

Tax Alert#2

The new Law on Free Trade Zone is introduced

25 March 2015



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Following the adoption of the new version of the Law on Free Trade Zone by the Parliament on 12 February 2015, this alert summarises main highlights of the new law.



I. The purpose of the law

Effectively from the date of approval, the new “Law on Free Trade Zone” (the Law) sets a special regime which covers establishing, altering and closing down the free trade zones (FTZs), as well as regulates the location, administration, control, taxes and customs duties, checkpoint, state registration of individuals and legal entities in FTZs.

The main purpose of establishing FTZs is to increase economic development by creating favourable legal and investment environment and developing advanced technologies and infrastructure in the regions.

Previous versions of the law on FTZs including ‘Law on Free Trade Zone’, ‘Law on Altanbulag FTZ’ each dated 28 June 2002, ‘Law on Zamiin-Uud FTZ’ dated 20 June 2003 and ‘Law on Tsagaannuur FTZ’ dated 18 December 2003 are cancelled.

However, previously established FTZs such as Zamiin-Uud, Altanbulag and Tsagaannuur shall continue operating though they are now regulated under the new Law since its effective date.

II. Establishing Free Trade Zones

According to the new Law, FTZs can be established not only at the border ports but also in qualifying regions proposed by the Government (subject to the Parliament’s approval).

FTZs are under the state protection. A joint free border trade zone covering multiple countries’ borders can be established and it will be regulated through international agreements between the Governments.

III. Tax and customs regime

VAT

- Goods imported to FTZs are not subject to value added tax (VAT). If goods are to be transferred from the customs territory to FTZs, there will also be no VAT on those goods and any previously paid VAT will be reimbursed accordingly.
- Zero VAT applies to domestic goods to be transferred from the custom territory to FTZs.
- In addition to purchases per article 38.1.4 of Law on Custom Tax and Tariff (which refer to goods for passengers’ personal use), purchases in FTZ up to MNT 3 million made by passengers are exempt from VAT when entered into the customs territory.
- No VAT applies to goods and services manufactured and sold by individuals and businesses registered in FTZs are not subject to VAT.

Customs and Excise

- Goods imported to FTZs are not subject to customs and excise taxes. If goods are to be transferred from the customs territory to FTZs, there will be no customs and excise taxes on those goods and any of these taxes previously paid will be reimbursed.
- In addition to purchases per article 38.1.4 of Law on Custom Tax and Tariff (which refer to goods for passengers’ personal use), purchases in FTZs up to MNT 3 million made by passengers are exempt from customs tax when entered into the customs territory.
- Any goods except purchases made by passengers as mentioned above, are subject to customs, and related taxes as required in the regulation when transferred from the FTZs to the customs territory.
- Goods exported from the FTZs are not subject to taxation.

CIT

- Businesses that have invested USD500 thousand or more in FTZs operating to improve infrastructures such as energy and heating source, pipeline network, clean water supply, wastewater sewage, auto road, railway, airport, and basic communication line shall receive Corporate Income Tax (CIT) credit equal to 50% of their invested capital in the FTZ.
- Businesses with more than USD 300 thousand investment in building warehouse, loading and unloading facility, hotel, tourist camp, or manufacturers of export and import-substituting goods in FTZ shall receive CIT credit equal to 50% of their invested capital in FTZs.
- After completing the development stage, entities registered in FTZs can utilise their accumulated tax losses, reflected on their CIT return, within 5 consecutive years.
- Entities using innovated and enhanced technology in their businesses shall be fully exempted from CIT for the first 5 years starting from becoming profitable.

Land payments and property taxes in FTZs

Individuals and businesses may request a land ownership and usage right in FTZs through either project bid or auction.

For entities operating in trade, tourism and hotel sectors in FTZs are fully exempted from land ownership and usage right payment for the first 5 years from the operation start. This payment is further reduced up to 50% for the following 3 years.

Businesses operating to improve infrastructures in FTZs such as energy and heating source, pipeline network, clean water supply, wastewater sewage, auto road, railway, airport, and basic communication line will be fully exempted from land payment for the first 10 years from the operation start.

Buildings and facilities built and registered in FTZs are fully exempted from the immovable property tax.

III. Other special regime

Labour conduct

Foreign labour force quota ratio is not applicable for companies employing foreign individuals in FTZs.

Companies employing and providing income for foreign individuals in FTZs shall be fully exempted from foreign employee fee payment.

Visa

- For FTZs established on border ports, citizens from bordering countries will be granted 30 days visa-free access to FTZ and citizens from non-bordering countries will be regulated according to the Governments international agreements.
- One time extension of 30 days to stay in FTZ is allowed to the individuals mentioned above.
- For foreign individuals who hold valid permission of residency in Mongolia or entry/exit visa, they are allowed to travel to any FTZ's during the permission/visa's valid period without the requirement of additional visa to FTZs.
- Foreign individuals and stateless person may enter FTZ with a valid passport or an equal document.

State registration

- State registration of entities registered in the FTZs would be applicable only in FTZ in which they are registered.
- State registration for FTZs shall be suspended if:
 - the entity fails to start agreed upon operation within a year after being registered in the FTZ;
 - operation discontinued for more than 12 months for reasons which were under the entity's control or court decides to close down the entity.

Constructions and infrastructures

Constructions and infrastructures in FTZs can be built under the concession agreement.

In addition to the concession agreement, infrastructures in FTZs can be financed by the state or local authorities, be means of private investment, foreign loan/aid and government bonds.

IV. Other

Changes were made to other laws to reflect the enforcement of the new Law, including laws on CIT, customs, VAT, property tax, land payment, foreign labour force and border ports.

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