the order of stay are determined by the appropriate legislation of the Republic of Tajikistan.

Article 7. Guarantees of the right of use of incomes

1. Investors have the right:

- to open accounts with the banks in the Republic of Tajikistan in national and (or) foreign currency according to the legislation of the Republic of Tajikistan;
- to use income derived from their activities, after payment of taxes and other mandatory payments;

2. To investors and foreign workers the right for transferring abroad their incomes and wages in a foreign currency, received on the lawful bases as a result of

investment and industrial activity is guaranteed.

3. In case of termination of the investment activity not by investor's fault, investor has the right to compensation of his investment and his incomes, either monetary or in commodity form which the rate of the moment of the termination of investment activity.

Article 8. Currency transactions

1. Investors have right in all payments regarding investment activity in the Republic of Tajikistan, to free converting of national currency of the Republic of Tajikistan in other currencies, and also purchase of foreign currency for payment of operations outside the Republic of Tajikistan.

2. Currency transactions are made by investors according to the Law of the Republic of Tajikistan « On currency regulation and the currency control ».

3. In order to prevent legalization operations of illegal incomes there might be restriction of remittance in foreign currency to the Republic of Tajikistan and from the Republic of Tajikistan for investors, transaction in foreign currency is allowed on the basis of law.

Article 9. Openness of the state bodies activity regarding investors

1. Official notification of the state bodies of the Republic of Tajikistan and the normative legal acts concerning interests of investors, shall be published according to provisions of the legislation of the Republic of Tajikistan.

2. Free access to data on registration of legal persons and their charters, registration of agreements concerning real estate, and also licensing, except for the information containing commercial and other secret protected by the law is provided to the investors.

Article 10. Supervision of government bodies over Investor's Activities

Official bodies that are granted supervision and control rights will control and supervise the investor's activities. Government bodies have no right to interfere in investment activity, except for the cases stipulated by the legislation of the Republic of Tajikistan.

Article 11. Guarantees of the Rights of Investors in the Case of Nationalization and Requisition.

1. In case of disasters, accidents, infectious diseases, epidemics, ephizootis and at other force majeure the property can be withdrawn from the proprietor for the interests of society on the conditions established by the legislation, with payment of market value of the property (requisition).

The estimation of the cost, compensated to the proprietor of the requisitioned property, may be challenged in the court. The person whose property is requisitioned, has right after terminating the situation which lead to requisition, to demand return of the remain property, and in the case of refusal – he can apply to the court.

2. Through nationalization transferring the property belonging to citizens and legal persons, to state ownership can be done only on the basis of the legislation on nationalization of the property according to the Constitution of the Republic of Tajikistan, with compensation to the person whose property is nationalized.

3. The size of compensation of the cost of the nationalized or requisitioned investment property is determined on the basis of market cost of property. Compensation should be carried out, executed in the terms, coordinated by the sides, and paid in hard to currency.

4. The valuation according to which the owner has been reimbursed for the requisitioned property may be challenged in the court of the Republic of Tajikistan, and also in the arbitration court, the international court and the international arbitration court if it is stipulated by the agreement of the sides or the international treaty.

Article 12. Transfer of the rights of an investor to another person on a guarantee of contracts of insurance contracts

If the foreign state body authorized thereby makes a payments in favour of an investor under the guarantee (under insurance contract) which was granted to him in respect of investments carried out on the territory of the Republic of Tajikistan, and such foreign state of the state body authorized thereby are assigned the rights (assigned the rights of claim) of the investor with respect to the mentioned investments, then in the Republic of Tajikistan such assignments of rights (assignments of a right to claim) shall be recognized as lawful only in the case of the performance by the investor of investments in the Republic of Tajikistan and (or) the fulfillment by the investor of his specified contractual obligations.

Article 13. Obligations of the Republic of Tajikistan regarding investments

The Republic of Tajikistan is not responsible for obligations of residents and the non-residents attracting investments, except for cases when these obligations are guaranteed by the state and by the law.

Article 14. Guarantee for the right of the investor on export of equipment and information

The investor who imported equipments to the Republic of Tajikistan, which are registered as the investment, has right to export them without problem (without quoting, licensings and applications) from Republic of Tajikistan after the termination of investment activity according to the customs legislation of the Republic of Tajikistan.

Settlement of Disputes

1. Investment disputes shall be resolved through negotiations, including with involvement of experts, or in accordance with the procedure for resolution of disputes agreed by parties in advance.

2. In the case of the impossibility of resolution of investment disputes in accordance with the provisions of item 1 of this article, the settlement of disputes shall be carried out in accordance with international treaties and legislative acts of the Republic of Tajikistan in courts of the Republic of Tajikistan, as well as by means of international arbitration agreed by the parties.

Article 15. Rights of investor to objects of intellectual property

All rights of the investor concerning objects of intellectual property, are protected by the legislation of the Republic of Tajikistan.

Article 16. Rights of investors for using natural resources

1. Acquire the right of using lands by the investor, other natural resources shall be carried in accordance with the legislation of the Republic of Tajikistan.

2. At transition of property right to building and constructions, together with these objects the right of using lands will also transfer to the investor according to conditions stipulated by the legislation of the Republic of Tajikistan.

3. The right of rent of the land can be acquired by investor according to the Land code of the Republic of Tajikistan.

Article 17. Guarantees for the investor who is carrying out reinvestment

1. The investor can reinvest the profit which has remained after payment of taxes in the territories of the Republic of Tajikistan.

2. During reinvestment the investor enjoys full, legal protection, guarantees and the privileges established by the present Law.

CHAPTER 3. STATE SUPPORT OF INVESTMENTS

Article 18. The Objective of State Promotion of investor

1. The objective of state support of investments shall be the creation of a favorable investment climate to develop the economy and stimulate investments into the establishment of new facilities, enlargement and renewal of existing facilities, with application of up-to-date technologies, creation of new and preservation of existing jobs, health protection as well as environmental protection

The state support of investments shall mean the granting of investment preferences.

2. The state support of the investor is carried out by the authorized body as appointed by the Government of the Republic of Tajikistan.

3. The authorized state body according to the Provision approved by the Government of the Republic of Tajikistan, carries out following functions:

- Provides relation between the state bodies and investors;
- Prepares and distributes the information on investment opportunities, programs, projects and conditions in the Republic of Tajikistan;
- Develops offers on improvement of investment climate in the Republic of Tajikistan;

-Carries out other functions directed on promotion of investments, support and protection of investors in the Republic of Tajikistan.

4. The authorized state body is obliged to promote equal basis to maintain investors with services, protection and promotion of their interests, not allowing deterioration of their industrial-financial activity, use of principles of openness and a transparency to attract investments by conducting international biddings.

Article 19. Investment Preferences

1. Following investment preferences are given:

- investment tax preferences;
- exemption from custom duties;
- state in-kind grants.

2. Tax preferences are given to investors according to the order by the Tax code of the Republic of Tajikistan and the Customs code of the Republic of Tajikistan.

3. The order of issue of the state grants and their kinds are determined by the Government of the Republic of Tajikistan.

CHAPTER 4. REQUIREMENTS FOR INVESTORS

Article 20. Observance by investor legislation of the Republic of Tajikistan

During implementation of investment activity in the territory of the Republic of Tajikistan the investor is obliged to observe legislation of the Republic of Tajikistan.

Article 21. Labour relations between the investor and citizens of the Republic of Tajikistan

Relations between the investor and the workers, who are citizens of the Republic of Tajikistan, are regulated by labour legislation of the Republic of Tajikistan and the international legal acts recognized by Tajikistan.

CHAPTER 5. FINAL PROVISIONS

Article 22. Settlement Disputes

1. Investment disputes between participants of investment activity are solved according to the conditions stipulated by contracts, concluded between the parties. In case of absence of the specified contracts, investment disputes between participants of investment activity are settled as far as possible, by consultation of the parties.

2. In case of impossibility of the settling of investment disputes according to the concluded contracts, disputes will be settled in the courts of the Republic of Tajikistan, and also in the international arbitration court, the arbitration court determined under the consent of the parties, according to acts of the Republic of Tajikistan and is international-legal acts.

Article 23. Responsibility for violation of the present Law

The physical and legal persons violating the requirements of the present Law, shall be responsible, according to the legislation of the Republic of Tajikistan.

Article 24. On Repeal of Law of the Republic of Tajikistan « On foreign investments».

The Law of the Republic of Tajikistan from March, 10, 1992 « On foreign investment » shall be deemed repealed: (Sheets of the Supreme body of the Republic of Tajikistan, 1992, №8, article 118; The News of Legislative Supreme body of the Republic of Tajikistan, 1996, №3, article 48; 1997, №23-24, article 333; 1999, №12,

article 333; 2002, №11, article 678).

Article 25. The order of introduction of the present Law
The present Law will be introduced after its official publication.

**The President of the
Republic of Tajikistan**

E.Rahmon

*Dushanbe
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№260*