

**Date: 13 July 2023**

**Issue: 694**

**Source: Ahl Masr**

## **Parliament discusses two draft laws on investment and abolition of exemptions for state entities**



Parliament, chaired by Counselor Dr. Hanafi Al-Jibali, resumed its plenary sessions on Sunday to discuss the law amending Investment Law No. 72 of 2017. All investment projects subject to the provisions of this law, whether established before or after the enforcement of its provisions, shall enjoy the general incentives mentioned therein, with the exception of projects established under the free zone system.

The plenary session was also set to discuss a draft law submitted by Government to abolish exemptions granted to state entities in investment and economic activities.

[Link 1](#)

[Link 2](#)

This issue of “View on News” offers commentary on two laws ratified by Parliament this week. The first relates to the abolition of tax and fee exemptions for state entities operating in investment and economic activities. The second relates to amendments to Investment Law No. 72 of 2017. The commentary on the two laws is divided into both general and specific commentary.

## I. General comments

- The philosophy of the two laws reflects Government's serious efforts to encourage investment and increase investor confidence in the Egyptian economy by ensuring fair financial treatment for all investors, and expanding the scope of projects that benefit from general investment incentives, in addition to introducing additional incentives for projects in specific areas. This is generally a positive trend.
- Despite the clear philosophy underlying the two laws, the wording of the articles did not reflect this philosophy. Some parts are either unclear, inconsistent with the purpose of the law, or weak and do not add anything new. This is evident from examining the details of the articles included in the amendments and points that will be discussed later under specific comments.
- Setting specific rates for incentives and exemptions in the law<sup>1</sup> is a major problem as adjusting these rates later requires another amendment to the law, which is inconsistent with stability of the legislative environment for investment. In particular, amendment to the investment law, which was passed only five years ago, recurred and was the subject of commentary in a previous issue of “View on News” on amendments to the investment law introduced in 2019.<sup>2</sup>

---

<sup>1</sup> The amendments to the investment law included provisions for specific rates with no justification. For example, Article 11 bis provides for granting a cash incentive of 35-55% of the tax value for projects funded by foreign exchange transfers at no less than 50%.

<sup>2</sup> [Issue #552, dated July 7.](#)

## II. Specific comments:

### 1) The Tax and Fee Exemption Act

- The first article of the law abolished exemptions from taxes and fees prescribed for state entities such as administrative and public bodies as well as authorities that have special budgets. The article excluded international agreements and exemptions prescribed for military missions, state defense and requirements for protecting national security, as well as activities of basic utility services.
- While the philosophy of the law is to ensure fair financial treatment among all investors, which is desirable, it is necessary to have a clear and specific definition of what is meant by “requirements for protecting national security,” as well as “basic utility services” in order to ensure benefit from the law in achieving its goal and prevent rendering it ineffective as a result of leaving any room for ambiguity regarding activities that may be included under these two items.

### 2) On amendments to the investment law

The following section presents a comment on specific articles included in the amendments due to their lack of clarity or contradiction with the original provisions, as follows:

#### - **Regarding special incentives:**

*(Article 12 of the original investment law set the conditions under which projects are to benefit from special incentives, and a specific period was set during which the new company or establishment must be established, which is three years from the date of enforcement of the executive regulations of the law, which may be extended once. The amendments approved the three years with the possibility of extending it more than once with a maximum of nine years.)*

This means that new companies established after this date will not continue to benefit from these incentives, which raises a question: Is it not more useful to allow companies established in accordance with the Investment Law to receive incentives without specifying a maximum period?

- **With regards to granting the power to issue a certificate to enjoy investment incentives:**

*(According to Article 14, and with the authority of the head of GAFI or the person authorized, the original text includes a clause deeming this certificate final, enforceable, and binding on all parties.)*

This clause was deleted in the amended law, which opens the door for any party to withhold incentives in the first place, which contradicts the philosophy of the amendments to expand the scope of benefit from incentives, and encourage investment; this is deemed a step backwards.

- **With regards to licensing the establishment of projects under the free zone system in specific fields:**

*(Article 34 of the original law stipulates the inadmissibility of licensing the establishment of projects under the free zone system in specific areas, in particular the manufacture of petroleum, fertilizers, iron and steel, and energy-intensive industries.)*

The amendments allowed licensing to establish the same projects under the free zones system, which appears to be an unjustified contradiction with the original text. Does this mean that there is an inclination to expand energy-intensive projects?

- **Regarding the investment map:**

*(Article 17 of the original investment law stipulates that the investment plan and map must be reviewed at least once every three years or whenever the need arises based on a proposal by the General Investment Authority.)*

A Government's proposal deleted this item, but Parliament reinstated it in the final draft, which reflects the dynamic nature of the investment map, and the importance of amending it in the light of global and local developments.

However, the amendments did not bring anything new with regards to the way the map works. It was supposed to add stipulations that the original map provides for specific investment opportunities based on a feasibility study in light of the future strategic directions of the State, and all parties would provide data and information to the General Investment Authority to help it in the design of this map. The text focused only on the data that should be included in the map and provided only for coordination between the General Authority for Investment and the rest of the agencies without obligating them to do so.

- Generally, the amendments expanded on grants of exemptions and additional incentives for investment projects in accordance with Articles 11 and 11 bis and Article 13, leaving the determination of these projects for the future according to the proposal of the competent minister without any criteria for these projects.
- In principle, there should be an investment map for the state that defines projects as referred to in detail in the previous item, and is not linked to a ministerial decision subject to change. Next, there should be a formal mechanism through which the required incentives are determined according to the nature and importance of the project, with emphasis on the fact that the existence of these criteria does not

mean delaying approval, but rather offers a guarantee that decisions are based on sound methodical foundations, and that incentives will be directed to support development efforts in an efficient manner, and ensures sustainability of these projects.

**Finally, although the two laws are positive in encouraging investment, they alone are not sufficient to attract substantial investments. Therefore, it is necessary for them to be followed by issuance of detailed executive regulations that properly translate the philosophy of the two laws and remove any ambiguity, provided that they are issued quickly to take advantage of the incentives and avoid any misinterpretations of the two laws.**

**The rest of the serious reform steps to improve the business climate must also be coupled with improving the institutional environment for investment, solving land-related challenges and other necessary steps to achieve economic stability, including complying with the agreement with the IMF, so that Egypt can get out of the current economic bottleneck in a sustainable way.**

#### Disclaimer

News in this report is directly obtained from the sources referred to. ECES shall not be held responsible for any legal or investment consequences that may arise as a result of using the information contained in the views section.