

Tax News Flash no. 7/2015

Building the future



Approval of the Regulation of the Procedure for Private Investment conducted under the Private Investment Law in Angola

Presidential Decree no. 182/15, of September 30, 2015

[Presidential Decree no. 182/15, published in the Official Gazette of September 30, 2015](#), approves the Regulation of the Procedure for Private Investment conducted under the Private Investment Law in Angola, repealing the regime enacted by Presidential Decree no. 84/12, of May 14, 2012 and Presidential Decree no. 166/12, of July 17, 2012, as well as all legislation contrary to the provisions of this Ordinance. This Presidential Decree has been in force since its publication.

Scope

This new Regulation applies to i) foreign investment projects approved under Law no. 14/15, of August 11 – Private Investment Law, ii) to projects foreseen in the no. 1 of Article 61 of the referred Law (private investment of lower amounts), as well as to iii) private investment

processes already in due course, if considered more favorable and upon request of the interested party.

Competence for approval

The Head of the Ministerial Department of the private investment dominant activity is responsible for the approval of private investment projects amounting to the equivalent in Kwanzas of up to USD 10,000,000 (ten million United States dollars).

Private investments amounting to more than USD 10,000,000 (ten million United States dollars) in Kwanzas, fall within the jurisdiction of the Head of Government and should be presented to the respective Technical Unit for Private Investment.

Subject to the procedural rules approved under the no. 1 of Article 60 of the Private Investment Law, the Head of Government is also responsible for the approval of investments to be made under certain special legal regimes, such as the regime applicable to financial, mining and diamond-related projects, as well as others provided by law, unless these legal regimes attribute this competence to other Body.

For the purposes of this Regulation:

- a) When the dominant activity of the investment falls in the jurisdiction of more than one Ministerial Department, the responsibility is attributed to the heads of the departments concerned;
- b) Dominant activities are those subject to registry, authorization, licensing or granting by a ministerial department, through the activities developed within the project's value chain, excluding for this purpose the environmental or technical-economic impact studies, licensing of facilities or imports of capital, equipment or personnel, domestic or foreign.

Technical Unit for Private Investment Support

The Ministerial Departments, in collaboration with the respective Office Head, shall organize a Technical Unit for Private Investment Support responsible for the Procedure for Private Investment provided for in the concerned Regulation.

In addition, Provincial Governments, in collaboration with the Provincial Governor's Office, need to organize a Technical Support Unit for Investors focused in establishing preliminary contacts, facilitating and providing guidance to private investors.

The creation of these structures is determined by order of the Head of the Ministerial Department responsible for the dominant activity whereas in the Provinces it is determined by the Head of the Ministerial Department responsible for the territory administration.

The procedure for investment should be treated, as an urgent matter and through a "fast track" procedure, and should benefit from an expediently, informal, dedicated and personalized treatment and support, integrating public services in a digital "Service Desk" at each Ministerial Department.

Procedures for Private Investment

Proposal submission and decision

The investment procedure begins with the submission of the private investment proposal to the competent Body.

Private investment projects amounting to the equivalent in Kwanzas of up to USD 10,000,000 (ten million United States dollars) should be presented to the Ministerial Department responsible for the dominant activity sector.

The decision for these projects is made in the form of an order on behalf of the Head of the dominant activity Ministerial Department.

The remaining projects fall in the jurisdiction of the Head of Government and must be presented to the respective Technical Unit for Private Investment. Upon instruction, analysis and opinion, the proposal is then submitted to the Head of Government for approval.

Documents supporting the Investment Project

Projects are presented in a specific template provided by the respective Authorities responsible for approval, duly signed by the investor or his legal representative and should be accompanied by the following documents, among others:

- a) Project presentation template duly completed;
- b) Copy of the legal documentation of the proponent, such as the company statutes and the commercial registry certificate, in case of a legal person;
- c) Technical, Economic and financial feasibility study of the investment project;
- d) Environmental impact study of the investment project;
- e) Documents that show evidence of the financial and technical situation of the promotor of the private investment.

Intervention of other Ministerial Departments

For the purpose of conceding benefits and tax and custom incentives, the opinion of the Ministerial Department responsible for public finances is mandatory and binding. If the benefits and tax and custom incentives are non-compliant with the opinion of this body, they should be promptly canceled.

Contract Signature

The entity responsible for representing the State during the contract signature of a private investment amounting to the equivalent in Kwanzas of up to USD 10,000,000 (ten million United States dollars) is the Head of the Ministerial Department of the dominant activity sector or a legal representative to whom he might delegate such competence.

For private investments amounting to more than USD 10,000,000 (ten million United States dollars) in Kwanzas, the State representative for the purpose of contract signature is the Director of Technical Unit for Private Investment Support.

Private Investor Registration Certificate

Upon formalization of the contract, the Ministerial Department services responsible for the dominant activity or the Technical Unit for Private Investment Support should issue and deliver to the investor or to his legal representative, a Private Investor Registration Certificate (CRIP) and a copy of the investment contract.

CRIP is a document proving the approval, authorization and registry of the private investment, replacing the exhibition of the investment contract and proving its holder the statute of private investor, for the purpose of any action concerning the administration and third parties.

A copy of the CRIP shall be forwarded to the Ministerial Department responsible for public finances and to the National Bank of Angola.

Procedures for Investments governed by the Head of Government

Should the investment proposal amount be equal or greater than the equivalent in Kwanzas to USD 50,000,000 (fifty million United States dollars) and capable of creating at least 500 or 200 jobs for Angolan citizens in Development zones A and B, respectively, the Head of Government shall create an Incentive and Benefits Negotiation Commission aiming at negotiating with the investor.

Special regime of Tax Benefits and Incentives

Tax Benefits and Incentives Modalities

Tax Benefits provided for in no. 2 of article 30 of the Private Investment Law shall take the form of a deduction from taxable income, as well as accelerated depreciations.

These benefits apply exclusively to i) investment projects provided for in no. 1 of article 3 of the Private Investment Law, as well as to ii) Angolan companies subject the reporting and accounting obligations foreseen in the Corporate Tax Code, beginning in the fiscal year following the end of the project implementation.

These tax benefits do not apply to taxpayers which have filed tax losses.

The duration of the aforementioned benefits corresponds to 3 fiscal years, non-renewable.

Procedure

The Minister of Public Finances is responsible for granting, through an official document, the tax benefits foreseen in the Regulation of the Procedure for Private Investment.

The tax benefits request should be supported by evidence of the investment costs carried out, as well as by Model Statement I of the Industrial Tax and the financial statements of the last fiscal year, subject to rejection in case these elements are not presented.

Taxable income deductions

The taxable income deduction regime consists on a super deduction up to 50% of the investment amount. This deduction should be split equally and deducted in the following three fiscal years.

This deduction cannot be carried forward to subsequent periods, regardless of the non-existence of taxable income in any of the aforementioned three fiscal years.

Accelerated depreciations

This scheme consists of an increase in rates foreseen in the present Decree over the general regime rates.

Private Investment Follow-up

Follow-up and Supervision

The Technical Units for Private Investment Support within the Ministerial Departments responsible for the dominant activity sector are mandated to follow-up and supervise the private investment implementation.

These Units, through order from the respective Head, can instruct the provincial services or geographically competent municipalities to practice all or some follow-up actions regarding

the supervision of the investor's compliance with the contract.

The Technical Unit for Private Investment that supports the Head of Government is mandated to follow-up and supervise investment projects amounting to the equivalent in Kwanzas of more than USD 10,000,000 (ten million United States dollars).

Follow-up Report

The investor should elaborate and present, on a quarterly basis, an implementation and investment development report, through a proper form and preferably electronically, to the entity which approved the investment project. This report should be submitted within 15 days after the end of the reference period.

Issues arising within the Investment Contract

Whenever a non-compliance situation is detected in regard to the private investment contract, competent departments should demand the investor to adopt interim measures towards risk mitigation of non-implementation or non-compliance with the private investment to the respective schedules.

Effects of the Investment Contract Termination

The termination of the investment contract determines the forfeiture of all property rights granted to the investor, as well as all privileges assigned, namely the privilege and special entry and resident permits.

In the notification of contract termination, and after considering all the circumstances, the Head of the Ministerial Department responsible for the dominant activity should grant a reasonable deadline to the investors, not less than 30 days and not exceeding 180 days after the date of the notification, to regularize and close the ongoing operations in Angola, to settle and perform any pending mandatory payments and, if applicable, to transfer abroad any amounts to which they are entitled to.

After this deadline, visas and residence permits in national territory are automatically extinguished, guaranteeing, however, the right to appoint a representative resident in Angola for proceeding with the necessary acts towards the closure of all investments as a result of the contract termination.

For further information, please see Presidential Decree no. 182/15.

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