

New Myanmar Investment Law Enacted

On 18th October 2016, the Myanmar Investment Law 2016 (“**MIL**”) was enacted to replace the Foreign Investment Law 2012 (Pyidaungsu Hluttaw Law No. 21, 2012) (“**FIL**”) and the Myanmar Citizens Investment Law 2013 (Pyidaungsu Hluttaw Law No. 18, 2013). The MIL will notably introduce a new form of investment approval, called MIC Endorsement, to speed up the investment approval process in non-restricted business activities.

1. Scope of Application and Effective Date

The MIL will govern both foreign and domestic investments from its date of entry into force, except for those under the general and national security exemptions.

The regulations issued under the FIL will remain in full force if they are not contrary to the MIL. The Myanmar Investment Commission under the FIL will continue perform its functions until all its duties and responsibilities have been delegated to the new Myanmar Investment Commission to be established under the MIL (“**MIC**”).

2. New Investment Approval Process

If the intended business activity does not fall under one of the restricted categories of the MIL, the investors will not be required to obtain a Permit from the MIC (“**MIC Permit**”) but could simply apply for an Endorsement from the MIC (“**MIC Endorsement**”) and benefits from the incentives of the MIL such as long term lease and tax incentives. The process for obtaining the MIC Endorsement is expected to be faster and smoother than the process for obtaining the MIC Permit.

Under the FIL, the obtaining of an MIC Permit was necessary to benefit from the incentives of the FIL such as long term lease and tax incentives.

3. Employment Requirements

Unskilled positions are reserved for Myanmar nationals but positions requiring skilled workers are opened to both Myanmar nationals and foreigners. Under the FIL, a minimum quota of skilled positions was reserved for Myanmar nationals.

4. Rights to Lease and Use Land

An investor who has obtained the Permit or the Endorsement from the MIC under the MIL can lease both private and public land up to 50 years plus two renewals of 10 years each, subject to the approval of the MIC. Rights to lease and use land for a longer term may be granted by the MIC to investors who invest in least developed and remote regions of Myanmar.

5. No Expropriation of Investment

The MIL guarantees that investment projects and their properties will not be subject to expropriation or nationalization, except for appropriation (i) for the public interest, (ii) in a non-discriminatory manner, (iii) upon payment of prompt, fair, adequate and effective compensation and (iv) in accordance with due process of laws.

6. Transfer of Funds

Funds in all forms, including capital, profits, capital gains, dividends, royalties, contract payments, shares, sales, compensation, earning and other remuneration, can be remitted abroad by foreign investors after satisfaction of tax liabilities.

7. Tax Exemptions and Reliefs

Tax exemptions are at the discretionary of the MIC and depend on the location of the investment as follows:-

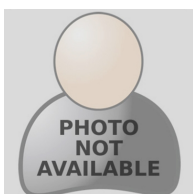
- (1) 7 consecutive years for low development zone;
- (2) 5 consecutive years for moderate development zone; and
- (3) 3 consecutive years for good development zone.

Investors can also apply for exemptions and reliefs of customs duties and other domestic taxes. Tax exemptions and reliefs under the MIL are not applied to businesses operating in Special Economic Zones.

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