

## **Part Four**

### **INVESTING IN TAJIKISTAN**

As part of its efforts towards fostering economic development, the Government is currently encouraging and promoting both domestic and international business activities. Foreign direct investment (FDI) is especially encouraged, since such investment is considered as vital to industrial and trade development. In this regard, Tajikistan is working to create an enabling environment to attract more FDI. The inflow of such investment to this country was once very low compared to other CIS countries due to the civil war and unstable political situations.

#### **I. FOREIGN INVESTMENT POLICY AND REGULATIONS**

Foreign investment in the country is governed under the Law on Foreign Investment in the Republic of Tajikistan, which acts as a guiding legal, economic and social framework. The Law is aimed at providing foreign investors with the same business opportunities and protection of rights offered to domestic investors.

According to the Law, foreign investors can acquire real estate; however, private land ownership is prohibited, as land is the property of the State. There is no legal limitation on foreign investors with regard to buying shares on local stock markets. The procedures for the purchase of stocks by foreign investors are overseen by the Ministry of Finance. Foreign investors are also given the right to freely repatriate capital, dividends and revenue.

From 2005 to 2008, Tajikistan attracted FDI amounting to about \$1.1 billion. FDI dramatically increased from 54 million in 2005 to 376 million in 2008. The top investors include the United Kingdom of Great Britain and Northern Ireland and the Republic of Korea. Other large direct investors include the Russian Federation, Cyprus, Italy, the United States and Canada.

Tajikistan has signed bilateral investment agreements with about 20 countries, and treaties for the prevention of double taxation with countries such as the Russian Federation, Belarus, Ukraine and Turkey. Agreements on the prevention of double taxation with additional countries are currently under negotiation.

#### **II. INVESTMENT PROCEDURES**

According to article 1 of the Law on Foreign Investment in the Republic of Tajikistan, foreign investment refers to all the property and intellectual values invested by foreign investors into goods production, works and service rendering, when as a result profit (income) is generated or a social effect is being achieved. Such investments may be: (a) money, special bank deposits, shares and other securities; (b) movable and immovable property (buildings, constructions, equipment and other values), and property (real estate); (c) property rights resulting from copyright, know-how, experience and intellectual values; (d) the right to use land and other natural resources, and other property rights; and (e) other values.

According to the Law, foreign investors in Tajikistan can be: (a) foreign legal entities; (b) foreign citizens, stateless persons and citizens of Tajikistan with permanent residence abroad; (c) foreign associations without rights of a legal entity; (d) sovereign states; or (e) international agencies.

#### **A. Incorporation**

In Tajikistan, foreign investors have the following investment options:

- (a) Acquiring shares of enterprises jointly with legal Tajik entities and citizens;
- (b) Establishing enterprises entirely belonging to foreign investors;
- (c) Acquiring property, including shares and securities;
- (d) Acquiring the right to use land and other natural resources or acquiring other property rights independently or jointly with legal Tajik entities and citizens;
- (e) Concluding treaties with legal entities and citizens of Tajikistan and providing other ways to engage in foreign investments.

#### **B. Registration**

A new business entity must be registered with the local State Notary's office. In order to obtain the necessary approvals, permits and licenses, the following documents must be submitted:

- (a) Written application form;
- (b) Statute of the enterprise;
- (c) Certificates from banks confirming the solvency and level of credit;
- (d) Legal certification of the documents for establishment issued by the Ministry of Justice of Tajikistan;
- (e) Codes of classification from the statistics body;
- (f) Certificates confirming the location of the enterprise;
- (g) Receipts of payment of State fees;
- (h) Financial certification from the Ministry of Finance of Tajikistan.

### **III. INVESTMENT INCENTIVES AND SPECIAL PROMOTION ZONES**

#### **A. Sectoral development incentives**

Foreign investors are encouraged to invest in the following sectors:

- (a) Oil and gas complex;
- (b) Natural resources;
- (c) Mining;
- (d) Agriculture (for example, cotton growing, vegetable growing and stock raising);
- (e) Energy.

## **B. Additional incentives**

In addition to the rights and guarantees provided by the laws of the country, the following incentives are offered:

- (a) Special tax incentives offered to joint-venture companies with foreign investment (pay taxes at lower rates, including taxes on profits set abroad);
- (b) Reduced rate on payments for the use of land and other natural resources;
- (c) Right to rent long term and sublease properties;
- (d) Special customs regime, including the decrease of customs duties on exports and imports of goods and special treatment and privileges for cross-border procedures. The terms and conditions of these special treatments are decided by the Government and approved by the Majlisi Oli of Tajikistan;
- (e) Simplified entry-exit rules, including visa exemption for foreign citizens.

The Government offers to foreign companies certain tax privileges, such as tax exemption on profits for two to five years, depending on the level of investment. This privilege may be granted to newly established companies. Such investors may also be granted a reduced fee for the use of land and natural resources.

## **C. Free trade zones**

The Law on Free Trade Zones was enacted by the Government in 2004. The implementation regulations are currently under preparation. The Law is designed to attract foreign capital and technology. The locations of the free trade zones have yet to be decided by the Government.

# **IV. TAXATION**

Taxation is administered under the rules and regulations fixed by the Tax Code of Tajikistan, which came into effect on 1 January 2005. The Tax Code provides for the payment of 19 types of taxes; 15 at the national level and 4 at the local level.

## **A. Income tax**

According to article 140 of the Tax Code of Tajikistan, income tax was reduced in 2005 from 20 per cent down to 8 or 13 per cent, depending on the amount of taxable income. The personal income tax rate is applied to both residents of Tajikistan and non-residents.

## **B. Corporate profit tax**

The corporate profit tax applies to resident and non-resident enterprises that are engaged in economic activity and earn profits within Tajikistan. The corporate profit tax rate was reduced from 30 per cent to 25 per cent under the new tax law.

### **C. Value added tax (VAT)**

In Tajikistan, a business entity is required to register for VAT purposes if its turnover exceeds 48,000 somoni (approximately \$15,000) for 12 consecutive months. The VAT rate is 20 per cent for domestic production and import. However, some import goods, such as raw materials, energy and equipment, could be exempted from VAT, subject to the quotas and listings by the Government of Tajikistan.

The method of calculation and the payments of VAT are fixed according to the tax legislation.

## **V. LABOUR ISSUES**

### **A. Work permits and foreign employment**

Under the Law on Foreign Investment in the Republic of Tajikistan, at least 70 per cent of employees in foreign-owned companies must be local workers. The Government of Tajikistan sets the minimum salary for a Tajik citizen working at enterprises with foreign investments.

### **B. Child labour**

The Prosecutor's office, the Ministry of Justice, the Ministry of Social Welfare, the Ministry of Industry and other local and regional governmental offices are in charge of enforcing child labour laws.

The Labour Code of Tajikistan the minimum age for employment at 16. With the agreement of the local trade union, however, employment may begin at age 15. Children below the age of 18 may work at the most six hours per day and an average of 36 hours per week.

### **C. Wages, hours and overtime**

Legally, an adult over the age of 18 may work up to 40 hours a week (8 hours per day, with no work during the weekend). Overtime pay is authorized by law, with the first two hours to be paid at one and a half times the normal rate and at twice the normal rate for subsequent hours.

## **VI. BANKING SYSTEM AND FOREIGN EXCHANGE**

Since its independence, Tajikistan has gradually transformed from a centrally planned economy to a market-oriented economy. This has entailed legal, trade-policy and banking reform and the privatization of State-owned enterprises. The National Bank of Tajikistan performs the role of central bank, as per the Law of the Republic of Tajikistan on the National Bank of Tajikistan (1996).

As of August 2009, there were 12 banks (including one branch of the Tijorat Bank of IRI in Dushanbe), 6 credit societies and 1 non-banking financial institution in Tajikistan. Of the banks, one is State-owned, eight are joint stock companies and three are foreign-owned. The banking sector is in an early stage of development. Currently, major issues with the banking system are: (a) insufficient capital; (b) limited banking services; and (c) mistrust as a result of the banking system crisis in the early 1990s. A list of banks in Tajikistan is presented below:

**1. State-owned bank**

- Amonat Bank (State savings bank)

**2. Commercial banks**

- Agroinvestbank
- Eshkhat Bank
- Orien Bank
- Tojik Sodiro Bank
- Tajprombank
- Sohibkorbank
- Tajikistan Development Bank (Bonki rushdi Tojikiston)
- Branch of Tjorot Bank of IRI in Dushanbe

**3. Foreign banks**

- First MicroFinanceBank
- Fononbank
- Kazkommertsbank Tajikistan

Tajikistan is subject to article VIII of the Articles of Agreement of the International Monetary Fund, which covers, among other things, foreign exchange controls, and the country follows a liberal exchange system whereby no restrictions on converting or transferring funds are imposed. Major foreign currencies can be exchanged throughout the country.

The somoni, the national currency, was introduced in October 2000. Under the Law of the Republic of Tajikistan on Currency, the currency has full convertibility in current operations.

There are no restrictions on foreign exchange transactions and the rules of registration and operation of exchange offices are under revision. However, there are some allowances for the National Bank of Tajikistan to officially intervene in the foreign exchange market in order to stabilize the currency and economy.

## **VII. DISPUTE SETTLEMENT**

The Institute of International Arbitration was recently established in Tajikistan; the country's laws concerning dispute settlement are not yet fully implemented. Tajikistan has signed bilateral agreements with various countries on arbitration and investment disputes.

In 2002, Tajikistan became a member of the Multilateral Investment Guarantee Agency. It is, however, not a party to the Convention on the Recognition and Enforcement of Foreign Arbitral Awards (1958).

## **VIII. PROTECTION OF PROPERTY RIGHTS**

Patents, trademarks and copyrights are governed by the following legislative framework:

- Law of the Republic of Tajikistan on Inventions
- Law of the Republic of Tajikistan on Industrial Designs
- Law of the Republic of Tajikistan on Trade and Service Marks
- Law of the Republic of Tajikistan on Copyright and Related Rights

Tajikistan has joined the following international treaties:

### **1. World Intellectual Property Organization treaties**

- Berne Convention for the Protection of Literary and Artistic Works, since March 2000
- Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure, since December 1991
- Convention Establishing the World Intellectual Property Organization, since December 1991
- Locarno Agreement Establishing an International Classification for Industrial Designs, since December 1991
- Madrid Agreement Concerning the International Registration of Marks, since December 1991
- Nairobi Treaty on the Protection of the Olympic Symbol, since December 1991
- Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks, since December 1991
- Paris Convention for the Protection of Industrial Property, since December 1991
- Patent Cooperation Treaty, since December 1991
- Rome Convention, since May 2008
- Strasbourg Agreement Concerning the International Patent Classification, since December 1991
- World Intellectual Property Organization Copyright Treaty, since April 2009

### **2. Other affiliations:**

- Member of the Eurasian Patent Organization, since August 1995
- Party to the Universal Copyright Convention, since August 1992

In Tajikistan, the Government agency dealing with the application of intellectual property rights is the National Center for Patents and Information.

### **A. Patents**

The National Center for Patents and Information is the Government agency that deals with patents, established under Resolution No. 243 of 28 May 1993. It was based on the foundation of the Institute of Scientific and Technical Information and Economic Research of the Ministry of Economic Development and Trade of Tajikistan.

The Center holds the authority to protect industrial property in the territory of Tajikistan in line with national legislation and the international conventions and treaties of which Tajikistan is a member.

### **B. Trade names and trademarks**

The Law of the Republic of Tajikistan on Trade and Service Marks ensures the legal guarantees, rights and interests of foreign investment companies. Trademarks must be registered with the State Service of the Republic of Tajikistan for Protection of Inventions and Registration of Trade and Service Marks. Applications must include:

- (a) Request for registration of the trademark;
- (b) Submitted symbol and a description thereof;
- (c) List of goods and services in respect of which the registration is requested.

Applied trade names and trademarks are valid for a period of 10 years starting from the date of application. The registration can, however, be renewed for successive periods of 10 years at the request of the owner within one year before the expiry date.

Any changes or modifications to the trade name, trademark or the owner's name, as well as any addition or elimination to the original list of goods submitted must be reported to the State Service of Tajikistan for Protection of Inventions and Registration of Trade and Service Marks.

### **C. Copyrights**

The Law of the Republic of Tajikistan on Copyright and Related Rights governs matters related to the protection of copyright in line with the Constitution. It protects the creation of scientific, literary and artistic works as well as broadcast performances and programmes or cable distribution.

The terms of the copyright have effect throughout the lifetime of the author or creator and for 50 years after the author or creator's death. The copyright of an anonymous or pseudonymous work is valid for 50 years. The copyright on works that are first published during the 30 years after the creator's death is valid for 50 years following the publication of the work.