

NEW INVESTMENT ACT

Law No 551-VIQ, dated 22 June 2022, *On Investing [Investment Activity]*, came into effect on 28 July 2022. The Law, *On Protection of Foreign Investments*, dated 15 January 1992, and the Law, *On Investment Activity*, dated 13 January 1995, cease to be effective with the enactment of the Law. The more favourable regime available to investors under these two previous laws remain in force for the period of coming ten years.

The new Law applies to investing carried out by local and foreign investors in Azerbaijan, saved for the activities in the Alat Free Economic Zone (governed by the Law, *On Alat Free Economic Zone*) and those carried out by governmental agencies (governed under the procedure to be established by the Cabinet of Ministers within five months of the Law's coming into effect).

Measures promoting investments under the Law include: (i) defining tax relief advantages and exemptions from other state payments, (ii) availability of low-interest loans, (iii) creation of special economic zones and industrial parks, (iv) expansion of public-private partnership mechanisms, and (v) sharing information of available investment projects and the regime applicable to them with local and foreign investors through online platforms.

Pursuant to the Law, the following projects are the preference investment projects:

- innovative projects aimed at developing technological capacity of Azerbaijani economy;
- promoting the use of eco-friendly technologies and efficient use of natural resources;
- promoting a healthy lifestyle among the population;
- aimed to develop social infrastructure and various sectors of the economy;
- requiring the expertise and skills to match with the current demands; and
- ensuring the development of regions of Azerbaijan.

One of the main directions of the state policy in the field of investment activity according to the Law is the introduction of digitalization of services provided to investors and making such services available to them on the basis of a one-stop-shop mechanism. The Cabinet of Ministers has an obligation to prepare within three months of enactment of the Law the proposals regarding the digitalization of services.

Investors can use all legal sources of funding the investments, cease or suspend investing at any time, participate in the privatisation of the state-owned property, obtain information required for carrying the activity from the governmental authorities, and, subject to complying with the tax and currency control regimes, transfer income and assets overseas in a freely convertible currency or in another form.

Investment income includes:

- profits, dividends, interest, royalties and other income;
- profit resulting from the sale and other alienation of the investment;
- payments for compensation and damages; and
- earnings of migrant workers associated with their investments.

Foreign investors as provided under the Law are subject to equal treatment with domestic investors. However, the provisions of the Law establishing a non-discrimination regime shall not affect the application of the local laws upon a significant threat to the public safety, environmental safety, public order, and the security and economic interests of the State.

Investments are protected against nationalisation and expropriation without an investor's consent except where a requisition is allowed under the Civil Code, *i.e.*, only for the State needs and public interests in the cases of natural disasters, technological accidents, epidemics, and other circumstances of an emergency. If the nationalisation or expropriation does take place, an investor is paid a fair-market-value compensation of the investment in a freely convertible currency (and, for local investments, in the currency of the investment).

In the case of disputes and a failure to reach a settlement between the parties and subject to exhaustion of local remedies, the Law allows investors to bring their case to an international arbitration. Decisions of international arbitration on investment-related disputes shall be recognised and executed in accordance with the international agreements, which the Republic of Azerbaijan is a party to.

**PLEASE CONTACT US FOR ANY QUESTIONS AND FURTHER
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