



Palestinian National Authority

Law on the Encouragement of Investment in Palestine

Law No. (1) of 1998



هيئة تشجيع الاستثمار الفلسطينية
Palestinian Investment Promotion Agency

**Law on the Encouragement
of Investment in Palestine
Law No. (1) of 1998**

*The President of the Palestine Liberation
Organization*

*The President of the Palestinian National
Authority*

Reconsidering Law No. (6) of 1995 on the Encouragement of Investment, and considering the proposed law submitted by the Council of Ministers and its adoption by the Palestinian Legislative Council, we promulgate this Law:

Chapter

DEFINITIONS AND GENERAL PROVISIONS

1

Article 1

Unless the context otherwise states, this Law on the Encouragement of Investment in Palestine defines the words and phrases as follows:

- “National Authority” shall be defined as the Palestinian National Authority.
- “Council of Ministers” shall be defined as the Council of Ministers of the National Authority.
- “Ministry” shall be defined as the Ministry of Economy and Trade.

- “Agency” shall be defined as the Palestinian Investment Promotion Agency.
- “Board of Directors” shall mean the Agency’s Board of Directors.
- “Director General” shall mean the Agency’s Director General.
- “Confidential Information” shall be defined as all information, of whatever kind, received by the Agency from any investor in connection with any interaction between the investor and the Agency pursuant to the operation of the Investment Law, excluding information about the inves-

tor that the investor has already publicly disclosed voluntarily, under this Law, or under other Palestinian laws.

- “Enterprise” shall be defined as any entity constituted and properly registered for profit, including any company, branch, partnership, sole proprietorship, joint venture, or other association.
- “Investment” shall be defined as actual monetary investment of capital (fixed capital assets) by an investor in an Enterprise, whether a newly-created or an existing enterprise.
- “Confirmation of Investment” shall be defined as the document issued

by the Agency to an investor in accordance with the provisions of this Law.

- “Incentive” shall be defined as the exemptions and benefits granted in accordance with this Law.
- “Investment Law” shall mean the Law on the Encouragement of Investment in Palestine.
- “Investor” shall be defined as any natural or legal person, domestic or foreign, who seeks to invest in Palestine or who has invested in Palestine under the Investment Law.
- “Registry of Investments” shall be de-

defined as the public registry created and maintained by the Agency that lists the Investments confirmed by the Agency.

- “Incentives Committee” shall be defined as the committee of the Board of Directors that reviews and evaluates investors’ requests for Confirmation of Investment pursuant to this Law.

Article 2

The Investment Law aims to achieve the development objectives and priorities in Palestine by promoting investment through the following:

- (A) Establishing the Agency, an institution responsible for encouraging and promoting investment in Palestine.
- (B) Providing guarantees to all investors and investments operating in Palestine.
- (C) Granting the incentives to investors.
- (D) Providing the appropriate environment for encouraging investment in Palestine.

Article 3 |

Any investor may invest in any sector of the Palestinian economy; unless it contravenes other laws.

Article 4 |

Enterprises in all sectors shall enjoy the exemptions and incentives provided for in this Law unless otherwise provided below. Such investment requires the approval by the Council of Ministers before becoming eligible:

- (1) Manufacturing and distribution of weapons, ammunition or their parts;
- (2) Aviation industries including air-

- ports;
- (3) Electrical power generation and distribution;
 - (4) Processing of petroleum and its derivatives;
 - (5) Reprocessing of refuse and solid waste;
 - (6) Communications and telecommunication services; and Radio and television.

Article 5 |

To be eligible under this Law, all investments in Palestine must be registered.

Chapter

2
GENERAL GUARANTEES

Article 6

- (A) No Investor will be discriminated against on any basis whatsoever in the application of the incentives provided for under this Law.
- (B) The National Authority may grant preferential treatment to investors on the basis of nationality under bilateral or multilateral trade and/or investment agreements with other states that the National Authority may enter into in the future.

Article 7

The Authority prohibits the nationalization of any Investment in Palestine and may not expropriate any investment except by operation of the law.

Article 8

There shall be no expropriation of an investment or part, thereof save and except in exceptional cases for a public purpose, with due process of law accorded to the investor subject to an expropriation, who shall be compensated the fair market value and for losses suffered because of such expropriation.

Article 9

Notwithstanding the instances when the Agency may cancel the confirmation of Investment in accordance with the provisions of this Law, no other administration may cancel the permits issued in relation to real property, as licensed, for the purposes of enjoying the benefits by the Enterprise in whole or in part unless the Agency is consulted. The Agency may give its opinion within seven days from the date of the request. The permits may not be cancelled unless for legal reasons or public purpose on the basis of non-

discrimination. The injured investor shall, through the judicial system, have the right to request compensation for losses incurred as a result of the cancellation.

Article 10 |

Without prejudice to Article (11) and in furtherance of free market principles, the National Authority shall guarantee to all investors free transfer of all financial resources out of Palestine, including capital, profits, dividends, capital gains, wages and salaries, interest and principal payments on debts, royalty payments, management fees, technical assistance and other fees, compensation payments for expropriations or unilateral termination of contracts for non-commercial reasons, judicial and arbitral awards and

judgments, and any other kind of financial payment or resource. Investors may freely transfer all financial resources out of Palestine, at the applicable market currency exchange rates in effect the time of transfer, in a convertible currency acceptable to the investor.

Article 11 |

The National Authority may limit the transfer of financial resources by any investor when any of the following apply to the investor:

- (A) Palestinian bankruptcy, insolvency, and other laws for the protection of the rights of creditors;
- (B) Palestinian laws relating to issuing,

- trading, or dealing in securities;
- (C) Palestinian criminal or penal laws;
 - (D) Palestinian tax laws;
 - (E) Palestinian laws relating to reports of transfers of currency or other monetary instruments; or
 - (F) Injunctive orders or final judgments rendered in Palestinian judicial or arbitral proceedings.

Chapter

3

THE AGENCY

Article 12

The Palestinian Investment Promotion Agency (“Agency”) shall be established under this Law. The Agency shall be an autonomous institution of the Authority, competent in respect of any obligation, right, or legal act. The Agency’s operations shall be governed by this Law.

Article 13

The principle venue of the Agency shall be the city of Jerusalem. The National Authority shall specify any other temporary location.

Article 14

The Agency's Board of Directors shall consist of thirteen (13) voting members:

- (1) The Minister of Economy and Trade, Chairman of the Board of Directors;
- (2) A representative of the following ministries and authorities:
 - (a) Finance, Deputy Chairman of the Board of Directors;
 - (b) Industry;
 - (c) Agriculture;
 - (d) Tourism;

- (e) Housing;
 - (f) Planning and International Co-operation; and
 - (g) Monetary Authority.
- (3) (A) Five representatives from the Palestinian private sector. These representatives, in the exercise of their functions on the Board of Directors, shall act independently, without conflicts of interest and within the objectives of this Law.
- (B) The Council of Ministers shall appoint the five private sector representatives upon the recommendation of the Board of Directors.
- (C) The private sector members of the Board of Directors shall serve

terms as provided in the Regulations.

Article 15 |

The functions of the Board of Directors shall convene to:

- (1) Oversee and evaluate policies and Investments.
- (2) Submit recommendations to the Council of Ministers and propose needed changes in the criteria for granting the incentives and exemptions.
- (3) Attract investors to Palestine.
- (4) Advise the Minister of Economy and Trade and the Minister of Finance on Palestinian investment policies.

- (5) Issue confirmations of Investment.
- (6) Create and maintain the Registry of Investments.
- (7) Supervise enterprises benefiting from the Incentives.
- (8) Appoint independent auditors to audit the financial statements of the Agency.
- (9) Implement decisions of the Council of Ministers concerning changes in the criteria for granting the Incentives.
- (10) Monitor the implementation of the Investment Law and recommend changes to the Council of Ministers and the Palestinian Legislative Council.
- (11) Monitor any Palestinian law or reg-

ulation that may restrict, limit, or prejudice any of the rights and guarantees provided in the Investment Law, and propose changes to such laws and regulations to the Council of Ministers for adoption.

- (12) Assist the Authority in complying with any investment agreement that the Authority may enter into with another State or international organization.
- (13) Develop a close working relationship with the concerned Palestinian authorities to assure a unified national investment promotion strategy.
- (14) Monitor the performance of the Agency, which shall include prepar-

ing an annual report on the Agency's activities and the Agency's audited financial statements.

- (15) Look into proposing and modernizing laws related to investment and adopting policies and programs that contribute to providing an environment conducive to investment.
- (16) Issue an annual guide for investment opportunities in Palestine.
- (17) Suspend the confirmation of exemptions and incentives in the event the investor is found in violation of this Law; the investor has the right to appeal within thirty (30) days.
- (18) Create a one-stop-shop to facilitate all procedures for the investor concerning the investment including the issuance of permits and reduction of

routine administrative procedures at various official offices.

- (19) Adopt the necessary procedures for the Agency staff in accordance with the Civil Servants Law.
- (20) Appoint consultants and experts as deemed necessary by the Agency and in accordance with the conditions set by the Board of Directors.

Article 16 |

- (A) The Board of Directors shall convene a regular meeting at least once a month called for by the Chairman or,

in his absence, the Deputy Chairman.
Quorum of one-third is required.

- (B) The Board of Directors may convene, within a five-day notice, at the written request of two-thirds of the members. If necessary, it may convene by shorter notice.
- (C) Resolutions by the Board shall be made by majority vote. In the event of a tie, the Chairman's vote shall be decisive.
- (D) The deliberations of the Board shall be closed, unless the members agree otherwise.

Article 17

- (A) The Agency shall have a Director General appointed by the Board of Directors.

- (B) The Director General shall be a non-voting member of the Board.
- (C) The Director General shall have the following responsibilities:
 - (1) Execute the policies of the Agency as determined by the Board of Directors.
 - (2) Organize and oversee the day-to-day operations of the Agency.
 - (3) Report to the Board of Directors regularly on the Agency's operations and performance.
 - (4) Participate in activities designed to promote domestic and foreign investment in Palestine.
- (D) The Board of Directors shall determine the compensation and terms of employment for the Director General.

- (E) The Director General may not have any interest or be party, directly or indirectly, in an investment.

Article 18

The Agency shall be funded by:

- (A) Revenues generated by the Agency's provision of services to investors; all revenues generated by the Agency shall remain at the disposal of the Agency.
- (B) Stamp duties paid in the investment process.
- (C) Penalties collected pursuant to this Law.

- (D) Grants from countries, international organizations, and domestic and foreign non-governmental organizations.

Article 19 |

All income and revenue generated by the Agency shall be deposited in a special account at the Ministry of Finance constituting part of the Treasury. The Agency shall have a regular appropriation under the National Authority's budget.

Article 20 |

- (A) The Agency shall have one or more independent auditor(s) appointed

by the Board who shall conduct audits of the Agency's income and expenditures.

- (B) The independent auditor(s) shall have the right to examine all books, records, ledgers and request any necessary documentation in the conduct of the audit including the right to verify the Agency's assets.
- (C) The independent auditor shall submit the annual financial report to the Board of Directors who shall submit it to the Council of Ministers.

Article 21 |

- (A) The Agency shall protect all confidential information, except for information made public in the registry of investments or that is made public

through the registration of enterprises pursuant to this Law.

- (B) The Agency shall prohibit the disclosure of confidential information to any person or entity by any employee, officer, or member of the Board of Directors, or the Agency staff.
- (C) The Agency shall not disclose confidential information to any governmental entity or official or any private entity or person without obtaining:
 - (1) The investor's informed and written consent of the investor; or
 - (2) A court order from a Palestinian court of competent jurisdiction that compels the disclosure of confidential information.

Chapter

4

INVESTMENT INCENTIVES

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Article 22

The fixed assets of the enterprise shall receive the following exemptions:

- (A) The fixed assets of the enterprise shall be exempt from customs duties provided that they are brought in or imported within the period set by the Agency when it approved the list of the fixed assets;

The Agency may extend this period if the nature and size of the investment so require.

- (B) Spare parts imported by the enterprise shall be exempt from customs duties provided that their value does not exceed 15% of the fixed assets and, so long as, they are brought in

or used by the Enterprise within the period set by the Agency commencing from the date of production or investment start-up and pursuant to a decision by the Agency approving the list and quantity of spare parts.

- (C) The fixed assets of the enterprise required for enlarging, developing, or upgrading the investment shall be exempt from customs duties if the Agency determines that they increase the productive capacity of the investment.
- (D) A price increase in the value of fixed assets shall be exempt from customs duties if the increase in value was caused by a rise in prices at the country of origin or as a result of an increase in the cost of shipping or

change in the price of transformation.

Article 23 |

The Agency shall grant incentives to investments that meet the requirements of this Law as follows:

- (A) Any investment between one hundred thousand and one million dollars shall entitle the Enterprise to an exemption from income taxation for a period of five (5) years as of the date of production or commencement of activity. The enterprise shall be subject to the payment of income tax on net profit at the nominal rate of 10% for a period of eight (8) additional years.

- (B) Any investment between one million dollars and five million dollars shall entitle the enterprise to an exemption from income taxation for a period of five (5) years as of the date of production or commencement of activity. The enterprise shall be subject to the payment of income tax on net profit at the nominal rate of 10% for a period of twelve (12) additional years.
- (C) Any investment exceeding five million dollars shall entitle the enterprise to an exemption from income taxation for a period of five (5) years as of the date of production or the commencement of activity. The enterprise shall be subject to the pay-

ment of income tax on net profit at the nominal rate of 10% for a period of sixteen (16) additional years.

- (D) Any special investment in type and capital may, as approved by the Council of Ministers, upon the recommendation of the Agency, entitle the enterprise to an exemption from income taxation for a period of five (5) years as of the date of production or the commencement of activity. The enterprise shall be subject to the payment of income tax on net profit at the nominal rate of 10% for a period of twenty (20) additional years.

Article 24

- (A) The Council of Ministers may decide, upon the recommendation of the Agency and for public purpose, to extend the exemption period(s) up to a maximum of five (5) additional years depending on the nature and location of the enterprise, increase in exports, job creation opportunities and advancement of development.
- (B) The investment period for enterprises operating in the industrial zones; areas that are remote or under the threat of settlement may, be limited by the Council of Ministers who may

designate new industrial zones or remote areas or those under threat of settlement.

- (C) The exemption period for enterprises may be increased for two additional years if the local input in equipment, machines and fixtures exceeds 60%. The Agency shall make these determinations. Capital investment inland is excluded.
- (D) The National Authority may give preferential treatment, special guarantees or incentives to the national investor.

Article 25 |

- (A) Upon submission by the investor of the requested information mentioned in the regulations relating to the project, the Agency shall access the information, and if the Agency does not decide upon the application for the enjoyment of the incentives provided in this law within thirty (30) days from the date of filing of the application, the project shall qualify to the incentives provided in this law.
- (B) The decision of the Agency for approval of the project should be issued after the expiration of the thirty (30)

days intended for the assessment of the information without rejecting the project.

Article 26 |

The regulations shall specify the methods by which the Agency's incentive may require information for the confirmation of incentives.

Article 27 |

A nominal 10% income tax rate shall be assessed on enlargements of existing enterprises for capital investments made subject to Article (24) provided that the Board of Directors of the enterprise ap-

proves the enlargements commencing either on the date of production or the commencement of activity. Enlargement shall mean the increase in the stated capital or capital injection to acquire fixed assets intended to increase the productive capacity of the investment be it goods, services or production or for the purposes of a new line of production or service or activity.

Article 28 |

Income tax on profits distributed by the project shall be exempted at the rate of 10% from the original capital of the investor in the project. This shall take place after the expiration of the period of the

exemption mentioned in Articles 22, 23 and the exemption mentioned in the previous paragraph shall be 20% from nominal value of the shareholders share in the capital value of the project which shall be in the form of a Public Liability Company formed in accordance with this law provided that at least 40% of its capital shall be covered.

Article 29 |

- (A) An enterprise benefiting from the incentives may be transferred freely to a new owner in its entirety; provided that the new owner continues to operate the enterprise as a going concern.

- (B) The new owner of a transferred enterprise can benefit from the incentives as long as the new owner continues to operate the enterprise as a going concern.

Article 30 |

Companies, merged and companies that have been split or whose legal structure is altered shall enjoy the exemption granted prior to the merger or splitting or the altering of the legal structure until the expiration of the period of exemption, and no new tax incentives shall be granted for such mergers or splitting or altering of legal structure.

Article 31

The Agency may grant additional exemptions to enterprises engaged in export activity provided that the input is not less than 30% of the total value of its output. This additional exemption may be granted for a period not exceeding three years.

Article 32

- (A) The Agency may cancel a confirmation of investment in the event that the Agency finds that the investor supplied the Agency with information about the investment that was not true at the time the investor sup-

plied it, or withheld from the Agency information about the proposed investment that was material to the Agency's decision to confirm the investment as an investment eligible for the incentives. The regulations shall specify the procedure for the cancellation.

- (B) In the event this Law or its conditions and requirements are violated, the Board of Directors shall have the right to take by either reducing the period for exemption or canceling the exemptions.
- (C) An investor may appeal the Agency's decision to cancel the confirmation of investment under the procedures specified in the regulations.

Article 33

In the event that the incentives are modified, enterprises benefiting from the incentives prior to the date on which the modification became effective shall have a choice to opt for the relevant incentive provided in the modification or continue to benefit from the incentive in effect for that enterprise prior to the effective date of the modification which ever is better.

Article 34

If the enterprise moves from one area to another during the period of the exemption, the enterprise shall continue to receive the exemptions provided that the Agency is notified.

Article 35

- (A) The furniture imported for hotels and hospitals shall be exempt from customs duties.
- (B) The electrical appliances and electronics imported for tourism enterprises shall be exempt from customs duties.
- (C) The electrical appliances and electronics imported for hotel and hospital enterprises shall be exempt from customs duties.
- (D) Hotel and hospital enterprises shall be granted additional exemptions from customs duties at least once every five (5) years for purchases of furniture and electrical appliances

and electronics required for modernization and renovation, provided that they are brought into or imported into Palestine or used by the enterprise within (2) years from the date of approval.

Article 36 |

If it becomes clear that the exempt fixed assets, in whole or in part, have been sold or used for an unauthorized purpose, the enterprise shall pay all customs duties and taxes owed in accordance with the provisions of this Law.

Article 37 |

- (A) The investor must inform the Agency in writing once the fixed assets have been installed and production has actually started.
- (B) The investor must submit any information or records related to the fixed assets of the enterprise at the request of the Agency and permit Agency staff to enter the premises of the enterprise.

Article 38 |

- (A) The investor may sell the fixed assets that are exempt or assign them to another investor enjoying the benefits

of this Law provided that the approval of the Agency is obtained.

- (B) The investor may sell the fixed assets that are exempt to any person or any business concern that is not benefiting from the exemptions and incentives of this Law provided that the Agency is notified and all due taxes and fees are paid.

Chapter

5
DISPUTE SETTLEMENT

Article 39 |

The provisions in this Chapter shall apply to disputes between investors and the National Authority that relate to rights and obligations provided for in the Investment Law.

Article 40 |

(A) When either an investor or the Authority believes that a dispute between them has arisen, it may request that good faith negotiations begin according to procedures established in the regulations. Either

party to a dispute must request good faith negotiations before it may have access to the dispute settlement procedures provided for in paragraph B of this Article.

- (B) If good faith negotiations fail to resolve the dispute in the period of time specified in the regulations, either party shall have the right to take the dispute to:
 - (1) Binding, independent arbitration as provided in the regulations.
 - (2) Palestinian courts.

Chapter

6
FINAL PROVISIONS

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Article 41 |

The Agency may at any time, if it finds that any or all information provided by the investor is false or fraudulent, immediately terminate all approvals granted to the enterprise.

Article 42 |

Nothing in the Investment Law shall adversely affect the approvals and incentives provided to investors and enterprises under all prior relevant laws. Those ap-

provals and incentives shall remain valid and enforceable under the Investment Law until they terminate or expire under the terms of the laws under which they were issued.

Article 43 |

All investment enterprises shall enjoy the incentives provided in this Law except: Commercial enterprises, insurance, real property (except development enterprises), banks, money changers and any financial institution (except housing mortgage companies only).

Article 44

Unless a more aggravated penalty is prohibited for in any other legislature, any investor giving false information or entries in his books or accounts such false information or provides false information as a result of which the investor was granted the incentives or benefits in accordance with this law, should be fined with an amount not less than (2000) two thousand Jordanian Dinars, and not exceeding five thousand (5000) Jordanian Dinars, and all exemptions and incentives awards as a result shall be withdrawn as of the date such incentives were awarded.

Article 45

Without prejudice to Article 43 of this Law, the Investment Law supersedes and replaces all prior laws dealing with investment in Palestine.

Article 46

The Board of Directors shall issue the regulations to implement this Law which shall be adopted by the Council of Ministers and published in the Official Gazette.

Article 47

All concerned shall implement this Law which shall go into effect thirty days after its publication in the Official Gazette.

Promulgated in Gaza City on: 23/4/1998

Signed / Yasser Arafat

President of the Executive Committee

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