

**REPUBLIC OF DJIBOUTI**  
**UNITY - EQUALITY - PEACE**

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**MINISTRY OF PRESIDENCY AFFAIRS,  
IN CHARGE OF INVESTMENT PROMOTION**

**National Agency for Investments Promotion**

**INVESTMENT CODE**

*LAW N°58/AN/ 94/ 3-rd LEGISLATURE OF OCTOBER 16, 1994 MODIFYING THE  
LAW N°88/AN/1st LEGISLATURE  
OF FEBRUARY 13, 1984 ESTABLISHING THE INVESTMENT CODE*

# REPUBLIC OF DJIBOUTI

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## PRESIDENCY OF THE REPUBLIC

LAW N°58/AN/94/3-rd LEGISLATURE  
AMENDING THE LAW N°88/AN/1e  
LEGISLATURE OF FEBRUARY 13, 1984  
CONCERNING THE INVESTMENT CODE

**The National Assembly adopted;  
The President of the Republic promulgates  
The law of which contents are presented as follows:**

- SEEN:** Considering the Constitution of SEPTEMBER 04, 1992
- SEEN:** Considering the Decree N 93-001 of February 04, 1993 concerning the appointment of the members of the Government and fixing their attributions
- SEEN** Considering the deliberation N°494 / 6th L of May 24, 1968 and the deliberation N°117/8-th L May 27, 1975 concerning the elaboration of an Investment Code
- SEEN** Concerning the law N°88 N°88/AN/1e AN Legislature of February 13, 1984 concerning the Investment Code

## TITLE I : FUNDAMENTAL GUARANTEES

### **Article 1:**

The Present " Investment Code " defines the guarantees and fiscal advantages the government grants to private companies, which invest in the territory of the Republic of Djibouti and the conditions necessary to the grant these advantages.

The Investment Code isn't applicable to public legal persons.

### **Article 1 bis:**

*(Law N°58/AN/94/3rd Law dated on October 16th, 1994)* Any person is free to invest or to exert an economic activity in the territory of the Republic of Djibouti in accordance with laws and regulations.

**Article 1 :end**

*(Law N°58/AN/94/3rd Legislature dated on October 16th, 1994)* Unless the same laws and regulations, any company regularly established in the country is free:

- 1) To import all capital goods, materials and equipments, materials raw or consumable, finished or semi-finished products and more generally all goods necessary to its activity;
- 2) To expose the products and its services;
- 3) To determine and to lead its policy of production and marketing;
- 4) To determine its policy of recruiting and dismissal of the staff;
- 5) To choose its customers and suppliers and to fix its prices.

**Article 2:**

Persons or entities specified in the article above, and whatever is the legal form of these one, are indicated in the code by the term "company".

**Article 3:**

The term "Investment" in the code means for a company, the acquisition of holding in a company, the construction of buildings, the acquisition of materials having the character of buildings per destination or the other pieces of furniture, including the vehicles, the ships and aircrafts. These investments must be carried out by the company or for the account of this one; whatever is the origin of its financing.

Investments opening right to advantages stipulated by this code are limitedly fixed by this one.

**Article 4:**

The investments are obligatorily carried out inside the borders of the Republic of Djibouti, included free zone.

The vehicles and aircrafts must be registered in the Republic of Djibouti as well as the ships must preserve their home port at it.

**Article 5:**

The terms "permanent jobs" means in the code a job effectively occupied by an employee during a period which can not be lower than the duration stipulated in the article 112 of the Labor Code.

The number of permanent jobs heated is testified by the supervisor of Labor and Social Laws at the latest at the end of the year which follows the year of the introduction of the investment.

**Article 6:**

The fiscal tax advantages envisaged by this code include:

1. General exemptions
2. Particular exemptions, which are respectively the subject of titles II and III hereafter.

**Article 7:**

The granting of these advantages is subjected to an administrative approval concerning the envisaged investments, which must be requested before any implementation.

The approval is proposed by the National Committee for Investment, it is approved and notified under the conditions stipulated in the title IV hereafter.

**TITRE II : GENERAL REGIME OF TAX EXEMPTIONS :****“REGIME A”****SECTION I - FIELD OF APPLICATION****Article 8:**

*(Law N°58/AN/94/3<sup>rd</sup> Legislature of October 16, 1994)*

In order to promote the economic and social development of the Republic of Djibouti and the creation of new jobs, the companies of which the creation has an objective of those objectives specified in the article nine (9) hereafter, are entitled to exemptions and tax relief stipulated in the articles 11, 12, 13 and 14 of the present title, named “Regime A”.

**Article 9:**

*(Law N°58/AN/94/3<sup>ème</sup> Legislature of October 16, 1994)*

Are entitled to advantages of the “Regime A”, investments and companies of which the objectives are as follows:

- 1) Exploitation, preparation or transformation of products of vegetable or animal origin, whatever is the origin;
- 2) The fishing in high-sea and deep-sea; preparation, freezing, Transformation or storage of the products of the sea;
- 3) The mining development, the industry of treatment or formation of the mining products or metals, that they are or not extracted from the ground of the territory;

- 4) Research, exploitation or stocking of any source of energy as well as refining of hydrocarbons;
- 5) Creation, exploitation of establishments aiming at the development of the tourism and the craft;
- 6) Creation and electric, electronic, and chemical exploitation and ship-buildings industries;
- 7) Land, sea or air transports;
- 8) Harbor and airport activities;
- 9) Construction, repair and maintenance the ships for Sea transports or of fishing;
- 10) Manufacturing or conditioning on the spot of the products or goods for great consumption;
- 11) Banking or credits activities to be promoted new investments as well as the activities of warranting (credit, storage);
- 12) conncelling services, engineering, computer data processing, telematic center server of data bases.

**Article 10:**

*(Law N°58/AN/94/3<sup>rd</sup> L of October 16, 1994)*

The beneficiary companies of the advantages of the “Regime A” must:

- 1) To realize an investment of a minimum amount of five million Djibouti Francs ( 5.000.000 DJF);
- 2) To create a minimum number of permanent jobs.

A decree order by the Council of the Ministers will define the conditions for application of the 2°point of this article.

**SECTION II - EXEMPTIONS**

**A. DIRECT TAXATION**

**A1: LICENSE**

**Article 11:**

*(Law N°58/AN/94/3<sup>rd</sup> of October 16, 1994)*

The beneficiary companies of the “Regime A” are exempted from the “Taxation of the license” during the year during which installations of activity put into operation and the next five years.

**Article 12:**

The companies indicated in the previous article remain liable for the “license of importer”.

However, the imports necessary to investments and exempted from putting into operation are excluded from the field of application of this license.

**B. INDIRECT TAXATION-**

**B1: HOME TAX OF CONSUMPTION**

**Article 13:**

*(Law N°58/AN/94/3<sup>rd</sup> L of October 16, 1994)*

The beneficiary companies of the “Regime A” are exempted from the Home Tax of Consumption and Import Taxes for the materials necessary to the realization of its investments programs and appearing in one the quantitative and qualitative list annexed to the decree of approval.

The raw materials imported and used effectively during the first five fiscal years by the beneficiary companies of the “Regime A” for the manufacture of the imported products are exempted from the Home Tax of Consumption.

A decree order by the Council of Ministers will define the conditions for application of the subparagraph 2 of this article.

**Article 14:**

The materials and materials benefiting from the exemptions granted by this code can be, before a period of five years, neither yielded, neither sold, neither lent, or assigned to other uses than those one envisaged, under penalty of resumption of the taxes pursuant to the penalties envisaged by the General Tax Code.

**REGIME “B”**

**SECTION I - FIELD OF APPLICATION**

**Article 15:**

*(Law N°58 N°58/AN/94/3<sup>rd</sup> L of October 16, 1994)*

the investments and the companies presenting a particular economic or social interest are entitled to exemptions and tax relief of the “Regime B”.

Are regarded as investments or companies presenting a particular economic or social interest under the article 9, under subjected to fill one or the other following conditions:

- 1) To realize an investment of a minimum amount of fifty millions of Djibouti Francs ( 50.000.000 DJF);
- 2) To create a minimum number of permanent jobs.

A decree ordered by the Council of the Ministers will define the conditions of application of the 2<sup>nd</sup> paragraphs of this article.

**Article 15 bis:**

*(Law N°58/AN/94/3rd L of October, 16, 1994)* Under to satisfy the conditions of the article 10 of this law, the investments and the companies of which the objectives are presented below, are entitled to advantages of the “Regime B”:

- 1) The construction of buildings of exclusively industrial, commercial or tourist use;
- 2) The construction of the social housing;
- 3) Construction, creation and exploitation of educational and training schools.

**SECTION II - EXEMPTIONS**

**A. DIRECT TAXATIONS -**

**A1: LICENSES**

**Article 16:**

*(Law N°58/AN/94/3rd L of October, 16, 1994)*

The beneficiary companies of the “Regime B” are entitled to tax license during the year in which the installation are put into operation or the activity is initiated and the ten next following years.

These companies remain subjected to importer tax in conditions stipulated in the article 12.

**A2: LAND TAXATION ON BUILDINGS**

**Article 17:**

Constructions of buildings approved within the framework of this title can be exempted from land taxation on the buildings during a period minimum of ten years as from the year following the year of the completion of works.

For this purpose, the useful justifications attesting the date of completion of works are presented at the Department of the Direct Taxation.

### **A3: TAX ON INDUSTRIAL AND COMMERCIAL INCOMES OF NATURAL PERSONS**

#### **Article 18:**

*(Law N°58/N°58/AN/94/3<sup>rd</sup> L of October 16, 1994)*

The approved companies pursuant to the provisions of this title can be exempted from tax on industrial and commercial incomes of natural persons resulting from approved activities, within the limit of a maximum of ten years as from the date of the exploitation.

### **A4: INCOME TAX OF ENTITIES**

#### **Article 19:**

*(Law N°58/AN/94/3<sup>rd</sup> L of October 16, 1994)*

The approved companies pursuant to the provisions of this title can be exempted from the income tax of entities resulting from the activities approved within the limits of a maximum of ten years as from the date of the exploitation.

## **B. INDIRECT TAXES**

#### **Article 20:**

*(Law N°58/AN/94/3<sup>rd</sup> L of October 16, 1994)*

The imported materials and effectively used during the first ten fiscal years by the beneficiary companies of the "Regime B" for the manufacturing of the imported products are exempted from the Home Tax of the Consumption.

An decree ordered by the Council of the Ministers will define the conditions for application of this article ".

## **C. FEES REGISTRATION, DOMANIAL ROYALTIES, TAX OF BUILDING LICENSES**

#### **Article 21:**

The acts noting the constitution of companies which have to realize investments approved in accordance with the regulations of the article 7 above, can be exempted in proportional right of recording provided that the authorized capital is equal or higher than thirty million Djibouti Francs ( 30.000.000 DJF). The same exemption can be applicable to the increases in capital equal or higher than ten million and which intervene less than five years after the approval of the company or a previous increase exempted for the same reason.

The same companies can also be given an partial exemption of the capital duties and of release of mortgage.

**Article 22:**

The fees registration and land conservation can be reduced by half when they are established on the acquisitions land naked or covered with buildings intended to be demolished within three months for the realization of the investments having received the approval envisaged in the article 7 of this code.

**Article 23:**

The authorizations of temporary occupation and the provisional concessions of the private field, granted according to the regulations in force and intended to receive the approval investments, can be granted on reduced prices.

**Article 24:**

The investments approved pursuant to the provisions of this title can be exonerated from the tax on the building licences.

**TITRE III : PARTICULAR REGIME OF EXEMPTIONS FINANCIAL INVESTMENTS**

**SECTION I - FIELD OF APPLICATION**

**Article 25:**

The incomes and benefits realized in the Republic of the Djibouti by the persons and entities liable to the general tax of solidarity on the incomes and the benefits can until December 31, 1989:

-To be freed of the aforementioned tax, if they are reinvested in the form of subscription of shares and social parts, in a company approved in the framework of the provisions of the title II of the regime 3 of this code.

**Article 26:**

The decree granting the administrative approval to the issuing company:

-The quota of the authorized capital which can be subscribed of frankness from tax, within the framework of this title;

-The minimum and maximum of the financial investments to be realized by each subscriber to be allowed for the benefit of the provisions of this title.

**Article 27:**

By way of additional incentive tax, a multiplying coefficient fixed by the decree granting the approval to the issuing company can be affected to the subscribers indicated in the article 25 above, for the determination of incomes or profits to be exonerated.

In any case, this coefficient can't be higher than three.

**SECTION II - EXONERATIONS****Article 28:**

The incomes or benefits exempted pursuant to the provisions of this title, are entitled franchised of tax, as the case may be:

- On monthly numerations liable to the tax on treatments and wages;
- On the annual benefit liable to the commercial income tax;
- On the annual benefit of the companies liable to the tax on the entities.

**Article 29:**

A decree of approval fixes for each subscriber:

- The amount of incomes or benefits exempted resulting from the application of the coefficient defined in the article 27;
- The duration of charge of incomes or benefits exempted within the limits of three calendar years or accounting years;
- The deadline of the release of the approved subscriptions.

**TITRE IV : NATIONAL INVESTMENT COMMITTEE****Article 30:**

*(Law N°58/AN/94/3<sup>rd</sup> L of October 16, 1994)*

A National Investment Committee is created to be in charged of the application of this law and, in particular to receive investment requests and to decide.

The composition and functioning of the National Committee of approval are fixed by a decree ordered by the Council of the Ministers.

**Article 30 - (A):**

*(Law N°58/AN/94/3<sup>rd</sup> L of October 16, 1994)*

The investments and beneficiary companies of type "A" of this law are not subjected to the approval stipulated in the article 34.

They are the subjects to a declaration of investment with the Committee before the implementation of their projects.

The Committee has a maximum period of two months to request more informations or to formulate the objections whit informant, counted starting from the date of filing of the declaration, or if necessary of deposit of the last element complementing the file.

After this period without having any response from the Committee, the investment is considered approved.

**Article 31:**

*(Law N°58/AN/94/3<sup>rd</sup> L of October 16, 1994)*

Any declaration of investment or application of project of investment must be presented by the company according to a formula provided by the secretary of the Committee.

This formula summarizes the necessary informations about the following elements:

- The legal form, the object and the activity of the company;
- Nature, cost and schedule of the Investments;
- The number, the qualifications and the schedule of permanent jobs to be created;
- The categories of fiscal measures of which the benefits are requested;
- A viability study of investments.

**Article 32:**

*(Law N°58/AN/94/3<sup>rd</sup> L of October 16, 1994)*

The declaration of investment or application of approval must be deposited before, any implementation of investments, at the secretariat of the National Committee of approval, which acknowledges receipt of it.

**Article 33:**

*(Law N°58/AN/94/3<sup>rd</sup> L of October 16, 1994)*

The Committee has all the power to examine the declaration of investment, in the case of the type "A", or to inform the request of the company, within the limit of the time fixed in the articles 30 (A) and 30 (B).

It has also all the power to ask within the same limits all useful justifications and to appreciate the object of the declaration of the application of approval.

The Committee proceeds to the register of the declaration, in the case of the type "A".

It proposes a total or partial approval of investments envisaged and granting of fiscal advantages corresponding to the activity of the company and the approved investments, in the case of the type "B" if necessary, it can suggest matching this measure of particular conditions.

The works of the National Investment Committee and the private documents which are presented to it, remain secret.

**Article 34:**

When the Committee will have definitively adopted its proposals, a decree of approval is transmitted to the Council Ministers, will the minute of works relating these proposals which can be approved in all or in part and of which motification is made with the company.

Made in Djibouti,

**THE PRESIDENT OF THE REPUBLIC,  
HEAD OF GOVERNMENT**

**(Signature)**

**HASSAN GOULED APTIDON**