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## LAW ON FREE ZONE

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## THE LAW ON FREE ZONE

### I. GENERAL UNDERSTANDING

The purpose of this law is to set out principles pertaining to establishment, reorganization and dissolution of Free Zone, their location, management powers, control systems, and determines the legal basis for taxes, customs, entry/exit clearance, registration of legal entities and individuals, and employment to be adopted at Free Zone and regulates the relations connected therewith.

"Free Zone" means a special site within the territory of Mongolia that are deemed to be outside of the customs territory for the purposes of customs area, customs duties and other taxes, adopting special regulatory treatments for a business activity. The purpose for establishing a Free Zone is to increase an economic growth by ways of accelerating regional development, facilitating trade, introducing and adopting new technologies, increasing transits and logistics, developing new industries of trade and services and tourism, attracting investments, promoting exports and imports by individuals and business entities and developing export-oriented production upon creation of favorable regulatory and investment environments in the region. There are currently 4 Free Zones in Mongolia, of which Tsagaannuur, Altanbulag, and Zamiin-Uud free zones are actively operating. According to Resolution No. 10 of 2022 by the State Great Khural of Mongolia, the Khushig Valley Economic Free Zone was established in Sergelen Soum, Tuv Aimag.

#### ***Establishment, Reorganization and Dissolution of Free Zones***

The State Great Khural shall make resolutions with regard to establishment of a Free Zone in the territory of Mongolia, determination of its location, size of an area to be allocated to the Free Zone, its boundaries, and its reorganization, dissolution, and defining types and areas of operation upon submission of the Government. Free Zones shall be set up in border areas or in such regions as recommended by the Government.

A cross-border Free Zone may be set up under an agreement or treaty entered by Governments. The policies and directions to be adopted by such Free Zone shall be subject to an agreement signed with the relevant country. In accordance with inter-governmental agreements, an economic cooperation zone may be established with a neighboring country, and the policies and directions to be followed in a Free Zone as well as the issue of connecting them through cross-border facilities shall be regulated by the agreement concluded with the relevant country.

The Government shall make a decision on opening or temporary closure of the Free Zone activities upon the proposal of the Cabinet member in charge of Free Zone issues. If the issue of opening or temporarily closing the activities of an economic cooperation zone is specified in the international agreements concluded with the neighboring countries and relevant laws and regulations except for clause 6.4, it shall be resolved in a diplomatic way.

### II. MANAGEMENT OF FREE ZONE

### The Cabinet Member in charge of Free Zone

- formulate policies and directions to be adopted by the Government with respect to Free Zones;
- develop a proposal on establishment, reorganization or dissolution of a Free Zone and submit it to the Government for review;
- coordinate the operations of Free Zones and provide overall management;
- coordinate activities of governmental agencies and legal entities operating at Free Zones;
- ensure control over implementation of resolutions and decisions issued by the State Great Khural and the Government in relation to Free Zone's development projects or Free Zones;
- approve the rules and procedures to be followed in operations of a Free Zone;
- determine the eligibility criteria for projects and programs offered by the Investor's Council; and
- others stipulated in the law.

### Free Zone Governer

- issue an order in respect of matter of his/her functions to give effect to the laws. If such order is inconsistent with the laws and regulations, the Governor or the Cabinet Member in charge of Free Zone issues shall modify or revoke such order;
- represent the Free Zone in matter relating to operations of the Free Zone and make decisions within the authority his/her powers;
- prepare draft program and budget for the development of Free Zone for approval and ensure implementation;
- enter into agreements and contracts on behalf of the Free Zone;
- facilitate infrastructure and construction of the Free Zone, be in charge of utilization of state-owned facilities and ensure a control;
- register and deregister legal persons operating in the Free Zone;
- issue a land use license to individuals, business entities or organizations in the territory of the Free Zone;
- require business entities to sell goods and products having specific origin, trademark and barcode;
- facilitate and coordinate public order, fire safety and emergency services in the territory of the Free Zone;
- grant licenses for sales and service of alcoholic drinks, sales of cigarettes, or for production of alcoholic beverages produced by traditional technology as per the procedures approved by the Government for the purpose of exporting as specified in the Law on Licensing;

### III. SPECIAL REGIME OF ACTIVITIES IN FREE ZONE

Special Regimes shall be maintained in the Free Zones in terms of customs, visa, travel of Mongolian nationals, foreigners and aliens, registration of legal entities, currency regulation, specialized inspection, employment, taxation and other areas.

#### ***Customs clearance***

*Customs clearance shall be performed on the basis of the following documents when entering the goods into the free zone:*

- Cargo manifest, transport documents and, if necessary, relevant permits for goods brought into the free zone from abroad;
- In addition to above documents, tax receipts will be required for goods entering the Free Zone from the territory of Mongolia.

*Simplified Customs Clearance shall apply to following goods:*

- In addition to passenger's personal items, goods up to a total value of 3.0 million MNT purchased by passengers entering the customs territory from a Free Zone;
- Goods imported from abroad into the free zone and exported from the free zone;

No non-tariff restrictions will be imposed on goods imported from abroad into the free zone and exported from the free zone. A risk-based customs control shall be exercised against goods imported into the Free Zone.

Any business entity or organization operating in the Free Zones shall be connected to a customs office through an electronic data network and the registration of goods imported into the Free Zone shall be completed electronically.

### ***Special visa regime in Free Zone***

National of a neighboring country adjacent to a Free Zone located in a border port may visit the Free Zone without a visa for a period of 30 days. A travel by a national of a third country shall be subject to the terms and conditions of mutual visits provided by the international agreement to which Mongolia is a party.

A foreigner with a residence permit in Mongolia and an "entry-exit" visa can travel without a visa in any Free Zone during the period of stay and visa.

### ***Registration of Legal Entity in Free Zones***

*A legal entity to be engaged in a Free Zone business activity shall submit the following documents to the Governor's office:*

- If the legal entity is Mongolian, an application, a copy of legal entity state registration certificate, a registration fee payment receipt;
- If the legal entity is foreign, an application, a copy of documents certifying the foreign legal entity, a power of attorney, and a registration fee payment receipt.

The office of the Free Zone Governor will review the application within five working days after receiving and if they find the application of the legal entity meets the requirements specified in the relevant regulations. The legal entity will be registered in the Free Zone and will be issued a certificate. The certificate is only valid in that particular Free Zone.

A Legal entity registered in the Free Zone Governor's office may cooperate with other legal entities on the basis of a contract and the legal entity to cooperate shall be registered in accordance with the Law on Free Zone and obtain a registration certificate.

*A Legal entity operating in a Free Zone shall be removed from the register on the following*

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*grounds:*

1. Failure to commence the main production or service specified in its memorandum and articles of association or charter within a one-year period from the date of signing of the investment agreement and issuance of certificate of legal entities of a Free Zone;
2. Interruption or cessation of operation due to reasons dependent on itself for a consecutive 12 months' period after commencement of its operation;
3. Court decision was issued on liquidation;

### ***Inspection in Free Zone***

Investigations shall be carried out on the following grounds:

- There is a requirement to inspect due to special condition of livestock, animals, plants, or quarantine during the customs inspection;
- Complaints were received with regard to products, goods, food hygiene, quality of facilities or environmental pollution within the Free Zone.

### ***Special tax regime in Free Zone***

*The following tax exemptions and discounts shall apply to a Free Zone:*

1. Goods imported from overseas to a Free Zone shall be exempt from the levy of import tax, customs duties, VAT, and excise tax;
2. No tax shall be imposed on goods entering a Free Zone, which are previously imported into the customs territory upon payment of import tax, customs duties, VAT, and excise tax. Deductions shall be made from other taxes against payment receipts for taxes paid in the customs territory;
3. VAT shall be charged at "0" rate when Mongolian goods are brought into a Free Zone from the customs territory;
4. In addition to visitor's personal items, goods up to a total value of 3.0 million MNT purchased by visitors entering the customs territory from a Free Zone and
5. Goods other than those referred above shall be subject to the customs duties and other taxes under applicable laws when entering the customs territory from a Free Zone;
6. No taxes shall be levied on goods exiting a Free Zone to overseas;
7. VAT shall not be imposed on goods produced and sold, works performed, and services rendered in the territory of the free zone by citizens and legal entities registered in the Free Zone.
8. Facilities constructed and registered in a Free Zone shall be fully exempt from immovable property tax

The Government may approve a list of goods up to a total value of 3.0 million MNT from time to time excluding excise duty goods, drugs, medical devices and biologically active products.

In the event of dissolution or cessation of operation by a business entity or an individual operating in a Free Zone for reasons other than bankruptcy prior to the expiry of an agreement signed with the Governor of a Free Zone, the sum of rates of tax credits and/or exemption shall be calculated as transferred into tax debts of the business entity.

## **IV. BUSINESS ACTIVITIES IN FREE ZONE**

All types of business activities that are in conformity with the requirement of the effective regulations of Mongolia, including production, services, tourism, trade, international banking, finance, paid puzzle games and gambling games are permitted in a Free Zone. Any business activity for which licensing is required in a Free Zone shall be subject to Law on Permit.

### ***Revenues from Business Activities of Free Zone***

*The Governor's Office will collect the following revenues in the state budget:*

- income tax and charges of business entities, organizations or individuals of a Free Zone;
- fees for possession or utilization of state-owned buildings and facilities located in a Free Zone and rendering of services;
- land fees;
- revenues from other business activities and services;

Up to 20 percent of the revenues referred above shall be used for the development of a Free Zone, acceleration of infrastructure construction works, increasing economic efficiency and supports of local development.

### ***Investors' Council***

A Free Zone shall have an Investors' Council consisting of representatives of investors with the purpose of attracting investment, protecting investors' interests and supporting and promoting the development of a Free Zone. The Investors' Council shall be governed by its charter approved by its meeting.

An investor may implement a Free Zone management on the basis of agreement signed with the Cabinet member in charge of Free Zone issues.

## **V. LAND RELATIONS IN FREE ZONE**

The Free Zone area does not belong to the Port area. The Free Zone Governor shall issue a decision on use of land by individuals, business entities or organizations within the territory of a Free Zone and specify the size of area to be used and a period of possession or use in the decision. The Governor's Office shall conclude an agreement with land users. And the Government shall determine the basic value and an amount of land fees for a land to be used by individuals, business entities or organizations in a Free Zone.

The rights for land use shall be granted in the form of either by project selection/tender or auction. A certificate of rights for land possession or use shall be issued to a legal entity who passed a tender process in a Free Zone after such legal entity has paid one-time fee equal to the nominal value of an auction set by ratio in accordance with the applicable laws and regulations.

Other relations pertaining to use of land in a Free Zone that are not specified in Law on Free Zone shall be governed by the Land Law.

### ***Land fee exemption and discount***

A business entity engaged in trade, tourism or hotel/hospitality services shall be fully exempt from land fees in terms of land used in a Free Zone during the first 5 years of its operation and 50 percent during the subsequent 3 years respectively.

A business entity and its branches engaged in infrastructure and production in a Free Zone including energy and thermal sources, engineering network, pure water supply, sewage and sanitary system, auto road, railway, airport and communications network shall be fully exempt from land fees in terms of land used in a Free Zone during the first 10 years of its operation.

A Mongolian or foreign national or legal entity who concluded a land use or land possession agreement in a Free Zone may be exempted from the land fee for a certain period of time in consideration of performance of their obligations in respect of effective land use or protection.

## **VI. SECURITY OF FREE ZONE**

The security functions of a Free Zone located at the border port shall be performed under an agreement signed with the relevant agencies. Fighting against crime, protecting public order and ensuring public safety of a Free Zone shall be the responsibility of a police organization and national army.

### **Sources:**

1. Convention on the Unification of Customs Clearance (1973)
2. Law of Mongolia on Free Zone (2015)
3. Law of Mongolia on Customs Tariffs and Customs Duties (2008)
4. Procedures for implementation of the free zone regime (2019)

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