

REPÚBLIC OF MOÇAMBIQUE

Council of Ministers

DECREE 16/2002 of 27 June

The Fiscal Benefits Code approved by Decree 12/93, of 21 July and amended by Decree 37/95, of 8 August and Decree 45/96, of 22 October has been in effect some nine years and there is now a need to revise the Code in order to rationalise the concession of fiscal incentives so that this regime can be more efficient and efficacious as an instrument of economic policy to be used in furtherance of the Nation's development.

On the other hand, during the last few years various special regimes have been created which has resulted in a very scattered system of fiscal benefits and a profusion of legal instruments, which in some cases have overlapped one another. It has become necessary therefore to consolidate these different types of fiscal measures in one single legal instrument.

In these terms, the Council of Ministers, using the authority attributed under article 16.3 of Law 3/93, of 24 June, article 44(d) (e) of Law 14/2002, of 26 June, and by article 24.2 of Law 3/2001, of 21 February, decrees:

Article 1. The Fiscal Benefits Code, which is annexed to this Decree and incorporated as a part hereof is approved.

Article 2. Decree 12/93, of 21 July, which approved Fiscal Benefits Code and including its amendments, Decree 16/98, of 16 April which created the fiscal regime for the Zambeze River Valley, Decree 73/99, of 12 October which established the Hotel Industry and Tourism Fiscal Regime, Articles 23 through 28 of Decree 62/99 of 21 September, which approved the Industrial Free Zone Regulations, Article 5(d) of Decree 14/93, which approved the Investment Law Regulations, as well as other fiscal legislation which is contrary to the provisions of the new Code are revoked.

Article 3. This decree enters into force as of 1 July 2002.

Approved by the Council of Ministers

Let it be published

The Prime Minister

Pascoal Manuel Mocumbi

REPUBLIC OF MOÇAMBIQUE

CODE OF FISCAL BENEFITS

TITLE I

GENERAL PROVISIONS

CHAPTER I

Fundamental Principles

Article 1

(Scope of application)

- 1.The provisions of this Code apply to investments realised by individual and collective persons, provided that such investments have been registered for fiscal purposes.
- 2.The investments referred to in the preceding clause are those realised under Law 3/93 of 24 June (Investment Law), Law 14/2002 of 26 June (Mining Law) and Law 3/2001 of 21 February (Petroleum Law).
- 3.This Code also applies to investments realised indirectly through the Mozambican Stock Exchange in accordance with the respective legislation.

Article 2

(Definition of Fiscal Benefits)

- 1.Fiscal benefits are tax measures that reduce the amount of taxes payable in order to benefit activities having a recognised public social or cultural interest as well as promoting the Nation's economic development.
- 2.Fiscal benefits include tax and customs incentives, namely: deductions from taxable income, deductions from the amount of tax assessed, accelerated depreciation, tax credits, exemption from tax and the reduction of the rate of taxes and other fiscal payments, the deferment of the payment of taxes and other special fiscal measures.
- 3.Fiscal benefits are considered to be fiscal expenses and a duly made declaration of the benefits used in each tax year is required for the determination and monitoring of such benefits.

Article 3
(Right to Tax and Customs Benefits)

1. With the exception of the cases referred to in clauses 2 and 3 of this Article, the undertakings carried out under the Investment Law and the other legislation referred to in article 1.2 shall enjoy the fiscal benefits defined in this Code, provided that the terms, which the undertakings are subject to, are observed.
2. Wholesale and retail commercial undertakings are excluded from entitlement to the fiscal benefits provided for under this Code, except for:
 - a) Rural commerce, under the terms provided in regulations;
 - b) Wholesale and retail commerce undertakings using new purpose-built infrastructure.
3. The effective enjoyment of the fiscal benefits cannot be revoked, nor can any acquired rights be curtailed except for those instances, as established in this Code, where the beneficiary's obligations are breached or if the benefit was improperly granted.
4. Equipment may benefit from the temporary import regime as established in the Preliminary Instructions of the Customs Tariff Schedule.

Article 4
(Transfer of Fiscal benefits)

Fiscal benefits may, while valid, be transferred subject to the terms of the Investment Law and other legislation referred to in article 1.2 and the authorisation of the Minister of Planning and Finance and provided that the benefits are maintained unaltered and the transferee satisfies the requirements for the enjoyment of the benefits.

Article 5
(Supervision)

All individual or collective persons, who are holders of the right of enjoyment of the fiscal benefits governed by this Code, shall be subject to supervision by the Tax Administration and other competent authorities with regard to the control of compliance with the prerequisites for the relevant fiscal benefits and the obligations imposed on the respective enterprise.

Article 6
(Supplementary Legislation)

The provisions of the Collective Person Income Tax Code (IRPC), the Personal Income Tax Code, the Customs Dispute Resolution Code, the Tax Dispute

Resolution Code and the Tax Executions Code and other applicable legislation in force shall apply to any omission in this Code provided that the provision in question does not contradict the intent and provisions of this Code.

CHAPTER II

Procedures to obtain Fiscal Benefits

Article 7

(Recognition of Benefits for Internal Tax Purposes)

Unless provided otherwise, the fiscal benefits applicable to the taxes collected by the Internal Tax Administration shall be accepted on the submission to the relevant tax district Finance Office by the representatives of the undertakings having the right to the fiscal benefits, of:

- the Authorisation and the Authorisation Terms or other legal instrument issued by the competent authority which proves this right,;
- a copy of the declaration of commencement of activity; together with the single tax-identification number (NUI).

Article 8

(Recognition of Import Benefits)

1. In order to enjoy the fiscal and customs incentives provided for under Code which are collected by the Customs Services, the list of goods to be imported exempt from customs duty and other charges which has been approved by the Ministry of Planning and Finance shall be submitted to the Customs Services together with the NUI. and other legally required items. The exemption shall be effective five days after the date of submission of the list and other items to the Customs Services.
2. The approval of the list referred to in the previous clause shall be obtained after the issuance of the investment authorisation on the same conditions established in the Investment Law Regulations and other applicable legislation.

Article 9

(Proof of investments realised)

1. For the purposes of the enjoyment of the income tax benefits provided for under this Code, the representatives of the enterprise with the right to such benefits shall submit a statement using the form approved by the Minister of Planning and Finances indicating the value of the realised investment and the origin of the

acquisitions and expenditure which are the basis of the deductions being claimed, including the invoice number and amount, name of the supplier and the amount to be deducted as well as any accelerated depreciation taken.

2. For the purpose of the Tax Administration's determination of the amount of taxes, the enterprises referred to in the preceding clause shall submit the declaration referred to in article 2.3 of this Code at the same time as the submission of the individual or corporate persons income tax statement.

CHAPTER III

Sanctions

Article 10

(Sanctions which preclude, suspend or cancel Fiscal benefits)

1. Without prejudice to other sanctions permitted under the tax and customs legislation in force, the violation of the provisions of this Code is subject to the application of sanctions which may, depending on the gravity of the infraction, preclude, suspend or cancel the application of the fiscal benefits.
2. The following are infractions that are subject to the sanction of preclusion [of benefits]:
 - a) The failure to register for tax purposes and obtain the single tax-identification number (NUIIT);
 - b) The failure to maintain an organised set of accounts and records as required by the General Plan of Accounts, the Collective Persons Tax Code and the Individual Persons Tax Code, excluding those cases covered by article 3.2(a) of this Code;
 - c) Commission of infractions of a fiscal nature or other recognised by the Tax Administration.
3. The following are infractions that are subject to the sanction of suspension [of benefits]:
 - a) The systematic failure to pay to the State Treasury the taxes to which [the benefit holder] is subject or obligated to withhold;
 - b) The submission of false information with regard to the activities [carried out by the benefit holder];
 - c) The disposal of goods that are the subject of a fiscal benefit or the use of such goods for another purpose without the prior approval of the Fiscal Authority who authorised the benefit;
 - d) The failure to submit the declaration required under article 2.3 of this Code;
 - e) The commission of infractions of a fiscal nature and others recognised by the Tax Administration.

- f) The non-observance of the conditions imposed in the authorisation of the grant of the fiscal benefits.
- 4. The repeated commission of the infractions referred to in the previous clause shall be subject to the sanction of cancellation.
- 5. The sanctions of preclusion, suspension or cancellation of fiscal benefits shall only be applied on the basis of a fiscal infraction related to the particular benefit granted.

Article 11 **(Suspension and Cancellation of Fiscal Benefits)**

- 1. The enjoyment of fiscal benefits shall terminate at the end of the term for which granted or when the sanction of cancellation has been applied.
- 2. The cancellation or suspension of fiscal benefits results in the automatic application of taxation generally provided for by law.
- 3. In the case of the application of the sanction of suspension of benefits, the suspension shall remain in effect until the complete restoration of the situation that caused the suspension, including the payment of the fiscal revenue due within sixty days of the date of notification by the competent services of the amount not collected.
- 4. The holders of the right to fiscal benefits are obligated to declare, with the period of thirty days, that the factual or legal circumstances on which the fiscal benefit is based has ceased, unless the cessation is known informally. The same communication shall be made in the case of the suspension of the fiscal benefits.

Article 12 **(Competency for the Application of Sanctions)**

- 1. The National Director of Tax and Audit is, in co-ordination with the Centre of Promotion of Investments, the competent authority to apply the sanction of preclusion of fiscal benefits provided for under this Code.
- 2. The National Director of Tax and Audit shall also be the competent authority to apply the sanction of the suspension of the fiscal benefits provided for under this Code on the basis of information and opinions provided by the competent fiscal services.
- 3. The Minister of Planning and Finance is the competent authority for the application of the sanctions that cancel fiscal benefits.

TITLE II
FISCAL BENEFITS

CHAPTER I
Benefits under the Investment Law

SUBCHAPTER I
GENERAL BENEFITS

SECTION I
Benefits Regarding the Import of Goods

Article 13
(Exemption of Import duties)

Investments in undertakings authorised pursuant to the Investment Law and Regulations, shall benefit from exemption from payment of import duties on equipment included in class "K" of the Customs Tariff Schedule, without prejudice to the provisions of the following article.

Article 14
(Prerequisite for the Exemption of Import Duties)

The benefits referred to in the previous article shall only be granted when the goods to be imported are either not produced within the territory of Mozambique or, if produced, do not satisfy the specific purpose or operational characteristics required or inherent in the nature of the project and particular activity to be developed and carried out.

SECTION II
Fiscal benefits in Respect of Revenue

Article 15
(Tax Credit for Investment)

1. Investments carried out under the Investment Law shall benefit, for the period of five (5) tax years, from an investment tax credit (CFI) equal to five (5%) percent of the total investment realised. This investment tax credit shall be deductible from the amount of the assessment of the Corporate Income Tax (IRPC) up to the total amount of the tax assessment.
2. In the case of a taxpayer subject to the Personal Income Tax (IRPS), the deduction of the investment tax credit (CFI) referred to in the previous clause

shall be made only in respect of the tax on the total revenues belonging to the Second Category of IRPS derived from the activity benefiting from the incentive. The deduction shall be up to the amount of such tax assessed.

3. Any portion of the tax credit not used in any tax year may be deducted in the following years, provided that the tax credit shall be used within five (5) tax years counting from the date of the commencement of the investment in on-going projects and from the date of commencement of operations for new projects.
4. In the case of investment projects realised in Gaza, Sofala, Tete and Zambézia Provinces, the percentage referred to in clause 1 shall be ten (10%) percent and for investment projects in Cabo Delgado, Inhambane and Niassa Province, the investment tax credit percentage shall be set at fifteen (15%) percent.
5. For the purposes of the provisions of the previous clauses, only investment in new, fixed tangible assets used in the operations of the enterprise within Mozambican territory shall qualify.
6. The provisions of this article shall not apply when the investment in tangible fixed assets is in respect of:
 - a) The construction, acquisition, restoration or extension of any buildings;
 - b) Passenger vehicles;
 - c) Furnishings and articles of comfort and decoration;
 - d) Leisure equipment;
 - e) Specialised equipment considered to be advanced technology under the terms of this Code; and
 - f) Other investment assets not directly or necessarily associated with the productive activity carried out by the enterprise.
7. For the purposes of this Code, the commencement of the investment is considered to occur at the moment when the procedure to acquire the fiscal benefits provided for under this Code are initiated, after the approval of the investment project and the commencement of operations [the moment when the taxable revenue producing operations are commenced].

Article 16 **(Accelerated Depreciation)**

1. Accelerated depreciation is permitted for new immovable assets used in the furtherance of the undertakings authorised under the terms of this Code. Accelerated depreciation is depreciation at twice the normal rate set by law for the calculation of the depreciation and amortisation that is treated as deductions for the purpose of determination of taxable income subject to Corporate Income Tax (IRPC) and Personal Income Tax (IRPS).
2. The provisions of the previous clause also apply to rehabilitated immovable

assets, machinery and equipment used in industrial and agro-industrial activities.

Article 17
(Modernisation and Introduction of New Technology)

1. The amount invested in specialised equipment, which is considered by the competent authority to be advanced technology, for the development of activities in undertakings authorised under the Investment Law, shall, during the first five years counting from the date of commencement of activity, benefit from a deduction from taxable income for the purposes of the calculation of Corporate Income Tax (IRPC) up to a maximum amount of fifteen (15%) percent of taxable income.
2. The same deduction under the same terms as provided in the previous clause shall be applicable to income subject to the Personal Income Tax (IRPS), but only in respect of income from activities belonging to the Second Category of IRPS.

Article 18
(Professional Training)

1. Investment expenditure for professional training of Mozambican workers shall, up to a maximum amount of five (5%) percent of taxable income, be deductible from taxable income for the purposes of calculating Corporate Income Tax (IRPC) applicable to authorised undertakings under article 1 of this Code, during the first five years counting from the date of commencement of activity.
2. When the professional training is for the use of technologically advanced equipment as referred to in the previous article, the allowable income tax deduction for the purposes of the calculation of the Corporate Income Tax (IRPC) shall be a maximum amount equal to ten (10%) percent of taxable income.
3. The same deductions under the same terms provided under the previous clauses shall be applicable to income subject to the Personal Income Tax (IRPS), but only in respect of income from activities belonging to the Second Category of IRPS.
4. The investment expenditure referred to in the previous clauses does not include equipment and other assets of the enterprise used for professional training.

Article 19
(Tax Deductible Expenditure)

1. During a period of ten years counting from the date of production, enterprises eligible for the fiscal benefits under this Code the following expenditure may be

treated as deductible expenditure for the purposes of calculation of Corporate Income Tax (IRPC):

- a) In the case of undertakings carried out in the City of Maputo, one hundred and twenty (120%) percent of the value of expenditure in the construction and rehabilitation of roads, railways, airports, mail delivery, telecommunications, water supply, electric energy, schools, hospitals and other works that are considered to be of public utility by the competent authority and documented by the Tax Administration;
 - b) In the case of the rest of the Provinces, an amount equal to one hundred and fifty (150%) percent of the expenditure, under the same terms as clause 1(a) of this Article.
 - c) In the case of expenditure for the acquisition for personal ownership of works of art and other objects that are representative of Mozambican culture as well as activities that contribute to the development of such works, fifty (50%) percent of the expenditure subject also to the terms of the Law for the Defence of Cultural Patrimony, Law 10/88, of 22 December.
2. The terms and provisions of the previous clause shall be applicable to income subject to the Personal Income Tax (IRPS), but only in respect of income from activities belonging to the Second Category of IRPS.

SECTION III Other Generic Benefits

Article 20 (Exemption from Stamp Tax)

The acts for the incorporation of companies including the alteration of the share capital and the articles of association are exempt from stamp duty during the first five (5) years counting from the commencement of the investment or from the commencement of operations, provided that same relates to undertakings whose investments are covered by article 1 of this Code.

Article 21 (Reduction in the rate of the Real Property Transfer Tax)

Undertakings authorised under this Code shall benefit from a fifty (50%) percent reduction in the rate of the real property transfer tax (SISA) with regard to the acquisition of immovable property used in industry, agro-industry and hotel industry, provided that the property is acquired within the first three (3) years counting from the date of the authorisation of the investment.

SUBCHAPTER II
SPECIAL BENEFITS

SECTION I
Agriculture

Article 22
(Exemption of Import duties)

1. Investment undertakings in agriculture, which are authorised in accordance with the Investment Law and Regulations, shall benefit from an exemption from payment of import duties on equipment included in Class "K" of the Customs Tariff Schedule.
2. The benefit referred to in the previous clause shall only be allowed when the goods to be imported are not produced within Mozambican territory or if produced do not satisfy the particular characteristics either required in terms of the intended use and purpose or inherent to the nature of the project and the respective activity to be developed and carried out.

Article 23
(Reduction of the Rate of Income Tax)

1. Investment undertakings in agriculture, carried out pursuant to the Investment Law and Regulations, shall, until the year 2012, benefit from an eighty (80%) reduction in the tax rate applicable to profits from agricultural ventures.
2. In the case of taxpayers subject to Personal Income Tax (IRPS), the reduction provided for in the previous clause shall only apply to taxable profits derived from activity benefiting from the incentive and belonging to the Second Category of Personal Income Tax (IRPS).
3. At the end of the period stipulated in clause 23.1, new undertakings covered by this section shall be entitled to the fiscal benefits provided for under articles 15 and 16 of this Code.

Article 24
(Additional Benefits)

The fiscal benefits provided for in articles 18 to 21 of this Code shall also apply to investment undertakings in agriculture that are covered by this section.

SECTION II
Hotel and tourism activity

Article 25
(Qualifying Investments)

1. The provisions of this section apply to hotel and tourism industry investments approved under the terms of Law 3/93 of 24 June (Investment Law) and respective Regulations, namely:
 - a) the rehabilitation, construction, expansion or modernization of hotel installations and respective auxiliary or related facilities having the principal purpose of the supply of tourism services; and
 - b) the development of National Parks and Reserves.
2. The provisions of the previous clause shall not apply to those investments that concern:
 - a) the rehabilitation, construction, expansion or modernisation of restaurants, bars, tavern, eating-house, discothèque and other similar places when not part of any of the facilities referred to in the previous clause;
 - b) the establishment of camp grounds and caravan parks;
 - c) car rental businesses; and
 - d) activities carried out by travel agencies, tourism operators and similar activities.
3. The investments in hotel and tourism activity approved under the provisions of Law 3/93 of 24 June (Investment Law) and its Regulations, which are excluded from the special benefits under the terms of the previous clause shall enjoy the generic benefits provided for under articles 13 to 21 of this Code.

Article 26
(Exemption from Import duties)

1. The hotel and tourism investments covered by article 25.1 of these Regulations shall benefit from an exemption from payment of import duties on equipment include in class "K" of the Customs Tariff Schedule.
2. The fiscal benefit referred to in the previous clause shall only be allowed when the goods to be imported are not produced within the national territory or if produced do not satisfy the particular characteristics either required in terms of the intended use and purpose or inherent in the nature of the project and the respective activity to be developed and carried out.

Article 27
(Tax Deduction for Investment and Accelerated Depreciation)

- 1.The investments covered by this Section shall also benefit from the tax credit provided for under article 15 of this Code, but with the additional amount of 3 percentage points.
- 2.Accelerated depreciation is also permitted for new immovable assets, automotive vehicles and other tangible fixed equipment assets when used in hotel and tourism activities as part of undertakings carried out under the terms of the Investment Law. Beneficiaries may opt for a rate of depreciation up to three times the normal rate for depreciation as a deductible cost for the purpose of determining taxable income subject to Corporate Income Tax (IRPC) or Personal Income Tax (IRPS).
- 3.The benefits established in this article shall only apply to investments projects approved up until 31 December 2007.
- 4.At the end of the time period fixed in the previous clause, new undertakings covered by this section shall be entitled to the fiscal benefits provided for in articles 15 and 16 of this Code.

Article 28
(Other fiscal benefits)

The same undertakings referred to in the previous clause shall also benefit from the incentives provided for in articles 18 to 21 of this Code.

SECTION III
Large Scale Projects

Article 29
(Exceptional Incentives)

- 1.The undertakings having investment that exceed the equivalent of five hundred million (US\$500,000,000.00) United States Dollars, as well as investments in public domain infrastructure carried out under the regime of a concession may benefit from exceptional incentives with regard to import duties, income tax, real property transfer tax and stamp duty. These exceptional incentives shall be subject to proposal by the Minister of Planning and Finance and granted under a contractual regime by the Council of Ministers.
- 2.The grant of the benefits shall be subject to the execution of a contract between the State and the entity promoting the project, as approved by the Council of Ministers. This contract shall establish the objectives, the goals, the incentives to be granted and the penalties in the event of breach.

3. The incentives referred to in the previous clauses shall be granted for a period up to ten (10) years and shall not be in addition to the other incentives provided for in this Code.
4. To qualify for the exceptional incentives referred to in this Article 29, the undertakings shall demonstrate financial, technical and economic feasibility and shall satisfy the following conditions:
 - a) Materially promote and accelerate the national economic development;
 - b) Materially reduce the regional imbalances;
 - c) Create at least five hundred (500) work posts or induce the creation of at least one thousand (1000) work posts within the maximum period of three (3) years.
5. Investments projects involving the following economic activities shall be considered material to the promotion and acceleration of the national economic development:
 - a) Agriculture, aquaculture, livestock agriculture and forestry;
 - b) Agro-industry;
 - c) Manufacturing;
 - d) Construction of railway, road, port and airport infrastructure and related equipment.
 - e) Tourism activities;
6. Undertakings located in or having a significant impact on less developed zones are considered to be material to the reduction of regional imbalances.

Article 30 (Exemption of Import duties)

1. The undertakings falling within the scope of the previous article and authorised under the terms of the Investment Law and Regulations, shall, subject to the provisions of the following clause, benefit from an exemption from the payment of import duties on equipment included in class "K" of the Customs Tariff Schedule.
2. The benefits referred to in the previous clause will only be granted if the goods to be imported are not produced within Mozambican territory, or if produced within Mozambican territory do not satisfy the particular characteristics either required in terms of the intended use and purpose or inherent to the nature of the project and the respective activity to be developed and carried out.

Article 31

(Fiscal benefits on Income – Investment Tax Credit)

1. Investments, which are included in the scope of this section and which are carried out under the terms of the Investment Law, shall, during the first five tax years, benefit from an investment tax credit ranging between five (5) percent to ten (10%) percent of the total investment realised, that shall be deductible from the Corporate Income Tax (IRPC) payable, up to the amount of the tax payable.
2. The portion of the investment tax credit not used in a tax year may be deducted in following years, provided that the use of the tax credit shall expire in the fifth (5th) tax year counting from the commencement of the investment for on-going projects and from the commencement of operations for new projects.
3. In the case of investment projects realised in Gaza, Sofala, Manica, Tete, Zambézia and Nampula Provinces, the investment tax credit percentage referred to in Clause 1 shall be set between ten (10%) percent up to twenty (20 %) percent and in Cabo Delgado, Inhambane and Niassa Province, shall be set between fifteen (15%) percent up to thirty (30%) percent.
4. Only investment in new, fixed tangible immovable assets used in the operation of an enterprise within the Mozambican territory shall qualify for the purpose of the terms and provisions of the previous clauses, but excluding the following:
 - a) Passenger vehicles;
 - b) Furnishings and articles of comfort and decoration;
 - c) Leisure equipment; and
 - d) Any other investment assets not directly and necessarily connected to the productive activity carried out by the enterprise.

Article 32 (Additional Benefits)

The fiscal benefits provided for in articles 18 to 21 of this Code shall also apply to the undertakings covered by this section.

SECTION IV
Rapid Development Zones

Article 33
(Eligible Activities)

1. New undertakings located in geographic areas denominated Rapid Development Zones (ZRD) and carrying out eligible activities as defined in this article, shall enjoy the fiscal benefits provided for in this section.
2. The following regions in Mozambique, namely the Zambezi Valley, Niassa Province, Nacala District, Moçambique Island and Ibo Island, are considered to be Rapid Development Zones (ZRD).
3. The Zambezi Valley is defined as the geographical area that includes:
 - a) All of the districts in the province of Tete;
 - b) The districts of Morrumbala, Mopeia, Chinde, Milange, Mocuba, Maganja da Costa, Nicoadala, Inhassunge, Namacurra and Quelimane in the province of Zambézia;
 - c) the districts of Gorongosa, Maringué, Chemba, Caia, Marrromeu, Cheringoma and Muanza in the province of Sofala;
 - d) the districts of Bárue, Guro, Tambara and Macossa in the province of Manica.
4. The following activities are eligible:
 - a) Agriculture;
 - b) forestry;
 - c) Aquaculture;
 - d) Livestock raising;
 - e) Lumbering;
 - f) Game animal exploitation;
 - g) Water supply;
 - h) Electric energy generation, transmission and distribution;
 - i) Telecommunications;
 - j) Construction of public utility infrastructure;
 - k) Construction of housing;
 - l) Construction of agricultural infrastructure;
 - m) Construction of hotel, tourism and similar infrastructure and operation;
 - n) Construction of commerce infrastructure;

- o) Industry;
- p) Cargo and passenger transport;
- q) Education;
- r) Health.

5. Individual and collective persons who carry out the same activity or other activities in other parts of Mozambique shall be entitled to enjoy the fiscal benefits provided for in this article only in respect of the activities that are listed in the previous clause and that are carried out in the Rapid Development Zone (ZRD).
6. The fiscal and customs benefits provided for in this section are not cumulative with the other special benefits set forth in this Code.
7. The regime provided for in this section shall remain in force until 31 December 2015. Thereafter the undertakings qualifying for this regime shall be subject to the normal tax system as of 1 January 2016.

Article 34
(Exemptions from Customs Duties)

1. Undertakings in the activities listed in the previous article that are carried out in a Rapid Development shall benefit from an exemption from import duties on the importation of goods included in classes "K" and "I" of the Customs Tariff Schedule.
2. The exemption referred to in the previous clause shall only be available during the first three years of the implementation of the project and provided that there do not exist similar locally produced goods having the same quality and/or technical specifications.

Article 35
(Fiscal benefits in respect of Income)

1. The undertakings carried out under the terms of the Investment Law in activities listed in this section which are located in a Rapid Development Zone shall, during five tax years, benefit from an investment tax credit (CFI) set at an amount equal to 20% of the total realised investment, that is deductible from the Corporate Income Tax payable up to an amount equal to the amount of tax payable.
2. In the case of a taxpayer subject to the Personal Income Tax (IRPS), the

deduction of the investment tax credit (CFI) referred to in the previous clause shall be made only in respect of the tax on the total revenues belonging to the Second Category of IRPS derived from the activity benefiting from the incentive. The deduction shall be up to the amount of such tax assessed.

3. The portion of the tax credit not used in a tax year may be deducted in the subsequent years. The tax credit shall expire in the fifth tax year counting from the date of commencement of operation in the case of new projects.

Article 36 (Exemption from Real Property Transfer Tax (SISA))

1. The transfer of State property to third parties is exempt from real property transfer tax (SISA) provided that the property in question is infrastructure to be used in the development of economic activities listed in article 33.4 of this Code.
2. The exemption referred to in the preceding clause shall not apply to any other transfers of property. However such other transfers shall, for five (5) years from the date of commencement of activity, benefit from the reduction of the rate of the real property transfer tax as stipulated in article 21 of this Code.

Article 37 (Benefits Complementares)

The undertakings qualifying for the fiscal benefits under this section shall also enjoy the benefits provided for in articles 18 to 21 of this Code.

SECTION V Industrial Free Zones

Article 38 (Indirect Tax Exemptions)

1. The Developers of Industrial Free Zones are entitled to an exemption from customs duties on the importation of construction materials, machinery, equipment, accessories, accompanying spare parts and other goods destined to the exercise of the activity licensed as an Industrial Free Zone.
2. Industrial Free Zone Enterprises are entitled to an exemption from customs duties on the importation of goods and merchandise destined to be used in the implementation of projects and the operation of the activities that have been authorised under the terms of the Industrial Free Zone Regulations, approved by Decree 62/99 of 21 September.
3. The exemptions referred to in clauses 1 and 2 of this article extends to the Value

Added Tax (VAT) and the Specific Consumption Tax (SCT), and includes internal acquisitions as provided in the VAT Code approved by Decree 51/98 of 29 September [as amended] and in the SCT Code approved by Decree 52/98, of 29 of September [as amended].

4. The exemptions provided for in this article do not include food, alcoholic beverages, tobacco, clothing and other articles of personal and domestic use.

Article 39 (Taxes on income)

1. The Developers of Industrial Free Zones and the Industrial Free Zone Enterprises holding an IFZ Certificate shall, for the period of ten (10) years, benefit from a sixty (60%) percent reduction in the rate of Corporate Income Tax (IRPC) on the profits derived from the exercise of activities licensed under the IFZ Regulations approved by Decree 62/99 of 21 September [as amended].
2. The enterprises that benefit from the tax regime referred to in the previous clause, shall have duly organised accounts and records in accordance with the Corporate Income Tax Code and shall file the appropriate statement with the local tax office in accordance with the schedule established in the tax legislation.

Article 40 (Real Property Transfer Tax (SISA) Exemption)

IFZ Developers and IFZ Enterprises are exempt from real property transfer tax (SISA) payable on the acquisition and use of immovable assets.

CHAPTER II Investments under the Mining Law

Article 41 (Import [and Export] Benefits)

1. Undertakings carried out under Law 14/2002 of 26 June (Mining Law), shall benefit from an exemption from customs duties owing on the importation of equipments, apparatus, materials and spare parts for prospecting and exploration, mineral production and the exportation of mineral resources.
2. The imports referred to in the previous clause shall also benefit from an exemption from Value Added Tax (VAT) and Specific Consumption Tax (SCT) as provided in the VAT Code approved by Decree 51/98 of 29 September [as amended] and in the SCT Code approved by Decree 52/98, of 29 of September [as amended].

3. The same exemptions provided in the preceding clauses shall benefit both the contractors and subcontractors provided that the imported goods are destined for use in the same undertaking.

Article 42
(Income Tax Benefits)

1. Until the year 2010, investments carried out under the Mining Law, whose investment value exceeds five hundred thousand (US\$500,000.00) United States Dollars shall, during the first five (5) years from the commencement of production, benefit from a twenty-five (25%) percent reduction in the rate of the Corporate Income Tax (IRPC).
2. Subject to the terms of the preceding clause, in the case of taxpayers subject to Personal Income Tax, taxable income derived from the activity benefiting from the incentive and belonging to the Second Category of IRPS, shall, during the first five (5) years, have a deduction of 25%.
3. Investments in an amount less than that stipulated in clauses 1 and 2, shall benefit from the incentives provided for in articles 15 e 16 of this Code, with regard to Corporate Income Tax and Personal Income Tax.

Article 43
(Additional Benefits)

Except in respect of contractors and subcontractors, the fiscal benefits provided for in articles 18 to 21 of this Code, shall also apply to undertakings referred to in article 42.1.

CHAPTER III
Investments under the Petroleum Law

Article 44
(Import [and export] Benefits)

Enterprises that carry out petroleum operations, onshore and off-shore, in the Republic of Mozambique, including their contractors and subcontractors, shall, during the term of the licence, benefit from:

- a) Exemption from customs duties with regard to the importation of goods destined to be used in petroleum operations, vehicles and other imported supplies excluding passenger vehicles for the transport of passengers (sic);
- b) Temporary importation with suspension of payment of duties and other customs and fiscal charges on goods destined for use in petroleum operations,

such as drilling rigs, machinery, equipment, aircraft and boats in accordance with the terms of the Preliminary Instructions of the Customs Tariff Schedule;

- c) Exemption from customs duties on the exportation of the goods referred to in the preceding paragraph once such goods are no longer needed for the petroleum operations, except that the revenue obtained from the exportation of such goods which will be the subject of assessment of Corporate Income Tax (IRPC).
- d) Exemption of customs duties and customs charges with regard to the exportation of petroleum produced in the Republic of Mozambique.
- e) The imports and exports referred to in the preceding paragraphs shall also benefit from an exemption from the Value Added Tax (VAT) as provided in the VAT Code approved by Decree 51/98 of 29 September [as amended] and the Specific Consumption Tax (SCT) in the SCT Code approved by Decree 52/98, of 29 of September [as amended].

Article 45 (Income Tax Benefits)

Until the year 2010, investments carried out under the Petroleum Law, shall, during the first eight (8) years from the commencement of production, benefit, from a twenty-five (25%) percent reduction in the rate of the Corporate Income Tax (IRPC).

Article 46 (Additional Benefits)

Except in respect of contractors and subcontractors, the fiscal benefits provided for in articles 18 to 21 of this Code, shall also apply to undertakings referred to in article 43.

CHAPTER IV Diverse Provisions

Article 47 (General Transitory Regime)

1. Fiscal benefits for which rights have been acquired or the applications have been prepared and submitted on the basis of the previous Fiscal Benefits Code approved by Decree 12/93 of 21 July as amended, before the entry in force of this Code are maintained in accordance with the terms granted.
2. The investment projects submitted for analysis and approval prior to the entry

into force of this Code shall be analysed and decided in accordance with the terms of the Fiscal Benefits Code approved by Decree 12/93 of 21 July, except where the applicants choose and expressly request the application of this Code with the maximum period of sixty (60) days counting from the date of this Code's entry into force.

3. Until the entry into force of the new Corporate Income Tax (IRPC) and the Personal Income Tax (IRPS) the corresponding fiscal benefits shall, with regard to the projects authorised under this Code, apply to the Industrial Contribution.

Article 48 **(Expiry of fiscal benefits)**

Temporary fiscal benefits expire at the end of the time period for which granted and fiscal benefits subject to certain conditions shall expire on the occurrence of the respective resolutive condition or non-observance of the obligations imposed on the beneficiary of the benefit.

Article 49 **(Disposal of goods subject to fiscal benefits)**

When the fiscal benefit involves- the acquisition of goods to be used directly in the realization of the purposes of the buyers, the benefit shall no longer apply if the goods are sold or used for a different purpose without the authorisation of the competent authority, without prejudice to other sanctions.

Article 50 **(Instructions for the determination of the tax expenditure)**

In order to ensure the uniformity of the application of the fiscal benefits, relevant instructions shall be issued regarding the procedures to be observed in the making of the statement referred to in article 2.3 of this Code.