

*In the Name of God, the Compassionate and Merciful*

**LAW ON DOMESTIC AND FOREIGN  
PRIVATE INVESTMENT IN  
AFGHANISTAN**

**CHAPTER ONE**

**Public Legislation**

**Article I:**

This law is enacted to encourage and support private domestic and foreign investors. The aim of this investment law is to foster economic recovery, expand the labor market, advance national revival, increase the people's standard of living, and help the process of Afghanistan's reconstruction.

**Article II:**

The terms used herein are defined as follows:

- 1) Investment: Utilization of physical and non-physical investment in the form of cash or credit, goods, services, and/or other forms (patent and intellectual property, trademark and copyright) in an enterprise.
- 2) Enterprise: An investment by a domestic or foreign real or legal entity as proscribed under this law.

**Article III:**

Qualified domestic or foreign entities, real or legal, may, in conformity with this law, engage in investment in all commercial, manufacturing and commercial activities in all areas of Afghanistan.

**Article IV:**

Investment by foreign, domestic, and mixed investors in Afghanistan may be structured as follows:

- 1 - One hundred percent private domestic investment,
- 2 - One hundred percent private foreign investment,
- 3 - Mixed private domestic and foreign investment,
- 4 - Mixed public and private investment, either domestic or foreign.

In the last two cases, the proportional shares of investment will be established on the basis of mutual agreement of the parties.

**Article V:**

The aforementioned Enterprise bears the responsibility to maintain organized accounting records capable of being audited based upon international standards.

**CHAPTER TWO**

**Supervisory and Executory Bodies**

**Article VI:**

The High Commission for Investment (HCI) will have authority to plan and determine policy, and execute and supervise the administration of investment.

The Commission consists of:

The Minister of Commerce  
The Minister of Justice  
The Minister of Foreign Affairs  
The Minister of Finance  
The Minister of Planning, and  
The Minister of Reconstruction

The Minister of Commerce will hold the Chairmanship of the High Commission.

Relevant ministers will participate in High Commission meetings involving projects relevant to his Ministry.

If necessary, the President may change the composition of the High Commission.

**Article VII:**

Two persons from among the investor community will participate in the High Commission as associate members for a period of one year. For the first year, the Chamber of Commerce will select these two individuals. The investor community shall propose the method of electing its representatives to the High Commission for succeeding years.

**Article VIII:**

To enforce the articles of this law, an Office of Investment shall be established in the Ministry of Commerce. The jurisdiction, duties and composition of this shall be determined and so approved by the High Commission.

**Article IX:**

The head of the Office of Investment mentioned in Article 8, shall serve as the Secretary of the High Commission on Investment.

**Article X:**

The High Commission shall establish a Secretariat Office.

**CHAPTER THREE**

**Benefits, Exemptions and Obligations of Enterprises**

**Taxes:**

**Article XI:**

The tax exemptions granted by the government are as follows:

- For short-term investments, a maximum of four years from license issuance, or three years from the start of production, whichever comes first.
- For medium-term investments, a maximum of six years from license issuance, or five years from the start of production, whichever comes first.
- For long-term investments, a maximum of eight years from license issuance, or seven years from the start of production, whichever comes first.

If special circumstances arise which require a longer period of exemption for an investment, the HCI, in due consideration of global norms, may agree to extend the duration of the exemption.

**Article XII:**

The Office of Investment, with due consideration to international norms, shall determine which item of Article 11 applies to the proposed investment.

**Tariff Duties:**

**Article XIII:**

Enterprise production shall be exempt from any type of export duties or tariffs for four years from the start of production.

**Real Estate Leases:**

**Article XIV:**

Foreign investors, based upon short-term, medium-term, or long-term lease contracts, may lease real estate for ten years, twenty years, or thirty years.

The lease contract shall be for the purpose of undertaking an investment project.

The High Commission on Investment, based upon necessity and justifiable cause, may grant extensions.

**Transfer of Capital and Profits:**

**Article XV:**

The capital and profits of the private investment may be transferred.

**Sale:**

**Article XVI:**

Private investors may, after paying all legal expenses and securing the agreement of the Office of Investment, sell their Enterprise.

**Article XVII:**

The investment capital and profit from the sale may be transferred outside the country.

**Purchase and Sale of Shares:**

**Article XVIII:**

The aforementioned foreign enterprises may sell their shares to Afghan citizens or the state of Afghanistan.

**Article XIX:**

Purchase, sale and use of patents, trademarks and all technical knowledge related to the Enterprise or related to the investment, shall be provided by legal agreement.

**Banking Facilities:**

**Article XX:**

The aforementioned foreign and domestic enterprises have the right to utilize the banking system of Afghanistan to open bank accounts, foreign exchange, and the right to secure loans and credit to advance investment in the country.

**Article XXI:**

Private investors, to the extent of their ability, shall hire qualified Afghans in the aforementioned Enterprise, and provide assistance in advancing their technical and specialized knowledge.

## CHAPTER FOUR

### Miscellaneous Provisions

#### Confiscation and Seizure

**Article XXII:**

The government does not have the right to confiscate or seize foreign or domestic investments without due process of law and an order by a court of competent jurisdiction.

**Article XXIII:**

Confiscation of foreign or domestic investment is only authorized for the purpose of safeguarding the public interest. In such a case, the government must provide reasonable compensation based upon the current market value of the Enterprise or an estimate provided by an international appraisal institution of good standing.

**Article XXIV:**

Private investors may transfer any funds received from the government as a result of confiscation tax-free out of Afghanistan.

The High Commission on Investment will review complaints by the aforementioned Establishment and render appropriate decisions.

**Article XXV:**

Pipeline construction, telecommunications infrastructure, oil and gas, mines and minerals, and heavy industries are exempt from the provisions of this law.

Investment in these sectors shall be regulated under separate legislation.

#### Dispute Resolution:

**Article XXVI:**

Disputes between foreign and domestic investors versus the Office of Investment and government officials may be directly resolved in an amicable manner by understanding and observing the rules of this legislation and documentation of the Enterprise, including whatever specialized contracts have been signed and agreed upon.

Should disputes not be resolved in this manner, both parties shall settle their dispute according to the provisions of the Washington Arbitration Regulations of March 18, 1965 or in accordance with the United Nations Judiciary Laws for International Commerce.

**Unofficial Translation - U.S. Embassy - Kabul**

**Article XXVII:**

The decisions based upon these international agreements for dispute settlement and/or their rendered judgments shall be final and both parties must agree to accept such a final decision.

**Article XXVIII:**

Upon execution of this law, the Office of Investment created by the Investment Law of 1422/2/8 h.q. is hereby rendered null and void.

**Article XXIX:**

Whenever any provision of this Investment Law contradicts a provision from any other existing laws related to domestic or foreign private investment, the provisions of this Investment Law shall be applied.

**Article XXX:**

Upon the execution by the Head of State, this legislation will be published in the Official Newspaper and will thereby be executed; private foreign and domestic legislation that was published in the Official Newspaper number 797 (dated 2/8/1422 h.q.) will be rendered null and void.

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| 1 - Hedayat Amin Arsala, Vice President                                      | <Signature> |
| 2 - Dr. Ashraf Ghani "Ahmadzai", Minister of Finance                         | <Signature> |
| 3 - Dr. Abdullah, Minister of Foreign Affairs,                               | <Signature> |
| 4 - Abdul Rahim Karimi, Minister of Justice,                                 | <Signature> |
| 5 - Mir Mohammad Amin "Farhang", Minister of<br>Reconstruction               | <Signature> |
| 6 - Sayed Mustafa "Kazemi", Minister of Commerce                             | <Signature> |
| 7 - Engineer Joma Mohammad Mohammadi,<br>Minister of Mines & Industry        | <Signature> |
| 8 - Professor Asghar Peyman, Deputy Minister of Planning                     | <Signature> |
| 9 - Prof. Dr. Qasem Fazili, Legal Affairs Advisor<br>Office of the President | <Signature> |