

## Mongolia

### Law On Investment (2013)

*Unofficial translation*

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# Law On Investment

## Chapter I. General background

### Article 1. Purpose of law

1) The purpose of this Law is to protect the legal rights and interests of investors in the territory of Mongolia, to establish a common legislative guarantee for investment, to encourage investment, to stabilize the tax environment, to determine the rights and obligations of investors and the competences of a government body related to investment and to regulate other relations pertaining to investment.

### Article 2. Investment legislations

1) The legislations on investment shall consist of the Mongolian Constitution, the General Taxation Law, this Law and other legislative acts adopted pursuant to these laws.

2) Should provisions of the international treaties to which Mongolia is a party provide otherwise, the provisions of such international treaties shall prevail.

### Article 3. Definition of terms

1) Terms used in this Law shall be understood in the following meaning:

#### **Article 4. Scope of law**

- 1) This Law shall apply to the investments which are made by foreign and domestic investors in the territory of Mongolia.
- 2) Investors may make investment freely into the sectors and productions and services except as otherwise prohibited or restricted by legislations of Mongolia.
- 3) A foreign state owned legal entity may make investment upon obtaining permission pursuant to Article 21.1 of this Law.
- 4) Foreign and domestic investors shall conduct activities in Mongolia upon registration to state registration in accordance with the Company Law, Law on State Registration of Legal Entities and other relevant laws and regulations.
- 5) This Law shall not apply to the investments at state and local budgets of the governmental organizations and state owned enterprises, as specified in the Law on Procurement of Goods, Works and Services with State and Local Funds.
- 6) This Law shall not apply to donations or grants by international or non-governmental organizations, private businesses or individuals without commercial conditions.
- 7) The Article 20 of this Law shall not apply to conclude/apply an investment agreement in the nuclear energy sector and the relations shall be regulated under the Nuclear Energy Law of Mongolia.

#### **Article 5. Forms of investment**

- 1) Investments in Mongolia can be made in the following forms:

## **Chapter II. Common legal guarantee of investment**

#### **Article 6. Common legal guarantee of investment**

- 1) An investor shall have a right to seek a tax and non-tax support in order to support investment.
- 2) The State shall provide an investor with a guarantee of ensuring stability of the tax rate by a way of granting a stabilization certificate to the investor or by a way of concluding an investment agreement with the investor as specified in this Law.
- 3) The investor's assets/investment is prohibited to illegally confiscated in the territory of Mongolia.
- 4) Properties of the investors may be mobilized only for the public interest and on the condition of full compensation of the mobilized properties in accordance with the procedures specified in the law.
- 5) Unless provided otherwise in the international treaties, to which Mongolia is a party, compensation of the mobilized assets shall be valued at the market rate of the assets when it was mobilized or notified to the investor or to the public and paid together with the price, as specified in Article 6.4 of this Law.
- 6) Mongolia shall protect intellectual properties owned by the investors as specified in the applicable laws.
- 7) Investors shall have a right to transfer their following assets and revenues out of Mongolia without hindrance on the condition of having properly fulfilled their tax payment obligations in the territory of Mongolia:

8) When an investor is moving its assets specified in the Article 6.7 of this Law out of Mongolia as a monetary asset, the investor shall be entitled to convert into any internationally freely convertible currency.

9) Unless it is provided by law or in the international treaties, to which Mongolia is a party, an investor is entitled to select an international or domestic arbitration to settle any dispute which may arise regarding the contract concluded with the state authority of Mongolia.

10) The amendments to this Law shall be resolved by above two thirds votes of the the Parliament members.

#### **Article 7. Rights and obligations of investor**

1) Investors shall have the following common rights:

2) Investors shall have the following common obligations in addition to their basic obligations to conduct their business operations in accordance with the legislation of Mongolia:

## **Chapter III. Full rights of the state bodies related to investment**

### **Article 8. Full rights of state central administrative body in charge of investment affairs**

1) The state central administrative body in charge of investment affairs shall exercise the following full rights:

1. to ensure and monitor implementation of the investment legislation;
2. to prepare proposals concerning the investment policy and the sectors and areas, where investments need to be encouraged, and to deliver them to the Government for decision;
3. to issue the authorization specified in the Article 21.1 of this Law;
4. to collect the following investment related data from the Central Bank and the state administrative bodies in charge of employment, taxation, customs, social insurance and foreign citizen affairs semi-annually and annually, and to issue investment statistics accordingly:
  - a. investment sources and amounts;
  - b. payment of taxes;
  - c. number of jobs/ workplaces;
  - d. residence permits of foreign citizens;
  - e. number of foreign invested entities;
  - f. goods and services imported by direct investments
5. other rights provided for by the laws.

### **Article 9. The state administrative body in charge of investment affairs (agency)**

1) There shall be a state administrative body in charge of investment affairs (agency) with functions to attract investment, to promote the advocacy of the investment environment and to provide services to investors.

2) The state administrative body in charge of investment affairs shall fulfill the following rights and obligations:

- 3) A /freelance/ council shall be set up to draw a conclusion on the issues specified in the Article 9.2.6 of this Law under the decision by the Government member in charge of investment affairs.
- 4) The Government member in charge of investment affairs shall determine the compound and activity regulation of the council specified in the Article 9.3 of this Law.
- 5) A representative to protect the investor`s interest shall be appointed to the council specified in the Article 9.3 of this Law.

## **Chapter IV. Investment promotions**

### **Article 10. Types of investment promotions**

- 1) The investment promotions for investors shall consist of tax and non-tax incentives.

### **Article 11. Tax incentive for investment**

- 1) Tax incentives shall be rendered to investors in the following types:

- 2) Imported machineries and technical equipment may be exempted from the customs duty and VAT rate may be zero-rated during the construction works in the following cases:

- 3) The promotions for investors specified in the Articles 11.1 and 11.2 of this Law shall be regulated by legislations on taxation.

### **Article 12. Non-tax promotion for investment**

- 1) The non-tax promotions may be rendered to investors in the following forms:

- 2) Non-tax investment incentives shall be regulated in accordance with the Land Law, Free Zones Law, the Law on Legal Status of Industrial and Technological Parks, Innovation Law, the Law on Export of Mongolian Workforces and Import of Workforces and Specialists from Abroad and other relevant legislations in force.

## **Chapter V. Stabilization of investment environment**

**Article 13. Tax rate stabilization**

- 1) The rate of taxes to be paid by the legal entity, who is to implement an investment project, shall be stabilized by a way of issuing stabilization certificates to the party specified in the Article 13.5 of this Law.
- 2) The stabilization certificates shall become effective from the date of their issuance and the tax rate shall be stabilized during the entire period of validity of the stabilization certificates.
- 3) Issues of stabilization of the tax rate shall be regulated only as specified in this Law and the investment contract specified in this Law except specified otherwise in the Article 4.7 of this Law.
- 4) In case if any amendments made to the Tax Law within the validity of the stabilization certificates by reducing the rates of taxes, duties and fees specified in the Article 14.1, the stabilization certificate holders shall be entitled to be covered by the amendments and if the amendment was made by increasing the rates, the stabilization certificate holders shall not be covered by the amendments.
- 5) The stabilization certificate shall be granted to the following investors depending on
- 6) The tax rate shall not be stabilized for production, import and trade activities of tobacco and alcohol beverage.

**Article 14. Types of the taxes to be stabilized**

- 1) The rates of the following taxes, fees and duties shall be stabilized under the stabilization certificates during their validity period:

**Article 15. Stabilization certificate**

- 1) The template of stabilization certificate shall be approved by the Government member in charge of investment affairs.
- 2) The following information shall be reflected in the stabilization certificate:
  - 3) It is strictly prohibited to transfer the stabilization certificate by selling, pledging and giving as a gift.
  - 4) In cases, a legal entity holding stabilization certificate is reorganizing in the forms of merging, consolidating and reforming, the stabilization certificate shall be transferred to the legal entity which has been established newly or inherited the entity if it fulfills the following requirements:

**Article 16. Criteria and duration for issuing stabilization certificate**

- 1) A stabilization certificate shall be issued to the investor whose project to be carried out in Mongolia meets the following criteria:
  - 2) The stabilization certificate shall be issued to the following sectors for the durations stated below:
    - 3) The validity duration of stabilization certificate, specified in the Article 16.2 of this Law, shall be issued 1.5 times longer for the investors who are to implement the following projects:
      - 4) The investment completion period shall be considered commencing from the issuance date of the stabilization certificate.
      - 5) The stabilization certificate holder – legal entity may request the Central state administrative body in charge of investment affairs to extend investment completion period specified in the Article 16.2 of this

Law. If the request is considered as reasonable, then the duration can be extended for two years.

#### **Article 17. Application for stabilization certificate**

- 1) An investor – legal entity meeting the criteria specified in the Article 16.1 of this Law may make its application for a stabilization certificate to the state administrative body in charge of investment affairs.
- 2) The following documents shall be attached to the request to take a stabilization certificate:

#### **Article 18. Issuance of stabilization certificate**

- 1) The state administrative body in charge of investment affairs shall decide whether to grant a stabilization certificate or not within 30 (thirty) days after receipt the request for a stabilization certificate on the basis of the resolution by the council specified in the Article 9.3 of this Law. This term may be extended for 15 days if required.
- 2) If the state administrative body in charge of investment affairs decides to grant the stabilization certificate, it shall write the related information onto the stabilization certificate and give the certificate to the project implementing legal entity registered in Mongolia.
- 3) In case if the investment project does not meet the criteria specified in the Article 16.1 of this Law or the submitted documents are incomplete, the state administrative body in charge of investment affairs shall deliver to the investor a written reply refusing to grant the stabilization certificate together with the relevant justification within the term specified in the Article 18.1 of this Law.
- 4) The state administrative body in charge of investment affairs shall make amendments the stabilization certificate at the request of the legal entity holding stabilization certificate for each occasion of the amendment in the information specified in the Article 15.2 of this Law.

#### **Article 19. Invalidation of stabilization certificate**

- 1) The state administrative body in charge of investment affairs shall invalidate the stabilization certificates with the following grounds:

- 2) The state administrative body in charge of investment affairs shall inform its decision to invalidate the stabilization certificate specified in the Article 19.2 of this Law within five (5) working days to the stabilization certificate holding legal entity and the state administrative body in charge of taxation issues.

#### **Article 20. Investment contract**

- 1) The Government of Mongolia shall conclude an investment contract with the investor who is to invest more than MNT 500 billion at the investor's request with the purpose of stabilizing the environment of business activities.
- 2) The Government member in charge of investment affairs shall make investment contracts with investors.
- 3) The investment contract may be concluded for not less than the duration specified in the Articles 16.2 and 16.3 of this Law.
- 4) If not stated otherwise in the applicable laws, the investment contract may reflect the conditions to provide a legal guarantee to the investor specified in this law, stabilize the tax environment and render coordination and financial support.
- 5) If the legal entity holding the stabilization certificate with investment of more than MNT 500 billion made a request, an investment contract may be concluded with the relevant investor.
- 6) The Government of Mongolia shall approve the regulation to conclude investment contracts.

## **Chapter VI. Investment by foreign**

# government owned legal entity

## **Article 21. Investment by foreign government owned legal entities**

1) If a foreign government owned legal entity holds 33 percent and more percentage of the total shares issued by the legal entities of Mongolia which deal with business in the following sectors shall get permission:

## **Article 22. Request and solution of application for permit**

1) A legal entity specified in the Article 21.1 of this Law shall make its application for authorization to the state central administrative body in charge of investment affairs directly or through a representative office and authorized representative in Mongolia and shall attach the following documents to the application:

- 2) The documents specified in the Article 22.1 of this Law shall be in Mongolian language.
- 3) The state central administrative body in charge of investment affairs may demand required documents other than those specified in the Article 22.1 of this Law from the applicant in the course of reviewing the submitted application documents.
- 4) The state central administrative body in charge of investment affairs shall receive the application that meets the requirements specified in the Article 22.1 of this Law and review whether the following conditions may arise or not:

- 5) The state central administrative body in charge of investment affairs shall make a decision within 45 days after receipt of the application specified in the Article 22.1 of this Law.
- 6) The state central administrative body in charge of investment affairs shall notify the applicant on the decision specified in the Article 22.5 of this Law within five (5) working days after making the decision.

# Chapter VII. Miscellaneous

## **Article 23. Liability to be imposed on violators**

1) In case of violation of the Law on Investment, the judge or an authorized person of inspection authority may charge with the following administrative punishments:

## **Article 24. Effectiveness of law**

1) This Law shall become effective commencing from the 1st day of November 2013.



