

Oman

Foreign Capital Investment Law (1994)

Unofficial translation

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The year indicated in brackets after the title of the law refers to the year of publication in the Official Gazette or, when this is not available, the year of adoption of the law.

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Foreign Capital Investment Law

Royal Decree No. 102/94 issuing the Foreign Capital Investment Law

WE, QABOOS BIN SAID SULTAN OF OMAN, having taken cognizance of the Royal Decree No. 26/75 issuing the State Administrative Apparatus Law and amendments thereto:

And the Commercial Companies Law No. 4/74 and amendments thereto;

And the Royal Decree No. 4174 issuing the Foreign Business and Investment Law and amendments thereto;

And the Royal Decree No. 26/77 issuing the Law of Commercial Agencies and amendments thereto;

And the Law for the Organization and Encouragement of the Industry issued by virtue of the Royal Decree No. 1/79 and amendments thereto;

And the Royal Decree No. 57/93 issuing the Regulations Organizing the GCC Investment.

And upon the exigencies of the public interest,

DECREE AS FOLLOWS:

1. The Foreign Capital Investment Law attached herewith shall be applicable.
2. The investment projects existing at the time of the issue of this Law shall continue up to the end of the licence period thereof during which time the percentage of foreign participation may be amended as per the articles of the Law attached herewith.

The period of exemption from the income tax granted in accordance with the Foreign Business and Investment Law issued by the Royal Decree No. 4/74 referred to above shall be considered as part of the exemption period set out in this Law.

3. The Minister of Commerce & Industry shall issue the regulations necessary to the enforcement of this Law.
4. The Foreign Business and Investment Law issued by the Royal Decree No. 4174 referred to above shall be hereby abrogated.
5. This Decree shall be published in the Official Gazette and shall come into force as of date of publication.

Article 1

Without prejudice to the provisions of the Royal Decree No. 57/93, non-Omanis - whether natural or juridical persons - shall not conduct any commercial, industrial or tourism businesses or otherwise participate in an Omani company except with a licence from the Ministry of Commerce & Industry to be issued in accordance with the Provisions of this Law.

Article 2

The licence referred to in the preceding Article shall be granted after the following conditions have been met:

- a. The business shall be conducted by an Omani company with a capital of not less than RO 150,000 and the foreign share therein shall not exceed 49% of the total capital.

However, the above percentage may be increased upto 65% of the company's capital by a decision from the Minister of Commerce & Industry following a recommendation from the Foreign Capital Investment Committee.

The percentage referred to in the above paragraph may be further increased upto 100% of the company's capital for the projects which contribute to the development of the national economy upon the approval of the Development Council following a recommendation from the Minister of Commerce & Industry, provided that the project's capital shall not be less than RO 500,000.

b. When an existing joint company participates in a new joint-venture company. the foreign share shall be considered as the total share in each company provided that the Omani percentage shall not be less than the percentage to be owned by -Orhanis as set out in the foregoing paragraph.

Article 3

Exemptions from the conditions specified in the above Article for obtaining the licence shall be granted to the following:

1. Companies which conduct business in the Sultanate of Oman by virtue of special contracts or agreements with the Government of the Sultanate or which are established by virtue of a Royal Decree.
2. Parties conducting a business which is declared by the Cabinet as necessary for the country.

Article 4

The application for foreign investment licence shall be referred to a committee to be formed at the Ministry and called "Foreign Capital Investment Committee". Such Committee shall be set up by virtue of a decision from the Minister of Commerce & Industry.

Article 5

The application for foreign investment licence shall be referred to a committee to be formed at the Ministry and called "Foreign Capital Investment Committee". Such Committee shall be set up by virtue of a decision from the Minister of Commerce & Industry.

The said committee shall be responsible for giving opinions on the investment applications with a foreign share of more than 49% and shall make recommendations in respect of the following:

1. The identification of the investment fields.
2. The extent to which the project can be considered as one of the economic development projects.
3. To prioritize the projects submitted for licencing so that preference shall be given to the projects using local products and raw materials which help maximize the value added thereof, to the export-oriented industries, and to the industries introducing new products or using modern technology. Preference shall also be given to the projects which attract and localize internationally-reputed industries. In the field of tourism, preference shall be given to projects involving the construction of integrated tourist villages and zones.
4. To look into the complaints and conflicts arising from the application of this Law.
5. Other matters related to investment referred to it by the Minister of Commerce & Industry.

The Committee shall issue its recommendations thereof by absolute majority of members and submit them to the Minister for decision. The applicant shall be notified of the decision within a period not exceeding two weeks.

Article 6

Any applicant whose application has been rejected shall have the right to appeal to the Minister within 30 days from the date of his notification of the rejection. The decision of the Minister in this respect shall be final.

Article 7

Licensing shall be granted to the projects subject to this Law without the need for obtaining prior approvals from any authorities outside the Ministry. However, due regard shall be given to the negative lists issued by such authorities before granting licence to any company. The concerned ministry may review the environment, health, safety and other standards during the construction and operation stages.

Article 8.1*

The income realized by the companies licensed to be incorporated pursuant to this law and carrying out its major activity in one of the following areas shall be exempted from the tax:

- a. Industry and mining.
- b. Export of locally manufactured or processed products.
- c. Tourism promotion including operation of hotels and tourist villages, but excluding management contracts.
- d. Production and processing of farm products including poultry farming, processing or manufacturing animal products and agro industries.
- e. Fishing, Fish Processing, and fish farming
- f. Exploitation and provision of services such as public utility projects, but excluding management contracts and project execution contracting.

Article 8.2*

Tax exemption shall be for a period of 5 years starting the date of commencing production or carrying out the activity, as the case may be. This period can be renewed in necessary cases, for a period not exceeding 5 years. However, a decision shall be issued by the Financial Affairs and Energy Resources Council for such renewals.

Article 8.3*

The Minister Supervising the Finance Ministry shall lay down necessary controls and procedures to apply tax exemption and its renewal pursuant to provisions of paras 8.1 and 8.2 of this Article.

Article 8.4*

Companies carrying out their major activities in one of the areas prescribed in pars 8.1 above shall have the right to transfer or deduct the net loss incurred during the mandatory exemption years, to any number of tax years after they are finally settled, as an exemption to the provision of Article 14 of the above-referred Law of Income Tax on Companies.

Article 8 (bis)*

The income realized by the companies licenced to be incorporated pursuant to this Law and carrying out its major activity either in the Field of university education, colleges, higher institutes, private schools, kindergartens, training colleges and institutes or in the field of medical care by establishing private hospitals, shall be exempted from the tax.

The Minister supervising the Ministry of Finance shall lay down the necessary controls and procedures to apply the tax exemption pursuant to the provisions of this law.

Article 9.1*

Foreign investment projects mentioned in this Law can be exempted from (paying) custom duties on plant and machinery imported by them for setting up the projects. They can also be exempted from (paying) custom duties on raw material needed in the manufacturing process which are not available in the local markets. for a period of not exceeding 5 years starting from the date of commencing production. This exemption can be renewed once.

Article 9.2*

Exemptions prescribed in the above para shall apply on new expansions (carried out) in the foreign investment projects, starting from the date of issuing the licence for such expansions or from the date of commencing production or carrying out the activity, at such expansions, as the case may be.

What is meant by 'expansion' is increase in capital which shall be used for adding new fixed capital assets for achieving increased production capacity for the project or with the intention of manufacturing a new product or extending a new activity or a service.

Article 9.3*

The Minister Supervising the Midistry of Finance shall lay down the necessary controls and procedures to apply the custom duty exemption and its renewal pursuant to the provisions of this Law.

Article 9 (bis)*

As an exception to the provisions of para I of Article 9 of the Law, the exemption of foreign investment projects registered pursuant to the above-referred Law for the Organization and Encouragement of the Industry, and the renewal of the exemption shall be done pursuant to prevailing rules and bases of the latter law. Foreign investment projects registered pursuant to the above-referred Law for the Organization and Encouragement of the Industry and engaged in export oriented industries may be exempted from custom &ties on the raw materials used for the purpose of exporting, pursuant to the rules and bases determined by a decision to be issued by the Minister Supervising the Ministry of Finance in coordination with the Ministry of Commerce and Industry.

Article 10

The land needed for investment projects may be allocated by usufruct or through rent for a long period.

Article 11

The investors in the investment projects shall be free to conduct the licenced economic activity and to transfer abroad the imported capital along with the profits accrued from the project.

Article 12

The said projects may not be confiscated or expropriated unless for the public interest and against equitable compensation.

Article 13

The above-referred projects can import by themselves or through others, production accessories, material, machinery, spare parts and appropriate means of transport, without the need to register themselves in the register of importers.

The concerned ministry shall determine the projects' requirements of above-mentioned items based on their request.

Article 14

It may be agreed to refer any dispute between the foreign investment projects and third parties to a local or international arbitration tribunal.

Article 15

The provisions of the Commercial Companies Law shall be applicable to the above-said joint-companies unless otherwise specifically stated in this Law.

Article 16

The company violating any provision of this Law shall be notified to rectify such violation within a period not exceeding one month from the notification date. The Minister may thereafter, upon a recommendation from the Foreign Capital Investment Committee, withdraw the licence of the violating company.

Article 17

Without prejudice to any penalty stated in other laws, any foreigner conducting any business referred to in this Law without licence shall be fined no less than RO 5,000 and no more than RO 10,000. Likewise, any Omani participating with a foreigner in such business without obtaining the required licence shall be fined no less than RO 1,000 and no more than RO 5,000.

* Amended by Royal Decree 90/96:

Article 2

Companies already exempted from income tax pursuant to Articles 8 and 9 of the above-referred Foreign Capital Investment Law shall remain exempted till the period specified for the legal exemption, without prejudice to the provisions of the second paragraph of Article 2 of the above-referred Royal Decree No. 102/94.

Article 4

This Decree shall be published in the Official Gazelle and shall come into force effective the date of its publication, except the amendment mentioned in Para 4 of Article 8 of the Law, the provision of which shall be applied on the net loss incurred starting the 1996 tax year which commences on January 1, 1996.