



PRIVILEGES FOR INVESTMENT ACTIVITIES AND INVESTORS, EXPERIENCE OF NATIONAL AND FOREIGN COUNTRIES

Alijonov Ayubjon Qobiljon o`g`li

Lecturer of Tashkent State University of Law

Abstract

The basis for the application of privileges in investment activities. Determining the limits and procedure for applying benefits to investors and investors. Comparative legal analysis of normative legal acts regulating the provision of benefits in investment activities. Prospects for the application of positive aspects of the experience of foreign countries in further improving investment incentives.

Keywords: investment activity, investor, foreign direct foreign investment, investment privilege, investment project, preference.

INTRODUCTION

Investment activity is a very important process for the economic development of any country. Through investment, the activities of the sectors lagging behind in terms of development will be improved, and through this, the economic potential of the state will increase, and it is a necessary factor for the increase of employment of the population.

Regarding the development of the investment environment of the Republic of Uzbekistan, appropriate legal frameworks have been created, and a number of normative documents reflecting guarantees and privileges have been adopted. They set the norms for the protection of private property by the state and the creation of conditions for a competitive environment and the necessary investment infrastructure. Also, the prevailing political stability in our country and the availability of rich natural mineral resources open the door of opportunities for the development of the investment environment. However, these alone are not enough to keep up with the times. Because there is a need to come up with new modern ideas in order to occupy a worthy place in the ratings of the rapidly developing world community. Attracting foreign investments on a large scale allows to implement structural changes in the economy, strengthen the country's export potential, create high-tech competitive industries, implement advanced foreign technologies, know-how and management experience.

Special emphasis was placed on this issue in the address of the President of the Republic of Uzbekistan Shavkat Mirziyoyev to the deputies of the Oliy Majlis on





December 28, 2018. In particular, according to the results of cooperation with the World Bank, the European Bank for Reconstruction and Development, the Islamic and Asian Development Banks, and other international financial institutions, the volume of investments in our country amounted to 8.5 billion dollars, as well as 23 billion dollars due to foreign investments. It was noted that 456 projects are being implemented. Paying attention to these indicators, the President emphasized that large-scale investments will be a factor in strengthening the economy of our country and said: "World experience shows that any country that has pursued an active investment policy has achieved stable growth of its economy. That's why investment is the driver of the economy, the heart of the economy in Uzbek terms, it's no exaggeration."

Indeed, achieving large-scale attraction of investments in the economy serves as a huge foundation for the introduction of new technologies, advanced practices, highly qualified specialists and the rapid development of entrepreneurship in many sectors, industries and regions.

Since investment activities and investors are considered important elements for the country, it is necessary to provide them with guarantees, privileges and preferences in the legislation in order to attract them to our country. In the course of our research, we will analyze the benefits available in our national legislation at the present time, as well as the experiences of advanced foreign countries in attracting investors.

Comparative legal analysis of benefits granted to investors

In our country, a number of privileges are defined in the regulatory legal documents related to investment.

The main legal document regulating investment activities is "**On Investments and Investment Activities**" dated December 25, 2019. It is the law of the Republic of Uzbekistan No. O'RQ-598. In this normative legal document, if we focus on the investment activity and the benefits given to investors, the law Article 30 defines the goals and methods of state support of investments and investment activities, and accordingly,

investments and investment activities, creating a favorable investment environment, encouraging investments in the organization of new competitive and innovative, export-oriented and (or) import-substituting productions, upgrading existing productions with modern technologies. It will be carried out in order to expand and update it with the introduction of modern management experience.

State support for investments and investment activities is carried out in the following ways:





- Application of benefits and preferences;
- Allocation of centralized investments for joint financing of the investment project;
- Financial , advisory and informational support.

According to part 2 of this article, the application of benefits to investors and foreign investments is indicated as one of the methods of state support of investment activities.

According to Article 34 of the Law, granting concessions and preferences for state support of investments and investment activities by the state may include:

- transfer of state-owned objects or property rights to them to an investor at a preferential or zero purchase price;
- providing tax and payment benefits;
- subsidizing interest rates on loans taken by the investor for the implementation of the investment project.

Privileges and preferences are granted based on:

Scale of investments;

the conditions of the place where the investment project will be implemented;

to the expected socio-economic effect and creation of new jobs;

investment project implementation.

Taxes and payments are granted in accordance with the law.

According to part 5 of this article, benefits and preferences are given to investors who intend to make investments in the relevant area based on the level of development of the infrastructure of the area. In other words, more benefits can be given to investors in areas with lower infrastructure.

the Tax Code of the Republic of Uzbekistan, enterprises specializing in the production of products (providing services) in economic sectors according to the list approved by legislation, established with the attraction of foreign direct investments specific features of the application of special tax benefits are provided for in the prescribed manner.

Article 36 of the law defines the investment subsidy as a privilege for investors, and in accordance with it, financial assistance provided in the form of investment preference for the implementation of the investment project of the Government of the Republic of Uzbekistan to ensure the necessary engineering and communication conditions, as well as to provide benefits can give investment subsidy as mak.

The investment subsidy in the form of necessary engineering and communication conditions for the investor is provided by the Republic of Uzbekistan through the



construction of external engineering and communication networks leading to the object of investment activity.

Investment subsidies can also be given as tax and customs incentives.

As customs benefits, it can be assumed that investors will be given relief in customs payments.

Article 40 of the law is called the procedure for concluding an investment agreement with the Government of the Republic of Uzbekistan, and this procedure is considered significant as it mainly includes procedures for granting privileges and preferences.

According to this article:

The Government of the Republic of Uzbekistan may conclude an investment agreement in order to ensure the fulfillment of obligations by foreign investors, who are provided by mutual agreement with additional guarantees and support measures (benefits and preferences).

An investment agreement with the Government of the Republic of Uzbekistan without fail is concluded if the Government of the Republic of Uzbekistan provides a foreign investor with additional guarantees and support measures (benefits and preferences) in the framework of state support for investments and investment activity.

Additional guarantees and support measures (benefits and preferences) are provided to foreign investors in each specific case when investing:

in priority sectors ensuring sustainable economic growth, progressive technological changes in the country's economy;

in priority projects that ensure the strengthening and expansion of the export potential of the Republic of Uzbekistan, its integration into world economic relations. Moreover, additional tax and payment benefits are provided to enterprises with foreign investments created by foreign investors only for a specific period and cannot be perpetual unlimited.

This article does not in any way limit the validity of investment agreements between an investor on the one hand and other subjects of investment activity on the other, including state and local government bodies concluded in order to ensure fulfillment of obligations on investment projects that do not require the Government of the Republic of Uzbekistan to provide an investor additional guarantees and support measures (benefits and preferences) in the framework of state support for investments and educational activity[1].

Also, in Article 42 of the law, the conditions of the investment agreement concluded with the Government of the Republic of Uzbekistan are defined, and among these conditions, the provision of benefits is established. In accordance with it, the following clause is also one of the terms of the contract: rights and obligations of the



Government of the Republic of Uzbekistan, including the provision of guarantees and support measures (benefits and preferences) additional to those established by legislation on investments and investment activity is considered.

Investment activity and tax benefits given to investors are defined directly in the Tax Code. Article 471 of the Code stipulates the conditions for taxation of legal entities involved in private foreign direct investment. According to this article,

For legal entities, which are established with the participation of direct private foreign investment, and specialize in the production of goods (provision of services) in the sectors of the economy which are indicated in the list approved by legislation, the special considerations of the application of benefits with respect to certain taxes shall be provided.

Foreign direct investment shall be understood to mean investments, which are invested without a guarantee of the Republic of Uzbekistan by physical persons, who are citizens of a foreign state, stateless persons permanently residing outside the Republic of Uzbekistan, as well as foreign non-state legal entities.

Legal entities specified in part one of this Article shall enjoy tax benefits in the form of exemption from land tax, tax on assets and tax for the use of water resources, for a time limits determined by the decision of the President of the Republic of Uzbekistan, depending on the volume of direct private foreign investments.

An enterprise with the participation of direct private foreign investments shall have the right to enjoy other tax benefits provided for by tax legislation.

Regarding the procedure for applying the above tax benefits, in Article 472 of the Code, it is called the procedure for applying tax benefits by legal entities involved in private foreign direct investment, and the Code Tax benefits provided for in Article 471 are applied if the following conditions are met:

- 1) where legal entities have placed in territories determined by legislation;
- 2) where foreign investors invest direct private foreign investments without a guarantee of the Republic of Uzbekistan;
- 3) where the share of foreign participants in the charter fund (authorized capital) of legal entities is not less than 33 percent, and for joint stock companies — not less than 15 percent;
- 4) where foreign investments have been invested in the form of freely convertible currency or new modern technological equipment;
- 5) where not less than 50 percent of the income, which is received as a result of the application of tax benefits provided for in Article 471 of this Code during the period of their application, has been directed to reinvestment for the purpose of further development of production.





In the event where the activities of a legal entity with the participation of direct private foreign investments which received tax benefits provided for in Article 471 of this Code terminates earlier than one year upon the expiry of the time limit for which they were provided, the repatriation of profit and the export of capital of the foreign investor abroad shall be carried out only upon compensation of the amounts of tax benefits, which have been granted, to budget.

Since the participants of the special economic zones are mainly investors, there are specific features of taxing them. According to Article 473 of the Tax Code, conditions for taxation of participants of special economic zones:

Participants of special economic zones shall enjoy tax benefits in the form of exemption from tax on assets, land tax and tax for the use of water resources, for a time limits determined by the decision of the President of the Republic of Uzbekistan, depending on the volume of investments.

first part of this article the specified tax benefits are applied only to the types of activities of the participant of the special economic zone provided for in the agreement on investment in the territory of the Special Economic Zone concluded between the investor (investors) and the Directorate of the Special Economic Zone [2].

Through these benefits, the process of capital investment in areas important for development will be accelerated and economic potential will grow.

investment activities and giving benefits to investors, it is considered that the decrees of the president have been adopted and the benefits have been determined.

According to paragraph 1 of the decree of the President of the Republic of Uzbekistan **"On additional measures to encourage the attraction of private foreign direct investment"**

Established with the attraction of foreign direct investment and to the application to the production of products in economic sectors according to the corresponding list (services to show) the following direct private foreign to specialized enterprises investment volumes separately according to the procedure established by the Tax Code of the Republic of Uzbekistan **specific features of the application of tax benefits are** provided:

300 thousand US dollars to 3 million US dollars - for a period of 3 years;

more than 3 million US dollars and up to 10 million US dollars - for a period of 5 years;

the case of more than 10 million US dollars — for a period of 7 years.

Code of the Republic of Uzbekistan, specified in paragraph 1 of this Decree, will be applied to the placement of enterprises in all cities and residential areas of the republic, except for the city of Tashkent and the Tashkent region. let it be Such



territorial limitation does not apply to enterprises operating in the field of tourism and waste management .

These exceptional restrictions show that the benefits are applied more to the regions and sectors that need to be developed more.

The list of economic sectors in which the benefits for private foreign direct investments are introduced is given in the form of an appendix, and their number is 22.

Decree of the President of the Republic of Uzbekistan dated April 11, 2005 No. DP-3594 "On additional measures to stimulate the attraction of direct private foreign investment" No. DP-4434 was adopted. In accordance with paragraph 2 of the decree, it should be noted that there have been changes in the tax legislation within 10 years from the date of state registration of enterprises with participation of newly established foreign investments in which the share of the foreign investor in the form of money is not less than 5 million US dollars. in cases, profit tax from legal entities, value added tax (turnover of sales of goods, works, services), property tax, flourishing and social infrastructure development tax, single social payment, the single tax payment, as well as mandatory allocations to the Republican road fund and the out-of-budget fund for the development of the material and technical base of educational and medical institutions under the Ministry of Finance of the Republic of Uzbekistan from the state register of these enterprises have the right to apply the norms and rules in effect on the date of transition.

It is important that the norms for maintaining the privileges given in this clause even if the legislation changes.

6. In order to establish enterprises with participation of foreign investments to the State Commission for conducting tender (competition) sales in the sale of state property to foreign investors, with the investor under the obligation of specific investment in low-liquidity objects on the balance sheet of local government bodies. to be given the right to sell at "zero" purchase price without holding a tender by concluding direct contracts.

it is clearly defined to give objects to investors without any tenders and at zero value.

7. The Ministry of Foreign Affairs of the Republic of Uzbekistan, the Ministry of Internal Affairs shall issue entry visas and multiple-entry visas for 12 months to officials and specialists of foreign companies participating in the implementation of investment projects according to the orders of ministries, departments and economic associations.

there is a rule about the benefits given directly to the investors .





It should be noted that the list of economic sectors in which incentives for private foreign direct investments are introduced is given in the form of an appendix, and their number is 22 in DP-3594. If there is, it will cost 20 in DP-4434.

If we continue our analysis with the experience of foreign countries, we found it appropriate to use the experience of countries that have achieved high indicators in terms of attracting investors.

At the present time, Southeast Asian countries, which belong to 3 countries and are also members of ASEAN (Association of Southeast Asian Nations), have surprised the world with their all-round investment attractiveness.

One of them is the country of *Malaysia*. Investment activities are regulated by Malaysia's 1986 Investment Promotion Act. Also, the Industrial Coordination Act of 1975 and the Environmental Quality Act of 1974 define investment rights and obligations.

According to the "Investment Promotion Act" of 1986, allotment of objects to investors on favorable terms as a benefit to the investor and There is a norm on granting a tax holiday for 5 years. In Malaysia, there is a specific motivational feature of granting incentives, according to which, if the investment project of the investor is based on high technology ("high technology") as a novelty in the industry, a 100 percent profit tax holiday is granted. If a general investment project is proposed, a 70 percent profit tax holiday is given [3].

Singapore is a country that has created a unique "miracle" in the economy, and the role of investments in it is incomparable. In Singapore, the attitude towards investors is unique. The reason is that there is no specific law on investments in the country, and investment activities are regulated by the Singapore Companies Act. However, various benefits are reserved for investors. Also, these benefits apply not only to foreign investments, but also to local investments. These tax benefits are applied to "approved" investment projects, regardless of whether they are foreign or domestic investment, according to Section 10 of the "Act on the Extension of Economic Benefits" [4].

The peculiarity of this rule is that it serves to ensure the stability of the country's economy as a result of increasing enthusiasm of the local investor to invest in his country.

Indonesia is also in the leading position in terms of attracting investors. The Law on Investment was adopted in a new version in 2007, and this law defines the form of an investment company, the privileges granted to them, the rights and obligations of investors.





According to the Law on Investment, it is necessary to form a foreign investor in the form of a limited liability company.

of Indonesia's Investment Law is called "Investment Opportunities". According to Article 18 of the Law, the following benefits can be granted to investors:

- deductions from profit tax for a certain time and at a certain level ;
- and unique products , which receive benefits in import payments ;
- value -added tax holiday or preferential postponement of the tax payment period for investment capital, machinery and non-locally produced and unique products
- exemptions from property tax for a certain period in a certain area.

In the country of China, which is called the leader of the third world, it has set special benefits for foreign investors.

China 's "Foreign Investment Law" was adopted in June 2019 and consists of Article 42. Section 3 is called "Investment Support". According to Article 13 of the law, the state establishes separate special economic zones for foreign investors or determines the procedures for supporting foreign investors in this area and assigns special privileges to the state investor through a contract.

The Netherlands does not have a separate law on investment, but despite this, it ranks high in the world in terms of investment attractiveness. First of all, the laws in the Netherlands, like in Singapore, serve to create equal opportunities for local and foreign investors. Also, favorable conditions for living and working in the country will be created for immigrants. An important point is that the Netherlands has signed agreements with more than 90 countries to avoid double taxation of capital and profits.

Cash dividends, bonus contributions and capital funds are not subject to tax under Dutch tax law. In addition, if the investor brings a high-class foreign worker, the investor will get a 30% tax discount [5].

Summary

The regulatory legal documents, which clearly define the rights and obligations of investors in the field of investment activities in our country and are directly aimed at regulating their activities, as well as guaranteeing the rights of investors, as well as the benefits granted to investors on the basis of them, served to significantly increase the flow of investors to the country.

By using the experience of countries that have achieved high results in attracting investors, we would have important directions to further increase the investment attractiveness of our country. Based on the above analysis, if the following *proposals* are implemented, the investment activity will be further developed.





First, as one of the positive aspects of Singapore's experience, the introduction of many benefits in the field of investment not only to direct foreign investors, but also to local investors.

Secondly, based on the experience of Malaysia, it is possible to achieve a further increase in the quality of investments by determining the ratio of benefits based on the extent to which investment projects are based on innovative and effective use of high technologies in the field.

Thirdly, based on the experience of the Netherlands, to consider the prospects of applying in legislation the conditions that provide additional benefits to investors for highly qualified employees who enter together with investments.

Fourth, according to the experience of the Netherlands, by increasing the double taxation agreements with foreign investors, the investor's attention should be more focused on our country.

References:

1. "On investments and investment activity" Law of the Republic of Uzbekistan, O'RQ -598 (December 25, 2019, number 03/21/683/0375) 2019.)
2. Tax Code of the Republic of Uzbekistan *National Database of Legislation*, (30.12.2019 , No. 03/21/726/1001)
3. Promotion of Investments Act of Malaysia (PIA) 1986.
4. Economic Expansion Incentives of Singapore.
5. <https://www.companyformationnetherlands.com>
6. *On Additional Measures to stimulate the Attraction of Foreign Direct Foreign Investment, Tashkent, April 11, 2005, No. UP- 3594. National Database of Legislation, (April 11, 2005, No. 06/20/6075/1330)*
7. *Decree of the President of the Republic of Uzbekistan on additional measures to stimulate foreign direct investment. Tashkent, April 10, 2012, No. DP-4434. National Database of Legislation, (April 10, 2011, No. 06/21/6218/0398)*
8. International Institute for Sustainable Development IISD.org. Jonathan Bonnitch. December 2017
9. The new Chinese Foreign Investment Law, July 2019.
10. Qobiljon o`g`li, A. A. (2021). The Concept, Types and Licensing Procedures of Activities that Must Be Licensed in International Investment Law. *International Journal of Development and Public Policy*, 1(6), 188–193.
11. Alijonov, A. (2021). DECISIONS (COMPENDIUMS) OF INTERNATIONAL ORGANIZATIONS AS A SOURCE OF INTERNATIONAL INVESTMENT LAW. *Збірник наукових праць SCIENTIA*.





12. Shavkatugli, D. N. (2022). Conciliation as a Means of Adr Vs Arbitration and Mediation. *European Multidisciplinary Journal of Modern Science*, 6, 430-436.
13. Umidzhonovich, Nurullaev Farrukh. "The Perspectives of the Establishment of Multi-Door Courthouse Centers in the Republic of Uzbekistan and Online Dispute Resolution is Another Step on the Way to Justice." *European Multidisciplinary Journal of Modern Science* 6 (2022): 469-473.
14. Jobirovich, S. F. (2021). History of Uzbekistan's Legislation on Investment - A Comparative Study of Uzbekistan and Some Developed Countries Investment Legislation. *International Journal of Development and Public Policy*, 1(6), 228–232. Retrieved from.

