

Tajikistan

The Law of the Republic of Tajikistan on Investments (2007)

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The Law of the Republic of Tajikistan on Investments

[Preamble]

The present Law regulates relations connected with the realization of investment activity, legal, economic bases of activation, stimulation and the state support of investments, by means of granting a fair, equal legal regime and a guarantee of protection of the rights of interests in the territory of the Republic of Tajikistan.

The purpose of the present Law is attraction and an effective utilization in the economy of the Republic of Tajikistan material and financial resources, the advanced technics and technology, administrative experience; providing of favourable conditions for investment activity, and also conditions for free using, transparency, possession and the order of investments; maintenance of norms of international law and the international practice of investment cooperation.

The present Law is not applied in the relations, concerning investment activity from means of the state budget and guarantees of the Government of Republic Tajikistan, and also the non-commercial organizations investment.

Chapter I. General provisions

Article 1. The basic concepts

The basic concepts applied in the present Law:

Investment - all kinds of the right to property (except for property of a private use or, connected with activity on sale of the goods of bases of their processing), including money resources, securities;

Industrial - technological equipment and the results of intellectual activity belonging to the investor on the basis of the property right and put by it in the investment activity objects with a view of profit and (or) achievement of other significant result;

The investor - physical or legal person who is carrying out investment activity in the Republic of Tajikistan. Foreign investors - foreign investors in the Republic of Tajikistan are:

- foreign states and their administrative - territorial units on behalf of the authorized bodies; International organizations;
- foreign legal persons;
- foreign organizations, not being the legal persons, created according to the legislation of the foreign states;
- foreign citizens and persons without citizenship;

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

Investment activity - action of the investor on an contribution of investments into the production or their other use with the purpose of gaining profit and (or) achievements of other significant result;

Reinvestment - an investment of the investments in the territory of the Republic of Tajikistan due to profit on investment activity in the Republic of Tajikistan;

Investment dispute - dispute between the investor and the state bodies, officials of the Republic of Tajikistan and other participants of the investment activity, arising from realization of investment activity;

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

Article 2. The legislation of the Republic of Tajikistan in the field of investments

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

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

Article 3. Objects and kinds 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) Kinds 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 II. Guarantees of protection of the investment and the rights of the investor

Article 4. A guarantee of equality of the investor

The state guarantees equality of the rights between foreign and domestic investors, without any discrimination concerning investors on the basis of their citizenship, nationality, language, floor, race, religion, a place of carrying out of economic activities, and also a country of origin of the investor or investments.

Article 5. A guarantee of a legal protection of the investor and Investment activity

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

2) In case of modification and additions in 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 choice of favorable conditions for them. This treatment does not spread to the changes and additions, introducing to the Constitution of the Republic of Tajikistan and to the legislation of the Republic of Tajikistan, that is connected with the questions of national security, public health, protection of an environment, morals and ethics.

3) The investor has the right to compensation for the harm caused as a result of the edition by the state bodies acts that are not conformity with the legislative acts of the Republic of Tajikistan, and also as a result of illegal actions of officials of these bodies according to the legislation of the Republic of Tajikistan.

4) The Republic of Tajikistan guarantees stability of conditions of the contracts concluded between investors and authorized state bodies, except for cases when changes and additions to contracts introducing by the agreement of parties.

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: With a view of preservation and use of incomes and other means to open in banks of the Republic of Tajikistan accounts in national and (or) foreign currency according to the legislation of the Republic of Tajikistan; At own discretion use of profit received from the activity, after payment of taxes and other obligatory 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 the termination of the investment activity, not on a fault of the investor, the investor has the right to compensation of investments due to it and the incomes received in connection with them in the monetary or commodity form at real cost at the moment of the termination of investment activity.

Article 8. Currency transactions

1) Investors have the right concerning all payments connected with investment activity in the Republic of Tajikistan, to free converting of national currency of the Republic of Tajikistan in other hard currency, and also purchase of a 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) Restrictions of remittances in a foreign currency in the Republic of Tajikistan and from the Republic of Tajikistan for investors can be entered only on the basis of the law with the purpose of prevention of operations on legalization of the incomes received illegal.

Article 9. Publicity of the state bodies activity concerning investors

1) Official notification of the state bodies of the Republic of Tajikistan and the normative legal acts infringing interests of investors, are published by the way of, established by the legislation of the Republic of Tajikistan.

2) The 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. Inadmissibility of intervention of government bodies in investment activity

Government bodies have not the right to intervention in investment activity, except for the cases stipulated by the legislation of the Republic of Tajikistan.

Article 11. Guarantees of the rights of the investor at nationalization and requisitions

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

The estimation of the cost, compensated to the proprietor of the requisitioned property, can be disputed in the court. The person whose property is requisitioned, has the right after cancellation of circumstances in connection with which requisition is lead, to demand return to it of the kept property, and in cases of refusal - address to the court.

2) Claim for the property belonging to citizens and legal persons, in a state ownership by means of its nationalization is supposed only on the basis of the legislation on nationalization of the property accepted according to the Constitution of the Republic of Tajikistan, and with compensation to the person whose property is nationalized, costs of this property and other losses caused by nationalization.

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 size of compensation of cost of the nationalized or requisitioned investment property can be disputed by the investor in the courts 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 the investor to other person on a guarantee of contracts of insurance contracts

If the foreign state, the state body authorized by it or insurance agency make payments in favour of the investor on a guarantee of the insurance contracts, given to it in relation to investments which have been carried out in the territory of the Republic of Tajikistan, and to this foreign state authorized by it to the state body or insurance agency pass the rights of the investor to the specified investments than in the Republic of Tajikistan such transition of the rights admits lawful only in case of realization by the investor of investments the Republic of Tajikistan and (or) performance of the certain treaty obligations by it in full.

Article 13. Obligations of the Republic of Tajikistan on investments

The Republic of Tajikistan does not answer for obligations of residents and the non-residents attracting investments, except for cases when these obligations are guaranteed by the state in the form established by the law.

Article 14. A guarantee of the right of the investor on export of property and information

The investor who has originally imported property in the territory of the Republic of Tajikistan, the information in the documentary form or in the form of record on electronic carriers as the investment, has the right on unobstructed (without quoting, licensing's and applications to it of other of non-tariff measures of the foreign trade activity) export of the specified property and the information from Republic of Tajikistan after the termination of investment activity according to the customs legislation of the Republic of Tajikistan. Solving of investment disputes 1) Investment dispute between participants of investment activity solving according to the conditions stipulated by the concluded agreement between parties. Due to absence of such agreement investment dispute between participants of investment activity whenever possibly solve by consultations between parties. 2) Due to impossibility of the solving of investment disputes according to provision of item 1 of the present article the resolution of disputes is made according to the international treaties and acts of the Republic of Tajikistan in the courts of the Republic of Tajikistan, and also in the international arbitration determined by the agreement of the sides.

Article 15. Rights of the investor to objects of intellectual property

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

Article 16. The rights of investors for using of natural resources

- 1) Acquire by the investor of the right of using of the lands, other natural resources is carried out according to the legislation of the Republic of Tajikistan.
- 2) At transition of the property right for building and constructions, together with these objects the right of using of the lands also transfers to the investor by way of and on the 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 at own discretion can reinvest the profit which has remained after payment of taxes in the territories of the Republic of Tajikistan.
- 2) At realization of reinvestment the investor uses in full a legal protection, guarantees and the privileges established by the present Law.

Chapter III. The state support of the investor and the investment

Article 18. The purpose of the state support of the investor and the investment

- 1) The purpose of the state support of the investment are creation of a favorable investment climate for development of economy and stimulation of the investments for creation new and updating of operating manufactures with application of modern technologies and equipments, creation of new and preservation of existing workplaces, health protection, protection of an environment and granting of privileges for support of invested branch.

2) The state support of the investor is carried out by the authorized body determined 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 an 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 on an equal basis to maintenance of investors with services on protection and promotion of their interests, not allowing deterioration of their industrial-financial activity, use of principles of publicity and a transparency on attraction of investments by conducting international tenders.

Article 19. Investment privileges

1) Following kinds of investment privileges are given:

- Privileges under the taxation;
- Customs privileges;
- Issue of the state grants.

2) Tax privileges are given to investors according to the order established 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 IV. Requirements for investors

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

At realization 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, being citizens of the Republic of Tajikistan, are regulated by the labour legislation of the Republic of Tajikistan and is international legal acts recognized by Tajikistan.

Chapter V. Final provisions

Article 22. Settlement of investment 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 infringement of the present Law

The physical and legal persons breaking the requirements of the present Law, are made answerable, according to the legislation of the Republic of Tajikistan.

Article 24. About a recognition of becoming invalid the Law of the Republic of Tajikistan « About foreign investments into the Republic of Tajikistan »

Recognize becoming invalid the Law of the Republic of Tajikistan from March, 10, 1992 « About foreign investments into the Republic of Tajikistan » (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.

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