



MINISTRY Of FINANCE

A Directive to Provide for the Application of Tax Incentives for Expansion/Upgrading of Investment No. 941/2023

**MINISTRY Of FINANCE
January 2023**

Directive No. ___/2022 to Provide for the Application of Tax Incentives for Expansion/Upgrading of Investment

WHEREAS, Article 5 of the Investment Incentives Regulations No.517/2022 provides that investors who expand or upgrade the existing investment shall be granted income tax exemption on income obtained from the expansion or upgrade by a directive to be issued by the Ministry of Finance based on the schedule attached to the Investment Incentives Regulation No 517/2022;

WHEREAS, Article 12(5) of the Investment Incentives Regulation No 517/2022 provides that capital goods for expansion or upgrading of existing investment shall be imported duty free upon submission of evidence to be prescribed by a directive to be issued by the Ministry of Finance;

NOW, THEREFORE, the Ministry of Finance in accordance with the power vested to it by Articles 5 and 12(5) of the Council of Ministers Investment Incentives Regulations issued this Directive.

SECTION 1

GENERAL PROVISIONS

1. SHORT TITLE

This Directive may be cited as “Directive No. ___/2022 to provide for the Application of Tax Incentives for Expansion/Upgrading of Investments”.

2. DEFINITIONS

Subject to the definitions of words and phrases under the Proclamation and Regulation, in this Directive:

- 1/ “Proclamation” means the Investment Proclamation No. 1180/2020;
- 2/ “Regulation” means the Investment Incentives Council of Ministers Regulations No. 517/2022;
- 3/ “Existing Enterprise” means an enterprise on which an investor has acquired business license or any other license and is engaged in production or service rendering activities;
- 4/ “Person” means a natural or juridical person.



SECTION 2

INCENTIVES ON INCOME TAX EXEMPTION FOR EXPANSION OR UPGRADING OF EXISTING ENTERPRISES

3. UTILIZATION OF INCENTIVES

- 1/ An investor engaged in Expanding or Upgrading existing enterprises shall be beneficiaries of the business income tax exemption as follows;
 - a) An investor who expands the production and service rendering capacity of the existing enterprise in volume:
 - (i) from 50-70% shall be beneficiary of the business income tax exemption on 60% of the tax payable on the profit made from the increase in volume;
 - (ii) from 71-90% shall be beneficiary of the business income tax exemption on 80% of the tax payable on the profit made from the increase in volume;
 - (iii) over 90% shall be beneficiary of the business income tax exemption on 100% of the business income tax payable on the profit made from the increase in volume;
 - b) An Investor who increases in variety or volume by at least 100% by introducing new production or service rendering line of an existing enterprise shall be beneficiary of the income tax exemption provided under the schedule attached with the Regulations on income obtained from the upgrading.
- 2/ As provided under Article 5(2) the Regulation, the income tax exemption for Expansion or Upgrading shall only apply to the income obtained from the Expansion and pgrading.
- 3/ For purposes of Sub-article 1(a) of this Article, an Expansion of the existing enterprise shall be eligible for tax incentives when it increases in volume the attainable production or service rendering capacity of the existing enterprise by at least 50% during the year after the date the expansion was completed.



4. Conditions for being beneficiary of the Incentive

- 1/ An investor may become beneficiary of the income tax exemption granted for expansion or upgrading upon fulfilling the following conditions:
 - a) submit evidence showing that the enterprise has been engaged in production or service rendering activities for at least thirty-six (36) months;
 - b) submit financial statement certified by an external auditor showing the capital invested to modernize the production process, to introduce new technology or to increase the production or service type;
 - c) submit financial statement certified by an external auditor showing the volume of production or service rendered within a year after the completion of the upgrading;
 - d) if it has been granted tax exemption privilege; submit evidence showing that it has fulfilled its obligations to declare its income during the tax exemption period in accordance with tax laws.
- 2/ As provided under Article 11 of the Regulation, where an investor who partly or fully benefited from the income tax exemption under the Regulation ceases to operate his investment, and re-engages in another investment activity which qualifies for tax exemption shall not be entitled to a tax exemption for a period which he has already used for the enterprise dissolved.
- 3/ For the purpose of sub-article 2 of this Article, in cases where the beneficiary of the tax exemption is a company; if a shareholder of the company dissolved owns 50% of the shares of the new company, the new company shall not be entitled to a tax exemption for a period which the company dissolved has utilized.
- 4/ An investor who ceases the operation of existing enterprise can only apply for tax exemption as new investor and not as expansion or upgrading.
- 5/ As provided under Article 19(1) (b) and 20 of the Regulation, Regulatory Institutions have the responsibility to ascertain on whether the investor qualifies for tax exemption in accordance with the criteria laid down in the Regulation and this Directive and transfer the application to the Ministry of Finance with a support letter.



5. Maintenance of Books of Account

- 1/ The investor shall maintain a separate books of accounts for the income from and expenditure for the Expansion and Upgrading.
- 2/ The investor shall maintain a separate books of account for income from and expenditure for the Expansion or Upgrading using the apportionment rule provided under Article 76 of the Income Tax Proclamation No. 979/2016.

6. Commencement Date of the Incentives

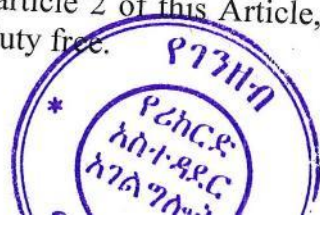
The incentive for Expansion and Upgrading shall commence from the date on which the investor received updated trade license upon increasing its capital due to the Expansion or Upgrading.

SECTION 3

INCENTIVES ON DUTY FREE IMPORTATION OF CAPITAL GOODS AND BUILDING MATERIALS FOR EXPANSION OR UPGRADING OF EXISTING ENTERPRISES

7. Criteria for Exemption from Customs Duties

- 1/ Subject to definitions given to Expansion or Upgrading under the Proclamation, an investor engaged in Expansion or Upgrading may benefit from privileges of exemption from customs duty upon submitting a business plan showing that it will increase in volume by at least 50% of the attainable production or service rendering capacity of an existing enterprise or increase in variety by at least 100 percent by introducing new production or service rendering line of the existing enterprise or increment by both.
- 2/ If the Regulatory Institution ascertains that due to the special nature of the existing enterprise it cannot fulfill the conditions laid down in sub-article 1 of this Article and goods to be imported for Expansion and Upgrading will help modernize the production process of the enterprise, increase productivity and increase the type of production or service delivery, the Ministry of Finance may by special approval allow the goods to be imported duty free.
- 3/ If the investor fails to Expand or Upgrade the investment as per the business plan submitted in accordance with sub-article 2 of this Article, it shall pay the duties and taxes on the goods imported duty free.



SECTION 4
MISCELLANEOUS PROVISIONS

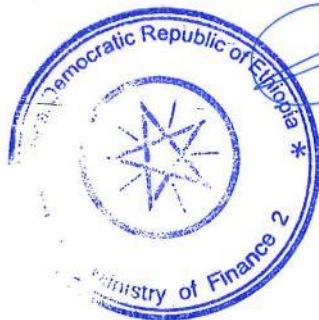
8. Liability

- 1/ Without prejudice to the criminal liability provided under Article 118(2) of the Tax Administration Proclamation No. 983/2016, an investor who benefitted from the additional income tax exemption for Expansion and Upgrading by providing exaggerated, false, misleading and fraudulent documents regarding his business activities; shall be required to pay the business income tax for the period in which he has been exempted.
- 2/ An auditor who prepares or cooperates in preparing exaggerated, false, misleading or fraudulent documents in relation to sub-article 1 of this article shall be liable pursuant to Article 48 of the Tax Administration Proclamation No. 983/2016.
- 3/ The auditor who is found responsible for the misconduct referred to in sub-article 2 of this article shall be reported by the Regulatory Institution to the Accounting and Auditing Board of Ethiopia for actions to be taken in accordance with the Financial Reporting Proclamation.

9. Effective Date

This Directive shall be effective from the date of its publication in the website address of the Ministry of Finance.

Addis Ababa ___ day of ___ 2022



Ahmed Shide
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Minister of Finance