

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 investor regardless of his property status, and ensure the effective functioning of the economy of the Republic of Tajikistan within the framework of market economy.

CHAPTER I
General Provisions

Article 1. Investment refers to all the property and intellectual property rights generating income or sale invested by foreign sources in manufacture of goods and services in the Republic of Tajikistan. Such investments may be: (a) money, special bank deposits, shares and other securities; (b) movable property (equipment and other material etc.); (c) immovable property (real estate); (d) intellectual property rights, such as copyrights, expertise etc.; (e) the right to use land, other natural resources, and other real property rights.

Investments for the replenishment of operating business funds may take the form of capital inputs.

Article 2. Investment activities concern all the actions of citizens, legal entities, and states to generate income.

Article 3. Foreign investors in the Republic of Tajikistan may be: (a) foreign legal entities; (b) foreign citizens, stateless persons and citizens of the Republic of Tajikistan with a permanent residence abroad; (c) foreign associations not having the rights of a legal entity; (d) sovereign states; (e) international organizations.

Article 4. Foreign investors may invest in 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 independently utilize land and other natural resources and property rights, or jointly with the participation of legal entities and citizens of the Republic of Tajikistan; (e) by signing agreements with legal entities and citizens of the Republic of Tajikistan, to engage in other forms of foreign investment.

Article 5. Foreign investors can take part in privatisation of republican and communal property of the Republic of Tajikistan in the order determined by law.

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 taxes or 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 that 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 for 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 subsequent legislation of the Republic of Tajikistan results in an increase to cumulative tax loading on the activity of foreign investor and enterprises with foreign investment, for 10 years the legislation acted on the moment of registration is applied.

This provision does not apply to amendments and modifications to existing and new laws of the Republic of Tajikistan targeted in protection of constitutional building, morals and health of the population, protection and security of the country.

Foreign investment in the territory of the Republic of Tajikistan may not be nationalized.

Foreign investments may not be expropriated except in the event of natural calamities, accidents, epidemics and other cases of emergency. Measures for requisitioning 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 quickly and adequately compensated without irregular delay, and the compensation must correspond to the real cost of the investment at the time the decision of expropriation was made. Compensation is paid in foreign currency and may be remitted abroad if the investors so desire.

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, in 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. The foreign investor, enterprise with foreign investment founded in the territory of the Republic of Tajikistan in case of reinvestment have rights to use legal protection, guarantees and privileges fixed by the present Law. 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 with foreign investment are established in any form, that does not contradict the law.

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 expert 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.

State registration of the enterprises having foreign investments is carried out by state notary office in the location where the enterprise has its principle establishment. Representative offices, subsidiaries and other specialized units of the enterprises with foreign investments, which have do not a right of legal entity, are registered by authorized body within two weeks from date of application.

A special 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 following documents must be submitted in order to register an enterprise having received foreign investment: (a) written application requesting for registration of the enterprise signed by one of the founders; (b) founding agreement, if there are several founders; (c) enterprise's by-laws; (d) a bank statement confirming the partners' solvency (with attested copy translated into official language); (e) confirmation by the Ministry of Justice of the Republic of Tajikistan that the relevant documents are in the confirmation with the law; (f) codes provided by the statistical body; (g) documents confirming legal address of the enterprise; (h) a receipt of the payment of the registration fee; (i) confirmation by the Ministry of Finance of the Republic of Tajikistan;

The following documents must be submitted for the registration of a branch, office, agent, or other structure: (a) an application for state registration; (b) a copy of the written decision of the parent office to establish a branch office; (c) charter, approved by parent company; (d) legal expertise document by the Ministry of Justice of the Republic of Tajikistan; (e) codes provided by the statistical body; (f) documents confirming legal address of the enterprise; (g) a receipt of the payment of the registration fee; (h) financial review by the Ministry of Finance of the Republic of Tajikistan.

Activity of all enterprises having foreign investments to be registered in state notary office in accordance with financial review by the Ministry of Finance of the Republic of

Tajikistan.

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

Amendments to constituent documents may be done in order as described in this article.

The fee to be paid for registration is determined by the existing legislation of the Republic of Tajikistan.

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 an enterprise with foreign investment are indicated in the founding charter. The capital share of property procurement expenses between the partners of an enterprise with foreign investment must be agreed upon.

The minimal size of the foreign investment in the fixed capital of the enterprise is determined at a rate of equivalent to 10000 (ten thousand) minimal wages in the Republic of Tajikistan on the moment of registration of the enterprise. Participants of the enterprise with foreign investment contribute to the fixed capital of the enterprise their share in money and (or) other forms.

Each participant in the course of the year after registration shall contribute to capital of an enterprise with foreign investment the amount indicated in the founding documents. In case these conditions are not fulfilled the Ministry of Finance shall appeal to the court to declare the registration invalid. Court decision about invalidation of the enterprise with foreign investment shall be submitted to the body who has registered the given enterprise and it shall be published in press.

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 foreign economic activities only after having acquired a certificate of participation in foreign economic activities.

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

Article 20. On the property imported to the Republic of Tajikistan as contribution of the foreign investor to the fixed capital of the enterprise the privileges are established according to the Tax Code of the Republic of Tajikistan and the Law of the Republic of Tajikistan "On the customs tariff".

Article 21. Risk and property insurance of 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 shall 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. Foreign investment in the form of intellectual property is protected by the laws of the Republic of Tajikistan. 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. The issues of employing, dismissing, fixing of work and rest schedules, remuneration, and other guarantees and compensations including retirement plans for the employees of a joint venture are regulated by individual and collective contracts. Employees may transfer their incomes in foreign currency abroad.

Article 28. Welfare schemes excluding retirement plans for foreign employees, are regulated by the laws of the Republic of Tajikistan. 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 in question. 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 filed by the founders of the enterprise, or in case of bankruptcy in accordance with the laws of the Republic of Tajikistan. The accumulated assets of enterprises having received foreign capital are subject to taxes 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.

Article 31. Foreign investors have the right to acquire shares and other securities that are to be submitted to registration by Ministry of Finance of the Republic of Tajikistan.

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 acquire 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 situated 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, mine and extract mineral resources in the economic zone of the Republic of Tajikistan, provided the enterprise holds a valid license issued by the Government.

Article 34. A landlord 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 accomplishment 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 ARTICLES

Article 36. Disputes concerning international agreements between the state and foreign investors shall be settled in the courts of the Republic of Tajikistan if unless otherwise provided for in such agreements. Disputes between foreign investors and state enterprises having received foreign investment; disputes between foreign investors and enterprises, social organizations and other legal persons; and disputes between the partners of a joint venture shall be settled by the courts of the Republic of Tajikistan or if agreed between the parties by arbitration, including abroad.

Article 37. If all 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 international agreement shall prevail.

Article 38. Free trade zones are established in the Republic of Tajikistan in order to attract foreign capital, technology, technological know-how and management experience, and to develop the economic potential of the Republic of Tajikistan. In the free trade zones, foreign investors and enterprises having received foreign investments are provided with the most favourable conditions.

Article 39. Foreign investors and enterprises having received foreign investment and operating in free trade zones may enjoy the following privileges in addition to the rights and guarantees provided by the laws of the Republic of Tajikistan: (a) a favourable tax regime:

foreign investors and enterprises having received foreign investment pay lower taxes, including lower taxes on profits deposited abroad. These lower taxes may not be less than 50% of the tax rates valid on the territory of the Republic of Tajikistan; (b) a reduced leasing rate for land and other natural resources, and the right to rent on long terms and sublease properties which have been leased; (c) A special customs regime, including decreased duties on the export and import of goods and less complicated rules for crossing the border; (A) less complicated entry-exit visa rules, including visa-less entry-exit regime.

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

This law was approved by the Decree of National Assembly of The Republic of Tajikistan No. 555 in March, 10, 1992 and has been amended and modified by the Majlisi Oli (Parliament) on December 19, 1996; on December 12, 1997; on May 22, 1998; and on November, 12, 2002.