

# The Challenge Immovable Property with Foreign Investments in Iran

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## Abstract

One recently by Iranian government's scope for foreign investment are taken into consideration, investments in immovable property such as mass housing and infrastructure in areas of building that attractiveness of its kind for many foreign investors as well. However, there are limitations in the field of foreign investment Adverse general mentality of the presence of foreigners in Iran Bitter experience in Iranian history because of the presence of aliens, restrictions and prohibitions that the Iranian constitution and the presence of foreign enterprises in Iran has created for them, including these restrictions are. In this paper, the definition of terms used in investment law and then discussed the history of investing in Iran Then the Constitution and the Law of Promotion and protection of investment relative to the presence of foreign investors in Iran and the methods conventional in the protection and encouragement of investments approved in 1380 and then for international support for foreign investment are investigated.

**Keywords:** Foreign Investment , Foreign investor, immovable property.

## 1. Introduction

The use of external capital resources as one of the main policies among different countries, constitute an important part of economic exchanges. Foreign investment, particularly foreign direct investment due to the effects which may be internal capital resources on the development of the country Has a special place among world countries Third World countries, both developed and developing extensive efforts to direct these funds to their countries for their. The most important national policy to attract foreign investment to their countries, providing the conditions for investment and economic activities in a safe environment and easy, amend related laws and regulations facilitate the process of implementation of investment projects and similar actions is. Experience has shown that countries which provide appropriate context and legal framework and regulations have been successful in attracting foreign investment should also have been successful. Islamic Republic of Iran, as a developing country under the 20-year-old visions System and its development programs from sources of foreign investment, especially in recent years its agenda is. According to this approach, in recent years considerable efforts to facilitate the economic activities occurred that One of them is the adoption or amendment of laws and regulations, including tax law, foreign investment law, the rules of five-year economic development of the country, General policies of Article 44 of the Constitution and shorten the acceptance process and licensing of foreign investment.

## 2. The concept of capital

Capital One important element of production in the economy, and consists of taxes that goes to the and is expressed in terms of money. The term is used capital goods are synonymous. In Article 1 capital support and encourage foreign investment law passed in 1381 states that the definition of foreign investment. The capital of capital, whether in cash or by foreign capital as share capital to the country's financial facilities And includes:

A :: machinery and equipment

B :: tools and spare parts, CKD parts and raw materials, additives and reinforcements

C :: patents, know-how, trade marks and names and professional services

D :: Transferable dividends of foreign investment

E :: Other authorized with the approval of Cabinet

F :: Cash in the form of convertible currency through the banking system or other methods of transfer are approved by the Central Bank of the Islamic Republic of Iran.

However, the former law protection of foreign capital, foreign capital in 1955 was defined as .Capital in cash, factories, machines and their components, tools, patents and technical services, etc.

## 3. Investment

This word is the capital. Investment refers to spending that would create the means of production. In other words, the venture capital investment in order to create or enhance enabling production. In Clause 1 of Article 2 of Act III's five-year Development Programmer Investment in Allocating funds and spend it on certain goals and certain

defined.

#### **4. Foreign Investment**

Material and intellectual property transfer from one country to another in order to use them in financial development, under the auspices of the total or partial investor. Protection of Foreign Investments Act of 1334 defined the law attract foreign investment to come and practice It had vague, Recognizing this problem legislator in Article 1 of the Law legal support and encourage the protection and encouragement of investments Foreign Investment Act of 1381 defines the use of foreign capital in an enterprise New or existing. After obtaining the investment license , In this regard, Article 6 of the implementing regulations of this law adds foreign investment in firms Available from stock or increase capital or a combination of the admission procedure of the benefits of the law Provided that the investment is high, the value added. The benefit can only because of the capital increase to be achieved in the existing firm.

#### **5. Foreign investor**

Article 1 of the Law of Attraction and Protection of Foreign Investment Act of 1334 decreed individuals, companies, and The Iranian government allowed private companies that their investments in Iran under article 2 of the Law of Facilities are set forth in the law. In the former criterion to determine who is foreign capital, it was not achieved and a Serious uncertainty in the law, but it will be seen in the new law is considered as being outside the rules of origin Capital as the consensus is not nationality or residence of the person. Support and encouragement of foreign investment law, foreign investors such Has defined Foreign investors, natural or legal persons of foreign nationality, expatriates and international institutions and organizations that have obtained the Investment License referred to in Article 7 In addition, Article 2 of the Administration of the Free Zones investor is defined as all foreign natural and legal persons and institutions, whether Iranian or international organizations, according to the regulations could Independently or in partnership or collaboration with another organization and its subordinate companies in the free zones listed invest their capital is covered by these regulations.

#### **6. System of international rules relating to foreign investment**

In the Iranian legal system, there are many rules about foreign investment and may also When specific legislation such as the five-year development program materials to foreign investment Allocate.

#### **7. Article 44 of the Constitution**

Since this principle has a great relationship with our discussion of a very important place. Since the Investments in immovable property can be established in areas such as road and its infrastructure, hotels Airport, mass housing, etc., and these monopolized by the public sector or investment projects Domestic and foreign investor has the right to enter it.

#### **8 Article 44 of the Foreign Investment overview**

Economic system of the Islamic Republic of Iran on three sectors: state, cooperative and private with a regular schedule, and Proper rests. The public sector includes all major industries, mother industries, foreign trade, major minerals Banking, insurance, power generation, dams, water supply networks, major radio and television, post, telegraph, Aviation, shipping, roads, railroads, etc. These are the public property of the state. The cooperative sector is to include cooperative companies and enterprises of production and distribution in rural and urban accordance with Islamic criteria is formed. The private sector consists of that agriculture, industry and services those Complementary economic activities of the state and cooperative. Ownership in this section, as long as the other principles of this season According to the rules of Islam and not outside, leading to economic growth and development and cause Loss of the Islamic Republic is not supported by the terms and scope of the study and every three conditions specified by law doing. According to the examples set forth in Article 44 of the Constitution, about 80 percent of Iran's economy, government, and section Government is the extraordinary range and wide field of industries, mines, banking and insurance. ... As the monopoly of state and government, and even though the exception of Article 44 which stipulates "... ownership In the public sector, cooperative and private, as far as is consistent with the articles and the range Not foreign Islamic laws and the growth and economic development to the detriment of society or not. Support The Islamic Republic.

#### **9 Real estate and foreign investor**

Ownership of immovable property in the law stipulated that the capital Foreign investment company established solely with Iran could take possession of the property. In cases where foreign investment in the establishment of an Iranian company, ownership of land in the name of the company As an Iranian identity is allowed. The "Iranian company" Companies that regardless of the identity and amount Participation of partners or

shareholders, in accordance with the Commercial Code of formation and be registered. Landownership Called foreign entities, including the identity of the person or company or branch of a foreign investment law foreign investment is not allowed. Limitations and restrictions on civil rights in immovable property owned apartments available aliens exist except in special circumstances and only to meet their personal needs allowed. Until the abolition of capitulations regime, there were no restrictions on the ownership of foreigners. In 1310 the immovable property owned by foreign nationals adopted. whereby foreigners should leave his estate to nationals. In 1328 the Immigration Regulations adopted for acquisition of immovable property. In 1344 the government passed another law on foreign nationals that non-resident foreigners as well as it could be. After the Islamic Revolution in Iran in 1357 limits property owner was adopted in this field, while regulations 1328 so far the executable As a result, foreign nationals residing in Iran if they have permanent residence And even non-resident nationals as seasonal and pilgrimage trips to the acquisition of immovable property cannot come to Iran . Now that the presence of foreign investors in terms of capital And their advanced technology in the construction industry in the housing sector and urban development and infrastructure is essential Institutions and offices of the Ministry of Housing with the support and encouragement of foreign investment law approved in 1380 and construction began at the invitation of large companies They try to use the conventional method in Article 3 of the support and encouragement of foreign investment into contracts with foreign investors and And a deficit of foreign ownership covered Iran and so provide greater security for foreign investors.

### **10 Provisions relating to the ownership and renting of immovable property by foreign nationals**

Foreign investment and technical assistance and economic organization announced According to the law relating to immovable property owned by foreign nationals owning any land to any extent in the name of foreign entities allowed The foreign natural persons, foreign citizens can not own the land in the country. Article 1 of the Law on Registration of Companies Act 1310 Lyrics is a company incorporated in Iran and is headquartered in Iran, Iran is now Therefore, foreign persons, whether natural or legal persons who are its shareholders with the Registrar of Companies in Iran, regardless of the nationality of its shareholders registered company, is a legal entity in Iran. According to Paragraph B of Article 4 Administrative Regulations on Foreign Investment Promotion and Protection Act, there is no limit to the percentage of foreign investment. In other words, foreign investors can participate in Iran to over 100 percent of shares owned by foreign shareholders register. Article 34 of the executive regulations of the law is to encourage and support foreign investment poems performed in cases where foreign investment leading to an Iranian company, ownership of land in the name of the company is authorized commensurate with the investment. Can record up to 100% foreign companies and foreign companies have the right to ownership of movable and immovable property? With regard to the legal and regulatory above, is obvious that if foreign persons, whether natural or legal, to invest in the country to register a company in their country and owns all or part of its shares to be with the participation of Iranian companies can acquire a stake in the Iranian companies registered, the land of their possession. The lease of immovable property by Iranian companies, citing Article 10 of the Civil Code is poetry Private contracts than those who have signed it if it is not against the law is valid In accordance with Article 219 of the Civil Code contracts according to law is located between dealers and their surrogate is binding, unless the parties consent or due to legal annulment is terminated The country now registered as a legal person can be entered into rental contracts with other entities and interests to benefit therefrom Under the terms of the contract.

Similar cases in some countries are as follows:

**Indonesia:** the possibility of renting farmland twenty-five Indonesian nationals with permission to transfer utilization rate for foreign companies

**Philippines:** the possibility of renting the land for fifty years extendable to twenty-five years.

**Australia:** Possible purchase of agricultural land by foreign investors. All restrictions will be canceled until 2014.

**Kenya:** Let the buying and selling of farmland by foreign investors.

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### **12 CONCLUSION**

Iran an attractive investment location for foreign investors. The most attractive factor for Iran's low cost of production. Also the tax laws attractive for foreign investors. Many of the delegates have chosen to invest in foreign Iran and now the growing demand in the market, Industrial and technical infrastructures, Iran's strategic position in the region across the board. We have no concerns for the safe and legal approaches new investors is used to state that Foreign Investors owning land and other concern for the possibility of immovable property in have Large companies in other countries because of the ease of having land to build a factory for the production of low cost experience As a result, these countries will choose to invest in immovable property. The Iranian government should see that foreign capital will lead to the immovable property in absorbing foreign investment

should be based on logic and program Because our country needs to invest in the construction industry are all options For example, the construction of luxury and commercial real estate in no very important to us, but it is important for investors because of high interest That this method is effective for the removal of immovable property if the recession Foreign investors own funds into domestic banks or with the funds seeks to create value-added non-manufacturing, the housing will come out of recession. Foreign investors should invest its funds in the infrastructure sector housing or if they are involved in the field of housing construction and housing production with new technologies come cheap. Depression may be the best time to enter mass of investors is healthy because it reduces the costs of construction has been a perennial recession. As a result, the problem of aliens in the growth of capital markets in the acquisition of immovable property will be in Iran.

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