CLIENT ALERT
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Finance Law for 2020:
Is Algeria relaxing FDI rules?

The draft finance bill for 2020 provides for the removal of two key measures from the current FDI rules: the 49% cap on the participation of any foreign investor in the capital of an Algerian company ("so-called 51/49 rule") and the local financing obligation.

This reform is part of a process to improve the business climate in Algeria initiated by the Government in 2016.

As a reminder, Law No.16-09 of 3 August 2016 on investment promotion (the "Law 16-09") repealed the former Investment Law (Ordinance No.01-03 of 20 August 2001 on investment development).

The 51/49 rule and the local financing obligation were not included in Law 16-09 and were only provided in the Finance Law for 2016, which suggested an easier amendment in the future.

If the draft finance bill were to be implemented in the 2020 finance law, it would represent a major turning point in Algerian foreign investment policy that would boost the flow of FDI, in contrast to the approach taken 10 years earlier.

The Finance Law for 2020 will be published in the Official Journal on 31 December 2019.

1. Removal of the 51/49 rule

The draft finance bill for 2020 provides for the application of the 51/49 rule to be limited to the production of goods and services in sectors of a strategic nature for the Algerian economy.

The list of these strategic sectors will be determined by regulation.

In our opinion, the strategic sectors that will remain subject to the 51/49 rule will be hydrocarbons, banking, insurance or telecommunications.

The explanatory notes relating to the draft finance bill for 2020 clearly indicate that ten years after its adoption, the 51/49 rule must be limited to strategic sectors only, in order to enable the country to adapt to recent developments in the national economy and to attract FDI.

2. Access to external financing

The draft finance bill for 2020 authorises the use of external financing for strategic and structuring projects for the national economy, from development financial institutions, after consulting the competent authorities.

The obligation to resort to local financing had already been relaxed in the 2016 Finance Law, which allowed for the use of external financing for the completion of strategic investment subject to case-by-case approval by the Government. In the absence of implementing texts, this measure had not been implemented.

According to the explanatory notes to the draft finance bill for 2020, the objective is to benefit from loans from international and regional financial institutions of which Algeria is a member in order to finance “productive, strategic, structuring and targeted” projects.

Another stated objective: to improve the country's visibility among these organizations, and ultimately, to increase foreign investment in Algeria.

3. Other relevant provisions

Imports

- Increase from 1% to 2% of the rate of the solidarity contribution applicable to imports of goods;

- Increase of the bank domiciliation tax:

  - 4% instead of 3% for imports of services;
  - 0.5% instead of 0.3% for imports of goods intended for resale.

Automobile

- Introduction of a 1% bank domiciliation tax applicable to imports of CKD/SKD kits and collections;

- Authorization for private individuals to import petrol-powered passenger vehicles less than 3 years old every 3 years;

- Introduction of an environmental tax from DZD 3,000 to DZD 10,000 applicable to passenger vehicles.

Tobacco

- Increase from DZD 11 to DZD 17 of the additional tax on tobacco products;

- Removal of the condition of partnership with a foreigner for licensing as a manufacturer of snuff and chewing tobacco.

CONTACT:

Rym Loucif
PARTNER
LPA-CGR avocats

T : Algiers / +213 (0)5 52 58 28 93
T : Paris / +33 (0)6 19 87 17 92
Mail : rloucif@lpalaw.com