

LAW ON INVESTMENT IN THE REPUBLIC OF TAJIKISTAN

The present Law adjusts the attitudes connected with 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 guarantee of protection on the rights of investors in territory of the Republic of Tajikistan.

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

The present Law is not applied in the attitudes, concerning investment activity from means of the state budget and guarantees of the Government of the Republic of Tajikistan, and also the noncommercial organizations connected with investment.

CHAPTER I . GENERAL PROVISIONS

Article 1 Basic concepts

The basic concepts applied in the present Law:

- The investment - all kinds of the right to property (except for property of a private use or, connected with activity on sale of the goods without their processing), including money resources, securities, is industrial - the process equipment and the results of intellectual activity belonging the investor on the basis of the property right and put by it in objects of investment activity with a view of reception of profit (income) and (or) achievement of other significant result;
- The investor - the physical or legal person who is carrying out investment activity in the Republic of Tajikistan;
- Foreign investors - foreign investors in the Republic of Tajikistan admit:
 - The foreign states and their administrative - territorial units on behalf of the authorized bodies;
 - The international organizations;
 - Foreign legal persons;
 - The foreign organizations, not being the legal persons, created according to the legislation of the foreign states;
 - Foreign citizens and persons out of citizenship of RT;
- The domestic investor - the 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 investment of investments into production or they using other purpose of reception of profit (income) and (or) achievements of other significant result;
- Reinvestment - an investment of the investment in 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 at realization of investment activity;

- The representative state body, authorized by the Government of the Republic of Tajikistan, in investment sphere;
 - State natural grant asset and the means, being a state ownership and given out without payment as
- Using of properties or the ground to legal persons with a view of realization of investment activity.

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 the present Law, normative legal certificates of the Republic of Tajikistan and is international the-legal certificates recognized by the Republic of Tajikistan.

2. In case of occurrence of contradictions between positions of the present Law and conditions of the international legal certificates recognized by Tajikistan, conditions of the international legal certificates are applied.

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 forbidden 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 state and the agencies, the state enterprises, establishments and the organizations due to budgetary and not budgetary funds, own and proceeds of credit;
- The foreign investment activity which is carried out by foreign citizens, legal persons, the 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 to the foreign states.

CHAPTER II . GUARANTEES OF PROTECTION OF THE INVESTMENT AND THE RIGHTS OF THE INVESTOR

Article 4. A guarantee of equality on the rights of the investor

The state guarantees equality of the rights between foreign and domestic investors, not supposing any discrimination concerning investors on the basis of their citizenship, a nationality, language, a floor, race, creed, a place of carrying out of economic activities, and also a country of origin of the investor or investments.

Article 5. Guarantees of a legal protection on the investor to investment activity

1. The present Law and other normative legal certificates of the Republic of Tajikistan, and also it is international the-legal certificates 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 within five years from the date of the official publication of such changes or additions have the right of a choice of optimum conditions for them. The given mode does not extend concerning changes and additions, introduce in the Constitution of the Republic of Tajikistan and in the legislation of the Republic of Tajikistan, connected with questions of national safety, public health services, protection of an environment, morals and ethics.

3. The investor has the right to compensation to it of the harm caused as a result of the edition by the state bodies of certificates, mismatching acts of the Republic of Tajikistan, and also as a result of illegal actions (inactivity) 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 in agreements are brought under the agreement of parties.

Article 6. A guarantee of the right to moving of foreign investors

Foreign investors, their representatives and the foreign workers who are being the Republic of Tajikistan with a view of investment activity, have the right to moving on all territory of the Republic of Tajikistan, except for territories, conditions and the order of stay on which are defined by the corresponding legislation of the Republic of Tajikistan.

Article 7. Guarantees of the right on using incomes

1. Investors have the right:

- With a view of preservation and use of incomes and other means to open in banks in territory of the Republic of Tajikistan bank accounts in national and (or) a foreign currency according to the legislation of the Republic of Tajikistan;

- To use own discretion the profit received from the activity, after payment of taxes and other obligatory payments.

2. To investors and foreign workers the right of translation 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 investment activity, not on 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 concerning all payments connected with investment activity in the Republic of Tajikistan, have the right to free converting of national currency of the Republic of Tajikistan in another is 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 by ones.

Article 9. Publicity of activity of the state bodies in the attitude of investors

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

2. To investors the easy approach 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.

Article 10. Inadmissibility of intervention of bodies state authorities in investment activity

Bodies of the government have no 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 acts of nature, failures, infectious diseases, epidemics, epizootic and at other force majeure the property in 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 cost, compensated to the proprietor of the requisitioned property, can be challenged in court. The person which 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 renouncement in court.

2. The reference of the property belonging 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 which property is nationalized, costs of this property and other losses caused by nationalization.

3. The size of indemnification of cost of the nationalized or requisitioned investment property is defined on the basis of market cost of property. Compensation should be real realizable, is observed in the terms coordinated by the parties, and paid in is hard to currency.

4. The size of indemnification of cost of the nationalized or requisitioned investment property can be challenged by the investor in 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 parties or the international contract.

Article 12. Transfer of the right of the investor to other person on a guarantee insurance of 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 concerning the investments which have been carried out in territory of the Republic of Tajikistan, and to this foreign state authorized by it to the state body or insurance agency the rights of the investor to the specified investments in Republic 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 are transferred.

Article 13. Obligations of the Republic of Tajikistan under investments

The Republic of Tajikistan does not answer for obligations residents and the non-residents involving the 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 on 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 quota system, licensing and applications to it of other measures of not tariff regulation of the foreign trade activity) export of the specified property and the information for limits of the Republic of Tajikistan after the termination of investment activity according to the customs legislation of the Republic of Tajikistan.

Article 15. The rights of the investor to objects intellectual properties

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

Article 16. The rights of the investor to use of natural resources

1. Purchase by the investor using the right of the ground areas, other natural resources is carried out according to the legislation of the Republic of Tajikistan.

2. At transition of the property right to structures and constructions, together with these objects the right of use of the ground areas also passes 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 ground area can be got by the investor when due hereunder according to the Ground code of the Republic of Tajikistan.

Article 17. Guarantees for the investor who is carrying out reinvestment

1. The investor at own discretion can reinvestment the profit which has remained after payment of taxes to territories of the Republic of Tajikistan.

2. At realization 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 is creation of a favorable investment climate for development of economy and stimulation of the investment for creation new and updating of operating manufactures with application of modern technologies and the equipment, creation 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 defined by the Government of the Republic of Tajikistan.

3. The authorized state body according to the Position approved by the Government of the Republic of Tajikistan, carries out following functions:

- to provide communications between the authorized state bodies and investors;
- to prepares and distributes the information on investment opportunities, programs, projects and conditions in the Republic of Tajikistan;
- to develop offers on improvement of an investment climate in the Republic of Tajikistan;
- to carry 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 supposing their deterioration is industrial-financial Activity to use principles of publicity and a transparency in attraction of investments by carrying out of the international tenders.

Article 19. Investment privileges

1. Following kinds of investment privileges are given:

- Privileges under the taxation;
- Customs privileges;
- Delivery 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 delivery of the state grants and their kinds are defined by the Government of the Republic of Tajikistan.

CHAPTER IV. REQUIREMENTS TO THE INVESTOR

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

At realization of investment activity in territory of the Republic of Tajikistan the investor is obliged to observe the legislation of the Republic of Tajikistan.

Article 21. Labour attitudes between the investor and citizens of the Republic of Tajikistan

Attitudes between the investor and the workers, being citizens of the Republic of Tajikistan, are adjusted by the labour legislation of the Republic of Tajikistan and is international - the legal certificates recognized by Tajikistan.

CHAPTER V. FINAL PROVISIONS

Article 22. The sanction of investment disputes

1. Investment disputes between participants of investment activity are resolved 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 resolved as far as possible, by means of meeting of the parties.

2. In case of impossibility of the sanction of investment disputes according to the concluded contracts, disputes are resolved in courts of the Republic of Tajikistan, and also the international arbitration court, the arbitration court defined under the consent of the parties, according to acts of the Republic of Tajikistan and is international-legal certificates.

Article 23. The responsibility for infringement of the present Law

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

Article 24. On a invalid recognition of the Law of the Republic of Tajikistan " On foreign investments in the Republic of Tajikistan "

To sustain the invalid law of the Republic of Tajikistan from March 10th, 1992 " On foreign investments in the Republic of Tajikistan " (Statements of the Supreme board of the Republic of Tajikistan, 1992, № 8, item 118; Statements of Majlisi Oli 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 in action of the present Law

The present Law to commission after its official publication.

PRESIDENT
of the REPUBLIC of TAJIKISTAN

Emomali Rahmon

Dushanbe city, May 12, 2007 № 260

DECISION OF MAJLISI NAMOYANDAGON
MAJLISI OLI OF THE REPUBLIC OF TAJIKISTAN

On acceptance of the Law of Republic Tajikistan " ON INVESTMENT "

MAJLISI NAMOYANDAGON
MAJLISI OLI OF THE REPUBLIC OF TAJIKISTAN validated:
To pass the Law of the Republic of Tajikistan " ON INVESTMENT "

CHAIRMAN OF MAJLISI NAMOYANDAGON
MAJLISI OLI OF THE REPUBLIC OF TAJIKISTAN

S. Khairulloev

Dushanbe city, April 25, 2007 № 545

DECISION OF MAJLISI NAMOYANDAGON
MAJLISI OLI OF THE REPUBLIC OF TAJIKISTAN

On the Law of the Republic of Tajikistan " ON INVESTMENT "

The Law of the Republic of Tajikistan " ON INVESTMENT " was submitted for approval
by Majlisi Namoyandagon Majlisi Oli of the Republic of Tajikistan validated:

The Law of the Republic of Tajikistan " ON INVESTMENT " is approved:

Chairman of
Majlisi milli Majlisi Oli of the Republic of Tajikistan

M.Ubaidulloev

Dushanbe city, April 30, 2007
№ 312