

Egypt: Amendments to the Investment Law provide reduced customs duties, low cost land and other incentives.

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In brief

Amendments to the Egyptian Investment Law (the Law) and Executive Regulations (Regulations) have been made over the last several months introducing new incentives for investors.

The new incentives are now in force and include notable amendments which merit consideration by investors. These include incentives such as a reduction in sales tax, a one-stop-shop administration system, reduced social charges and potentially free or reduced cost land.

In detail

The Egyptian Investment Law was first issued in 1974 (Law No. 43/1974) aiming to attract foreign investors to the Egyptian market. It provided tax and customs exemptions for companies established under its umbrella and offered land, necessary for projects, at attractive prices and simplified incorporation procedures. The Law was replaced by law No. 230/1989, and then replaced again by law No. 8/1997. The latest amendment to the law was on 12 March 2015, by virtue of new investment law No. 117/2015 [and has now been accompanied in July 2015 by Executive Regulations (“Regulations”)] introducing new incentives for investors.

Nature of the amendments

The amendments are a combination of revisions to existing law, as well as the introduction of several new articles.

By way of background, one of the features of the Law is to facilitate incorporation procedures through a single governmental authority, the General Authority for Investments and Free Zones (GAFI).

The Law also sets out certain requirements for ‘recognised’ activities under which a company can be established and continue to benefit under the Law.

Revisions to existing articles

Reduced customs rate

The unified customs rate has decreased from 5% to 2% on the value of imported tools, equipment, and machinery necessary for recognized business activities.

Reduced sales tax rate

The sales tax rate has decreased from 10% to 5% on imported tools, equipment, and machinery necessary for recognized business activities.

Prohibition of private Free Zones

For the time being, there are no grants for private free zone areas.

Activities not allowed in Free Zones

Businesses considered to be ‘intensive energy’ users cannot be set up under the Free Zone system pursuant to the Law.

Other business activities which are not allowed, include fertilizer production, steel production, petroleum refining, natural gas industry (liquidation and transport), and other industries including defence and alcoholic beverage manufacturing.

Additional non-tax incentives for certain business

In a major development, additional incentives have been provided for businesses that meet specific criteria. These incentives include:

- Permission to open customs outlets especially for the imports and exports of the project (in agreement with the Finance Minister).
 - Reduced energy prices and related payment facilities.
 - Returning full or partial utilities expenses to the investor after the operation of the project.
 - The government possibly bearing part of the technical training expenses.
 - The government possibly bearing full or partial share of the social security charges for a specified period of time.
 - Free land granted to investors.
- Cooling transport for goods, refrigerators and the stations for reserving agricultural crops, industrial products and food products and its cooling, freezing, packing and wrapping.
 - Stations of operating and trading containers.
 - Silos of reserving and storing the yields.
 - Loading and unloading services related to the above activities.
4. Projects that develop internal trade, this includes:
 - Trading centers, wholesale trade, retail trade and supply chain activities, provided that these activities are practiced in the new urban communities, remote areas, Upper Egypt and the border areas.

The mechanism requires the competent Minister to advise the Prime Minister whether a project request meets the criteria. Projects satisfying one or more of the below eight conditions meet the criteria:

1. Intensive labor requirement

- The number of Egyptian employees must not be less than 250 as stated in the social insurance form.
- The cost of creating a new job opportunity in the project must not exceed 250,000 EGP or its equivalent in any foreign currency.
- The direct cost of the salaries must be more than 35% of the total cost of operating the project.

2. Reinforcement of local components used in product production

- The percentage of local components used in its 'products' or in the tools and equipment necessary for production should not be less than 50%.

3. Improves transport and logistics' capacities, this includes:

5. Investment in electricity production, transport, and distribution (this includes new and renewable energy)
6. Agricultural projects (reclamation and cultivation)
 - The area of the reclaimed/cultivated land should not be less than 1000 Acres.
 - New irrigation methods should be used.
7. Road, maritime, and railway transport
8. Investment in specific remote areas that have been targeted for development by the government, which are:
 - Upper Egypt
 - Sinai
 - Matrouh
 - Nubia areas

Accessing non tax incentives

The Executive Regulation sets a condition for companies to benefit from the above non-tax incentives, that the companies have started

their operations or production. According to GAFI's certificate.

GAFI should issue the certificate, for benefiting from the provided incentives, within 30 days from the date the investors have submitted their requests.

Discharge of liabilities upon liquidation

If an investor wishes to liquidate a business under the Law, the concerned authorities are required to advise of any liabilities which are due, within 120 business days from the date the liquidator has submitted his request. These include financial liabilities to the Tax Authority, Social Insurance Authority, or the GAFI. If no such notification has been received then the company is discharged of any liabilities.

Land acquired as part of a business activity under the Law

The Law allows for the acquisition on an interest in land required for the establishment of a project / business activity.

Such acquisitions can be through a sale, lease, lease that ends in ownership, or license to use. The investment law also provides a possibility for the government to participate in a project through an in-kind contribution of land.

Potential deferral of payment for land

In the case of an investor acquiring their interest in land through a sale (obtaining freehold title), GAFI can at the investor's request defer the timing for payment or provide payment facilities of some or all of the consideration for the sale.

The application of this article is based on the decision of GAFI, at the investor's request.

Free land

For a period of 5 years starting April 2015, GAFI can dispose of lands and real estate owned by the government free of charge to investors who satisfy certain technical and financial capabilities

to be determined by the Cabinet. The government land at issue will be in areas determined by a presidential decree after the approval of the Cabinet. In contemplating the potential for high levels of interest in this incentive, a lottery mechanism will be followed.

In such cases, the investor shall pay a cash guarantee of 1% from the project's investment costs, within 7 business days from his notification thereof. This guarantee should be recovered by the investor after 5 years from the start of operation/production.

Low cost land

In addition to the potential for 'free land', GAFI can provide land at a discounted rate with a maximum of 50% of the estimated value of such land or real estates.

In contemplating the potential for high levels of interest in this incentive, a lottery mechanism will be followed.

GAFI has the right to terminate the land acquired if progress is not made with the project.

To avoid abuse of the incentives mentioned above, the law allows for the sale/lease/license of land to be terminated by GAFI if any of the following occur:

- If the investor refrains from formally receiving the land/real estate for a period of 6 months from the date when they are notified of the ability to take the freehold or leasehold interest;
- If the investor does not start implementing the project within 6 months from the date of receiving the land/real estate free from all obstacles, without a reasonable cause;
- If the investor changes the original purpose of using the land/real estate;

- Not implementing the timetable approved by GAFI to execute the project without a reasonable cause; or
- Committing a material breach to the conditions of the contract of sale, lease or the license to use the land / real estate.

A new center for the development of foreign investment

A new center within GAFI will be established, which is tasked with facilitating investment into Egypt.

Activities of this center include:

- Preparing strategies to attract investors.
- Preparing and implementing the government plan for investment promotion.
- Coordinating with the concerned authorities.
- Communicating with investors, international organizations, the press and the business community.
- Handling complaints by investors.

Licensing

Temporary License

In cases where the number of temporary license applications submitted from the companies to GAFI exceeds the number of licenses available at the concerned authorities, the trade-off between the applicants shall be according to the "Points System" without being subject to the provisions of the Public Tender Law no.(89) of 1998. Such points will be according to the criteria issued from the chairman of GAFI, which includes:

- The investment costs of the project.
- Previous experience.
- The technology used.

Timing of final licensing

The Executive Regulation gives the concerned authorities a maximum of 45 days, from the date of receiving all the required attested documents from the investor, to submit final licenses to GAFI.

Also, a condition was added that states that the concerned authorities cannot refuse the application, unless one or more of the conditions stated in the guide book of each activity, or the technical conditions determined by the competent authorities are not satisfied.

If the final license has not been issued by the Chairman of GAFI after the elapse of 15 days from receiving all the required licenses and approvals from the concerned authorities, then the Chairman of GAFI must submit the case within one week to a special committee. The reasons for not issuing the final license must be included. The committee must issue its decision of the case within 15 days.

Business Activity

Companies have a grace period of 90 days to notify GAFI with the date of commencing their activity / production or its expansion.

Incentives for Import and Export

Projects that are established as free zones are no longer subjected to import and export rules regarding the purchase of the necessary components from the domestic market.

The takeaway

The Investment Law and new Regulations expands the range of incentives that foreign investors may take advantage of. In addition, the process of accessing these benefits will most likely be improved.

The amendments are notable and merit consideration by investors.

Let's talk

For a deeper discussion of how this issue might affect your business, please contact:

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