

FREE ZONE LEGISLATION OF TURKEY

Explanation

The Directorate General of Free Zones was founded in 1983 within the organization of the Prime Ministry on the basis of Statutory Decree Nr. 151. Later in 1984 it was included into the organization of the State Planning Organization as the Directorate of Free Zones on the basis of Statutory Decree Nr. 223 and in 1991 it was included into the organization of the Undersecretariat of Treasury and Foreign Trade of the Prime Ministry as the Directorate General of Free Zones on the basis of Statutory Decree Nr. 438. In 1994, the Directorate General of Free Zones was included into the organization of the Undersecretariat of Foreign Trade of the Prime Ministry since the Undersecretariat of Treasury and Foreign Trade was divided into two on the basis of Statutory Decree Nr. 534. However, this Decree was canceled. Thereafter, as the result of the reorganization of two Undersecretariats as the Undersecretariat of Foreign Trade and the Undersecretariat of Treasury, with Law Nr. 4059, in 1994, the Directorate General of Free Zones began to carry out its activities within the structure of the Undersecretariat of Foreign trade.

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Free Zones Law

Law Nr. 3218 Approved: June 6, 1985 Issued: June 15, 1985

Section One General Provisions

Objectives and Scope

Article 1 - This Law covers issues on establishment of free zones, determination of areas and borders and the scope of activities of the free zones, management and operation of free zones, establishment of buildings and facilities in the zones, with the aim of promoting export oriented investment and production, accelerating foreign direct investment and technology entry, directing enterprises towards export and developing international trade.

Authority

Article 2 - The Council of Ministers has the authority to determine the location and boundaries of the free zones.

The Council of Ministers grants permission for the establishment and operation of free zones to public institutions and agencies, resident or non-resident real persons or legal entities.

Definitions

Article 3 - In the implementation of this Law:

Operator signifies the public institution and agency; the resident and non-resident real persons or legal entities operating the free zone.

User signifies the real and legal person bearing an Operating License and having a specific place of business within the free zone.

Foreign exchange refers to all currencies, or all types of accounts or bills, considered as being convertible by the Central Bank of the Republic of Turkey.

Activities

Article 4 - Any kind of industrial, commercial and service activities approved by the Supreme Coordination Council Of Economic Affairs can be carried out within free zones.

Except the demands from the manufacturer enterprises, any authority regarding prices, quality and standards granted to public institutions and agencies by laws or by other legislation is not valid in the free zones.

Free Zones Coordination Board is formed to evaluate the free zone activities, to determine the strategies and to offer recommendations for improving the free zones and for resolving occurring problems, The structure, working procedures and principles of the Board shall be determined in the Governing Regulation.

Section Two Organization of Free Zones

Principles Related to the Organization of the Zone

Article 5 - Land and facilities needed within the declared free zones may be acquired pursuant to the provisions of the Expropriation Law.

Domestic or foreign real persons or legal entities may operate in the free zones provided that Undersecretariat of Foreign Trade grants them an operating license. The land, building plots and buildings exclusively Treasury owned can be leased or granted easement on for 49 years to the investor users of free zones. On the places under State dictum and disposition, right of usage can be given for the same period.

All other permits and licenses regarding the use of land as well as the design, construction and utilization of buildings and installations within the free zone are issued and supervised by the zone directorate.

Security services for free zones are provided by the police.

Exceptions and Incentives

Article 6 - Free zones, although being parts of the Customs Territory of Turkey, for the goods provided that they are not released for free circulation or placed under another customs procedure or used or consumed under conditions other than those provided for in customs regulations are deemed as being out side of the customs territory for the purposes of import duties, commercial policy measures and exchange legislation; and are places where the goods in free circulation can benefit from provisions normally attaching to the export of goods by virtue of being placed in a free zone.

Legislative provisions pertaining to customs and foreign exchange obligations are not applicable in these zones.

Regarding the account books the users must keep and documents they draw up, Ministry of Finance is authorized to make necessary arrangements independent from the provisions of the Tax Procedures Law No. 213 dated 4.1.1961.

During the investment and production stages of their activities, operators and users may qualify for incentives other than tax incentives, determined by the Council of Ministers.

Revenues and Expenditure of the Free Zones

Article 7 - From the revenues obtained from the free zones;
Fees to be collected for operating licenses and permits,

Fees to be paid in advance amount to 0.1 percent of the CIF value of goods entering the zone from abroad and fees to be paid in advance amount to 0.9 percent of the FOB value of goods leaving the zone towards Turkey,

Payments specified in the contracts made with real persons and legal entities operating the free zones,

Other revenues obtained from the zone activities Are deposited in the Special Account to be opened with the Central Bank of the Republic of Turkey, after deducting the income share transfers specified in the contracts made with the legal entities by the interested administration. After reducing the rejections and returns, the rest of the amount collected in this account is deposited in the account of the Main Treasurers Office which is in charge of the payments of the Undersecretariat for Foreign Trade. The amount deposited in the account of the Main Treasurers Offices registered as revenue to the budget.

Goods utilized during the investment and construction stages, goods brought into the zone for renovation and capacity building purposes, as well as goods, which are not owned by the users brought into the zone for maintenance and repairing purposes, temporarily brought instruments, tools and equipment, and goods brought for the purpose of outsourced material processing, goods brought into the zone from abroad and/or sent to Turkey by the non-producer users who obtained the operating license after 06/02/2004 are not subject to the payments specified in sub-paragraph (b) of paragraph 1 of this Article. However, a fee is charged on the value added created during the maintenance, repairing, and outsourced material processing and on the goods brought into the zone from abroad and sold within the zone by the non-producer users who obtained the operating license after 06/02/2004.

Procedures and principles concerning the management of the Special Account opened with the Central Bank of the Republic of Turkey are determined by a regulation of the Undersecretariat for Foreign Trade upon the approval of the Ministry of Finance. Revenues not deposited in due course, are subject to the provisions of the Law Nr. 6183 on the Procedures on the Collection of Public Receivables.

Section Three Goods And Services

Goods In Free Zones

Article 8 - Trade conducted between a free zone and other regions of Turkey is subject to the foreign trade regime.

Upon request goods of Turkish origin in value less than 5000 US \$ or its equivalent in Turkish Lira can be exempted from export procedures.

Foreign Exchange and Services

Article 9 - All payments related to free zone activities are made in the form of foreign exchange. The Council of Ministers may decide that payments be also made in the form of Turkish Lira.

Shipping and port services in free zones are provided either by the operator or assigned to public institutions and agencies or to real persons or legal entities.

Section Four Labor And Social Security, Repealed And Inapplicable Provisions, And Regulations

Labor and Social Security Provisions

Article 10 - Foreign managers and qualified personnel may be employed by firms operating in a free zone. Related principles are specified by governing statutes.

Provisions of the Social Security Regulations of the Republic of Turkey are applied in free zones.

Repealed Provisions

Article 11 - The Free Zones Law Nr. 6209 dated December 21, 1953, is hereby repealed.
Inapplicable Provisions

Article 12 - In the free zones, Law No:4817 on Working Permits of Foreigners, Law No:4875 on Foreign Direct Investment, provisions of Municipality Law No:5393 except provisions on death and fire, building and maintenance of sewerage, procurement of drinking, potable and industrial water, inspection of gas, water and electric consumption, Passport Law No:5682; Law No:5683 for Foreigners Traveling and Residing in Turkey and provisions of other laws contrary to this Law are not applicable. Furthermore, the transactions in second paragraph of Article 5 are not subject to the provisions of Public Procurement Law No:2886.

Free Zone Governing Regulation

Article 13 - Where the arrangement of matters in this Law are left to governing regulations, concerning any organization, duties, authority and/or responsibilities of operators who are active in free zones, or granting and cancellation of any Operating Licenses provided to such operators and/or users; concerning the maintenance of their industry and commercial registers; concerning any payments they make to the Special Account; concerning principles governing conduct of activities in a free zone; concerning zone entry permits and identity cards; residence permits; and concerning work principles and other matters pertaining to the operation of free zones are determined by governing regulations.

Interim Article 1 - (Abolished,by Law Nr: 4771)

Interim Article 2 - This Law is effective for each free zone upon the commencement of operations in that free zone.

The date of commencement of operations is the date when the construction of the perimeter fence, tower and gate are completed and the zone directorate, police and customs units assume their duties.

Interim Article 3 - By the date this article comes into effect, the taxpayers, who obtained licence to operate in the free zones that were established according to this Law, are

exempted from income or corporate taxes on the earnings generated through their activities in these zones, within the limits of the period specified in their operating licences as of the date this article comes into effect. This exception does not affect the deduction carried out within the scope of sub clause (b) of sub paragraph 6 under the first paragraph of the article 94 of the Income Tax Law No. 193 dated 31.12.1960.

exempted from the income tax on the wages they pay to their workers until 31.12.2008. However, if the validity period of their operating licence ends before 31.12.2008, the date of completion of the operating licence period is taken into consideration regarding this exception.

excepted from all taxes, levies and duties on their activities related to their free zone operations until 31.12.2008.

*Until the end of the taxation year including the date Turkey becomes a full member of the European Union;

- a) The earnings of the manufacturer taxpayers, generated through the sales of the goods they produced in the free zones, are excepted from the income or corporate taxes. This exception has no effect on the withholding carried out according to within the scope of sub clause (b) of sub paragraph 6 under the first paragraph of the article 94 of the Income Tax Law No. 193 dated 31.12.1960 and, Article 15 and Article 30 of the Corporate Tax Law No:5520.
- b) The wages of the workers employed by the taxpayers that export at least 85 percent of the FOB value of the goods they produce in the free zones are excepted from income tax. Council of Ministers is authorized to reduce the rate to 50 percent or to increase up to its statutory level. The taxes that are not collected in time from the taxpayers, whose annual sales remains below this rate, shall be collected including the delinquent tax-due without penalties.
- c) The transactions and arranged documents related to the activities carried out in the zones are except from stamp duties and fees.
- d) Ministry of Finance is authorized to determine the procedures and principles concerning the implementation of this Article.

Interim Article 4 - Since, goods brought into the zone and/or sent to Turkey by the non-producer users who obtained an operating license after 06/02/2004, are not subject to payments specified in sub-paragraph (b) of paragraph 1 of Article 7 of this Law, to compensate the revenue allocation loss of the founder and operator companies stemming from the exception of the payments specified in this Law in the free zones where the revenue allocation is regulated by the founder and operator companies' operation contracts, a modification will be made in the Governing Regulation.

Interim Article 5- The Operating Licence period and the lease period of users that obtained operating licence before the date this Law comes in to effect that rented the Treasury owned land, building plot and buildings can be extended up to 49 years by Undersecretariat for Foreign Trade. The issues regarding the implementation of this Article shall be determined in the Governing Regulation.

Interim Article 6- Free zones, until the date Turkey becomes a full member of the European Union, are deemed to be out side of the Customs Territory of Turkey for the purposes of customs procedures, and are deemed to be parts of the Customs Territory of Turkey for the purposes of rules of origin.

Entry into Force

Article 14 - This Law goes into effect on the date of its publication*.

Execution

Article 15 - The provisions of this Law are enforced by the Council of Ministers.

***The second paragraph of interim article 3 shall come into effect on 1/1/2009.**

Important Notice:

By the Law Nr: 5810, the Interim Article below is added to the Customs Law No:4458 dated 27/10/1999.

"INTERIM ARTICLE 7: The provisions that are contrary to Free Zones Law Nr:3218 in Article 152, Article 157 except sub paragraph (a) of the first paragraph, Article 158 and Article 185 of this Law are not applicable until the date Turkey becomes a full member of the European Union. On the other hand, for the purposes of Excise Duties Law Nr: 4760, the provisions of Article 158 and Article 185 shall be applied.

For the periods before this Law comes into effect, any tax shall not be imposed according to Law Nr: 4760, the taxes imposed before shall be renounced, the accrued amounts shall be cancelled. The amounts collected shall not be refused and refunded.

Please note that the English version is an unofficial translation. Only the Turkish version is legally binding.

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