

Morocco

Investment Charter (1995)

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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Investment Charter

Official Gazette No. 4336

Outline Law N° 18 – 95 Establishing Investment Charter

Dahir n° 1 - 95 - 213 of Joumada II 14, 1416 (November 8, 1995) providing for the promulgation of the outline law n° 18 - 95 establishing Investment Charter.

[Preamble]

PRAISE BE TO GOD!

(Great Seal of His Majesty king Hassan II)

That it is known hereby - might God elevate and strengthen its content!

That Our Majesty,

In view of the Constitution, particularly its article 26,

HAS DECIDED THE FOLLOWING:

Promulgated and will be published in the Official Gazette, and annexed to this present Dahir, is the outline law n° 18 - 95, establishing Investment Charter, adopted by the House of Representatives on Joumada I 7th, 1416 (October 3rd, 1995).

Rabat, Joumada II 14th, 1416 (November 8th, 1995)

Title I. Objects of the Investment Charter

Article 1

Are determined, according to the second paragraph of the article 45 of the Constitution, the fundamental objects of the state's action for the forthcoming ten years with a view to developing and promoting investment by improving its atmosphere and conditions, reconsidering the field of tax encouragement and taking measures to encourage investment.

Article 2

The measures provided in this Charter tend to encourage investment by:

- reducing the tax burden related to operations on working stocks, tools, equipment goods and lands necessary to carry out investment;
- reducing the rate of taxation on income and profits;
- granting a preferential taxation regime in favour of regional development;
- strengthening the guarantees granted to investors by setting the grounds for appeal in both national and local tax matters;
- promoting offshore financial centres, export free – zones and a free industrial warehouse system;

- better assessment of the tax burden and right application of free competition rules, especially by reconsidering the application field of the granted tax exemptions.

These measures tend as well to:

- encourage exports;
- promote employment;
- reduce investment expenses;
- protect the environment.

Title II. Measures of fiscal nature

Custom duties

Article 3

Custom duties, including import duty and import tax levy shall be set as follows:

- import duty must not be inferior to 2.5 ad valorem;
- equipment goods, materials and tools as also their parts, spare parts and accessories considered as necessary to promote and develop investment, shall be liable to an import duty of 2.5% ad valorem as a minimum rate or 10% ad valorem as a maximum rate;
- equipment goods, materials, tools and their parts, spare parts and accessories referred to above shall be exempted from import tax levy, with regard to the national economic interests.

Value-added tax

Article 4

Shall be exempted from inland and import value-added tax the equipment goods, materials and tools that have to be inscribed in a realty account and thus open the right to tax deduction in accordance with the legislations related to the value-added tax.

Subjected enterprises that have paid import duty or local purchase tax on the above mentioned goods shall benefit by the reimbursement of the said duty or tax.

Registration tax

Article 5

Shall be exempted from the registration tax the acquisition deeds of lands intended for carrying out an investment project, excluding the deeds mentioned in a) of the second paragraph hereunder, on condition that the project should be carried out within a maximum term of the 24 months following the date of the deed.

Are subjected to registration tax at a 2.5% rate:

- a. the acquisition deeds of lands intended for carrying out housing estate and construction operations;

b. the constructions mentioned above, acquired for the first time by persons and /or corporate bodies other than credit establishments or insurance companies.

Are subjected to a registration tax of 0.50% as a maximum rate the contribution to the initial capital of the companies or any capital increase.

Participation in the National Solidarity

Article 6

The National Solidarity Tax, attached to the corporation tax, shall be suppressed.

However, the profits and income which are entirely exempted from the corporation tax in pursuance of the present or future legislations establishing incentive measures to investment are liable, in stead of the participation in the National Solidarity, to a tax equal to 25% of the corporation tax which could have normally been eligible if exemption does not exist.

Corporation tax

Article 7

a) The corporation tax rate is brought back to 35%.

b) The enterprises exporting products and /or services profit, according to their export turnover[^] by special advantages which may go so far as to total exemption of the corporation tax during a five year period and to 50% reduction beyond this period. With regard to enterprises exporting services, however, the aforesaid exemption and reduction apply only to export turnovers effected in foreign currency.

c) The enterprises established in the prefectures or provinces whose economic activity level requires a preferential tax treatment profit by 50% reduction of the corporation tax during the first five consecutive years of their operation, excluding permanent establishments of companies having their registered offices outside Morocco, allottees of work, supply or service tenders credit establishments, insurance companies and real estate agencies.

d) Crafts enterprises whose product is essentially the result of manual work profit by 50% reduction on the corporation tax during the first five years following the beginning of their operation, wherever the place of their establishment may be.

Income general tax

Article 8

a) The rate of income general tax scales shall be reset, the maximum of taxation rate should not exceed 41.50%.

b) The enterprises exporting products and/or services profit, according to their export turnover, by special advantages whi ch may go so for as to total exemption of the income general tax during a five year period and to 50% reduction beyond this period. With regard to the enterprises exporting services, however, the aforesaid exemptions and reduction apply only to export turnover effected in foreign currency.

c) The enterprises established in the prefectures or provinces whose economic activity level requires a preferential tax treatment profit by 50% reduction on the income general tax during the first five years of their operation, excluding the permanent establishments of companies having their registered offices outside Morocco, allottees of work, supply or service tenders credit establishments, insurance companies and real estate agencies.

d) Craft enterprises whose product is essentially the result of manual work profit by 50% reduction on the income general tax during the first five years following the beginning of their operation, wherever the place of their establishment may be.

e) The profit of the above mentioned advantages is subordinated to regular book-keeping in accordance with the legislations in force.

Decreasing redemptions

Article 9

Shall be maintained for the equipment goods during the period mentioned in Article 1 above, the measures provided by the legislation relating to the corporation tax and the income general tax in the decreasing redemptions matter.

Provisions for investment concerning corporation tax and income general tax

Article 10

Are considered as deductible charges the provisions made, within the limit of 20% of taxable profit before taxation, by the enterprises aiming to effect investment in equipment goods, materials and tools, within the limit of 30% of the said investment, excluding lands, constructions other than those reserved for professional use and private cars.

Shall be maintained as deductible charges the provisions made by mining enterprises for reconstruction of mines in accordance with the legislations relating to corporation tax and general income tax.

The above mentioned provisions, used in accordance to the object for which they have been made, shall be carried on a provisional account entitled "investment provisions".

The amount written down in the "investment provisions" account shall be used only:

- by incorporation in capital; or
- in deduction of previous financial years' deficit.

Estate profit tax

Article 11

In order to encourage the construction of social housing, shall be exempted from the estate profit tax the profit realised by the persons with regard to the first assignment of the premises for dwelling use, provided that the assignment be of non-speculative purpose and that the housing be of a social character.

Franchise (licence) tax

Article 12

The variable tax on the principal of the franchise (licence) tax shall be abolished.

Shall be exempted from the franchise (licence) tax all natural or artificial persons practising in Morocco a professional, industrial or commercial activity, during the first five years starting from the date of the beginning of their operation. Shall be excluded from this exemption the establishments of the companies having their registered offices outside Morocco, allottees of work, supply or service tenders, credit establishments, insurance companies and real estate agencies.

Urban tax**Article 13**

Shall be exempted from the urban tax the new buildings, additions to the buildings as also the outfit being part and parcel of goods or service production establishments, during the first five years following their completion or their set-up. Excluded from this exemption are the establishments, enterprises and / or agencies mentioned in the last paragraph of Article 12 above, exclusive of the leasing enterprises with regard to equipments that they acquire on behalf of their customers.

Local taxation**Article 14**

In regard to local taxation, simplification and harmonisation of maximum rates and basis of taxation shall be proceeded with to make them suitable for development and investment requirements.

Title III. Measures of financial, praedial and administrative nature and other

Article 15

These measures have the following objects:

- free transfer of benefits and assets for the persons who carry out investments in foreign currency;
- creation of a praedial reserve intended for the realisation of investment projects and the definition of the government's participation in the acquisition and the equipment of lands required for investment;
- orientation and assistance to investors, by the establishment of a unified national instrument;
- simplifying and lightening the administrative procedure related to investment. Foreign Exchange Regulation

Foreign exchange regulation**Article 16**

Natural and artificial persons of foreign nationality, residents or non - residents, as also Moroccan natural persons who carry out investments financed in foreign currency in Morocco, profit for the said investments and in the field of foreign exchange regulation, by a convertibility system that guarantees them entire liberty for:

- the remittance of benefits free of tax with no amount or time limitation;
- the remittance of proceeds of assignments or of investment's total or partial liquidation, including surplus.

Government take-over of certain expenses

Article 17

The enterprises whose investment programme is very important on account of its amount, the number of permanent employments to be created, the region where it should be carried out, the technology of which it will ensure the transfer or its contribution to environment protection, can drive contacts with the government granting them, in addition to the advantages provided in this present outline law as well as in the texts that will be issued for its explanation, a partial exemption from the following expenses:

- land acquisition expenses required for investment realisation;
- external infrastructure expenses;
- vocational training costs.

The above mentioned contracts may involve clauses stipulating that the settlement of any disagreement relating to investment which may rise between the government of Morocco and the foreign investors, will be proceeded with in accordance with international conventions ratified by Morocco in international arbitration matters.

Investment Promotion Fund

Article 18

Shall be created an account for special assignment called "Investment Promotion Fund" designed to account the operation relating to the government's take - over of the costs of advantages granted to investors within the framework of the investment contract system mentioned in the previous article and also expenses required by investment promotion.

Industrial Zones

Article 19

In the provinces and for prefectures whose economic development level justifies a special assistance from the Government, this latter takes over a part of set-up costs of the industrial zones which will be implemented there.

Article 20

Each industrial zone, if its surface importance justifies it,- shall have a management committee, composed of the zone users and the promoter who could be a public or private person in charge of its management and maintenance, supervision and inside security-keeping as well as the right application of the tender terms binding its promoter and users.

Article 21

Shall be established an administrative instrument in charge of the orientation, information and assistance to investors as also of investment promotion.

Lightening administrative procedures**Article 22**

Lightening and simplifying administrative procedures attached to investment realisation shall be proceeded with. In all the cases where an administrative permit is required for granting the advantages provided in this outline law, the said permit is supposed to be bestowed when the administration shall have given no response to the request within sixty days after its deposit.

Temporary provisions**Article 23**

Shall be maintained the investors' vested rights concerning the advantages by which they profit in pursuance of the legislations establishing measures to encourage investment that remain in force up to the end of the term, and under the conditions, in which they have been granted.

Title IV. Agricultural sector**Article 24**

The provisions of the pre sent outline law are not applicable to the agricultural sector who se taxation system, especially relating to investment, will be the object of a special legislation.

Title V. Application measures**Article 25**

The present outline law will come into force in conformity with the legislations and regulations required for the realisation of the goals defined in this present outline law, reckoning from the finance law of 1996.

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