

## State of Palestine

### Law on the Encouragement of Investment in Palestine (1998)

*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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# Law on the Encouragement of Investment in Palestine

Law No. (1) of 1998 and its amendments (merged law)

Law on the encouragement of investment in Palestine No. (1) Of 1998

In 2004 the Law on the encouragement of investment in Palestine No. (1) Of 1998 was amended by law No. (2) Of 2004.

In 2011 the Law on the encouragement of investment in Palestine No. (1) Of 1998 was amended by decree No. (2) Of 2011.

In 2014 the Law on the encouragement of investment in Palestine No. (1) Of 1998 and its amendments were amended by decree No. (7) Of 2014.

## Chapter I. Definitions and general provisions

### 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 national Economy.
- “Minister” shall be defined as the Minister of national Economy.
- “Agency” shall be defined as the Palestinian Investment Promotion Agency.
- “Board of Directors” shall mean the Agency’s Board of Directors.
- Chief Executive Officer: The Executive Director of the agency.
- “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 Investor 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 of 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 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 Investor requests for Confirmation of Investment pursuant to this Law.
- Development of an Existing Project: Actual financial expenditure to either expand, develop or modernize an existing project by adding new fixed assets that results in an increase of the productive capacity of the existing project, increase in its labor capacity or adding new product or manufacturing a product being imported from abroad.
- Fixed Assets: machinery, appliances, equipment, vehicles, supplies, tools, buildings and structures to exclusively used to develop the existing project, and may include furniture, furnishings, and supplies for tourism, education and health projects.
- Income subject to Tax: Total net income after deduction of exemptions and revolving losses and donations as stipulated in the prevailing Income Tax Law.
- Customs and Duties: All customs and duties and other fees imposed pursuant to prevailing laws on the different types of fixed assets except municipal fees and taxes and value added tax.
- Incentive Package Contract: A contract by which the Agency grants the investor incentives, whether tax or non-tax incentives, including (fees on transactions, support services, training and logistic services) pursuant to a decision issued by the Board of Directors in exchange of commitment from the investor to implement the project in accordance with the terms and conditions stipulated in this contract.
- Commercial Projects: Projects whose business activity is trading in goods or commodities bought and sold in the course of regular commercial activities.

- Tourism Projects: Hotel facilities and apartments, and tourism villages and resorts.
- Agricultural Projects: The projects whose income is being directly generated from land cultivation or livestock.

**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**

The approved economic activities within the incentive package contract regulations shall benefit from all incentives stipulated in the law, and any sectors or other sub-sectors approved by the Council of Ministers upon recommendation from the Board of Directors.

**Article 5**

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

## Chapter II. General guarantees

**Article 6**

- 1) A non-Palestinian investor may invest any amount of capital, in any sector or subsector without derogating from prevailing laws.
- 2) The provisions of this Law apply to all investors equally and without discrimination on the basis of reciprocal treatment.

**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 canceled 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 III. 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**

1) The Agency's Management shall be assumed by a Board of Directors consisting of eleven members who are:

1. The Minister of National Economy: Chairman.
  2. A representative from each of:
    - a. Ministry of Finance: Vice-Chairman.
    - b. Ministry of National Economy.
    - c. Ministry of Tourism and Antiquities.
    - d. Ministry of Telecommunications and Information Technology.
    - e. Ministry of Local Government.
    - f. Energy and Natural Resources Authority.
  3. Four representatives from the Palestinian private sector; provided that each representative shall independently exercise its tasks as follows:
    - a. A representative of the Federation of the Palestinian Chambers of Commerce, Industry and Agriculture.
    - b. A representative of the Palestinian Federation of Industries.
    - c. A representative of the Palestinian Businessmen Association.
    - d. A representative of the Palestinian Trade Centre.
- 2) The Chief Executive Officer shall participate in all sessions of the Board of Directors as a non-voting member.
- 3) The membership term of the Board of Directors shall be determined by regulations to be issued by the Council of Ministers based on the recommendation of the Board of Directors.

**Article 15**

The Board of Directors shall have the following functions and powers:

1. Oversee the assessment and preparation of the investment policies in accordance with national strategic plans.
2. Approve the incentive package contracts prepared by the Agency with all amendments that may take place thereon
3. Issue approval for investments in Palestine.

4. Approve the organizational structure and operating system of the agency including employee administrative and financial systems and submit them to the Council of Ministers for approval.
5. Supervise the implementation of this Law and submit proposals and recommendations for future amendments to the Council of Ministers.
6. Review laws and regulations that may restrict, or affect, or limit any rights or guarantees stipulated in this Law, and submit proposals and recommendations for future amendments to be duly amended by the Council of Ministers.
7. Evaluate the Agency's performance, and prepare an annual report on its activities and its financial statements and submit them to the Council of Ministers.
8. Adopt the annual budget of the Authority and submit it to the Council of Ministers.
9. Supervise the preparation of an investment opportunities guide and update it annually.
10. Supervise the creation of an investment registry and maintain it.
11. Adopt plans and programs that contribute to creating an appropriate investment environment.
12. Create an investment one stop shop to be responsible for licensing investment projects, and obtaining other necessary approvals from the relevant official bodies in accordance with prevailing laws. In the event that the relevant ministries or other official bodies do not grant approval within thirty business days starting from the date of the submission of the application by an investor, the Agency's Board of Directors may issue a license for the project.
13. Supervise funds granted to the agency and decide on spending modalities.
14. Submit recommendations to the Council of Ministers to amend laws and regulations in order to facilitate the registration and licensing of investments leading to the reduction of bureaucratic procedures and red-tape procedures.
15. Develop activities and promotional materials designed to attract investment in Palestine.
16. Oversee programs designed to provide support to existing projects and work on resolving obstacles that face these projects and impact their activities and productivity.
17. The representative of the Ministry of Finance at the Board of Directors shall be entitled to submit an annual report on the direct and indirect taxes of the investment projects benefited from the law and incentive package contracts as well as on the investors' commitment in connection with the processing and repayment of their obligations.
18. Participating in the Agency's promotional activities when needed.



19. Endorsing a financial compensation regulations for Board Members in exchange of attending the Board of Directors' meetings and present it to the Council of Ministers to be approved.
20. The Supervision on the Executive Management work shall be assumed by the Chairmen.

#### **Article 16**

- a) The Board of Directors shall convene a regular meeting at least eight times per annum called for by the Chairman or, in his absence, the Vice - Chairman, while such meeting shall not be considered lawful, unless attended by at least two-thirds of its members; provided that the Chairman or the Vice-Chairman, if absent, shall be amongst them.
- 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.
- e) The Chairman may invite whosoever of experts and experienced people to attend the meeting of the Board of Directors and to render advices in the deliberated subject without having the right to vote.

#### **Article 17**

- 1) The agency will have a Chief Executive Officer appointed by a decision of the Council of Ministers upon the recommendation of the Board of Directors. Implement the policies set by the Board of Directors.
- 2) The Chief Executive Officer shall have the following powers and functions:
  - a. Implement the policies set by the Board of Directors.
  - b. Plan the daily activities of the agency and oversee implementation.
  - c. Submit reports, on regular basis, to the Chairman on the Agency's operations and performance.
  - d. Participate in activities aimed at promoting investment in Palestine at the local and international levels in coordination with the Chairman.
- 3) The Chief Executive Officer shall follow directly to the Chairman.
- 4) The Chief Executive Officer is prohibited from being a party or has any interest, directly or indirectly, in any investment project.

#### **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 IV. Investment incentives**

#### **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**

1) The projects approved by the Agency and which have obtained the required licenses in accordance with the law, shall be granted the following incentives and exemptions:

a. Income tax of zero (0%) for the agricultural projects whose income is being directly generated from land cultivation or livestock.

b. Income tax of (5%) for a period of five years commencing from the date of realizing profit but not exceeding four years, whichever is earlier.

c. Income tax of (10%) for a period of three years commencing from the end of the first phase. It will be, thereafter, calculated based on the applicable and in effect percentages and segments.

2) The following projects shall enjoy the incentives provided for in the law by virtue of their definitions in other relevant laws and which have obtained the required licenses in accordance with the law:

a. The industrial sector.

b. The tourism sector.

c. The new projects within any sector that employ at least twenty- five workers during the period of benefit.

d. The projects that increase their production exports ratio for more than (40%).

e. The projects, within any sector, which approximately use (70%) of the local content (machinery and raw materials).

f. Any existing project that adds new twenty-five workers to the number of the already existing workers.

g. Developmental expansions of an existing project which comply with the criteria shall benefit from the incentives based on the development percentage of the paid-in capital but not including the value of the land.

h. The projects that have been granted benefits within the incentive package contract regulations, including the quality projects that are rendering a service or value that complies with special criteria or meet international environment conditions, or alternative energy services or projects located within areas of developmental priorities.

3) Double tax incentive shall not be applied in any phase.

4) Each investment project, which is not mentioned herein, shall benefit from the incentive package contract if the approval of the Agency's Board of Directors has been made to conclude a contract thereto.

#### **Article 24**

The Agency's Board of Directors may, to advance the public interest and subject to the nature of the project's activity, geographical location, the extent to which the project contributes to increasing exports, creating job opportunities, to advance development, transfer knowledge, support research and development or for the purposes of enhancing the public benefit services, conclude an incentive package contract in which this project may benefit from the taxation incentive and support services specified in this contract; provided that all contract items shall be met and fulfilled.

#### **Article 25**

1) The investor must carry out the following:

a. Inform the Agency in writing immediately upon completion of the installations and preparation of fixed asset to start the project.

b. Submit an application to benefit from the incentive package contract along with all information and attachments as stipulated in the regulations within six months starting from the beginning of production or activity of the project; however the Board of Directors may extend this period to an additional six months as a maximum period based on a request made by the investor to the Agency.

c. Submit financial statements audited by a certified auditor.

2) The Agency will evaluate the information contained in the application submitted by the investor about the investment project pursuant to the Regulations immediately upon submission.

3) The Agency will make its decision approving or denying the application to benefit from the incentive package contract within sixty business days from the date of submission of the application, and in the event that the Agency does not issue its denial decision of the application within this period, the project becomes eligible to enjoy the benefits stipulated in this Law.

#### **Article 26**

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

#### **Article 27**

The investment projects designed to develop an existing project may benefit from the taxable and non-taxable incentives approved by the Agency based on the development percentage of the project while all taxable and non-taxable incentives and other support exclusions to development projects within the incentive package contract regulations.

**Article 28**

[Repealed]

**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 supplied 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**

[Repealed]

**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**

[Repealed]

**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 V. 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 VI. Final provisions

**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**

[Repealed]

**Article 43**

Commercial projects, insurance companies, banks, money changers entities, real estate projects, real estate development projects, electricity projects of various types, telecommunications and telecom services, commercial services, crushers, quarries and the companies that obtained concession contracts from the Council of Ministers and operate as monopolist companies shall be excluded from the tax incentives.

**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.

**Article 13**

It has been added by decree No. (7) of the year 2014 which state the following:

Article (15) of Decree No. (2) of the year 2011, which amending the Original Law, shall be amended as follows:

If any amendment made on the granted incentives or on the classification of the developmental region defined within the Regulations in which the project locates, then the projects benefited from incentives have the option to select the incentives stipulated in the amended Decree or to benefit from the applicable and in effect incentives before the amendment took place based on an official request to be submitted to the Agency.

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