Tax benefits
Projects of Large Economic Dimension

In line with the objectives of keeping the economic engines running in the new reality of COVID-19, the government has issued a new decree to boost employment and investment, and has set new tax benefits framed within the Investment Promotion and Protection Law (Act16.906).

On this occasion, the activity promoted will be that related to **construction activities for the sale or lease of real estate for homes or offices, and private property developments of great economic dimension;** a mandatory condition being that projects be submitted before December 31, 2021, and that the investment period does not extend beyond April 30, 2025.

This activity was previously promoted by Decrees 329/016 and 48/018, which were in force until December 31, 2018. Even though this provision establishes benefits for the same industry, this time the new decree adds private property developments, lowers the minimum investment amount required, expands benefits and defines other provisions in relation to performance terms. Benefits granted to those projects complying with the established conditions are:

- Exemption from import duties and taxes on goods which do not compete with the national industry
- VAT credit on purchases made in the local market, used for civil works
- IRAE (tax on income from economic activity) exemption depending on the amount of the investment, ranging from 15% to 40% of the amount of the investment and up to 90% of the tax to be paid in the fiscal year.
- Exemption from the Net Worth Tax on real estate including the land where the work is carried out and personal property for areas of common use.

If we compare this with the previous regime, we are faced with the possibility of obtaining greater benefits provided compliance with the definition of promoted activity and established conditions.

Definition of promoted activity:

Private property developments are specifically defined as all those which turn rural or suburban land into land suitable for housing construction and complementary uses, through the implementation of all the necessary infrastructure and the corresponding land subdivision. Promoted projects may conclude in the subdividing stage or may include the construction of housing, whether in whole or in part.
These projects must comply with Act 18,308 which sets forth the conditions for land use planning and sustainable development. They may also benefit from the horizontal property regime provided departmental regulations agree to it.

Projects of large economic dimension are those whose **value in civil works and personal property is over UI 60,000,000 (Approx. USD 6,350,000), and which are registered in the Social Security Bank (BPS) and dated after the coming into force of this decree**.
The investment included in this case will be that made within a period of up to 60 months from the time the departmental government authorizes the construction permit.

Works already registered in the BPS before the entering into force of this decree and which by the date of submission before the Application Commission (COMAP) have pending an investment equal to or greater than UI 60,000,000 (approx. 6.350.000) may also make use of the benefits. In this case, valid investments will only be those made up to a maximum of 48 months after the project's submission date before COMAP.
In all cases, it is mandatory that 10% of the investment be made in common areas, and this percentage must be maintained in the event of extensions to the project.

Entities holding the status of promoted activities must submit an investment project to COMAP detailing the investment schedule and amount. The Executive Power, with the advice of COMAP, will issue a resolution declaring the investment promotion and establishing the tax benefits applicable and the period for use.

Companies must comply with both the amount of the investment and the investment schedule. It will be possible to expand the project provided such expansions are presented within the investment schedule and that the amount does not exceed 30% of the promoted investment.
Therefore, companies promoted this way are exempt from complying with the indicators required for the rest of the projects promoted by COMAP.

Available tax benefits:

Imports:

Projects are exempt from all taxes on the import of equipment, machines and materials for use in civil works and imports of personal property for use in areas of common use, provided that the goods meet the condition of not competing with the national industry. This exemption applies to surcharges, the single customs tax on imports, the handling and transfer of goods tax, the import duty and the Value Added Tax (VAT), thus including more benefits than the rest of the projects promoted by COMAP.

Value Added Tax:

A credit will be given for the VAT incurred in the acquisition of equipment, machines, materials and services intended for civil works and the VAT incurred in the purchase of personal property exclusively for areas of common use. This credit will be materialized by means of credit certificates under the regime corresponding to exporters.

Exemption from Income Tax on Economic Activities (IRAE):

The exemption percentage will depend exclusively on the amount of the investment promoted as follows:

Indexed Units /UI in Spanish/ and approximate amount in USD**				Percentage of Exemption
From UI	**To (usd)**	**From UI**	**To (usd)**	
60.000.000	6.350.000	90.000.000	9.500.000	15%
90.000.001	9.500.001	205.000.000	21.650.000	20%
205.000.001	21.650.001	287.000.000	30.300.000	25%
287.000.001	30.300.001	574.000.000	60.670.000	30%
574.000.001	60.670.001			40%

*** The amount in USD was calculated with an estimated exchange rate and Indexed Unit.*

In the event that the promised investment is not fulfilled within the stipulated deadlines, but the progress of works is equal to or greater than 50%, the exemption percentage will be prorated according to the degree of progress.

Likewise, limitations are established to the use of the benefit in each fiscal year, and the deduction is applied to the lowest of the following amounts:

1. Investments actually made up to the presentation of the tax return for the corresponding fiscal year. Price calculations for Indexed Unit will use the price in force on the last day of the month prior to the time the investment was made;
2. 100% of the amount effectively invested
3. 90% of the tax to be paid in the fiscal year.

The maximum term will be in all cases 10 years as from the first year in which net tax income is obtained and provided that 4 years have not passed since the declaration of investment project.

Net Worth Tax:
The exemption will depend on where the project is located. It will be for a term of 10 years for projects carried out in the interior and 8 years for projects carried out in Montevideo, with regard to the real estate included in the activity that has been granted the declaration of investment promotion. In this respect, we must emphasize that the exemption also includes the land on which the investment is made. This is new compared to previous regimes. The term for personal property for common use areas will be for the useful life of the personal property.

Formal obligations to meet:

As in other investment projects, the deadline for submitting the follow-up will be 4 months as of the end of each fiscal year. It is mandatory to submit the details of the investments made, the financial statements as per the classification established by the Tax Authority (DGI) and the corresponding tax returns.

In the event of non-compliance with both the formal obligations and the substantial and project execution obligations, unduly exonerated taxes will be re-calculated and fines and surcharges are to be applied and paid.

We can conclude that this exemption seeks to reactivate the economy by promoting large real estate projects, simplifying the current benefits system, not requiring the fulfillment of indicators and increasing the percentages and scope of the exemption, both in terms of import taxes, net worth tax and income tax.

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