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# OFFICIAL GAZETTE

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## ÍNDICE

### National Assembly

#### Law n° 86/IX/2020:

Hereby undertakes the fifth alteration of Law n.º 70/VIII/2014 of August 26, which defines the special legal regime governing micro and small businesses, the fifth alteration of Law n.º 26/VIII/2013 of January 21, which consecrates the general rules and principles applicable to fiscal benefits, the fourth alteration of Law 82/VIII/2015 of January 8, which approves the code governing Income Tax on Legal Persons, the third alteration of Law n.º 78/VIII/2014 of December 31, which approves the code governing Income Tax on Physical Persons, the first alteration of Lei n.º 47/VIII/2013 of December 20, which approves the general tax code, the first alteration of Legislative Decree n.º 3/2014 of October 29, which approves the legal regime governing non-customs tax violations, the first alteration of Law n.º 100/VIII/2015 of December 10, which establishes the general regime of fees and taxes in favor of public entities, lending discipline to the respective legal-tax relations, and the fifth alteration of Law n° 33/VII/2008 of December 8, which approves the stamp duty code. .... 1180

## Chapter II

### TAX BENEFITS FOR INVESTMENT

#### Section I

#### Tax Benefits for Investment

#### Article 12

#### Tax credit for investment

1. The investments carried out within the scope of the Investment Law benefit from a tax credit through deduction from income tax collected from legal and physical persons with organized accounting in an amount corresponding to:

- a) 30% of the relevant investments made in the areas of health, the environment, creative industries, tourism or the tourist promotion and tourist real-estate industries, industrial activities, air and sea transportation services and port and airport services, the production of renewable energies, research and scientific investigation and the development of information and communication technologies;
- b) 20% of the relevant investments made in all remaining areas.

2. The deduction of tax credit outlined in the preceding paragraph is carried out upon payment of Legal or Physical Persons' Income Tax for the period in which the investments were made and may not, in any given fiscal year, exceed 50% of the amount collected.

3. The portion of tax credit that is not used in a given fiscal year may be deducted in the following fiscal years, with the right to the use thereof expiring in the fifteenth fiscal year, counting from the beginning of the investment, for projects in operation, or from the beginning of operations, for new projects, observing the limits in the preceding paragraph.

4. For the purposes of the present article, investments in tangible fixed assets acquired new and utilized in investment projects in Cabo Verdean territory are considered relevant, as are investments with the acquisition of patents and licenses for the use of technologies certified by the competent authority.

5. For the purposes of the present article, investments in the following tangible fixed assets are not considered relevant:

- a) Plots of land subject to depreciation and amortization;
- b) Buildings or other constructions not directly linked to the main object of the investment project or that are intended for sale;
- c) Light vehicles not directly linked to the main object of the investment project;
- d) Furniture and comfort and decorative objects, except hotel equipment intended for tourist operations;
- e) Other investment assets not directly linked to the main object of the investment project;
- f) Administrative equipment, except computer equipment intended for information and communication technology development companies.

6. For the purposes of the present article, the following definitions are to be considered:

- a) Beginning of investment: the moment at which begins the recognition procedure of the tax benefits outlined in this Act following the approval of the investment project;
- b) Beginning of operations: the moment at which begin operations expected to result in the earning of taxable revenues.

7. In order to enjoy the benefit outlined in the present article, taxable persons must electronically submit their income statement from the year in question, the justifications for having made the investments through the periodic income statement and the annual accounting and tax returns.

8. Those assets that were the object of investment that are sold off prior to the end of the credit recovery period lose the right to credit from the date of their sale, and those assets acquired in replacement thereof enjoy only the right to the remaining tax credit.

9. The accounting records of taxable persons benefiting from the incentives outlined in the present chapter and in article 34 must show the taxes they were exempted from paying as a result of the benefits obtained, by mentioning the corresponding amounts in the annex to the financial statements regarding the fiscal year in which the incentives were effectively made use of.

10. The 15-year period is applicable only to those relevant investments actually carried out, through the acquisition of new tangible fixed assets and patents and licenses acquired following the entry into force of the present law.

Article 13

**Exemption from Property Tax**

1. The investments made within the scope of the investment law that require the acquisition of real estate property exclusively intended for the setting up of the investment projects may benefit from exemption from the Property Tax.

2. The granting of this incentive is conditioned to acceptance thereof by the competent municipal entity under the terms of the applicable law.

Article 14

**Exemption from Stamp Duty**

1. Credit contracting operations intended for investments to be carried out under the terms of the Investment Law are exempt from stamp duty.

2. Credit contracting operations are understood to be all of those operations subject to stamp duty that are inherent to the process of contracting credit.

Article 15

**Customs Duties**

1. Investments carried out within the scope of the Investment Law benefit from a 5% customs duty rate whenever they correspond to the importation of the following goods and are linked to the main project of the investment project:

- a) Materials and equipment to be used directly in the installation, expansion or remodeling of undertakings not intended for sale, namely metal structures, civil construction materials, sanitary equipment, electrical and electronic equipment, as well as their accessories and separate parts, when accompanied thereby;

- b) Equipment, machines, devices, instruments and utensils, as well as their respective accessories and separate parts;
- c) New, duly equipped collective transport vehicles intended for urban passenger transportation and heavy vehicles intended for the transport of merchandise, imported by duly licensed businesses in the sector;
- d) Scientific, educational and laboratory materials, furniture and equipment, including software and means supporting them, intended for education, teaching or technical and scientific investigation;
- e) Furnishings, equipment and utensils intended for the installation, expansion or remodeling of enterprises with Tourist Utility status and not intended for sale;
- f) Antennas, posts and transmission towers;
- g) Mobile studios for broadcasts outside TV studios;
- h) Vehicles for reporting services and exterior shooting break cars;
- i) Collective transport and dual-use vehicles intended exclusively for the transportation of tourists and luggage, when imported by businesses licensed by the sector;
- j) Recreational boats, motorcycles, tricycles and quadricycles, jet skis, surfboards and accessories, when imported by businesses authorized and certified by the department responsible for the area of tourism;
- k) Merchandise transport vehicles with a seating capacity of up to 3, including the driver, or passenger transport vehicles intended for worker transportation, for the exclusive use of industrial establishments;
- l) Specialized transport vehicles, namely ambulances intended for the health sector.

2. The incentives outlined in lines e), i) and j) are granted during the installation phase and during the remodeling period.

3. The incentive outlined in line e) is also granted throughout the course of the first year of operations.

4. The incentive outlined in the present article excludes equipment and vehicles more than five years old.

5. Houses or building units that are part of tourist enterprises with Tourist Utility status and that are not intended for sale benefit from the incentives outlined in this Law, as long as the owners thereof set them aside exclusively for the purpose of tourism and not for any other purposes, namely personal or family use, for a period of more than 30 days of each calendar year.

6. For the purposes of the provisions of the preceding paragraph, the houses or building units must hold an annually renewable tourist operation license granted by the Central Service of the government department responsible for the area of tourism.

7. The disposal or sale on the domestic market of goods imported with customs-related fiscal benefits within the scope of the present article within five years from the date of importation is subject to prior authorization from Customs, and is liable to the payment of duties and other obligations calculated based on the recognized customs value at the date of disposal or sale.

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8. Bricks, cement, paint and varnish, as well as non-class A incandescent bulbs, electrical stoves and hobs, thermal storage units and refrigerators are excluded from line *a*) of paragraph 1.

9. For the purposes of the application of lines *e*), *i*) and *j*), remodeling is considered to occur when reinvestment corresponds to at least 15% of the initial investment revised for current values.

10. The provisions of paragraph 1 come without prejudice to the exemption or reduction of fees outlined in other legal documents or in international accords properly approved and ratified by the State of Cabo Verde.

Article 16

**Contractual fiscal benefits**

1. Productive investments made within the scope of the Investment Law may benefit from exceptional incentives regarding importation duties, Income Tax on Legal Persons, Income Tax on Physical Persons, Property Tax and Stamp Duty, to be granted by the Council of Ministers within the framework of an Establishment Convention based on a proposal from the cabinet member responsible for the area of Finances and with a reasoned opinion from the National Directorate of State Revenues, as long as the following conditions are cumulatively met:

- a*) The promoter must have technical and management capacity, as well as the preconditions of lines *a*), *b*), *c*), *d*) and *f*) of paragraph 1 and paragraph 2 of article 6;
- b*) The amount of the investment must be above three billion escudos;
- c*) The investment must be relevant to the promotion and quickening of the development of the Cabo Verdean economy;
- d*) The investment must create at least 20 direct qualified job posts.

2. The establishment convention shall set out the fiscal incentives to be granted, their objectives and targets, and penalties in case of non-compliance, with conventional benefits not able to be extended beyond fifteen years.

3. The benefits established by the present article are not cumulative with any other benefits outlined in the present Law.

4. Those entities benefiting from incentives under this article are subject to annual inspection activities by Tax Administration aimed at verifying the preconditions thereof, and must inform the competent authorities of any change or event that could undermine the realization thereof within the timeframe agreed to.

5. The modalities of the incentives should be set as a function of the value and location of investments, with the exemption never able to go beyond five years, as per guidelines to be approved in a Resolution by the Council of Ministers.

6. The preconditions in lines *b*) and *d*) of paragraph 1 are reduced by 50% when the investment is made in the territory of a municipality whose per capita GDP over the preceding three years is lower than the national average.

7. The granting of contractual fiscal benefits does not dispense the taxable person from the fulfillment of accessory tax obligations, namely declaratory obligations, which should show the taxes they were

exempted from paying as a result of the benefits obtained, by way of inclusion of said amounts in the annex to the financial statements regarding the fiscal year in which the incentives were made use of.

8. The precondition outlined in line *a*) of paragraph 1 shall be reduced by 50% when the investments are made outside of the municipalities of Praia, Sal and Boa Vista.

9. The termination of the establishment convention may be decided by a Resolution from the Council of Ministers in the following cases:

- a*) failure to meet the objectives and obligations established in the contract within the timeframe set therein due to reasons attributable to the promoter;
- b*) failure on the part of the promoter to fulfill tax obligations in a timely manner;
- c*) the providing of false information on the situation of the promoter or tainting of data provided in the presentation, review and monitoring of projects.

10. For the purposes of verification of the cause of termination outlined in line *a*) of the preceding paragraph, consideration should be given to the degree of fulfilment of the contractual obligations agreed to.

11. For the purposes of the application of the present law, qualified job posts are considered to be those requiring specialized technical, professional or university training certified by a Cabo Verdean or foreign entity, including management posts.

Section II

**Benefits to Differentiated Merit Projects and Emigrés**

Article 17

**Benefits to Differentiated Merit Projects and Emigrés**

1. Investments to which Differentiated Merit Project (PMD) status are granted shall enjoy the following benefits:

- a*) 5% customs duty rate on importation of materials, goods and equipment mentioned in article 15;
- b*) Exemption from customs duty on the importation of raw materials, subsidiaries, materials and finished and semi-finished products intended for incorporation into products manufactured by the company, as well as materials for the packaging and wrapping of products manufactured by the company, in the case of industrial investments, as long as the company is registered in the industrial registry;
- c*) 30% tax credit for relevant investments that have effectively been made, to be deducted from the amount collected in income tax, calculated under the terms of the CIRPC observing the limit outlined in paragraph 2 of article 12;
- d*) Exemption from stamp duty on credit contracting operations for the carrying out of said investment;
- e*) Exemption from property tax on the acquisition of real estate intended exclusively for the installation of the investment project under the terms of the Law approving the Differentiated Merit Project.



f) Other non-fiscal incentives outlined in specific legislation.

2. Whenever the PMD is set up in the territory of a municipality whose per capita GDP is below the national average, the project shall enjoy the benefits outlined in lines a), b), e) and f) as well as the following additional benefits:

- a) 40% tax credit for relevant investments that have effectively been made, to be deducted from the amount collected in income tax, calculated under the terms of the CIRPC observing the limit outlined in paragraph 2 of article 12;
- b) Exemption from Property Tax on the acquisition of real estate necessary for the development of its main activity, including expansion needs and during the first five years following the acquisition of said property, under the terms of the law approving the PMD.

3. Projects granted PMD status may benefit from establishment conventions, as long as they meet the preconditions outlined in article 16, with the benefits granted not being cumulative with those established in the present article.

4. PMD status and its respective benefits are granted to investment projects carried out by Émigré Investors when made within the scope of the respective law, and also benefit from:

- a) Incentives intended for savings and the financial sector, as well as social incentives;
- b) The possibility of entering into an establishment convention with the verification of the preconditions mentioned in paragraph 7 of article 16;
- c) When the investments take place in the territory of a municipality whose per capita GDP in the preceding three years has been below the national average, they are considered valid preconditions for the purposes of verification of 50% of those mentioned in the preceding line.

5. The benefits outlined in lines c) of paragraph 1 and a) of paragraph 2 are cumulative with those granted in article 12, albeit respecting the limit established in paragraph 2.

6. The fiscal benefits referred to in lines e) of paragraph 1 and b) of paragraph 2 cease as soon as the preconditions that led to the determination thereof are no longer confirmed, with the taxable person obliged to reimburse uncollected tax revenues.

7. Taxable persons benefiting from incentives under the present article are prone to annual inspection activities by Tax Administration in order to verify the respective preconditions.

8. Taxable persons must present tax administration, electronically, with the income statement from the fiscal year and the justifications for having made the investments through periodic income statements and the annual accounting and tax return.

9. Taxable persons must also show the taxes they were exempted from paying as a result of the benefits obtained through the inclusion of the respective amounts in the annex to the income statements for the fiscal year in which the incentives were made use of.

10. For anything not specifically outlined in the preceding paragraphs, namely regarding price transparency, autonomous taxation, settlement rules and payment, the general rules outlined in the IRPC Code are applicable.

## CHAPTER III

### TAX BENEFITS FOR THE INTERNATIONAL BUSINESS CENTER

#### Section I

#### Tax benefits for the International Business Center

#### Article 18

#### Fiscal benefits on income tax

1. Tax benefits in the form of reduced rates of Income Tax on Legal Persons on income arising from the carrying out of industrial or commercial activities and their accessory or complementary activities, as well as the provision of services, are applicable to those entities licensed in the Cabo Verde International Business Center (CIN).

2. The fiscal benefit outlined in paragraph 3 is applicable to income resulting from the activities carried out by the entities licensed and effectively operating in the CIN.

3. The fiscal benefit outlined in paragraph 1 remains in force until 2030 and depends on the creation of dependent and qualified job posts appropriate to the size and nature of the business in question, with the minimum required in the International Industrial Center (CII) and the International Trade Center (CIC) being ten posts, and translates into the application of the following staggered rates of Income Tax on Legal Persons (IRPC):

- a) 5% for entities with ten or more dependent workers;
- b) 3,5% for entities with twenty or more dependent workers;
- c) 2,5%, for entities with fifty or more dependent workers.

4. At the International Service Provision Center (CIPS), the minimum number of dependent and qualified job posts required is four workers for each entity, with the IRPC rate at 2.5%.

5. Entities licensed in the CIPS are required to have a minimum of operational expenses that is relevant for the carrying out of the activity developed.

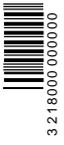
6. The benefits established by the present article may only be granted to those entities with organized accounting, in compliance with the accounting and financial reporting normalization system in force in Cabo Verde, and may not be accumulated with any other benefits applying to IRPC outlined in this Law, with the exception of that referred to in article 19.

7. Entities licensed in the CIPS are required to have a minimum amount of operational expenses that are relevant for the carrying out of the activity developed.

8. The benefits granted have no effect until the public dissemination, on the Tax Administration web portal, of the identity of the entity licensed, its owners and/or partners regardless of the types of shares, and the qualified job posts created.

9. The entities licensed in the CIN are subject to annual inspections by Tax Administration, which is responsible for monitoring the requirements and conditions of their tax regime and for applying the sanctions outlined in the Legal Regime of Non-Customs Tax Violations when said requirements and conditions are not met.

10. The holder of a CIN concession must send its annual report on the activity and oversight of the licensed entities to the Government by January 31 of the following year, under the terms to be defined by the Council of Ministers.



11. For the purposes of the provisions of paragraph 8, Tax Administration must proceed with the public announcement of the entities licensed and of the other elements referred to therein within 48 hours of the date of receipt of the respective documents.

12. The resolution of conflicts through arbitration tribunal as outlined in Legislative Decree n.º 1/2011 of January 31 does not apply to tax issues.

13. The entities participating in the shareholding structure of the companies licensed and operating in the CIN are exempt from income tax regarding:

- a) The profits made available to them by these companies and which have been taxed in accordance with the preceding paragraphs;
- b) Interest and other forms of payment of shareholder loans or equity advancements made by them to the company or owed due to their not having withdrawn the profits or payments made available to them.

14. For anything not specifically outlined in the preceding paragraphs, namely regarding price transparency, autonomous taxation, settlement rules and payment, the general rules outlined in the IRPC Code are applicable.

Article 19

Shipping Activities

1. The authorized entities licensed in the CIN that carry out activities related to the international shipping of persons and goods may opt for a special regime for determining taxable amounts, as long as they meet the following conditions:

- a) The entirety of the ships or vessels they own must be registered on the International Ship Registry of Cabo Verde, under terms to be established in the respective law, with all activities developed eligible for the purposes of the present law;
- b) At least 85% of all earnings must be obtained from the international shipping of persons or goods.

2. The decision to opt for the regime outlined in the preceding paragraph with regards to a specific taxation period is made by the taxable persons on the income statement outlined in article 102 of the IRPC Code and must be maintained for at least the next two taxation periods.

3. Taxable amounts for the purposes of the present article are determined by applying the below daily values to each eligible ship or vessel:

Net tonnage	Daily taxable income for every 100 net metric tons
Up to 1000 net metric tons	646 CVE
Between 1001 and 10,000 net metric tons	566 CVE
Between 10,001 and 25,000 net metric tons	307 CVE
Above 25,000 net metric tons	103 CVE

4. When net tonnage is above 1,000 net metric tons, the quantity of taxable income is determined by the application of each tier to the net tons of the vessel subject to categorization within the same tier.

5. For the purposes of the application of this regime, all ships and vessels of the taxable person are taken into consideration, excluding the days in which said ships and vessels are not operational as a result of ordinary or extraordinary repairs.

6. No other deductions outlined in law are applicable to the taxable amounts determined under the terms of the present article, which are subject to the IRPC rates laid out for the International Business Center.

7. No tax benefits may be deducted from the taxes collected under the terms of the present article.

8. In the case of changes in the special regime for the determination of taxable income for the general regime, the tax value of the items owned is that which would result from the application of the general norms of the IRPC Code to the items referred to as if the taxable person had not applied the special regime in question, with no fiscal losses or other reportable fiscal attributes that could have originated during the tax periods in which the special regime was applied being additionally relevant.

9. For anything not specifically outlined in the preceding paragraphs, namely regarding price transparency, autonomous taxation, settlement rules and payment, the general rules outlined in the IRPC Code and other provisions applicable to the entities licensed in the CIN are applicable to persons taxable with IRPC.

Article 20

Customs and other benefits

1. The entities referred to in the preceding articles enjoy exemption from customs duties in the importation of the following goods:

- a) Goods and equipment outlined in article 15 of the present Code;
- b) Material for the packaging and wrapping of products manufactured by the beneficiary company;
- c) Raw and subsidiary materials and finished and semi-finished materials and products to be incorporated into products manufactured by the company.

2. The entities referred to in paragraph 1 also enjoy:

- a) Exemption from VAT under the terms of the value added tax code;
- b) Exemption from stamp duty on credit contracting operations for the carrying out of the investment;
- c) Exemption from property tax on the acquisition of real estate intended exclusively for the installation of the activity in question;
- d) Exemption from levies and other notary fees in the constitution and registering of businesses in the form of commercial companies or individual business enterprises.

3. In cases in which the exemption from customs duties referred to in the preceding paragraph is not granted at the moment at which the goods referred to are imported, the Customs Authority must proceed with the due reimbursement within one year upon request from the licensed economic operator in question.

4. The importation of goods, products and raw materials by those entities installed and operating in the CIN does not require an importation license.

5. The goods introduced into the domestic market are subject to import duties and other customs fees under the terms of the legislation in force.

Section II

**Special Economic Zones**

Article 21

**Special Economic Zones**

1. The International Business Center regime is applied, with the necessary adaptations, to the investment activities eligible for Special Economic Zones, as long as they meet the constant access requirements of the laws creating the respective special economic zones.

2. The incentives outlined for Special Economic Zones may be granted to Young Start-Up businesses.

3. The government may exceptionally enter into an establishment convention for the carrying out of an investment project whose total value is below that outlined in article 16 and which, given its economic, social, environmental, financial or technological impact, is deemed of extreme relevance to the reduction of regional asymmetries or the promotion of technological innovation, scientific research and sustainable development.