

FOREIGN CAPITAL INVESTMENT LAW

- Article 1 Without prejudice to the provisions of the Royal Decree No. 57/93, non-Omanis – whether natural or juridical persons- shall not conduct any commercial, industrial or tourism businesses or otherwise participate in an Omani company except with a license from the Ministry of Commerce & Industry to be issued in accordance with provisions of this law.
- Article 2 The license referred to in the preceding Article shall be granted after the following conditions have been met:
- A) The business shall be conducted by an Omani company with a capital of not less than RO 150,000 and the foreign share therein shall not exceed 49% of the total capital.
However, the above percentage may be increased up to 65% of the company's capital by a decision from the Minister of Commerce & Industry following a recommendation from the Foreign Capital Investment Committee.
The percentage referred to in the above paragraph may be further increased up to 100% of the company's capital for the projects which contribute to the development of the national economy upon the approval of the Development Council following a recommendation from the Minister of Commerce & Industry, provided that the projects capital shall not be less than RO 500,000.
- B) When an existing joint company participates in a new joint-venture company, the foreign share shall be considered as the total share in each company provided that the Omani percentage shall not be less than the percentage to be owned by Omanis as set out in the foregoing paragraph.
- Article 3 Exemption from the conditions specified in the above Article for obtaining the license shall be granted to the following:
- 1) Companies which conduct business in the sultanate of Oman by virtue of special conducts or agreements with the government of the sultanate or which are established by virtue of a Royal Decree.
 - 2) Parties conducting a business which is declared by the cabinet as necessary for the country.

Article 4 The application for foreign investment license shall be referred committee to be formed at the Ministry and called “Foreign Capital Investment committee”. Such Committee shall be set up by virtue of a decision from the Minister of Commerce & Industry.

Article 5 The said committee shall be responsible for giving opinions on the investment applications with a foreign share of more than 49% and shall make recommendation in respect of the following:

- 1) The identification of the investment field.
- 2) The extent to which the project can be considered as one of the economic development projects.
- 3) To prioritize the projects submitted for licensing so that preference shall be given to the projects using local products and raw materials which help maximize the value added thereof, to the export- oriented industries, and to the industries introducing new products or using modern technology. Preference shall also be given to the projects which attract and localize internationally-reputed industries. In the field of tourism, preference shall be given to projects involving the construction of integrated tourist villages and zones.
- 4) To look into the complaints and conflicts arising from the application of this law.
- 5) Others matters related to investment referred to it by the Minister of commerce & Industry.

The Committee shall issue its recommendations thereof by absolute majority of members and submit them to the Minister for decision. The applicant shall be notified of the decision within a period not exceeding two weeks.

Article 6 Any applicant whose application has been rejected shall have the right to appeal to the Minister within 30 days from the date of his notification of the rejection. The decision of the Minister in this respect shall be final.

- Article 7 Licensing shall be granted to the projects subjects to this law without the need for obtaining prior approvals from any authorities outside the Ministry. However, due regard shall be given to the negative lists issued by such authorities before granting license to any company. The concerned Ministry may review the environment, health, safety and other standards during the contraction and operation stages.
- Article 8.1 Companies licensed to be incorporated pursuant to this law and carrying out its major activity in one of the following areas shall be exempted from income tax:
- a) Industry and mining
 - b) Export of locally manufactured or processed products
 - c) Tourism promotion including operation of hotels and tourist villages, but excluding management contracts.
 - d) Production and processing of farm products including poultry farming, processing or manufacturing animals products and agro industries.
 - e) Fishing and fish processing
 - f) Exploitation and provision of services such as public utility projects, but excluding management contracts and project execution contracting.
- Article 8.2 Tax exemption shall be for a period of 5 years starting the date of commencing production or carrying out the activity, at the case may be. This period can be renewed in necessary cases, for a period not exceeding 5 years. However, a decision shall be issued by the financial affairs and energy resources council for such renewals.
- Article 8.3 The Minister Supervising The Finance Ministry shall lay down necessary controls and procedures to apply tax exemption and its renewal pursuant to provision of paras 8.1 and 8.2 of this article.
- Article 8.4 Companies carrying out their major activities in one of the areas prescribed in Para 8.1 above shall have the right to transfer or deduct the net loss incurred during the mandatory exemption years, to any number of tax years till they are finally settled, as an exception to the provision of article 14 of the above – referred Law of Income Tax on Companies.

- Article 9.1 Foreign investment projects mentioned in this Law can be exempted from (paying) custom duties on plant and machinery imported by them for setting up to projects. They can also be exempted from (paying) custom duties on raw materials needed in the manufacturing process which are not available in the local markets, for a period of not exceeding 5 years starting from the date of commencing production. This exemption can be renewed once.
- Article 9.2 Exemptions prescribed in the above para shall apply on new expansions (carried out) in the foreign investment projects, starting from the date of issuing the license for such expansions or from the date of commencing production or carrying out the activity, at such expansion, as the case may be.
What is meant by “expansion” is increase in capital which shall be used for adding new fixed capital assets for achieving increased production capacity for the project or with the intention of manufacturing a new product or extending a new activity or service.
- Article 9.3 The Minister Supervising the Ministry of Finance shall lay down the necessary controls and procedures to apply the custom duty exemption and its renewal pursuant to the provision of this Law.
- Article 10 The land needed for investment projects may be allocated by usufruct or through rent for a long period.
- Article 11 The investor in the investment projects shall be free to conduct the licensed economic activity and to transfer abroad the imported capital along with the profits accrued from the project.
- Article 12 The said projects may not be confiscated or expropriated unless for the public interest and against equitable compensation.
- Article 13 The above – referred projects can import by themselves or through others, production accessories, material, machinery, spare parts and appropriate means of transport, without the need to register themselves in the register of import.
The concerned ministry shall determine the projects, requirements of above – mentioned items based on their request.

- Article 14 It may be agreed to refer any dispute between the foreign investment projects and third parties to a local or international arbitration tribunal.
- Article 15 The provisions of the Commercial Companies Law shall be applicable to the above-said joint-companies unless otherwise specifically stated in this Law.
- Article 16 The company violating any provision of this Law shall be notified to rectify such violation within a period not exceeding one month from the notification date. The Ministry may thereafter, upon a recommendation from the Foreign Capital Investment Committee, withdraw the license of the violating company.
- Article 17 Without prejudice to any penalty stated in other laws, any foreigner conducting any business referred to in this Law without license shall be fined no less than RO 5,000 and no more than RO 10,000. Likewise, any Omani participating with a foreigner in such business without obtaining the required license shall be fined no less than RO 1,000 and no more than RO 5,000.

**INSTRUCTION FOR ESTABLISHMENT OF OMANI COMPANIES
SUBJECT TO COMMERCIAL COMPANIES LAW AND FOREIGN
BUSINESS AND INVESTMENT LAW**

SULTANATE OF OMAN
MINISTRY OF COMMERCE & INDUSTRY
DIRECTORATE GENERAL OF COMMERCE
DEPARTMENT OF COMPANIES AFFAIRS

It is requested that applicant for license to establish a company as above, should undergo the following procedures:

- 1- Submit an application duly signed by at least three founders in case of joint stock companies; and by at least two members in case of other types of companies.
- 2- Submit a certificate from the Commercial Registration stating that no other company is registered in Oman under the same proposed commercial name.
- 3- Prepare the articles of association/incorporation of the proposed company, according to its legal type.
- 4- If a proposed partner is a juristic person, it's a must its articles of association and Certificate of Registration and Power of Attorney to the authorized Managers. In case of a non-Omani juristic person, also a brochure of the company's major projects and last balance sheet (if any) are preferred to be submitted along with, duly attested (as well as the former) by the concerned authorities in the country where the head office of the company is located and from the Embassy of Oman there.
- 5- Capital of the proposed company should not be less than RO 150,000/-
- 6- Omani proportion in the capital and share of profit should not be less than 35%. In case of citizen of AGCC states this percentage is dropped to 25% of the capital.
- 7- Activities and objects of the proposed Company should be limited within one specific field. No foreign participation is allowed in General Trading and Service ventures.
- 8- The non-Omani partner other than citizen of AGCC states in the proposed company must be a juristic (company), having an experience of not less than 5 years in the same field of the activity required.
- 9- Written approvals must be obtained from the appropriate Government Department concerned with the proposed activities.
- 10- When the establishment of the Company is approved, the necessary financial recommendations are to be forwarded and steps for registering with the Commercial Registry are to be taken.

Any application incomplete in regard of the above, will not be looked into.

Director of Companies Affairs.

INDUSTRIAL INCENTIVES

Based on the law for the organization and encouragement of industry 1987, and Amendments thereto, application could be submitted to Secretariat of the industrial development Committee to obtain the following incentives.

- 1- Exemption from custom duties in imports on machinery, equipment and spare parts required for production.
- 2- Exemption from custom duties on imports or raw material and semi-processed goods required for production.
- 3- Exemption, in whole or in part, from taxes.

HOW TO OBTAIN INDUSTRIAL INCENTIVES

FIRST : General requirement and instruction for all application:

- 1- The establishment should complete incentive application forms and fill up all the spaces in Arabic or English. The names of imported goods requested to be exempted from duties, should correspond to the names to be used in the shipping documents.
- 2- Forms should be accompanied with all documents required for each incentive. Without such document, the application will be incomplete and cannot be considered.
- 3- To enjoy the incentives stipulated in the law, the number of Omani workers in the establishment shall not be less than 35% of the total work force with an exception to ready made garments industry in which the percentage has been decreased to 25%.
- 4- The applicant is advised to purchase a copy of the Law for the Organization and Encouragement of Industry and Amendments thereto, to know exactly all right and obligations related to granting of incentives to industrial establishments. Copies of the Law are available in the Ministry's Department of Financial Affaires.
- 5- Data mentioned in the forms should be precise and correct, especially the list of materials and equipment required to be exempted from duties. A list of imports to be exempted shall be enclosed with the exemption decision. The names in this list should correspond to the names mentioned in the shipment documents so that customs authorities could easily apply the exemption decision.
- 6- List of machinery and equipment should include the expected needs of the factory during the year following the issuance of the exemption decisions, which is the validity period of the decision. No exemption for other additional equipment will be issued during this period except for extreme necessary conditions.

Second : Exemption from custom duties on imports of equipment, machinery and materials required for production .

- 1- Industrial establishments are exempted from custom duties on equipment and machinery (during the establishment's life), as well as raw materials and semi-processed inputs (for the first five years of production) by an administrative order from Directorate General of Industry.
- 2- To exempt establishments from custom duties on raw materials and semi-processed inputs for a period exceeding five years, the Ministry of Commerce and Industry will submit a recommendation to H.E. the Minister of Finance. If the Ministry is convinced of the establishment's need to have exemption for a period exceeding five years, the exemption will be issued by the Ministry of Finance.
- 3- The application should be submitted, well before the expected date of the arrival of imports (at least one month to issue the administrative order and three months to issue the Ministerial decision should be taken into account).
- 4- Based on policies approved by the Industrial Development Committee the following imports will not be exempted:
 - Materials or equipment, continuously and regularly produced locally by other factories in the sultanate.
 - General purpose materials or equipment which are used by most consumers, such as wood or iron raw materials, or cars, transport vehicles, electric generators or standard equipment in general, except in certain exceptional cases so considered by the Ministry.

Third : Exemption from income tax or other taxes :

The establishment will submit the specified forms accompanied with audited final accounts for the last to fiscal years. Commencement date of the tax should be indicated after considering any tax exemption granted as per decrees and Laws other than the law of the Organization and Encouragement of Industry.