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The existence of a General Tax Law is common practice in many States and constitutes an instrument of rationalization, embodiment and stability to the tax systems.

In fact, the creation of a legal framework capable of attracting private investment calls for the adoption of a fiscal incentives policy with concerted social and economic policies instruments.

The tax incentives to be granted, under this law, constitute an exceptional fiscal advantage that should be embodied in the Fiscal Incentives Code when approved, with a view to ensuring the harmonisation of the substantive and procedural tax laws.

The tax incentives set out in this law have as priority the reconstruction and development of the country as part of an integrated policy that privileges productive investment agriculture and industry and human resources - health and education and road, railroad, port, airport, telecommunications, power and water infrastructure.

Under these terms and pursuant to subparagraph f) of Article 90 of the Constitutional Law, the National Assembly hereby approves the following:

LAW ON TAX AND CUSTOMS INCENTIVES TO PRIVATE INVESTMENT

Article 1
(Scope)

This law governs the procedures, types and forms of concession of tax and customs incentives within the scope of the Private Investment Base Law.

ARTICLE 2
(Objectives)

The concession of tax and customs incentives to investment projects, under the terms of this law, is aimed at the accomplishment of the following objectives:

- a) Manufacture of essential goods to be sold on the internal market to meet the basic needs of the populations;
- b) Priority development of underprivileged regions, in particular those that have high poverty and long-term unemployment levels and lack infrastructure or that have been destroyed or are in need of improvements;
- c) Rehabilitation, implantation or modernisation of infrastructure designed for the operation of the production activity or for the provision of services;
- d) Technological innovation in the production of goods or provision of services and scientific development geared to enhancing the efficiency, the quality of goods and services and the productivity;
- e) Increase of currency imports and corresponding improvement of the balance of payments.

ARTICLE 3
(Eligibility criteria)

The tax and customs incentives shall be granted in accordance with the following criterion:

- a) branch of industry;
- b) development zone;
- c) special economic area;

ARTICLE 4
(Priority Sectors)

For the purposes of this law, priority is given to the following sectors:

- a) farming and cattle-breeding;
- b) processing industry;
- c) fishing and derivatives industry;
- d) civil construction
- e) health and education;
- f) road, railroad, port, airport, telecommunications, energy and water infrastructure;
- g) heavy cargo and passenger equipment;

ARTICLE 5
(Development zones)

For purposes of concession of tax and customs incentives to investment operations, the Country is divided in the following development zones:

Zone A Province of Luanda, the capital-municipalities of the Provinces of Benguela, Huíla, Cabinda and the Municipality of Lobito;

Zone B Remaining municipalities of the provinces of Benguela, Cabinda and Huíla and Provinces of South-Cuanza, Bengo, Uíge, North-Cuanza, North-Luanda and South-Luanda.

Zone C Provinces of Huambo, Bié, Moxico, Cuando, Cubango, Cunene, Namibe, Malanje and Zaire.

ARTICLE 6
(Special economic zone)

The definition and listing of the incentives to investments to be carried out in the special economic zones are laid down in a separate law.

ARTICLE 7
(Incentive eligibility criteria)

1. Investment projects are eligible to incentives according to:

- a) their insertion in sectors classified as priority;
- b) their contribution to the B and C development zones;

2. The criterion referred to in the preceding paragraph is not cumulative, and constitutes a mere indicator of reference for regional or local economy.

ARTICLE 8
(Requirements)

The taxpayers wishing to benefit from the fiscal incentives must, cumulatively:

- a) meet the legal and tax conditions for the conduct of their activity;
- b) not have any outstanding debts to the State and to the Social Security and not have any debts in arrears to the financial institutions;
- c) keep a proper set of accounts adequate to the demands of assessment and monitoring of the investment project.

ARTICLE 9
(Customs duties)

1. For the period determined in the following paragraph, the investment operations shall be exempt from the payment of customs duties and fees, except from the stamp duty and fees levied on the provision of services and on the goods and equipment used in the launching and development of an investment operation, including heavy and technological vehicles.
2. The period of exemption referred to in the preceding paragraph is of three years for investments carried out in Zone A and of four and six years for investments carried out in Zones B and C, respectively.
3. Should the equipment to be imported be second-hand equipment, the exemption provided by paragraph 1 above will be granted for the period of time set in the preceding paragraph cut down to half.
4. Investments in goods incorporated or consumed directly in the production of other goods are further exempt from the payment of customs duties and fees, with the exception of the stamp duty and other fees due for the provision of services, for a period of five years from the date of commencement of production activity, including test runs.
5. The incentives laid down in the preceding paragraphs shall not be granted for equipment, accessories and spare parts and raw materials produced in national territory and not used exclusively and directly in the project.

ARTICLE 10
(Industrial Tax)

1. The profits yielded from investments carried out in Zone A, Zone B and Zone C are exempt from the payment of industrial tax for a period of 8, 12 and 15 years, respectively.
2. The sub-contractors hired for the execution of the investment project are also exempt from the payment of industrial tax levied on the price of works carried out in Zone C and for the same period of time.
3. The exemption period shall begin to run on the day of commencement of production activity.

ARTICLE 11
(Investment expenditure assessed as costs)

In addition to the exemption periods provided by the preceding article, the investment operations foreseen in this law may consider the following expenses as costs for purposes of determination of the taxable income:

- a) up to 100% of the expenses incurred in the construction and repair of road, railroads, telecommunications, water supply and social infrastructure for the workers, their families and local inhabitants;
- b) up to 100% of the expenses incurred in vocational training in all fields of social and productive activity;
- c) up to 100% of the expenses incurred in investments carried out in the cultural sector and/or purchase of works of art of Angolan authors and creators, provided however that, when classified as such, the same remain in the Country and are not sold for a period of 10 years.

ARTICLE 12
(Capital Gains Tax)

1. The companies that promote the capital investments covered by this law shall be exempt from the payment of capital gains tax, for a period of time determined by the following paragraph, levied on the profits distributed to the partners.
2. The exemption laid down in the preceding paragraph is granted for periods of up to 5, 10 and 15 years for investments carried out in Zones A, B and C, respectively.

ARTICLE 13
(Conveyance Tax)

The companies that promote investment operations covered by this law are exempt from the payment of conveyance tax for the land and real property acquired and used in the project. This exemption must be applied for to the competent tax department.

ARTICLE 14
(Other investments)

1. Investments between the equivalent to USD 50,000.00 and USD 250,000.00, according to their nature, location and relevance for regional or local economy are eligible to the following tax incentives:
 - 1.1 Relief to half of customs duties and fees, except for stamp duty and fees payable for services provided over imported equipment to be used in the construction and supply, including vehicles with more than 3.5 tons of gross weight and raw materials, in particular:
 - a) investments in new undertakings, with a favourable impact on the region and that also involve construction and/or rehabilitation of economic and social infrastructure;
 - b) investments in the expansion, rehabilitation or modernisation of commercial or industrial units, in particular, those that have been destroyed by the war;
 - c) investments in priority sectors and/or in Zone C;
 - d) investments that ensure the creation of more than 10 full-time jobs for national workers.
2. When the equipment to be imported is second-hand equipment, the fee referred to in paragraph 1 above shall be reduced to 75%.
3. The incentives laid down in the preceding paragraph will only be granted when the equipment and accessories and spare parts to be imported are not manufactured in national territory or when manufactured in national territory, clearly fail to meet the requirements inherent to the nature of the project to be implemented.
4. The following investments are exempt from the payment of industrial tax for a period of up to ten years:
 - a) investments in new undertakings and in the rehabilitation of destroyed or paralysed undertakings in the priority areas (Zone C);
 - b) investments in agriculture, cattle breeding and food industry;
 - c) investments creating 50 or more full-time jobs for national citizens.
5. The following investments are exempt from the payment of industrial tax for a period of up to five years:
 - a) investments in new undertakings and in the rehabilitation, extension and modernisation of paralysed undertakings in Zones A and B;
 - b) investments in other industrial sectors, housing, provision of specialized services and technological development;
 - c) investments creating 30 or more full-time jobs for national citizens.

6. The profits distributed to the partners of companies shall be exempt from the payment of capital gains provided the same are invested in:

1. the provinces covered by Zones A and B for a period of up to five years;
2. the provinces covered by Zone C for a period not exceeding ten years;

7. The dividends obtained from investments made in Zone A in the first three years, and in Zones B and C, in the first five years, if reinvested, shall be exempt from taxation.

ARTICLE 15

(Medium and long distance transport)

1. The import of new means by individuals or legal entities conducting the medium and long distance transport of cargo and passengers in coastal vessels and vehicles with more than 3.5 tons of gross weight is exempt from the payment of customs duties.

2. In case of second-hand means, not exceeding three years of useful life, the applicable rate is reduced to 50%.

ARTICLE 16

(Private educational establishments and clinics)

1. The income obtained from private educational establishments integrated in the national education system, and from clinics integrated in the national health service, is subject to the payment of income tax at the rate of 20%.

2. The rate set in the preceding paragraph is reduced to 10% whenever private educational establishments and clinics offer, free of charge, 10% of their capacity to lower class students, under such terms as shall be laid down in regulations.

ARTICLE 17

(Legal Obligations)

1. The right to statutory tax incentives resulting directly from the law shall not release the taxpayer from being recorded under the General Registration of Taxpayers, nor from the compliance with the remaining legal obligations and formalities prescribed by the fiscal authorities, with a view to assessing its eligibility to the incentive.

2. The right to the statutory tax incentives prescribed by this law shall be exercised upon compliance with the relevant tax obligations, upon evidence that the conditions precedent for the concession of the incentive concerned have been met.

3. The taxpayers benefiting from the tax incentives laid down in this law shall divulge such fact in their official documents.

ARTICLE 18

(Recognition of the tax and customs incentives)

The tax incentives are automatic and result directly from the law.

ARTICLE 19
(Prior Consultation)

1. Before the conditions precedent to the fiscal and customs incentives set forth in this law have been met or even before the commencement of the project, the interested parties may request the Investment Promotion Agency to issue an opinion on a given taxable situation not yet accomplished.
2. The opinion given on the application submitted under the terms of the preceding paragraph shall be notified to the interested party and shall be binding on the relevant tax department, which must act accordingly if the conditions precedent laid down herein are met, unless otherwise required by a judicial decision.
3. The opinion referred to in the preceding paragraph is final and binding and shall not release the interested parties from applying for recognition of the relevant tax benefit, pursuant to the law.
4. Upon submission of the recognition request preceded by prior consultation, the same will be attached to the application of the interested party, and the entity with competence to carry out the recognition shall accept the former opinion, insofar as the hypothetic situation object of prior consultation shall coincide with the *de facto* situation object of the recognition application, without prejudice to the adoption of the tax benefit control measures required by law.

ARTICLE 20
(Remittance of the processes)

Copy of the approved processes shall be forwarded to the Ministry of Finance, through the Customs and Tax National Directorates.

ARTICLE 21
(Supervision)

The individuals and the private or public legal entities to whom tax and customs incentives are granted, either automatically or upon prior recognition, shall be supervised by the Investment Promotion Agency and other competent entities, under the terms of the law, for verification of observance of the conditions precedent to the concession of incentives and of compliance by the beneficial taxpayers with the obligations imposed on them.

ARTICLE 22
(Penalties)

Preventive, suspensive or extinctive sanctions will only be applied to tax and customs incentives on grounds of fiscal infringement related with the benefits granted.

ARTICLE 23
(Extinction of tax and customs incentives)

1. The tax and customs incentives are extinguished:
 - a) If of temporary nature, upon expiry of the period for which they were granted;
 - b) If of a conditioned nature, upon verification of the conditions precedent to termination;
 - c) By revocation, in case of breach of the legal or contractual obligations of the taxpayer, for reasons imputable to the taxpayer.
2. The extinction of the tax and customs incentives shall cause their automatic replacement by the General Taxation System.
3. The tax and customs incentives granted to the acquisition of goods aimed at investment operations shall be deemed invalid should such goods be disposed of or otherwise used without the consent of the National Private Investment Agency, without prejudice to other penalties or consequences prescribed by law.

ARTICLE 24
(Transfer of the tax and customs incentives)

The right to benefit from incentives may be transferred with the prior consent of the Ministry of Finance, after consultations with the National Private Investment Agency, provided that the assumptions based on which their were granted and the duties arising of the investment project are maintained, and the relevant applicant shall be served notice within 8 days of receipt of the request.

ARTICLE 25
(Transitory Provisions)

1. The tax and customs incentives granted before the coming into force of this law shall be governed by the provisions prevailing on the date they were granted.
2. The provisions laid down in the preceding paragraph also apply to incentives requested before the coming into force of this law and which decision is taken hereafter.
3. The tax and customs incentives laid down in this law may be granted to investments carried out from 1st January to 31st December 2002, provided that the Investment Promotion Agency shall consider the same to be relevant for national, regional or local development, promote the creation of jobs and that they comply with the remaining requirements set forth in this law.
4. No later than 60 days of the date of entry into force of this law, the investors shall apply for the concession of the incentives set forth under paragraph 3 above.
5. The benefits granted under the preceding paragraph are not cumulative with any other benefits.

ARTICLE 26
(Revocation)

The legislation which is inconsistent with the provisions of this law is hereby revoked.

ARTICLE 27
(Doubts and omissions)

The doubts and omissions arising out of the interpretation and enforcement of this law shall be settled by the National Assembly.

ARTICLE 28
(Regulations)

The Government shall enact regulations to this law within 30 days hereafter.

ARTICLE 29
(Entry into force)

This law shall enter into force on the date of its publication.

Seen and approved by the National Assembly, in Luanda, on the 2nd April 2003.

The President of the National Assembly *Roberto António Victor Francisco de Almeida*

Ratified on 23rd May 2003

To be published.

The President of the Republic JOSÉ EDUARDO DOS SANTOS