

## **THE INVESTMENT CODE**

**Article I:** The Investment Code is determined by the provision of the present law, #71.028.

### **TITLE I**

#### **CATEGORIES OF PRIORITY ENTREPRISES**

**Article II:** The following categories of enterprises may be considered as having priority in the Islamic Republic of Mauritania.

1. Mining industries engaged in the extraction, enrichment or transformation of solid, liquid or gaseous mining substances, and their affiliated companies concerned with handling, property and transport, together with oil prospecting companies.
2. Industrial enterprises engaged in the preparation and transformation of local raw materials.
3. Industries engaged in the manufacture, processing and assembly of consumer goods made from imported products.
4. Fishing industries and amateurs who undertake industrial fishing, where they themselves process the product of their fishing in Mauritania.
5. Enterprises engaged in power production.
6. Enterprises engaged in ship-building.
7. Real estate companies
8. Private or mixed-capital companies which themselves finance basic infrastructure equipment.
9. Companies operating in the field of tourism.

### **TITLE II**

THE THREE INVESTMENT STATUSES ARE:

1. Industrial Promotion Status
2. Approved Priority Enterprises Status
3. Law Term Fiscal Status.

#### **1. INDUSTRIAL PROMOTION STATUS**

**Article III:** Enterprises falling into Categories 2 and 3 of Article 2 above may be approved by decree for Industrial Promotion status when they fulfill the following conditions:

**1. Meet as necessary any obligations undertaken in the public interest in the economic and social fields as sea and in the decree of approval.**

2. Carry out an investment program of at least 6 million ouguiyas, spread over a maximum of two years.

3. Assure employment for at least seven Mauritanian wage-earners.

4. Have their head office in Mauritania.

5. Supply all required information on the origin, nature, capital, incorporation and operation of the enterprise.

**Article IV:** The decree of approval defines the purpose and the equipment and exploitation program of the enterprise, sets the limits of the activities for which approval has been granted as well as the obligations which the enterprises may have to meet and the measures of control to which it is subject. Activities effected by the enterprise which does not fall within the range of those specifically enumerated in the decree of approval, remain or shall remain subject to those fiscal and other arrangements which are laid down in Common Law.

In the case of grave failure by the enterprise to meet obligations imposed by the decree of approval, withdrawal of approval is, except in cases of *force majeure*, declared by decree after formal notice was given and not heeded within the time limit laid down in the decree of approval. In such a case the enterprise is subject to Common Law status from the date of issuance of the said decree.

However, revocation of the license may be appealed before competent jurisdiction. Appeal suspends execution of the revocation of the license. On the other hand, the judgment may include retroactive measures concerning exclusively payment by the defaulting company of the amount of exonerations or tax relief granted.

**Article V:** Every company given Industrial Promotion status shall benefit from measures of tax relief as determined in each particular case within the framework set out below, which takes into consideration the nature, the importance and the particular conditions of operation of the enterprise.

1. For the categories of enterprises set out in Article 2, paragraph 2.

a. Total exoneration over a period of two years from import duties and taxes (custom duties, fiscal duties, straight taxation representing the purchase tax, turnover tax and statistical tax), or material and capital goods and equipment indispensable to the setting up of the enterprise.

**b. Total exoneration from import duties and taxes for a maximum of three years from the date of commencement of operations.**

**- On certain raw materials or products entering wholly or partially into the completion of worked or processed products.**

- On certain raw materials or products which are destroyed or lose their specific proprieties during direct manufacturing operations, as well as non-reusable raw materials or products used in the conditioning and packaging of manufactured or processed products.

c. Total exemption during first three years of operation from the tax on industrial and commercial profits of approved enterprises.

2. For the categories of enterprises set out in Article 2, paragraph 3.

a. Exoneration over a period of two years from 50% of import duties and taxes (customs duties, fiscal duties, straight taxation representing the purchase tax, turnover tax and statistical tax) on material and capital goods and equipment indispensable to the setting up of the enterprise.

b. Exoneration from 50% of import duties and taxes for a maximum period of three years from the date of commencement of operations.

- On certain raw materials or products entering wholly or partially into the composition of worked or processed products,

- On certain raw materials or products which are destroyed or lose their specific properties during direct manufacturing operations, as well as non-reusable raw materials or products used in the conditioning and packaging of manufactured or processed products.

c. Total exemption during the first three years of operation from the tax on industrial and commercial profits for approved enterprises.

The framework set out above is limitative: it can only be modified by law. Measures of exoneration and tax relief for every approved enterprise are specified in the decree of approval.

**Article VI:** In addition, enterprises approved for Industrial Promotion status may benefit in certain cases from special and temporary waivers, either administrative or statutory, which will be specified in each case in the decree of approval.

**Article VII:** Every enterprise approved for Industrial Promotion status may ask to benefit from advantages and tax relief already granted to another enterprise with an identical operation in identical economic and geographic conditions.

**Article VIII:** Every enterprise approved for Industrial Promotion status which carries out within two years a minimum investment extension program of 9 millions ouguiyas over and above initial investments and not including depreciation, may claim to have full right to the benefits deriving from approved priority enterprises status. Nevertheless, this latter status may not be granted unless the enterprise's production potential rises by 50%.

- The files of each enterprise requesting approval shall be studied and investigated by the Interministerial Committee for Programming or later by any other public body which may replace it.

## **II. THE STATUS OF APPROVED PRIORITY ENTERPRISE.**

**Article X:** Enterprises falling into one of the categories set out in article 2 above may be approved by decree as having priority status, when they fulfill the following conditions: **1.** Contribute to the implementation of Government economic and social development plans under the conditions laid down in the decree of approval.

**2.** Meet as necessary obligations undertaken in the public interest in the economic and social fields as set out in the decree of approval.

**3.** Put into effect an investment program of at least 15 millions ouguiyas over a maximum of two years.

**4.** Have their head office in Mauritania.

**5.** Assure employment for at least twenty Mauritanian wage-earners.

**6.** Supply all required information on the origin, nature, capital, constitution and operation of the enterprise.

**Article XI:** The decree of approval defines the purpose and the capital and operations program of the enterprise, sets the limits of the activities for which approval has been granted as well as the obligations which the enterprise may have to meet and the measures of control to which it is subject. Activities affected by the enterprise which do not fall within the range of those specifically enumerated in the decree of approval, remain or shall remain subject to those fiscal and other arrangements which are laid down in Common Law.

In the case of grave failure by the enterprise to meet obligations imposed by the decree of approval, withdrawal of approval is, except in cases of *force majeure*, declared by decree after formal notice has been given and not heeded within the time-limit laid down in the decree of approval. In such a case, the enterprise is subject to Common Law status from the date of the said decree. However, revocation of the license may be appealed before competent jurisdiction. Appeal suspends the execution of the revocation of the license. On the other hand, the judgment may include retroactive measures concerning exclusively payment by the defaulting company of exonerations of tax relief granted.

**Article XII:** Every approval priority enterprise shall benefit from the measures of exoneration and tax relief determined in each individual case within the framework set out below, which takes into consideration the nature, the importance and the particular conditions of operation of the enterprise.

**1.** Total or partial exoneration over a period of three years from entry duties and taxes (customs duties, fiscal duties, straight taxation representing purchase tax, turnover tax and statistical tax), on material and capital goods and equipment indispensable to the setting up of the enterprise.

**2.** Total or partial exoneration from import duties and taxes for a fixed period not exceeding five years from the date of commencement of operation.

**a. On certain raw materials or products entering wholly or partially into the completion of worked or processed products.**

b. On certain raw materials or products which are destroyed or lose their specific properties during direct manufacturing operations, as well as, non-reusable raw materials or products used in the conditioning and packaging of manufactured or processed products.

c. On the renewal of specific capital equipment and related spare parts.

**3. Total exemption for approval enterprise over a period which may not exceed the first five years of operation from the tax on industrial and commercial profits.**

- The total period of exemption for approved enterprise qualifying for Industrial Promotion status and for approved priority enterprise status may not exceed six years.

**4. Exemption exclusively for real estate companies from the hand-tax on built-on properties and the tax on port-main for a maximum for every period of fifteen years-** The framework set out above is limitative. It can only be modified by law. Exoneration and tax relief measures for every approved enterprise are specified in the decree of approval.

**Article XIII:** Certain priority enterprises which are considered to be particularly useful for economic and social development in Mauritania, which will assume the obligations of a public service and whose investment program will justify periods of technical depreciation, normally spread over several years, may in addition benefit from the total or partial stabilization of their tax burden for a maximum of seven years from the commencement of their operations. - Priority enterprises whose investment reach a sum of 100 million ouguiyas over a period of three or more years will have full right to the total stabilization of their tax burden for a maximum of seven years from the commencement of the operations.

**Article XIV:** Approved priority enterprises may in addition benefit from special temporary waivers, either administrative or statutory which will be specified in each case in the decree of approval.

**Article XVI:** The files of each enterprise requesting approval shall be studied and investigated by the Interministerial Committee for Programming or later by any other public body which may replace it.

### **III. LONG TERM FISCAL STATUS**

**Article XVII:** Certain priority enterprises which are considered to be of essential importance to the country and which show an investment of at least 200 million ouguiyas over a maximum of five years, may be approved by decree for long-term fiscal status.

**Article XVIII:** The long-term fiscal status is designed to guarantee stability to approved enterprises for the whole or part of the tax burden imposed upon them, over a maximum period of twenty years, increased if necessary for a further maximum period of five years, in view of the normal period required for installation.

- During the period of application of long-term fiscal status, no modification may be made to the rules concerning the rate of or the collection of taxes or to the tariffs provided in this status in favor of the benefiting enterprise. During the same period, the benefiting enterprise cannot be subjected to duties, taxes, or assessments of any kind,

the establishment of which is the result of a law enacted at a date subsequent to the date of application of the long-term fiscal status.

- Every benefiting enterprise may request transfer to Common Law status, commencing with a date to be set by decree.

**Article XIX:** Enterprises approved for long-term fiscal status may benefit from the arrangements and advantage provided for under Title II of the present law.

- Moreover, if a very important category of priority enterprise proposes particular and specific conditions for the installation and operation, an original and exceptional fiscal code may be instituted by law in favor of this category of enterprise.

**Article XX:** Enterprises approved for long-term fiscal status may, subject to the approval of the National Assembly, enter into an Establishment Agreement with the Government, the duration of which may not exceed that of the long-term fiscal status and which lays down and guarantees the conditions for the establishment and operation of the approval enterprise. The agreement may not include undertakings on the part of the government to discharge the enterprise from losses, expenses or lack of profit arising from technical evolution, the economic situation or factors peculiar to the enterprise. The settlement of differences resulting from the application of the provisions of an Establishment Agreement may be made by International Arbitration, the details of which shall be set out in the Agreement. Similarly, grave failure to fulfill the obligations imposed by the law of approval for long term fiscal status may, after having first been established by the judgment of a Mauritanian Court, be submitted by the enterprise to the arbitration provided for in the Agreement. Arbitration suspends implementation of the judgment. The definitive withdrawal of approval is pronounced by decree in light of the arbitration judgment which may include retroactive sanctions.

### TITLE III

#### VARIOUS AGREEMENTS

**Article XXI:** In the case of all investments made under the conditions provided for in the Industrial Promotion status or the Priority Enterprise status, as defined above, the periods of fiscal exonerations or exemptions may vary by as much as double the original period mentioned if these investments are effected in areas other than Nouadhibou, Zouerat, Akjoujt, Nouakchott and Rosso.

**Article XXII:** Reinvestment of profits made in Mauritania by approved enterprises can, in accordance with a program approved by decree, afford the right to reduction of the tax bases on these profits. The maximum amount of this reduction is equal to half the total expenditure for the re-investment program if, and only if, it falls within the limit of 5% of the profits **scruting from** each financial year during the five-year period, beginning with the financial year during which the program was approved.

**Article XXIII:** Special status granted prior to the present law remains in force. On the other hand, the provisions of the present law can in no case have a retroactive effect.

**Article XXIV:** The following remain in force notwithstanding all previous contrary decrees hereto in the present law.