



REPUBLIC OF MOZAMBIQUE  
MINISTRY OF ECONOMY  
INVESTMENT AND EXPORT PROMOTION AGENCY

# LEGISLATION ON INVESTMENT IN MOZAMBIQUE

  
**APIEX**  
MOZAMBIQUE  
Investment and Export  
Promotion Agency

  
NEGÓCIOS

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CANAL DE MOÇAMBIQUE  
 MOZAMBIQUE CHANNEL

PRIVATE  
**INVESTMENT LAW**

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**LAW n<sup>o</sup>. 8/2023  
OF 9<sup>th</sup> JUNE**





REPUBLIC OF MOZAMBIQUE  
ASSEMBLY OF THE REPUBLIC

**Law n°. 8/2023 of 9<sup>th</sup> June**

As there is a need to promote the continuous improvement of the investment and business environment in Mozambique, and considering the profound changes that have occurred since the approval of Law n°. 3/93, of 24 June - Investment Law, its adaptation to the current context and dynamics of the national, regional and world economy, under the provisions of paragraph 1 of article 178 of the Constitution of the Republic, the Assembly of the Republic determines:

**CHAPTER I**  
**General Provisions**

**Article 1**  
**(Subject-matter)**

This Law establishes the legal regime, bases and general principles applicable to the carrying out of private investments in the Republic of Mozambique which are eligible for the enjoyment of tax and non-tax incentives and guarantees.

**Article 2**  
**(Scope of application)**

1. This Law applies to all ventures of an economic nature that take place in Mozambican territory that seek to benefit from guarantees and incentives of a fiscal or non-fiscal nature which are applicable under the terms of the law, namely:

- a) domestic and foreign investments;
  - b) public-private partnerships, large-scale projects and business concessions.
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2. This Law shall not apply to:

- a) investments made or to be made under specific legislation, namely in the areas of prospecting and production of petroleum oil, gas and the mineral resources extractive industry;
- b) public investments financed by funds from the State Budget, as well as investments of an exclusively social or non-profit nature.

3. The provisions of paragraph 2 of this article shall be without prejudice to the application of this Law to such investments in matters not regulated by the respective specific legislation, including the activities of processing, sale and transportation of mining and/or petroleum products, when carried out by entities that are dedicated exclusively to the development of the same.

### **Article 3 (Definitions)**

The definition of the terms used in this Law is set out in the attached Glossary, which is an integral part of it.

## **CHAPTER II Investment Policy**

### **Article 4 (General principles)**

The investment policy enshrined in this Law aligns with the following general principles:

- a) pursuit of national economic policy objectives;
  - b) equal treatment and non-discrimination between national and foreign investors and workers in the exercise of their activities;
  - c) respect for the right to property and other real property rights, in accordance with the terms of the law;
-

- d) observance of the rules of competition, ethics and the market economy among economic operators;
- e) respect for the principle of free economic initiative without prejudice to the provisions of article 17 of this Law;
- f) the guarantee of the security and protection of investment;
- g) guarantee of free movement of assets and capital, under the terms and in accordance with the legal limits;
- h) respect for applicable international law.

**Article 5**  
**(Investment objectives)**

The objectives of investment in the national territory are actions which, individually or cumulatively, aim to:

- a) contribute to the creation or maintenance of a number of jobs in the national territory and the improvement of the professional qualification of workers, as well as the generation of income;
  - b) promote adequate economic, environmental, social, territorial and energy sustainability;
  - c) allow the installation of a productive base with relevant national incorporation, creating added value and providing services to support productive activity;
  - d) produce tradable goods and services;
  - e) promote a positive impact on the treasury and on the trade balance, namely in the increase and diversification of exports and the reduction of imports;
  - f) contribute to the introduction of innovative technological processes and to the improvement of the productivity and efficiency of Mozambican companies;
-

- g) contribute to the installation, rehabilitation, expansion or modernization of economic infrastructures destined for the exploitation of productive economic activity or the provision of services indispensable to support the promotion of Mozambique's development;
- h) promote the training, multiplication and development of the Mozambican business community and business partners;
- i) contribute to the improvement of the supply of the internal market and the satisfaction of the population's priority and indispensable needs;
- j) protect and add value to natural resources.

### **CHAPTER III**

#### **Guarantees, Rights and Duties of the Investor**

##### **Article 6**

##### **(Fair and non-discriminatory treatment)**

1. The investor, employer and employee, regardless of nationality, enjoy the same rights and are subject to the same duties and obligations under the law.
  2. The State guarantees:
    - a) fair and equitable treatment of investors and investments made in the national territory in accordance with the principles of international law;
    - b) conditions necessary for the effective exercise of the right provided for in paragraph 2(a) of this article.
  3. Paragraphs 1 and 2 of this article shall not apply to the following cases:
    - a) projects or activities carried out by nationals which, because of the nature or size of the respective investments and ventures, may warrant special support and treatment from the State;
-

b) differentiated treatment resulting from specific legislation.

**Article 7**  
**(Property rights)**

The State recognizes and guarantees property rights, namely:

- a) the legal protection of property rights and other rights of patrimonial content, including intellectual and industrial property rights, against any public or private measures, direct or indirect, which might harm them;
- b) the legal protection of the right to landuse and benefit, in accordance with the law.

**Article 8**  
**(Protection of propertyrights)**

1. The expropriation, nationalisation or requisition of investors' rights or the adoption of any acts having equivalent effect is prohibited, unless such measures:

- a) are based on the necessity, utility or purposes of relevant public interest;
- b) are adopted in a non-discriminatory manner;
- c) give the investor the right to fair compensation;
- d) respect the applicable legal norms.

2. The fair compensation referred to in paragraph 1(c) of this article shall be the actual market value of the proprietary assets concerned, as determined at the time of the declaration of public interest for the measure or at the time when the measure is implemented, whichever is earlier.

3. The fair compensation also compensates the investor for any

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devaluation of the asset that results from the public announcement of the measure at a time prior to its implementation.

4. The compensation shall be paid promptly and expeditiously and shall include default interest calculated at a commercially reasonable rate, taking into account unjustified or unreasonable delays in processing the compensation.

5. In the case of a venture involving foreign direct investment, the compensation shall be freely transferable abroad and convertible into foreign currency used in the principal international markets, under the terms of article 10 of this Law.

6. The investor may use all the means of dispute settlement provided for under Article 26 of this Law to review the validity of the expropriation, nationalisation, requisition measure or to ensure the determination of the amount of the corresponding compensation and/or its recovery.

### **Article 9** **(Prevalence of International Law)**

The guarantees and incentives provided for in this Law are without prejudice to the application of more favourable regimes established in international treaties or agreements to which the Republic of Mozambique is a signatory, under the terms of the Constitution and the law.

### **Article 10** **(Transfers of Funds Abroad)**

1. In accordance with foreign exchange legislation, the State guarantees the transfer abroad of the following:

- a) exportable profits resulting from investments and reinvestments eligible for the export of profits, under the terms of the foreign exchange legislation;
-

- b) royalties or other income resulting from indirect investments associated with the assignment or transfer of technology;
  - c) depreciation of capital and interest on loans contracted abroad and applied in investment projects carried out in Mozambique;
  - d) the proceeds of compensation received pursuant to the provisions of articles 7 and 8 of this Law and others that may be due;
  - e) foreign capital invested and re-exportable, regardless of whether or not the respective investment project is eligible for the export of profits, in accordance with the terms of foreign exchange legislation.
2. Under the terms of foreign exchange legislation, the Bank of Mozambique may determine the phased scheduling of transfers abroad.

### **Article 11** **(Other guarantees)**

The State also guarantees investors:

- a) respect for their industrial and intellectual property rights, in accordance with the terms of the law;
  - b) freedom of administration of its companies, with public interference in their management being prohibited, except in cases specifically provided for by law;
  - c) the maintenance in force of the licences and authorisations obtained, without prejudice to the possibility of their revocation, cancellation, annulment or declaration of nullity, following administrative or judicial proceedings provided for by law;
  - d) the right to import goods from abroad for the execution of their projects and to export goods, whether produced by them or not, without prejudice to the rules for the protection of the internal market, established by law.
-

**Article 12**  
**(Duties of Investors)**

1. Investors are generally required to respect and comply with the rules in force in the Republic of Mozambique, namely those arising from the Constitution, this Law and other applicable legislation.

2. The following are specific duties of investors:

- a) pay the taxes, fees and other contributions due in accordance with the law;
- b) respect and comply with applicable norms relating to the environment, nature protection and waste management;
- c) respect and comply with current labour norms;
- d) respect and comply with the applicable accounting, foreign exchange and registration norms;
- e) contracting, subscribing and keeping up to date compulsory insurances, under the terms of the law.

3. In the exercise of their activity, depending on the size and characteristics of the project, investors must also contribute to the carrying out of social responsibility policies in the area where the investment is implemented and respect the local traditions and customs of the region.

**Article 13**  
**(Investor social responsibility)**

1. In compliance with the provisions of paragraph 3 of article 12 of this Law, investors shall ensure that investment projects contribute to the development of one or more of the following areas:

- a) the promotion of active policies for the defence and protection of the environment and the promotion of gender equality;
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- b) the promotion of cultural, health and social responsibility programs;
  - c) the establishment of internal policies for the educational and training development of its employees.
2. The inclusion of specific investments in the areas referred to in paragraph 1 of this article shall be a factor in the assessment of investment projects subject to the authorisation procedure, through the following actions:
- a) development of resettlement programs for the population to be affected by the project;
  - b) creation or development of infrastructures in the areas of education, health, transport and roads, electricity, water and sanitation, preferably in the project's geographical area of intervention;
  - c) collaboration with local educational institutions;
  - d) contracting local labour, goods and services;
  - e) contribution to the business development of small and medium-sized Mozambican enterprises, through business and technological links between the project and these companies.

## **CHAPTER IV**

### **Investment Operations**

#### **Article 14**

#### **(Origins and types of investment)**

Investments can be:

- a) in terms of origin: national, foreign or mixed;
  - b) in terms of type: direct or indirect.
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**Article 15**  
**(Forms of national direct investment)**

National direct investment may, individually or cumulatively, take any of the following forms, provided that it is susceptible to being quantified in monetary terms:

- a) cash, including the investment of own funds, credits and other assets that can be applied as investments;
- b) infrastructure, equipment and related accessories, materials and other goods;
- c) assignment of rights in respect of concessions, licenses and other rights of an economic, commercial or technological nature;
- d) assignment of the right to land use and benefit;
- e) assignment of patented technologies and registered trademarks, the remuneration of which is limited to participation in the distribution of the company's profits which resulted from the activities in which such technologies or trademarks would be or were applied, under the terms determined by the competent authorities;
- f) incorporation of technologies and knowledge susceptible of monetary valuation;
- g) investment of capital in the national territory within the scope of reinvestment.

**Article 16**  
**(Forms of foreign direct investment)**

Foreign direct investment may, individually or cumulatively, take any of the following forms, provided that they can be quantified in monetary terms:

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- a) cash;
- b) imported equipment and accessories, materials and other goods;
- c) assignment of the rights of use of patented technologies and registered trademarks, the remuneration of which is limited to participation in the distribution of the company's profits, resulting from the activities in which such technologies or trademarks have been or were applied, under the terms determined by the competent authorities;
- d) incorporation of technologies and knowledge that can be quantified in monetary terms;
- e) provision of specialized services from outside Mozambique for the benefit of economic projects in Mozambique;
- f) investment of capital in the national territory within the scope of reinvestment;
- g) Conversion of the value of the Mozambican external debt, related to loans and financing registered with the competent authority, under the terms of the applicable legislation.

### **Article 17**

#### **(Forms of indirect investment)**

Without prejudice to the provisions of subparagraphs b) and c), respectively, of articles 15 and 16 of this Law, indirect investment, whether national or foreign, may take, individually or cumulatively, the forms of loans, shareholder loans, additional capital contributions, patented technology, technical processes, industrial secrets and models, franchises, trademarks, technical assistance and other forms of access to the use or of the transfer of technology and registered trademarks to which access is applicable under regimean exclusivity or licensing restricted by geographical areas or areas of industrial and/or commercial activity.

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**Article 18**  
**(Freedom to invest)**

1. Investors are free to invest in all areas of economic activity, within the limits of the law.
2. Paragraph 1 of this article does not apply to investments in activities reserved to the State's exclusive ownership or operation, as well as investments in sectors or activities restricted by nationality, in accordance with the provisions of specific legislation.

**Article 19**  
**(Fiscal incentives)**

1. In addition to the guarantees regarding property ownership and transfers of funds abroad enshrined in this Law, the State guarantees the concession of tax and customs incentives defined in the Code of Fiscal Benefits for investments made in accordance with this Law and its regulations, provided that the legal requirements for this purpose are met.
2. The right to enjoy fiscal incentives granted pursuant to paragraph 1 of this article shall be irrevocable for the duration of the respective term, provided that the conditions under which they were granted are not altered.

**Article 20**  
**(Development poles)**

Industrial parks, special economic zones, industrial free zones and rapid development zones in which special regimes apply, including tax, customs, labour or foreign exchange matters, may be established in the national territory, under the terms to be regulated in a specific diploma approved by the Council of Ministers.

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## **CHAPTER V**

### **Procedures**

#### **Article 21**

##### **(Administrative principles)**

1. The administrative procedures established in this Law shall be governed by the principles of the conduct of the Public Administration, in accordance with the provisions of the law establishing the rules for the protection of the rights and interests of individuals.
2. The State shall promote the optional and progressive adoption of the providing of public services by electronic means, through the practice of certain acts by e-mail or through specific platforms created for this purpose, under terms to be approved by the Council of Ministers.

#### **Article 22**

##### **(Investment regimes)**

1. In order to benefit from the guarantees and incentives provided for in this Law, investment projects shall be subject to the application of one of the following regimes:
    - a) Mere registration regime, which consists of the simple submission of an investment proposal for the purposes of registration and allocation of the applicable incentives;
    - b) authorisation regime, which shall apply to:
      - i) large-scale investment projects as well as those involving economic activities with foreseeable economic, environmental, safety or public health impacts;
      - ii) public-private partnerships and business concessions;
      - iii) investment projects that require an extension of land with an area equal to or greater than 10 thousand hectares;
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- iv) investment projects that require a forest concession of an area of more than 100 thousand hectares;
  - v) investment projects involving the industrial processing of mining and/or petroleum products.
2. Projects not subject to the authorisation procedure in accordance with paragraph 1 of this article shall be subject to the mere registration regime.
3. Without prejudice to the need for articulation with other competent public entities, the procedures for the application of the regimes provided for in the preceding paragraphs shall be processed by the entity that, under the terms of the law, coordinates the process of authorisation of private investments.
4. The Council of Ministers has the authority to define the levels of competence and the competent entities for decision-making on investment projects.

### **Article 23**

#### **(Duty to substantiate, prior hearing and decision)**

1. The express decisions taken by the entities referred to in paragraph 4 of article 22 and the procedures provided for in this Law shall be duly substantiated and shall be notified to the investors so that they may comment on them within a maximum period of 10 working days.
2. After analysing the comments or after the expiry of the period referred to in paragraph 1 of this article, the respective entity referred to in paragraph 4 of article 22 of this Law shall make a final decision on the process and notify the investors within five days.
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**Article 24**  
**(Assignment of position or investor rights)**

1. The investor may assign, in whole or in part, its position or rights in respect of an investment or its participation in the respective capital, by making an express and duly grounded request addressed to the entity referred to in paragraph 3 of article 22 of this Law.
2. The transferor shall, in addition to identifying the transferee, indicate in the application any conditions agreed in connection with the assignment of the position or rights in question.
3. If the transferor of all or part of its position in the investment or share capital is a foreign investor, it may request the transfer abroad of the proceeds of such disposal, provided that any tax obligations levied on capital gains and others derived from the sale are satisfied.
4. The transferee may only enjoy the guarantees and incentives provided for in this Law if the assignment has been authorized, carried out and registered during the term of the authorization of the respective venture.
5. The assignment may be refused only on duly established grounds of economic security and where the transferee does not assume the obligations on terms equivalent to those assumed by the transferor.

**CHAPTER VI**  
**Dispute Settlement**

**Article 25**  
**(Complaint and appeal)**

1. The acts of entities with decision-making powers on investment projects are subject to appeal.
  2. The acts referred to in paragraph 1 of this article may also be subject to direct or indirect hierarchical appeal or appeal to the supervising entity, as applicable.
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3. The administration of the appeal procedures provided for in paragraphs 1 and 2 of this article shall follow the provisions of the law that establishes the rules for the protection of the rights and interests of individuals.

**Article 26**  
**(Methods of dispute resolution)**

1. The State guarantees all private investors access to national courts for the defence of their legally protected rights and interests.
2. Any disputes relating to the interpretation and application of this Law that affect the rights and guarantees of the investor provided for therein in international investment treaties or agreements in force shall be notified in writing by the investor to the opposing party.
3. The parties should prioritise the settlement of disputes amicably or by negotiation.
4. If disputes cannot be settled amicably or by negotiation, they may be settled by means of out-of-court dispute resolution at national or international level, such as mediation, conciliation or arbitration, provided that by special law or agreement they are not exclusively subject to the competent national courts, to required arbitration or to another specific means of dispute resolution.

**CHAPTER VII**  
**Infractions and Sanctions Regime**

**Article 27**  
**(Infractions)**

The following are infractions for the purposes of this Law:

- a) non-compliance with the terms and conditions defined in the project approval instrument;
- b) the performance of activities other than those foreseen in the subject matter of the project, provided that these have a significant impact on the development of the project and/or imply a change in its nature;

- c) failure to comply with the general and specific duties of investors as defined in article 12 of this Law;
- d) the use of funds and resources from abroad intended for the implementation of the investment for purposes other than those defined in the project approval instrument;
- e) the non-implementation of the project within the period established in the investment approval instrument, except in duly substantiated and proven cases, namely in situations of unforeseeable circumstances or force majeure;
- f) the paralization of the implementation or effective operation of the project without prior communication to the entity referred to in paragraph 3 of article 22 of this Law;
- g) the giving of false statements or refusal to send information requested by the entity referred to in paragraph 3 of article 22 of this Law, in the context of supervision and monitoring of the project.

### **Article 28** **(Sanctions)**

1. Without prejudice to other sanctions provided for in specific legislation, the infractions referred to in article 27 of this Law are subject to the following sanctions:
    - a) a written warning against the investor, setting a time limit for remedying the infraction;
    - b) the loss of the right to fiscal incentives and other facilities granted to the project by specific legislation;
    - c) the revocation of the investment authorisation or cancellation of the investment registration.
  2. The sanction is determined on the basis of the seriousness of the infraction, the culpability, the economic situation of the investor and the economic benefit derived from the infraction.
  3. The application of sanctions provided for in this article shall be preceded
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by the notification and hearing of the investor or its representative to present its defence.

## **CHAPTER VIII**

### **Transitory and Final Provisions**

#### **Article 29** **(Regulations)**

1. The Council of Ministers has the competency to approve the general and specific regulations of this Law, within 120 days from its publication.
2. Excluding provisions which are contradicted by this Law, the existing regulations shall remain in force until the date of the entry into force of the new regulations.

#### **Article 30** **(Transitional provision)**

The provisions of Law n.º. 3/93 of 24 June and its regulations shall apply to investment projects under consideration on the date of entry into force of this Law.

#### **Article 31** **(Repeal)**

Law n.º. 3/93, of 24 June, and other legislation that contravenes this Law is revoked.

#### **Article 32** **(Entry into force)**

This Law shall enter into force 90 days after its publication.

Approved by the Assembly of the Republic, on May 17, 2023.

The President of the Assembly of the Republic, *Esperança Laurinda Francisco Nhiuane Bias*.

Promulgated on June 5, 2023.

Let it be published.

The President of the Republic, Filipe Jacinto Nyusi.

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## Annex Glossary

### A

**Economic activity** – production and sale of goods or the provision of services of any nature, carried out in any sector of the national economy.

### C

**Foreign capital** – contribution from abroad which is susceptible of monetary valuation and is intended for the execution of an investment project in Mozambican territory.

**Invested capital** – the amount actually paid up and invested in a national or foreign direct investment project, in accordance with articles 15 and 16.

### D

**Right to land use and benefit** – the right that individual or collective persons and local communities acquire over land, with the requirements and limitations provided for in the Land Law and its Regulations.

### E

**Venture**– activity of an economic nature duly registered or authorized, under the terms of this Law.

**Company** – entity that carries out an economic activity, in an organized and continuous manner, responsible for the implementation of an investment project and the subsequent exploitation of the activity or activities.

### F

**Franchising or franchising** – a type of commercial contract under the terms of which the holder (licensor or franchisor) of a given knowledge or experience (know-how), trademark, acronym or commercial symbol assigns them, in whole or in part, to another and on an exclusive basis, with or without the guarantee of the respective technical assistance and marketing services, with the licensee (or franchisee) having the obligation to make the necessary investments, to make payment of the periodic remuneration and to accept the licensor's control over its business activity.

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## I

**Foreign investor** – a natural or legal person who has brought to Mozambique from abroad, its own equity capital and resources or other capital funds and resources for its account and risk, with a view to making any foreign direct investment, under the terms of foreign direct investment as defined in this glossary, in a project previously registered or authorized under the terms of this Law.

**National investor** – a natural or legal person who has made available its own equity capital and resources or other capital funds and resources for its account and risk, intended for the realization of any national direct investment, under the terms provided for in the definition of national direct investment in this glossary, in a project previously registered or authorized under the terms of this Law.

**Investment** – the application of capital in the form of tangible or intangible assets, with a view to creating, modernising or expanding an economic activity.

**Foreign direct investment** – any form of contribution of foreign capital susceptible of monetary valuation, which constitutes equity capital or resources, or capital or resources for the account and risk of the foreign investor, in foreign currency coming from abroad, and intended for its incorporation into the investment for the realization of an economic activity project, through a company or in the form of representation duly registered in Mozambique with the competent legal entities and operating from the national territory.

**National direct investment** – any form of national capital contribution subject to monetary valuation, which constitutes equity capital or resources or capital or resources for the account and risk of the national investor, intended for the execution of an authorized investment project, with a view to the exploitation of the respective economic activity through a company registered in Mozambique and operating with its base in Mozambican territory.

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**Indirect investment** – any type of investment whose remuneration and/or reimbursement does not consist exclusively in the direct participation of its contributors in the distribution of the final profits resulting from the exploitation of project activities in which specific forms of investment, as provided for in article 17, have been applied.

**Mixed investment** – one that integrates both domestic and foreign investment.

### L

**Exportable profit** – the part of the profits or dividends, net of all operating expenses, resulting from a project activity involving foreign direct investment eligible for the export of profits under the terms of the Regulation referred to in article 29, which the investor may freely export abroad subject to compliance with applicable tax and legal obligations.

### P

**Industrial park** – a geographically delimited space with infrastructure in which industrial or business activities are carried out in an integrated or independent manner, and which may include common services, such as the supply of electricity, water, telecommunications, sanitation and wastewater treatment services, security, surveillance or intermodal transport system, among others.

**Foreign person** – any natural person whose nationality is not Mozambican, or, in the case of a business company, more than 50% (fifty percent) of the share capital is held in by foreign persons.

**National person** – citizen of Mozambican nationality, or, in the case of a business company, the more than 50% (fifty percent) of the share capital is held by nationals.

**Project** – a venture involving economic activity that is the subject of investment, under the terms of this Law.

**Large-scale project** – investment undertaking authorized or contracted by the Government, whose value exceeds, with reference to the date

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of January 1, 2009, the amount of 12,500,000,000.00 MT (twelve billion five hundred million Meticaís).

## R

**Reinvestment** – investment, in whole or in part, of the profits resulting from the exploitation of the activities of a national or foreign direct investment project, either in the venture that produced them, or in other ventures carried out in Mozambique.

**Income** – any amounts generated in a given financial year from the activity of an investment project, such as profits, dividends, royalties, and other possible forms of remuneration associated with the assignment of rights of access and use of technologies and trademarks, as well as interest and other forms of remuneration for direct and indirect investments based on the operating results of the project.

**Social responsibility** - a set of actions and initiatives carried out by investors in the creation and development of infrastructures in the areas of education, health, transport and roads, electricity, water and sanitation, population resettlement programmes, environment, business and technological links and other related activities, for the benefit of the local community and the geographical area of intervention of the project, under the terms and conditions previously approved by the Government.

**Royalty**– remuneration of any kind, paid for the use or concession of use of a copyright over a literary, artistic, scientific work, including films, recordings or discs for radio or television transmission, of a patent, trademark of a design, a computer program, a plan for a formula or a secret process, or for the use or right to use industrial, commercial or scientific equipment or information relating to experience acquired in the industrial, commercial or scientific sector.

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**Z**

**Special economic zone** – area of general economic activity, geographically delimited and governed by a special customs regime on the basis of which all goods that enter, are found therein, circulate, are industrially transformed or are exported from the national territory are totally exempt from any related customs, tax and parafiscal impositions, enjoying, additionally, a free foreign exchange regime and off-shore operations and tax, labour and migration regimes specifically instituted and appropriate for the quick and efficient entry into operation of ventures and investors who intend to operate or are already operating or residing there, particularly in their relationship and fulfilment of their commercial and financial obligations abroad, ensuring, in return, the promotion of regional development and the generation of economic benefits in general and, in particular, to increase the productive, commercial, tax capacity and the generation of jobs and foreign exchange for the Republic of Mozambique.

**“industrial free zone”** means an area or unit or series of units of industrial activity, geographically delimited and regulated by a specific customs procedure on the basis of which goods are found or circulate therein, intended exclusively for the production of articles for export, as well as the resulting articles for export themselves, are exempt from all customs, fiscal and para-fiscal charges, benefiting, in addition, from foreign exchange, tax and labour regimes specially instituted and appropriate to the nature and efficient functioning of the enterprises that operate there, particularly in their relationship and fulfilment of their commercial and financial obligations abroad, ensuring, in return, the promotion of regional development and the generation of economic benefits in general and, in particular, to increase the productive, commercial, tax capacity and the generation of jobs and foreign currency for Mozambique.

**Rapid development area** – geographical area of the national territory characterized by great potential in natural resources, but lacking infrastructure and with a low level of economic activity.

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**PRIVATE INVESTMENT LAW  
REGULATION**

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**DECREE N° 8/2024  
OF 7<sup>th</sup> MARCH**





REPUBLIC OF MOZAMBIQUE  
COUNCIL OF MINISTERS

**Decree n°. 8/2024**  
**of 7<sup>th</sup> March**

As there is a need to regulate the Private Investment Law and to ensure the continuous improvement of the investment environment at the national level and the swift approval of private investment projects, the Council of Ministers, under the provisions of article 29.1 of Law n°. 8/2023, of 9 June, decrees:

**Article 1.** The Regulation of Law 8/2023, of 9<sup>th</sup> June, which is an integral part of this Decree, and which establishes the bases and general principles applicable to the realization in the Republic of Mozambique of private investments eligible for the enjoyment of fiscal and non-fiscal guarantees and incentives, is hereby approved.

**Article 2.** The Minister who supervises the area of Finances has the competency to approve the forms for the submission of investment projects, as well as the forms for the registration and the investment authorisation as well as others that may be necessary.

**Article 3.** The entity that, under the terms of the law, coordinates the private investment authorisation process has the competency to receive and process applications for simplified registration and for investment authorisation and to carry out supervision, monitoring and assistance actions for approved investment projects.

**Article 4.** Decree 43/2009 of 21<sup>th</sup> August, and Decree 20/2021 of 13 April are revoked.

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Article 5. This Decree shall enter into force on the date of its publication.

Approved by the Council of Ministers, on 13 February 2024.

Let it be published.

The Prime Minister, *Adriano Afonso Maleiane*.

## **PRIVATE INVESTMENT LAW REGULATION**

### **CHAPTER I**

#### **General Provisions**

##### **Article 1**

##### **(Subject-matter)**

This Regulation establishes the procedures applicable to the process of approval and implementation of private investments in the Republic of Mozambique, eligible for the enjoyment of fiscal and non-fiscal guarantees and incentives, including:

- a) the instruction and submission of applications for simplified registration and for investment authorisation;
- b) definition of the time periods for deciding such applications;
- c) setting the minimum amount of foreign direct investment, as well as the rules for its determination;
- d) definition of the rules on changes to the terms and conditions applicable to simplified registration and investment authorization;
- e) definition of the rules of communication and correspondence, as well as the resolution of complaints related to approved investment projects; and
- f) establishment of the other rules necessary for the application of Law 8/2023 of 9<sup>th</sup> June.

## **Article 2**

### **(Scope of application)**

This Regulation applies to all projects of an economic nature that are carried out in Mozambican territory and that may benefit from guarantees and incentives of a fiscal or non-fiscal nature which are applicable under the terms of the law, namely:

- a) national and foreign private investments; and
- b) public-private partnerships, large-scale projects and business concessions.

## **Article 3**

### **(Settings)**

For the purposes of the application of this Regulation, the following terms have the indicated meanings:

- a) Investment certificate: document issued by the competent decision-making entity which is proof of the registration of the investment project under the simplified registration regime; and
- b) Investment authorisation: document issued by the competent decision-making authority which is proof of the approval of the investment project under the authorisation regime.

## **CHAPTER II**

### **Foreign direct investment**

## **Article 4**

### **(Minimum amount of foreign direct investment)**

1. The minimum amount of foreign direct investment, which is the investor's equity capital contribution, is the equivalent of 6,500,000.00 MT (six million five hundred thousand meticaís), for the specific purposes of transferring abroad profits and invested and re-exportable capital.

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2. For the purposes of the provisions of this Regulation, foreign direct investment corresponds to the sum of the amounts related to the forms of investment provided for in article 16 of Law 8/2023, of 9<sup>th</sup> June.
3. The realisation of foreign direct investment using exportable profits must be preceded by prior confirmation by the Bank of Mozambique of the amount of investment actually made in the project.
4. The amendment of the minimum value of foreign direct investment is made by ministerial decree of the Minister who supervises the area of Finance, in consultation with the Governor of the Bank of Mozambique.

#### **Article 5** **(Registration of Foreign Direct Investment)**

1. The registration of foreign direct investment must be carried out in accordance with the provisions of the foreign exchange legislation in force.
  2. When the foreign direct investment is realized using assets in the form of equipment or materials, the value of the investment is considered to be the CIF price, and the investor promoting the project must present documents issued and endorsed by the customs authorities, for the purpose of registering the respective investment with the Bank of Mozambique.
  3. Capital transfers that have not been made through the national banking system are not considered as part of the foreign direct investment authorised under the project.
  4. Any payments made by the investor abroad without the presentation of documentary proof of the entry into the national territory of the goods having a value which corresponds to the said payments are also not considered as part of foreign direct investment.
-

5. Proof of the implementation and effective application of the foreign direct investment by the investors or by the company implementing the project is produced through the respective supporting documents issued or endorsed in the Republic of Mozambique, by the Bank of Mozambique, Customs or other competent authorities, depending on the specific form of realizing the said investment.

**Article 6**  
**(Validity of foreign investor status)**

For the purposes of benefiting from the right to export profits and re-export invested capital, the status of foreign investor is valid so long as the terms and conditions that determined the acquisition of this status remain unchanged and the effective compliance by the investor of its general and specific duties as provided for in Law 8/2023, of 9<sup>th</sup> June, is confirmed.

**Article 7**  
**(Conversion of external debt into investment)**

1. The conversion of debt contracted abroad into foreign direct investment shall comply with the provisions of the foreign exchange legislation in force.
  2. Applications for the conversion of external debt into financial resources for application in investment projects pursuant to the provisions of the previous paragraph shall be submitted to the Bank of Mozambique for analysis and approval.
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## **CHAPTER III**

### **Processing of investment proposals**

#### **Section I**

#### **Simplified registration procedure**

##### **Article 8**

##### **(Application for simplified registration)**

1. The application for simplified registration consists of the submission of the investment proposal in physical or digital format, for the purposes of registration and attribution of fiscal incentives and other applicable benefits.
2. The application is submitted by the investor or the investor's legal representative and is subject to prior verification of its conformity upon receipt by the entity who under the terms of the law coordinates the private investment authorisation process.
3. Once the conformity of the information and documents required for this purpose has been verified, the investment project is registered in the name of the respective implementing company.
4. The applications for simplified registration submitted by mail or electronically, are registered and analysed provided that they contain the information and documentation strictly necessary for this purpose.

##### **Article 9**

##### **(Simplified registration application instruction)**

1. The application for simplified registration is made by submitting the duly completed model application form signed by the investor or the investor's legal representative, in three copies, accompanied by the following documents:
    - a) copy of the identification document of the investor proponent;
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b) copy of the certificate of the commercial registration or the reservation of the corporate name of the company implementing the project;

c) topographical plan or drawing of the project implementation site; and

d) copy of the title of the land use and benefit right or of the lease agreement of the installations where the project is to be implemented.

2. In the case of an investment project to be carried out through the establishment of a Foreign Commercial Representation, in addition to the documents referred to in paragraph 1, a copy of the Commercial Representation License issued under the terms of the applicable legislation must be attached.

3. The authentication of the documents that instruct the investment proposal must observe the formalities of signature recognition, authentication of copies and consular legalization of foreign documents.

### **Article 10**

#### **(Examination of the application)**

1. The examination of the application for the purpose of simplified registration shall be completed within a maximum period of two days from the date of receipt of the project proposal.

2. If it is determined that the application is not properly done, the entity that coordinates the private investment authorisation process under the law shall notify the project proponents to provide within a maximum period of five days, the missing or incomplete elements.

3. If the applicant does not provide the necessary elements to correct or complete the application within five days after the notification provided for in the previous paragraph, the application shall be returned to the

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investor proponent, unless the aforesaid period is extended for an equal period on the application of the investor or the investor's legal representative.

4. Institutional consultation and the solicitation of comments by the ministries or bodies having oversight of the project sector as well as other State institutions, are dispensed with, except in the case of investment projects whose activity has foreseeable economic, environmental, security or public health implications as well as in the case of investment projects eligible for fiscal incentives under a special regime.

5. The opinion requested pursuant to paragraph 4 of this article shall be issued within a maximum period of five working days from the date of receipt of the project proposal, and in the absence within the same period of any comment from the relevant sector, it shall be deemed to be in favor of the authorisation to register the project.

### **Article 11** **(Issuance of Investment Certificate)**

1. Once the review of the application for simplified registration has been completed, the investment certificate shall be issued in accordance with the provisions of Article 13 of these Regulations, which certificate shall include, inter alia, the following information:

- a) the identification of the investor proponents of the project;
  - b) the project name and purpose;
  - c) the corporate name of the implementing company;
  - d) the headquarters and place of implementation of the activities;
  - e) the amount, form and schedule of the investment;
  - f) the number of national and foreign workers to be employed;
-

- g) the regime of fiscal incentives and guarantees authorised for the project;
- h) the timeline and conditions for the start of the implementation of the project; and
- i) other specific conditions whose inclusion in the investment certificate are relevant in terms of the nature of the undertaking.

2. The investment certificate is the documentary proof of the registration of the project, and it is the responsibility of the investors to present it for the purposes of benefiting from fiscal incentives and other investment guarantees, including for the processing of related applications.

### **Article 12**

#### **(Rejection of a simplified registration application)**

1. The application for simplified registration is rejected based on the following grounds:
    - a) the application submitted does not comply with the provisions of Article 9 of these Regulations;
    - b) the requested economic activity is illegal, or the investor is forbidden to carry it out, in particular by reason of the investor's nationality;
    - c) ineligibility of the project for the fiscal incentives under the terms of the Law, although the interested party may proceed with the implementation of the project without such fiscal benefits;
    - d) inaccurate and false information contained in the project application form or in the documents supporting the application.
  2. Investors whose application for simplified registration has been rejected may, if they wish, reformulate it and subsequently resubmit it, for the purpose of re-examining the rejection of their application.
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**Article 13**  
**(Decision-making bodies and time limits)**

1. The decision on applications for simplified registration of investment is issued no later than three days after receipt of the application file by the following decision-making bodies:

a) the Provincial Governor, regarding projects involving national and/or foreign direct investment having a value not exceeding the equivalent of 3,500,000,000.00 MT (three billion five hundred million meticaís);

b) the Director-General of APIEX, IP, regarding national and/or foreign direct investment projects, including projects eligible for the special economic zone and industrial free zone regimes, having a value not exceeding the equivalent of 6,500,000,000.00 MT (six billion five hundred million meticaís); and

c) the Minister who supervises the area of Finance, regarding national and/or foreign direct investment projects with a value not exceeding the equivalent of 32,000,000,000.00 MT (thirty-two billion meticaís).

2. National and/or foreign direct investment projects with a value greater than the equivalent of 32,000,000,000.00 MT (thirty-two billion meticaís) are subject to the investment authorization regime.

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**Section II**  
**Authorisation Regime**

**Subsection I**  
**Submission of the application**

**Article 14**  
**(Investment Authorisation Application)**

1. The application for an investment authorization is made by submitting the technical and economic-financial feasibility study prepared in accordance with the specific model format, in four copies, accompanied by the following documents:

- a) copy of the identification document of the investor proponents;
- b) copy of the commercial registration certificate or the reservation of the corporate name of the company implementing the project;
- c) topographical plan or drawing of the site where the project is to be implemented;
- d) copy of the land use and benefit title or lease agreement for the installations;
- e) document proving the financial capacity of the project investor proponents.

2. The technical and economic and financial feasibility study must contain information demonstrating the sustainability of the project, namely the respective investment and financing plans, accompanied by the necessary documentation to prove the planned investments.

3. The formalities set out in Article 9(3) of these Regulations shall apply to the authentication procedure for documents supporting the investment authorisation application.

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## **Article 15**

### **(Analysis of the application for an investment authorisation)**

In analyzing the authorisation application, the entity that, in terms of the law, coordinates the private investment authorisation process and the other public entities involved in the process of evaluating the proposal shall take into account:

- a) the correct completion of the application;
- b) the legality of the economic activity and compliance with the rules relating to investments in activities reserved for exclusive State ownership or operation or in sectors or activities restricted according to the nationality of the investor;
- c) the investment proposal's compliance with the applicable legal and regulatory regimes; and
- d) compliance with the principles and objectives of the investment set out in articles 4 and 5 of Law 8/2023 of 9<sup>th</sup> June.

## **Subsection II**

### **Evaluation of the application**

## **Article 16**

### **(Authorisation application evaluation)**

1. The evaluation of the application for the investment project authorisation shall be preceded by an assessment of the conformity of the documents supporting the project proposal.
  2. The evaluation of the investment authorization application consists of the analysis of the technical and economic-financial feasibility, the market and socio-environmental aspects, whether the project fits in with the national development and economic sectors policies, including the determination of the socio-economic benefits arising from its implementation, in accordance with the objectives of the investments set out in article 5 of Law 8/2023 of 9<sup>th</sup> June.
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3. The procedure referred to in paragraphs 1 and 2 of this Article shall be completed within ten days from the date of receipt of the authorisation application.

4. If it is determined that the application is not properly completed, the entity that, in terms of the law, coordinates the private investment authorisation process shall notify the project proponents to provide the missing or incomplete elements within a maximum period of seven days.

5. The period provided for in paragraph 4 of this article may be extended only once, for an equal period subject to the submission of a substantiated request by the investor or the investor's legal representative.

### **Article 17**

#### **(Rejection of authorisation application)**

1. An application for investment authorisation may be rejected on the following grounds:

- a) lack of technical and economic and financial feasibility elements in the project proposal;
  - b) lack of market and socio-environmental aspects, including social responsibility and local content, in the project proposal;
  - c) the project does not fit in with the national development policies;
  - d) lack of determination of the socio-economic benefits arising from the implementation of the project;
  - e) inaccurate and false information contained in the feasibility study and other documents supporting the investment proposal;
  - f) failure to comply with the deadline granted for the remediation of missing or incomplete elements found during the evaluation of the project or the proposal.
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2. An investor whose application for authorisation has been rejected may reformulate it and subsequently resubmit it for the purpose of reviewing the rejection decision on the application.

**Article 18**  
**(Interinstitutional coordination)**

1. In accordance with the provisions of Article 16 of these Regulations, the entity that, under the terms of the law, coordinates the process of authorizing private investment shall request the Ministry that supervises the sector in which the project is inserted and other relevant bodies, to issue the appropriate comment within a maximum period of fifteen days from the date of receipt of the application.

2. The lack of any comment by the entity having oversight of the sector and other entities who are relevant in the analysis of the investment proposal, within the time period defined in the previous paragraph, is equivalent to a favorable opinion regarding the approval of the investment project.

**Article 19**  
**(Submission of Authorisation Application for Decision)**

Once the interinstitutional evaluation and harmonization process has been completed in accordance with the provisions of Articles 16 and 18 of these Regulations, the application together with all the documents and sectoral comments, shall be submitted to the competent entity for decision.

**Article 20**  
**(Investment Authorization)**

The investment authorization is approved by means of a Resolution of the Council of Ministers or an Order(Despacho) of the Minister who supervises the area of Finance, as the case may be, and the project approval terms and conditions must include, inter alia, the following information:

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- a) identification of the investor proponents of the project;
- b) designation and its purpose;
- c) name of the company implementing the project;
- d) headquarters and place of implementation of the activities;
- e) amount, form and schedule for the realization of the investment;
- f) number of national and foreign workers to be employed;
- g) projected social responsibility activities and investment;
- h) fiscal incentives and guarantees applicable to the project;
- i) schedule and conditions for the start of project implementation; and
- j) other specific conditions whose fixation, in the investment authorization, is relevant depending on the nature and the specifics of the undertaking.

### **Subsection III**

#### **Time limits**

#### **Article 21**

#### **(Decision-making bodies and time limits)**

1. The decision on the application for an investment authorisation shall be taken within a maximum period of seven days by the Minister who supervises the area of Finance, in respect of investment projects which have as their object the industrial processing of mineral and/or petroleum products, as well as investment projects whose activity has foreseeable economic, environmental, safety or public health implications.
  2. The decision shall be taken by the Council of Ministers within a maximum period of thirty days after receipt of the application process, for the realization of:
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- a) investment projects whose value exceeds the equivalent of 32,000,000,000.00 MT (thirty-two billion meticaís);
  - b) public-private partnership ventures and business concessions;
  - c) investment projects that require a land area equal to or greater than 10 thousand hectares; and
  - d) investment projects that require a forest concession for an area exceeding 100 thousand hectares.
3. After considering the complexity or nature of the economic, environmental, safety or public health implications, the Minister responsible for Industry and Commerce shall submit the application for authorisation to the Council of Ministers for decision.
4. The approval of the application shall be through the issuance of the competent investment authorization, in accordance with the provisions of Article 20 of these Regulations.

### **Article 22** **(Preliminary Hearing and Final Decision)**

Pursuant to article 23 of Law 8/2023 of 9<sup>th</sup> June, all rejection decisions taken by the entities referred to in article 21 of this Regulation shall be duly substantiated, and investors shall be notified so that they can comment on them at a prior hearing within a maximum period of ten business days.

### **Article 23** **(Notification of decision)**

1. The investor or the investor's legal representative shall be notified of the decision on the investment authorisation application within a maximum period of forty-eight hours after the date of the decision.
  2. The proponent whose investment proposal has been rejected may reformulate it and subsequently submit it, for the purpose of re-examination and a new decision on the respective investment proposal.
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## **CHAPTER IV**

### **Modification of the authorisation terms and revocation of the project**

#### **Article 24**

##### **(Amendment of the investment authorisation or certificate)**

1. When material circumstances so require, and at the express and duly substantiated application by the respective investor or the investor's legal representative, the terms and conditions of the investment authorisation may be amended by the competent decision-making authority.
  2. The provisions of the previous paragraph shall apply, *mutatis mutandis*, to investment projects under the simplified registration regime in relation to the conditions defined in the investment certificate.
  3. For the purposes of paragraph 1 of this Article, the following are material circumstances which justify an application for amendment of the terms and conditions of the investment authorisation or registration:
    - a) expiry of the deadline set for the start of the implementation of the project without the project having been started;
    - b) paralization of the implementation or operation of the project due to force majeure;
    - c) alteration of the basic assumptions assumed at the time of investment authorisation or registration;
    - d) delays in obtaining bank loans or other funds to finance project activities; and
    - e) withdrawal of project investor proponents which affects its effective implementation.
  4. The changes required for an increase in investment, transfer of the position of investor and other conditions for approval of investment in projects authorized by the Council of Ministers are submitted to the decision of the Minister who supervises the area of Finance.
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5. In the case of an application for reinvestment, the terms and conditions of its authorization must contain, among other aspects, an indication of the amount and schedule for realization of the reinvestment.

### **Article 25**

#### **(Revocation of an investment authorisation or certificate)**

The revocation of the investment authorisation and the certificate shall occur under any of the following circumstances:

- a) the substantiated application of the investors and promoters of the project or their legal representatives;
- b) the deadline established for the start of the implementation of the project has expired without it having been started and in the absence of prior communication of the reasons for the delay by the investors;
- c) paralization of the implementation or operation of the project for a continuous period of more than three months without prior communication to the competent authority that issued the investment certificate or authorization;
- d) verification of non-compliance with the provisions of Law 8/2023 of 9th June and of this Regulation, as well as the terms provided for in the respective investment certificate or authorization, as well as in other applicable legal instruments.

### **Article 26**

#### **(Assignment of investor position)**

1. The transfer or assignment of shareholdings held by investors in investment projects is permitted, provided that it takes place in national territory and provided that the entity that issued the investment certificate or authorization is notified through the submission of documents proving compliance with the fiscal obligations associated with the transaction.

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2. Upon request and presentation of proof of discharge (of tax obligations) issued by the competent authority and evidence that the transaction was carried out in accordance with the Law, the registration of the holders of the position of the assigning investor will be formalized.

3. Without prejudice to the provisions of paragraph 1 of this article, the gains resulting from the transfer, directly or indirectly, subject to payment or free of charge, between non-resident entities, of shares representing the share capital or other participatory interests and rights, involving assets located in Mozambican territory, shall also be deemed to be obtained in Mozambican territory, regardless of the place where the transfer takes place, and payment must be made through the national banking system.

## **CHAPTER V**

### **Project Implementation and monitoring**

#### **Article 27**

##### **(Start of implementation of the project)**

1. The start of the implementation of investment projects governed by the provisions of this Regulation shall take place within a maximum period of one hundred and twenty days from the date of notification to the project investor proponent of the investment registration or authorization under the terms provided for in this Regulation.

2. For the purposes of this Regulation, the start of the implementation of the project is the execution of actions unequivocally aimed at the effective realization of the project in accordance with the conditions set out in the investment authorisation or certificate.

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## **Article 28**

### **(Project Monitoring and assistance)**

1. The implementation, execution and management of investment projects and their respective activities shall be carried out in accordance with the provisions of national legislation, and in particular with the conditions laid down in the investment authorisation or certificate and the legal provisions applicable to the activities covered by the project.
  2. The entity that under the terms of the law coordinates the private investment authorisation process is responsible for carrying out periodic supervision, monitoring and assistance to investment projects approved under this Regulation, as well as verifying compliance with the terms and conditions of the project authorisation and registration.
  3. The central organ of the State apparatus that supervises the economic sector or sectors in which the project is inserted is also responsible for monitoring and supervising the implementation of the project's activities, in matters and areas of its competence in accordance with its specific attributions under the terms defined by law.
  4. Depending on the results of the monitoring and inspection mission carried out and if infractions are found to have occurred, sanctions appropriate to the nature of each infraction will be applied, in accordance with the provisions of articles 27 and 28 of Law 8/2023 of 9<sup>th</sup> June.
  5. For the purposes of paragraph 3 of this article, the entity that under the terms of the law coordinates the private investment authorization process is responsible for sending a copy of the investment certificate or authorization to the sector responsible for the oversight of the activities provided for in the object of the project, within a maximum period of fifteen days from the date of the project authorization or registration.
-

**Article 29**  
**(Duty to inform)**

To facilitate the supervision and monitoring process, project investors and promoters must semi-annually submit to the entity that under the terms of the law coordinates the process of authorisation of private investments, information on the stage of implementation of the activities planned within the scope of the project, by filling in a specific form.

**CHAPTER VI**  
**Investor Social Responsibility**

**Article 30**  
**(Socio-economic aspects)**

In accordance with the provisions of article 13 of Law 8/2023 of 9<sup>th</sup> June, investment proposals subject to the authorisation regime must contain, among other initiatives, the following actions within the scope of investor social responsibility:

- a) development of resettlement programs for the populations who will be affected by the project in accordance with the applicable legislation in force;
  - b) creation or development of infrastructures in the areas of education, health, transport and roads, electricity, water and sanitation, preferably in the geographical area of the intervention of the project;
  - c) collaboration with local educational institutions;
  - d) contracting of local labour, goods and services;
  - e) contribution to the business development of small and medium-sized Mozambican enterprises, through business and technological links between the project and these companies.
-

### **Article 31**

#### **(Articulation with sectoral supervisory entities)**

1. In the context of carrying out social responsibility actions, the investors proposing the project must coordinate in advance with local entities and sectoral supervisory bodies, in order to ensure the proper harmonization of the intervention proposals with the specific needs of the region where the project will be implemented.
2. The construction of infrastructure at the initiative of investors in the areas of education, health, transport and roads, electricity, water and sanitation requires prior approval from the entity having oversight of the sector.

## **CHAPTER VII**

### **Final and transitory provisions**

#### **Article 32**

#### **(Rules on the calculation of time limits)**

The following rules shall apply to the calculation of the time periods provided for in this Regulation:

- a) the time period starts to run without any formalities;
  - b) the day on which the event occurs, from which the time period begins to run, is not included;
  - c) the running of the time is suspended on Saturdays, Sundays, public holidays and other days-off;
  - d) a period of one or two days is the one designated, respectively, for 24 or 48 hours;
  - e) the expiry of the period which coincides with the day on which the service in respect of which the act is to be carried out is not open to the public, or does not operate during the normal period, shall be transferred to the first following working day.
-

### **Article 33 (Communications)**

1. Communications between the investors promoting the project and the entity that, under the terms of the law, coordinates the process of authorisation of private investment, including the sectoral entities involved in the process of evaluation and issuance of an opinion on investment proposals, are only binding if they have been reduced to writing and the respective documents acquire legal force when signed by the legal representatives of the investors.
2. Communications made under this Regulation may be made:
  - a) by registered post, addressed to the address of the investor or the investor's representative;
  - b) by e-mail.

### **Article 34 (Complaints)**

1. Without prejudice to the provisions of article 25 of Law 8/2023 of 9<sup>th</sup> June, complaints regarding investments that arise from the application of Law 8/2023 of 9<sup>th</sup> June, and these Regulations shall be submitted to the entity that, under the terms of the law, coordinates the private investment authorization process.
  2. After analysis, the entity that, under the terms of the law, coordinates the private investment authorization process shall submit the complaint to the respective supervisory entity or institution, requesting the official statement be duly made within a maximum period of ten days from the date of its receipt.
  3. After the period mentioned in the previous paragraph has elapsed without a statement from the sector, the entity that, under the terms of the law, coordinates the private investment authorization process shall submit the complaint to the consideration of the Minister who supervises the area of Finance.
  4. The provisions of this article do not limit the right of appeal that investors have to the dispute resolution procedure provided for in article 26 of Law 8/2023 of 9<sup>th</sup> June.
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CODE OF  
**FISCAL BENEFITS**

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**LAW 4/2009  
OF 12<sup>th</sup> JANUARY**





REPUBLIC OF MOZAMBIQUE  
ASSEMBLY OF THE REPUBLIC

**Law 4/2009 of 12<sup>th</sup> January**

It being necessary to reformulate the Code of Fiscal Benefits approved by Decree n° 16/2002 of 27<sup>th</sup> June in order to rationalize the fiscal benefits for investments and make them more effective as an instrument of the political economy, the Assembly of the Republic pursuant to the provisions of Article 127.2 and Article 179.2 of the Constitution determines:

**ARTICLE 1**

The Code of Fiscal Benefits, which is annexed to this Law as an integral part thereof, is approved.

**ARTICLE 2**

The Council of Ministers is delegated the competency to approve regulations in respect of this Law and shall do so within a period of 90 days from the date of publication.

**ARTICLE 3**

All legislation contrary to this Law is revoked.

**ARTICLE 4**

This Law enters into force on 1 January 2009.

Approved by the Assembly of the Republic on 26 December 2008.

The President of the Assembly of the Republic, *Eduardo Joaquim Mulémbwè*  
Promulgated on 1 January 2009.

Let it be published.

The President of the Republic, Armando Emílio Guebuza.

## **CODE OF FISCAL BENEFITS**

### **TITLE I**

#### **General provisions**

### **CHAPTER I**

#### **Fundamental Principles**

#### **Article 1**

##### **(Scope of Application)**

1. The provisions of this Code apply to investments carried out by individual and corporate persons provided that such persons are duly registered for tax purposes.
2. The investments referred to in the preceding clause are investments that are carried out under the scope of the investment law and its regulations, subject to the exceptions provided for in this code.

#### **Article 2**

##### **(Concept of Fiscal Benefit)**

1. Fiscal benefits are those measures that exempt or reduce the amount of tax to be paid in order to benefit activities that have a recognized public interest as well as to encourage the economic development of Mozambique.
  2. Fiscal benefits are those provided for in this Code, namely:
    - a) deductions from taxable income;
    - b) deductions from tax;
    - c) accelerated depreciation and reintegration;
    - d) investment tax credit;
    - e) exemptions;
    - f) the reduction in tax rate and the deferral of the payment of tax.
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3. Fiscal benefits are considered to be fiscal expenditure, and the appropriate declaration of benefits used in each tax year is required for the purpose of their determination and control.

**Article 3**  
**(Entitlement to Fiscal and Customs Benefits)**

1. Investments carried out under the scope of the Investment Law are entitled to the fiscal benefits defined in this Code, provided that the investments observe the terms established herein excluding investments as provided for in paragraph 3 of this article.

2. Investments which are also entitled to the fiscal benefits provided for under this Code are:

- a) investments that are carried out outside the scope of the investment law in commercial and industrial activities in rural areas;
- b) investment in new infrastructures built for retail and wholesale commerce;
- c) manufacturing and assembly industries.

3. With the exception of the situations referred to in the preceding paragraph investments carried out in commercial activities are excluded from entitlement to enjoyment of fiscal benefits.

4. The effective enjoyment of fiscal benefits may not be revoked, nor may the acquired right to the benefit be abrogated, except where as provided for in this code, the beneficiary has not complied with its obligations or if the benefit was improperly granted.

**Article 4**  
**(Accumulation of Fiscal Benefits)**

The specific fiscal benefits provided for in this Code may not be aggregated with other specific or general benefits, without prejudice to the cases expressly provided for in this Code.

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**Article 5**  
**(Transfer of Fiscal Benefits)**

The fiscal benefits granted under this Code are transferable during their term of validity by means of an authorization of the Minister with oversight of the area of investment promotion provided that the fiscal benefits are not altered and that transferee fulfils the requirements for the enjoyment of such benefits.

**Article 6**  
**(Requirements for Exemption from Customs Duties and Value Added Tax)**

1. An exemption from customs duties, and that is only granted when the goods to be imported are not produced in Mozambique or if produced in Mozambique do not satisfy the specific characteristics for the purpose and function required or inherent in the nature of the project and the respective activity to be carried out and explored.
2. The aforesaid said exemption does not apply to food, drink, tobacco, clothing, passenger vehicles and other articles of personal and domestic use.

**Article 7**  
**(Time Period for the exemption from Customs Duties and Value Added Tax)**

The exemption from customs duties and Value Added Tax -VAT, is granted for the period of the first five years of the project implementation.

**Article 8**  
**(Inspection and Audit)**

All individual and corporate persons who are holders of the right to enjoy fiscal benefits as provided for under this Code are subject to regular inspection and audit carried out by the Tax Administration and other competent entities for the purpose of controlling compliance with the prerequisites for the respective fiscal benefits and compliance with the obligations established for such holders.

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## **CHAPTER II**

### **Procedures for obtaining Fiscal Benefits**

#### **Article 9**

##### **(General Recognition Requirements)**

The beneficiary of fiscal benefits shall comply with the following general prerequisites for obtaining fiscal benefits, without prejudice to other specific requirements established by law:

- a) tax registration, namely acquisition of a personal tax identification number (NUIT);
- b) have organized books and accounts in compliance with the General Accounting Plan and the requirements of the Corporate Income Tax Code (IRPC) and the Personal Income Tax Code (IRPS);
- c) not have committed any infraction of a tax nature, as provided under the terms of Law 2/2006, of 22<sup>th</sup> March (Tax Infraction Law).

#### **Article 10**

##### **(Recognition of internal tax benefits)**

Subject to any provisions to the contrary, in order to obtain automatic recognition of the fiscal benefits which apply to domestic taxes collected by the Tax Administration, the titleholders of investment projects entitled to the enjoyment of Fiscal Benefits shall submit to the local Tax directorate the investment authorization order and terms or other legally probative instrument together with a copy of the declaration of commencement of activity.

#### **Article 11**

##### **(Recognition of import benefits)**

1. In order to enjoy the customs and fiscal benefits provided for under this Code with respect to taxes assessed by the Customs Authority, the titleholder of such benefits shall submit to the Customs Services a

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list of the goods to be imported with exemption from payment of the customs duty and other imposts as well as the other items required under the terms of other legal instruments including the tax registration identification number.

2. The list referred to in paragraph 1 of this Article shall be approved after the issuance of the investment project authorisation and subject to the terms established in the Investment Law Regulations and other applicable legislation.

3. The Customs Services shall, with five business days dating from the date of receipt of the list, undertake the respective registration and control procedures.

### **Article 12** **(Proof of Investment)**

1. In order to enjoy the Fiscal Benefits in respect of income in accordance with the terms of this Code, investment project titleholders entitled to benefits shall submit the following items together with the income tax declaration required under the Corporate and Personal Income Tax Codes (IRPC & IRPS):

a) a declaration stating the amount of the investment realized, using the form approved by the Minister having oversight of Finances;

b) the origin of the purchases and expenditure which are the basis of any deductions, indicating the invoice number, the name of the supplier, the invoiced amount and amount to be deducted as well as the accelerated depreciation amounts.

2. In order for the Tax Administration to determine the tax expense, investment project titleholders referred to in the preceding paragraph shall submit the declaration with the respective calculation of the value of the tax benefit as provided for in article of this Code at the time of the submission of the income tax declaration required under the IRPC and IRPS Codes.

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**TITLE II**  
**Fiscal Benefits**

**CHAPTER I**  
**General Benefits**

**Article 13**  
**(Scope of application)**

The general benefits provided for under this Chapter apply to investments that are not the beneficiaries of the specific benefits provided for under this Code.

**SECTION I**  
**Benefits on the Import of Goods**

**Article 14**  
**(Customs Duties and Value Added Tax Exemption)**

Investments carried out under the terms of the Investment Law benefit from an exemption from payment of customs duties and VAT on the import of equipment classified as class "K" in the Customs Tariff Schedule ("Pauta Aduaneira") including the accompanying spare and accessory parts.

**SECTION II**  
**Fiscal Benefits in respect of Income**

**Article 15**  
**(Investment tax credit)**

1. Investments carried out in the City of Maputo benefit, for a period of five tax years, from a deduction (not to exceed the tax payable in respect of the investment project activity) from Corporate Income Tax (IRPC) that is equal to 5% of the total investment actually realised.
  2. In the case of investment projects carried out in the other provinces, the percentage, as established in the preceding paragraph 1, is 10%.
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3. In the case of Personal Income Tax (IRPS), the investment tax credit deduction referred to in the preceding paragraphs shall not exceed the tax payable in respect of income taxable under Category 2 income (as defined in the IRPS Code).

4. Any portion of the tax credit not used in the respective tax year may be carried forward and used in the five successive tax years dating from the date of commencement of investment for projects currently in operation and the commencement of operations for new projects.

5. For the purposes of the provisions of the preceding paragraphs, only investment in new tangible fixed assets acquired by and utilized in the investment project operations within Mozambique qualifies.

6. The provisions of this article do not apply when the investment in tangible fixed assets results from:

- a) construction, acquisition, repair or extension of any buildings;
- b) passenger vehicles;
- c) furniture and articles of comfort and decoration;
- d) social equipment;
- e) specialised equipment which is considered to be advanced technology under the terms of this Code;
- f) other investment assets that are not directly and necessarily associated with the productive activity carried out by the project.

7. For the purposes of this Code:

- a) the commencement of investment is considered to be the moment in which the procedures to obtain Fiscal Benefits is initiated, after approval of the investment project;
  - b) the commencement of operations is considered to be the moment in which the operations that produce taxable income are initiated.
-

### **Article 16**

#### **(Accelerated Depreciation and Reintegration)**

1. Accelerated depreciation of new immovable assets used in the conduct of the investment project is permitted. The normal legal rates, which apply to the calculation of depreciation and reintegration amounts considered to be deductible costs for the purpose of determination of taxable income for IRPC or IRPS, may be increased by 50%.
2. The provisions of the preceding paragraph also apply on the same terms to rehabilitated immovable assets and to machinery and equipment used in industrial and/or agro-industrial operations.

### **Article 17**

#### **(Modernization and introduction of new technology)**

1. The amount invested in specialized equipment utilizing new technology for the conduct of investment project operations shall, during the first five years from the commencement of operations, benefit from a deduction from taxable income for the purposes of Corporate Income Tax (IRPC) equal to a maximum of 10% of taxable income.
2. The deduction referred to in the preceding paragraph as well as the respective terms applies to Personal Income Tax (IRPS), but only in respect to income from activities falling within Category 2 income (as defined in the IRPS Code).

### **Article 18**

#### **(Professional Training)**

1. The cost of investments in professional training of Mozambican employees is deductible from taxable income for the purposes of the calculation of Corporate Income Tax (IRPC), during the first five years dating from the date of commencement of operations up to a maximum amount equal to 5% of taxable income.
  2. In the case of professional training in the utilization of equipment considered to be new technology, as referred to in the preceding article,
-

the maximum amount deductible from taxable income for the purposes of the calculation of Corporate Income Tax (IRPC), is equal to 10% of taxable income.

3. The deductions referred to in the preceding paragraphs as well as the respective terms apply to Personal Income Tax (IRPS), but only in respect to income from activities falling within Category 2 income (as defined in the IRPS Code).

4. The investment cost referred to in the preceding paragraphs does not include the cost of equipment and other assets of the company used in the professional training.

### **Article 19**

#### **(Expenditure considered to be Fiscal Costs)**

1. During a period of five tax years dating from the date of commencement of operations, investments eligible for fiscal benefits under the terms of this Code the following allowances may be also considered as costs for the determination of taxable income for corporate income tax (IRPC) purposes:

- a) in the case of investments carried out in the City of Maputo, 110% percent of the value of expenditure in the construction and rehabilitation of roads, railways, airports, mail delivery, telecommunications, water supply, electrical energy, schools, hospitals and other works that are considered to be of public utility by the competent authority;
  - b) In the case of the other provinces, an amount equal to 120% percent of the expenditure, under the same terms as the previous paragraph.
  - c) In the case of expenditure for the acquisition for personal ownership of works of art and other objects that are representative of Mozambican culture as well as activities that contribute to the development of such works under the terms of the Law for the Defense of Cultural Patrimony, Law 10/88, of 22 December, only 50% of the expenditure is deductible as a cost for tax purposes.
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2. The terms and provisions of the previous paragraph shall be applicable to income subject to the Personal Income Tax (IRPS), but only in respect of income from activities belonging to the Second Category of IRPS.

## **CHAPTER II**

### **Specific Benefits**

#### **SECTION I**

##### **Creation of basic infrastructure**

##### **Article 20**

###### **(Qualifying Investments)**

The provisions of this section are applicable to investment by the private sector or by public-private partnerships that has as its exclusive objective the establishment of basic public infrastructure that is essential for the promotion and attraction of investments, for the conduct of concrete activities in sectors of the national economy, such as the construction and rehabilitation of roads, rail lines, airports, water supply, electricity, telecommunications and others.

##### **Article 21**

###### **(Customs Duty and Value Added Tax Exemption)**

Investments defined in the preceding article benefit from an exemption from the payment of customs duties and VAT on the import of goods classified as class "K" in the Customs Tariff Schedule ("Pauta Aduaneira") including the accompanying spare and accessory parts.

##### **Article 22**

###### **(Income Tax)**

1. Investments that have the exclusive objective of establishing basic public infrastructure as defined in article 19 of this Code, benefit from the following incentives with respect to Corporate Income Tax (IRPC):

- a) an 80% reduction in the rate of IRPC tax in the first five tax years;

- b) a 60% reduction in the rate of IRPC from the 6<sup>th</sup> to the 10<sup>th</sup> tax year ;
- c) a 25% reduction in the rate of IRPC from the 11<sup>th</sup> to the 15<sup>th</sup> tax year.

2. In the case of taxpayers subject to Personal Income Tax (IRPS), the benefit provided for in the previous paragraph shall apply only to the taxable income derived from the activity benefitting from the incentive but only in respect of income from activities belonging to the Second Category of IRPS.

## **SECTION II**

### **Rural Commerce and Industry**

#### **Article 23**

#### **(Qualifying Investments)**

The provisions of this section are applicable to investment in the construction and/or rehabilitation of infrastructure to be used exclusively for the conduct of commercial and industrial activity in rural areas.

#### **Article 24**

#### **(Customs Duty and Value Added Tax Exemption)**

1. Investments in commerce carried out in rural areas benefit from an exemption from payment of customs duties and VAT on the import of goods classified as class "K" in the Customs Tariff Schedule ("Pauta Aduaneira") as well as others which are essential to the conduct of the activity, namely:

- a) freezers;
  - b) scales;
  - c) weights;
  - d) cash registers;
  - e) oil and fuel meters;
  - f) counter.
-



2. Investments in industry carried out in rural areas benefit from an exemption from payment of customs duties and VAT on the import of goods classified as class "K" in the Customs Tariff Schedule ("Pauta Aduaneira") including the accompanying spare and accessory parts.

3. The application for the enjoyment of the fiscal and customs benefits shall be made by a legally registered business entity and shall include the entity's NUIT (tax identification number) and the business license for commercial or industrial activity in rural areas.

### **SECTION III**

#### **Manufacturing and Assembly Industries**

##### **Article 25**

##### **(Qualifying Investment)**

The provisions of this section apply to investments in the manufacturing and assembly industry sector.

##### **Article 26**

##### **(Exemption of customs duties)**

1. Investments in the manufacturing industry sector benefit from an exemption from payment of duties on the import of raw materials to be used in the industrial manufacturing process.

2. Investments in the assembly of motor vehicles, electronic equipment, computer and communications technology and others benefit from an exemption from payment of customs duties on the import of materials to be used in the industrial production process.

3. The application for the enjoyment of the fiscal benefits defined in the preceding paragraphs shall be made by a legally registered business entity and shall include the entity's NUIT (tax identification number) and the business license for industrial activity.

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4. The fiscal benefits referred to in paragraphs 1 and 2 of this article are granted to investment projects which both demonstrate and assume the obligation to maintain an annual invoicing not less than 3,000,000.00 Meticaís and which have a final product added value of at least 20%.

## **SECTION IV**

### **Agriculture and Fishery**

#### **Article 27**

##### **(Customs Duty and Value Added Tax Exemption)**

Investment in agriculture and aquaculture shall benefit from an exemption from payment of customs duties and VAT on the import of equipment classified as class "K" in the Customs Tariff Schedule ("Pauta Aduaneira") including the accompanying spare and accessory parts.

#### **Article 28**

##### **(Income Tax)**

1. Investment in agriculture and aquaculture benefit from the following tax incentives with respect to Corporate Income Tax (IRPC):

- a) an 80% reduction in the IRPC rate until 31 December 2015;
- b) a 50% reduction in the IRPC rate from 2016 until 2025.

2. In the case of taxpayers subject to Personal Income Tax (IRPS), the benefit provided for in the previous paragraph shall apply only to the taxable income derived from the activity benefitting from the incentive but only in respect of income from activities belonging to the Second Category of IRPS.

#### **Article 29**

##### **(Additional Benefits)**

The fiscal benefits provided for in articles 18 and 19 of this Code shall apply to investments in agriculture and aquaculture as defined in this section.

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**SECTION V**  
**Hotelry and Tourism**

**Article 30**  
**(Qualifying Investment)**

1. The provisions of this section are applicable to investments in hotelry and tourism industry, namely:

- a) construction, rehabilitation, expansion or modernization of hotelry units and the respective complementary and related parts, with the principal purpose being the provision of tourism services;
- b) development of infrastructure for the establishment of camping and caravan parks with a minimum three star classification;
- c) equipment for the development and exploration of marinas;
- d) development of wild life reserves, national parks and game reserves for tourism.

2. Investments in the following areas are excluded from the provisions of the previous paragraph:

- a) rehabilitation, construction, expansion or modernization of restaurants, bars, cafés, food establishments, discotheques and other similar units when not a part of the units referred to in the previous paragraph;
- b) car rental;
- c) travel agencies, tourism operators and similar activities.

3. Investments carried out in tourism and hotelry activity, which are not eligible for the specific benefits defined in the previous paragraph, are entitled to the general benefits defined in articles 15 to 19 of this Code.

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**Article 31**  
**(Customs Duty and Value Added Tax Exemption)**

Qualifying investment as defined in article 30.1 of this Code shall benefit from an exemption from payment of customs duties and VAT on the import of equipment classified as class "K" in the Customs Tariff Schedule ("PautaAduaneira") as well as the following goods which are considered to be indispensable for the conduct of tourism and hotelry activity provided that the quantities are limited to the amounts strictly necessary for the construction and outfitting, namely:

- a) construction materials excluding cement, blocks, tiles, paint and varnish;
  - b) rugs and carpets;
  - c) sanitary equipment;
  - d) furniture;
  - e) textiles;
  - f) elevators;
  - g) air conditioners;
  - h) kitchen equipment;
  - i) refrigeration equipment;
  - j) tableware and restaurant and bar articles;
  - k) communication equipment;
  - l) safes;
  - m) computer and sound equipment;
  - n) televisions;
-

o) recreational watercraft, yachts and related equipment and water sports security equipment;

p) aircraft, aeroplanes, helicopters, hang-glider, gliders, flight simulators, equipment and related equipment and tourist activity security equipment.

### **Article 32**

#### **(Investment tax credit, accelerated depreciation and reintegration)**

1. Qualifying investment under the terms of this section also benefit from the tax credit provided for under article 15 of this Code.
2. Accelerated depreciation of new immovable assets, vehicles, automobiles and other tangible fixed assets used in the conduct of the hotelry and tourism activities is permitted. The normal legal rates that apply to the calculation of depreciation and reintegration amounts considered to be deductible costs for the purpose of determination of taxable income for Corporate Income Tax (IRPC) or Personal Income Tax (IRPS) may be increased by 50%.

### **Article 33**

#### **(Additional Benefits)**

Investments defined in this section benefit from the benefits provided for in articles 17 to 19 of this Code.

## **SECTION VI**

### **Science and Technology Parks**

#### **Article 34**

#### **(Customs Duties and Value Added Tax Exemption)**

Investments in scientific investigation, development of information and communication technologies, as well as research and development benefit, for the duration of the project, from an exemption from the payment of customs duties and VAT on the import of scientific, teaching

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and laboratory material and equipment, including software and support materials, for technical, scientific education, teaching and investigation construction materials, machinery, equipment, and the respective accompanying accessories and spare parts.

**Article 35**  
**(Income Tax)**

1. Investments in the areas of scientific investigation, information and communication technology development as well as research and development carried out in science and technology parks shall benefit from the following incentives in respect of Corporate Income Tax (IRPC):

- a) IRPC exemption in the first five tax years;
- b) a 50% reduction in the rate of IRPC tax from the 6<sup>th</sup> to the 10<sup>th</sup> tax year;
- c) a 25% reduction in the rate of IRPC from the 11<sup>th</sup> to the 15<sup>th</sup> tax year.

2. In the case of Personal Income Tax (IRPS) taxpayers, the benefit provided for in the previous paragraph shall apply only to the taxable income derived from the activity which is the beneficiary of the incentive and which is Category 2 income.

3. Investments that do not fall within the areas of scientific investigation, technological development, information and communication, and research and development carried out in science and technology parks are not entitled to the fiscal benefits referred to in paragraphs 1 and 2 of this article.

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**SECTION VII**  
**Large Dimension Projects**

**Article 36**  
**(Qualifying Investments)**

Authorised investment that exceeds twelve billion five hundred million Meticais as well as investment in public domain infrastructure carried out under the regime of a concession are entitled to the fiscal benefits set out in this section.

**Article 37**  
**(Customs Duty and Value Added Tax Exemption)**

Investments defined in the preceding article shall benefit from an exemption from payment of customs duties and VAT on the import of construction materials, machinery, equipment accompanying spare and accessory parts and other goods used in the carrying out of the activity.

**Article 38**  
**(Additional Benefits)**

The fiscal benefits provided for in articles 15 to 19 of this Code shall apply to investments defined in this section.

**SECTION VIII**  
**Rapid Development Zones**

**Article 39**  
**(Definition)**

For the purposes of this Code, Rapid Development Zones (ZRD) are geographic areas within the national territory of Mozambique which have great natural resource potential but which are lacking in infrastructure and have a weak level of economic activity.

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**Article 40**  
**(Qualifying Areas)**

1. Rapid Development Zones include the following regions in Mozambique: Zambeze River Valley zone, Niassa Province, Nacala district, Ilha de Moçambique (Moçambique Island), Ibo Island and other areas which may be approved by the competent authority.
2. The Zambeze River Valley zone includes:
  - a) all the districts in Tete Province;
  - b) the districts of Morrumbala, Mopeia, Chinde, Milange, Mocuba, Maganja da Costa, Nicoadala, Inhassunge, Namacurra and Quelimane in Zambézia Province;
  - c) the districts of Gorongosa, Maringué, Chemba, Caia, Marromeu, Cheringoma and Muanza in Sofala Province;
  - d) the districts of Bárue, Guro, Tambara and Macossa in Manica Province.
3. The Council of Ministers has the competency to establish new rapid development zones under the terms of this Code.

**Article 41**  
**(Eligible Activities)**

1. The following activities are eligible for the fiscal benefits specified in this Section:
    - a) agriculture;
    - b) tree plantations ;
    - c) aquaculture;
    - d) stock-raising ;
    - e) forestry operations;
-



- f) wild life related operations;
- g) water supply;
- h) electricity generation, transport and distribution;
- i) telecommunications;
- j) construction of public use infrastructures;
- k) housing construction;
- l) construction of agriculture related infrastructures;
- m) construction of hotel infrastructure and hotel operation;
- n) tourism and related activities;
- o) construction of trade infrastructure;
- p) industry;
- q) cargo and passenger transport;
- r) education;
- s) health.

2. The fiscal benefits provided for in this Section apply exclusively to investments in activities carried out in Rapid Development Zones.

**Article 42**  
**(Customs Duties and Value Added Tax Exemption)**

Investments carried out in Rapid Development Zones in the activity sectors defined in the previous paragraph benefit from an exemption from payment of customs duties and VAT on the import of goods in class "K" of the Customs Tariff Schedule ("Pauta Aduaneira") including the accompanying accessories and spare parts.

**Article 43**  
**(Fiscal benefits in respect of Income)**

1. Investments located in Rapid Development Zones in the activity sectors defined in this Section benefit for a period of five tax years from an investment tax credit equal to 20% of the total investment realised, deductible from the Corporate Income Tax (IRPC) payable but which shall not exceed the tax otherwise payable.
2. In the case of taxpayers subject to Personal Income Tax (IRPS) the tax credit referred to in the previous paragraph shall not exceed the amount of tax resulting from income from the activity that is the beneficiary of the incentive and which is income classified as second category income(as defined in the IRPS Code).
3. Any portion of the tax credit not used in the respective tax year may be carried forward and used in the five successive tax years dating from the date of commencement of investment for projects currently in operation and the commencement of operations for new projects.

**Article 44**  
**(Additional Benefits)**

Investments defined in this section benefit from the benefits provided for in articles 18 and 19 of this Code.

**SECTION IX**  
**Industrial Free Zones**

**Article 45**  
**(Customs Duty and Value Added Tax Exemption)**

1. Operators of Industrial Free Zones benefit from an exemption from payment of customs duties on the import of construction materials, machinery, equipment, accompanying spare and accessory parts and other goods used in the carrying out of the licensed Industrial Free Zones activity.
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2. Industrial Free Zones enterprises benefit from an exemption from customs duties on the import of goods and merchandise to be used in the implementation of projects and exploration of activities which have been authorised under the terms of the Industrial Free Zones Regulations.

3. The exemption referred to in paragraphs 1 and 2 of this article includes VAT both on the import and on internal acquisitions as provided for in the VAT Code.

#### **Article 46 (Income Tax)**

1. From the date of the issuance of the respective Certificate, Industrial Free Zones Developers and enterprises benefit from the following incentives with respect to Corporate Income Tax (IRPC):

- a) IRPC exemption in the first ten tax years;
- b) a 50% reduction in the rate of IRPC tax from the 11<sup>th</sup> to the 15<sup>th</sup> tax year;
- c) a 25% reduction in the rate of IRPC for the remaining life of the project.

2. Isolated Free Zone enterprises approved in accordance with the terms of the Free Zone Regulations benefit from the following incentives with respect to Corporate Income Tax (IRPC):

- a) IRPC exemption in the first five tax years;
  - b) a 50% reduction in the rate of IRPC tax from the 6<sup>th</sup> to the 11<sup>th</sup> tax year;
  - c) a 25% reduction in the rate of IRPC for the remaining life of the project.
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**SECTION X**  
**Special Economic Zones**

**Article 47**  
**(Customs Duty and Value Added Tax Exemption)**

1. Special Economic Zones Developers and Enterprises benefit from an exemption from payment of customs duties on the import of construction materials, machinery, equipment, accompanying spare and accessory parts and other goods used in the carrying out of the licensed Special Economic Zones activity.
2. The exemption referred to in paragraph 1 of this article includes VAT both on the import and on internal acquisitions as provided for in the VAT Code.

**Article 48**  
**(Income Tax)**

1. From the date of the issuance of the respective Certificate, Special Economic Zones Developers benefit from the following incentives with respect to Corporate Income Tax (IRPC):
    - a) IRPC exemption in the first five tax years;
    - b) a 50% reduction in the rate of IRPC tax from the 6<sup>th</sup> to the 10<sup>th</sup> tax year;
    - c) a 25% reduction in the rate of IRPC for the remaining life of the project.
  2. From the date of the issuance of the respective Certificate, Special Economic Zone enterprises benefit from the following incentives with respect to Corporate Income Tax (IRPC):
    - a) IRPC exemption in the first five tax years;
    - b) a 50% reduction in the rate of IRPC tax from the 6<sup>th</sup> to the 11<sup>th</sup> tax year;
    - c) a 25% reduction in the rate of IRPC for the remaining life of the project.
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3. Special Economic Zones enterprises services, approved in accordance with the terms of the Special Economic Zone Regulations benefit from a 50% reduction in the rate of IRPC tax for a period of five tax years.

## **CHAPTER III**

### **Sanctions**

#### **Article 49**

##### **(Sanctions which preclude, suspend or cancel Fiscal benefits)**

1. Without prejudice to other sanctions permitted under the tax and customs legislation in force, the violation of the provisions of this Code is subject to the application of sanctions which may, depending on the gravity of the infraction, preclude, suspend or cancel the application of the fiscal benefits.
  2. The failure to comply with one or more of the prerequisites provided for in Article 8 of this Code is an infraction subject to the sanction of preclusion from the enjoyment of the benefits.
  3. Infractions subject to the sanction of suspension of benefits, are:
    - a) the failure to pay taxes that are due to the State Treasury, provided that this infraction occurs only once;
    - b) the failure to deliver the declaration required under Article 2.3 of this Code;
    - c) the commission of infraction of a fiscal nature and other infractions, provided that under the terms of the applicable legislation are not considered to be grave;
    - d) non-compliance with the terms imposed in the grant of the fiscal benefits.
  4. The repeated commission of the infractions referred to in the preceding paragraph shall be subject to the sanction of cancellation, without prejudice to the terms of Law 2/2006, of 22 March.
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**Article 50**  
**(Cancellation and suspension of fiscal benefits)**

1. The enjoyment of fiscal benefits shall expire at the end of the period of time for which granted, when cancelled as a sanction or if subject to terms and conditions, when a resolutive condition occurs or the beneficiary fails to comply with the obligations imposed by these terms and conditions.
2. The cancellation or suspension of fiscal benefits results in the automatic application of general taxation as provided for by law.
3. In the event of the application of a suspensive sanction, the suspension shall remain in force until the complete remedying of the cause of the suspension, including the payment within a period of sixty days counting from the date of the notification of tax due by the competent services
4. The holders of a right to fiscal benefits are obliged to declare, within a period of 30 days thereof, when the factual or legal basis for the fiscal benefit has ended including the suspension of fiscal benefits but excluding where the termination was officially known.

**CHAPTER IV**  
**Miscellaneous**

**Article 51**  
**(General transitory regime)**

1. The fiscal benefits the right to which has been acquired or the application for which has been formulated and submitted on the basis of prior Codes of Fiscal Benefits, approved by Decree 12/93, of 21 July, and Decree 16/2002, of 27 June, prior to the entry into force of this Code on 1 January 2009 shall be maintained in accordance with the terms on which granted.
  2. Investment projects submitted for analysis and approval prior to the entry into force of this Code on 1 January 2009, shall be reviewed and decided
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in accordance with the terms of the Code of Fiscal Benefits approved by Decree 16/2002, of 27 June, except where the proponents expressly choose and request the application of this Code, within the maximum time period of sixty days from date of this Code's entry into force.

**Article 52**  
**(Disposal of assets subject to fiscal benefits)**

When the fiscal benefit applies to the acquisition of assets to be directly applied in the realisation of the buyer's objectives, if the assets are disposed of or applied to another purpose, without obtaining the prior authorisation of the competent authority, the fiscal benefit will be null and void, without prejudice to any other sanctions.

**Article 53**  
**(Supplementary rules)**

The provisions of the Corporate Income Tax Code, the Personal Income Tax Code, the Value Added Tax Code, the Customs Dispute Procedures, the Tax Dispute Procedures, the Tax Executions Code and other applicable legislation shall apply to any omission in this Code unless contradicted by the provisions of this Code.

**Article 54**  
**(Entry into force)**

This Law enters into force on 1 January 2009. Approved by the Assembly of the Republic on 26 December 2008.

The President of the Assembly of the Republic, *Eduardo Joaquim Mulémbwè*  
Promulgated on 1 January 2009.

Let it be published.

The President of the Republic, Armando Emílio Guebuza.

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