

A NEW ERA FOR FOREIGN INVESTMENT IN ANGOLA - FCB SOCIEDADE DE ADVOGADOS

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Being an economy heavily dependent on its oil resources, Angola has been struggling to mitigate the effects of the current oil crisis and continue to be one of the most promising emerging economies in the world.

The diversification of the economy is definitely one of the top priorities of the Angolan Government, which is also strongly committed to making the local business environment more attractive and acceptable to private investors.

One of the most important steps in this respect was the enactment of the New Angolan Private Investment Law ("NPIL") – through the approval of Law 14/15, of 11 August – and subsequently the Procedural Regulation for Implementation of Private Investments ("Investment Regulation") with the publication of Presidential Decree 182/15, of 30 September.

The NPIL, which is applicable to both domestic and foreign private investments, eliminated the former minimum threshold of US\$1 million for foreign investments, which seems to be a clear message that all sustainable and value-added investments are welcome, irrespective of the amount involved.

From a tax perspective, under the NPIL and the Investment Regulation, investments below US\$1 million will not be entitled to any tax benefits. Tax benefits are not automatically granted to the investor and will be granted on a case-by-case basis: (i) depending on the quality of the investment, that is, on the amount, location and duration of the investment, the creation of partnerships between Angolan and foreign entities and the social and economic impact of the investment; and (ii) taking into consideration the tax incentives table attached to the NPIL. The new law also introduced a new supplementary tax on capital investment. This new supplementary tax ranges from 15 per cent to 50 per cent and applies to the part of distributed dividends or profits exceeding the foreign investor's stake in the company's equity.

The NPIL also introduced sectorial limitations by stating that some sectors now require the establishment of local partnerships, in which the local partner must hold at least 35 per cent of the share capital and an active participation in the management of the company. These include: (i) power and water; (ii) hotels and tourism; (iii) transport and logistics; (iv) civil construction; (v) telecoms and IT; and (vi) media.

In terms of procedure, the approval process itself has remained quite similar to that before the NPIL but the new private investment regime brought a major innovation by establishing that, for investments of up to US\$10 million, the process should be handled by government ministries which must create their own private investment technical unit, the choice of ministry being dependent on the sector in which the investment will be made. This should afford foreign investors the comfort that their projects will be assessed by an authority with the most experience and sensitivity in the relevant area.

For investments in excess of US\$10 million, the process is handled by a specialist technical investment unit and shall be approved by the President of the Republic himself, which however, may delegate such power to the ministry responsible for the sector in which the investment will be made.

After an adaptation period, mainly involving the ministries themselves, this new regime is now fully in force and the benefits to the local economy and to foreign investors are quickly becoming visible. Notwithstanding the current economic outlook, the opportunities to invest in Angola are plenty and not limited to the oil sector. The government is clearly evidencing that it is ready to welcome and support investments that aim to contribute to the growth of the economy.

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