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PORTUGAL

Av. da Liberdade, 262-4 Esq.
1250-149 LISBOA

T 351 213 569 930
F 351 213 569 939

ANGOLA

R. Rainha Ginga, 187
Ed. Rainha Ginga, Piso Int.
P.O. Box 6262

LUANDA

T 244 222 908/917
F 244 222 310 428

MOZAMBIQUE

Av. Kenneth Kaunda, 783
Bairro Sommerschild
MAPUTO

NEW ANGOLAN PRIVATE INVESTMENT LAW

Last August, Angola Parliament approved a new private investment law, which aims to simplify the investment proceedings in that country and provide the investors with tax benefits, in order to improve the economic dynamic in Angola.

The tax benefits foreseen in this new regime are only applicable to foreign investments in the amount of at least USD 1,000,000.00 (one million US dollars) and to national investments in the equivalent amount in Kwanzas to USD 500,000.00 (five hundred thousand US dollars). Notwithstanding, simpler proceedings are now applicable to any foreign investments, even those whose amounts are below the referred value, and to national investments in the amount of over Kz 50,000,000.00 (fifty million Kwanzas). This means that for foreign investors the minimum cap of 1,000,000.00 USD was revoked by the new diploma.

This new Angolan Private Investment Law (APIL) still establishes that every investment project is subject to a negotiation between the investor and the “competent governmental authorities”. Also, it looks like Angolan National Private Investment Agency (ANIP) is no longer the only agency in charge with the private investment, which opens the door to direct negotiations for several different Angolan agencies, depending on the delegation of powers to be made by the President of the Republic.

APIL has some specifications worth mentioning. For instance, there are some economic sectors (like energy and water, tourism, public transportation, IT, among others) for which foreign investors are required to enter into a partnership with either Angolan companies or citizens, where these hold, at least, 35% of the share capital. Other sectors are excluded from the scope of application of this law, as oil industries, mining industries, financial institutions and other sectors set aside by specific regulation.

APIL also established a cap on shareholders loans, which is 30% of the amount of the whole investment. This sort of loans can only be repaid 3 years after the shareholders loan’s date. Furthermore, indirect investment (defined by this law as, for instance, loans, supplementary

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capital contributions, patented technology, trade secrets, trade models, franchising, trademarks and technical processes) cannot surpass 50% of the amount of the whole investment.

On the other hand, the new law makes it possible to repatriate dividends, capital gains, compensations and royalties without a mandatory waiting period of 3 (three) years, removing an obstacle set by previous regulation. Under these new provisions, the only requirements to repatriate those values are to make proof of the implementation and execution of the project.

It is yet important to point out that the tax benefits provided by this new law are given on a case by case basis, after an evaluation made by the Angolan government. This evaluation is made based on certain criteria, namely:

- jobs created by the investment to Angolan citizens,
- amount of the investment,
- placement of the investment (for this purpose, APIL divides Angola in two different Zones, where “Zone B” gives larger benefits than “Zone A”)
- primary sector’s production,
- production destined to exportation,
- percentage of Angolan shareholders,
- national added value.

In addition to this, any investments higher than 50,000,000.00 USD (fifty million US dollars) that create at least 500 jobs for Angolan citizens in the “Zone A” or 200 jobs for Angolan citizens in the “Zone B” may grant extraordinary tax benefits to the correspondent investor, to be negotiated with Angolan government, on a case by case basis.

Finally, investment projects approved previously to this law are not subject to its provisions, unless it is so required by the investor to the competent authority, which will rule accordingly to the value and characteristics of the project.

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