

## INVESTMENT PROMOTION LAW

On November 26, 2007, **Decree N° 455/007** was published, whereby a new system of tax benefits is granted to investments and to specific sector activities in connection with taxes levied on income, under the provisions of **Law N° 16.906** of Promotion and Protection of Investments.

The new decree seeks to stimulate investment growth by improving those aspects related to investor care and the establishment of a system of income tax exemptions in line with certain objective explicit criteria, compatible with the goals sought by the Investment Law.

In connection with those aspects affecting investor relations, the decree streamlines those procedures required to apply for an exemption, setting deadlines for decisions of the Applications Committee—in charge of assessing the project and making the recommendations to the Executive Power that it may deem proper.--, regulating with precision all the requirements that must be demanded in the different stages of execution and operation of the projects, and appointing the Investor Care Office of the Ministry of Economy and Finance as a liaison entity to facilitate those proceedings.

The new regulations made under the law expand the scope of possible beneficiaries of the system, since commercial and services activities are included, while most of them were formerly excluded from accessing these benefits in the prior system that basically covered industrial companies. In this way, the government seeks to consolidate the process of inter-sector equality started by the Tax Reform.

It is relevant to point out in addition that the new decree does not regulate any requirements concerning the source of investment funding (the prior system was based on funds of their own) and also eliminates the requirement of capitalization that was also demanded in the former system, i.e. savings reinvestment.

The beneficiaries of the new system are those companies whose investment projects have been declared as promoted by the Executive Power. The regulations define investment as the acquisition of the following goods as company fixed or intangible assets.



- Tangible movable property used directly for company activity (with the exception of non-utility vehicles and home assets).
- Fixed improvements, excluding those made to homes.
- Incorporeal assets as determined by the Executive Power.

In order to determine the size of the investment, those investments made under other investment promotions whereby Economic Activities Income Tax (IRAE) exemptions are granted shall not be taken into account –the most common case is that of Investment Exemptions.

For the purpose of applying for the promotional status declaration and the benefits granted thereunder, the projects are classified into:

**Type of project**                      **Investment in thousands of I.U. Approx. Investment in M US\$**

<b>Small</b>	<b>Lower than 3,500</b>	<b>Lower than 322</b>
Medium Segment 1	From 3,500 to 14,000	From 322 to 1,287
Medium Segment 2	From 14,000 to 70,000	From 1,287 to 6,436
Large Segment 1	From 70,000 to 140,000	From 6,436 to 12,873
Large Segment 2	From 140,000 to 500.000	From 12,873 to 45,974
Large Segment 3	From 500,000 to 7,000,000	From 45,974 to 643,641

Benefits granted under the promotional system shall depend upon the applicant company’s ability to comply with the objectives set forth by the Investment Law, consisting of:

- Generation of productive employment
- Technical progress enhancement
- Increase and diversification of exports
- Facilitation of integration
  
- Promotion of small and medium companies
- Decentralization process advancement
- Utilization of clean technologies

A more simplified system is devised for smaller projects, taking into account, for the purpose of granting the benefits, the generation of productive employment and technical progress enhancement. For medium and large projects there is a matrix of indicators to quantify the fulfillment of the objectives set forth by the law.

Promoted companies shall be exempted from IRAE up to a maximum amount and term that shall result from the application of the matrix of objectives and indicators, according to the type and segment to which the project belongs. The maximum amount to be exempted varies as a function of the type of project, and the following percentages of the amount invested in fixed or intangible assets included in the declaration of promotional status shall apply:

- 60% for Small projects
- 70% for Medium Segment 1 projects
- 80% for Medium Segment 2 projects
- 90% for Large Segments 1 and 2 projects
- 100% for Large Segment 3 Projects

The Decree also provides that the IRAE exemption for each fiscal year may not surpass the following percentages of the net fiscal income:

- 90% for the fiscal years covered in the first 50% of the maximum term granted
- 80% for the following fiscal years corresponding to 10% of the maximum term
- 60% for the subsequent fiscal years corresponding to 10% of the maximum term
- 40% for the subsequent fiscal years corresponding to 10% of the maximum term
- 20% for the subsequent fiscal years corresponding to 10% of the maximum term
- 10% for the subsequent fiscal years corresponding to 10% of the maximum term

The maximum terms for which exemptions shall be granted range from 5 to 25 years, as a function of the categorization of the project and the score obtained in the various indicators.

The term shall be counted as from the fiscal year where the fiscal income is obtained, including this last year in the said computation, provided that four fiscal years have not elapsed since the declaration of promotional status. In the latter case, the referred

maximum term shall be increased by four years and shall be counted as from the fiscal year when the said declaration has been issued.

The companies that produce investment projects between 12/20/2006 and 02/28/2009 may opt for the new promotional system or for the former one in force prior to the approval of the decree that we have discussed, i.e. the benefit of Savings Reinvestment.

Last, it deserves to be mentioned that there are legal warranties granted by **Law N° 16,906**, whereby the investor is assured concerning terms, benefits and rights under the promotional system to which it resorts, and the Government acknowledges liability for any damages in case of default of this assurance.

### **Other Benefits Granted**

The remaining benefits for companies with promoted investment projects are:

- **Net Worth/Equity Tax:**
  - Exemption of Taxes on movable property acquired as fixed assets that are not exempted under other benefit systems. The term of the exemption covers all the useful life of these assets.
  - Exemption of Civil Works Tax for up to 8 years if the project is located in Montevideo and 10 years if it is located in the interior of the country.
  
- **Duties or tributes on imports:**
  - Exemption of duties, tributes to imports and taxes applicable to them concerning movable property, acquired as fixed assets, declared as not being in competition with goods of local manufacturing by the National Directorate of Industries of the Ministry of Industry, Energy and Mining.
  
- **Value Added Tax:**
  - Reimbursement of the Tax under exports system for the acquisition in the domestic market of materials and services for Civil Works, provided they are duly documented.



- **Professional fees and salaries for technological development in key areas:**
  - Amounts corresponding to fees and salaries in scientific and technological developments of the project in key areas may be taken into account up to one and one half of the amount for IRAE assessment.