Incentives for Green Hydrogen and its Derivatives Production Projects

By: Mariam Fahmy and Mohamed Nour

On 27 January 2024, law No. 2 for the year 2024 (the "**Law**") was issued and published in the Official Gazette and entered into force the following day, on 28 January 2024. This long-awaited law aims at incentivizing green hydrogen and its derivatives production projects and to cultivate an investment-friendly environment. The Law is a positive step in the Government's strategy aiming at maximizing the use of the local energy sources and the development of the production capacity of the energy sector to be more effective in boosting the economy and adapt to the ever-growing changes in the energy field.

We highlight below the key points of the Law.

Applicability of the Law

The provisions of the Law apply to green hydrogen and its derivatives production projects provided the project agreements are executed within five years from the effective date of the Law. Green hydrogen production projects include:

- Green hydrogen and its derivatives production plants;
- Desalination plants that allocate at least 95% of their production to green hydrogen and its derivatives production;
- Renewable energy power plants that allocate at least 95% of their production to supplying green hydrogen and its derivatives production and desalination plants referred to above;
- Projects whose activities are limited to the transfer, storage, or distribution of green hydrogen and its derivatives that are produced within Egypt; and
- Projects whose activity is limited directly to the manufacturing of production supplies or inputs necessary for green hydrogen plants.

Incentives and Benefits

The Law provides for certain incentives and benefits available to the projects outlined above throughout the period of the project agreements, provided that the project agreements are executed within five years from the effective date of the Law, or, in case of an expansion to and existing project, the project agreements relating to the expansion are executed within seven years from the commercial operation date of the project.

We highlight below some of the monetary and tax incentives available under the Law:

- A cash investment called the "Green Hydrogen Incentive" between 33% and 55% of the value of the tax paid as per the tax return on the income generated from the direct activity in the project or its expansions.
- VAT exemption on equipment, machinery, raw materials, supplies, and transportation directly relating to the project – excluding passenger cars.
- Exports from these projects shall be subject to VAT at a rate of 0%.
- Exemptions from real estate tax for properties actively utilized in these projects, in addition to exemption from stamp duty tax, documentation and registration fees related to the company's article of association, credit facility and mortgage contracts and necessary land registration contracts.
- Customs tax exemption on all necessary imports, excluding passenger cars.

Further, the Law provides other incentives, including but not limited to:

- Project companies shall receive a single license as per the rules of the Investment Law.

- The project can import the necessary raw materials, production inputs, machinery, spare parts and suitable means of transportation without the need to enroll in the importers' registry. Further, the project can export its production without enrolling in the exporters' registry.
- During the first ten years from the date of signing the project agreements, the project company can hire foreign workers up to 30% of the total workforce.
- A 30% reduction on the fees for using seaports, maritime transport, and various marine services.
- A 25% reduction from the usufruct fees relating to the industrial land allocated for the plant and a 20% reduction from the usufruct fees relating to storing facilities lands located in ports.
- Providing grace period for the payment of the usufruct fees relating to both industrial and storage lands. Payment shall commence from the commercial operation date of the project, without incurring any interest or fines.

It is important to mention that the Prime Minister issues the certificate necessary for granting the incentives stipulated in the Law. The certificate shall be considered final and self-executive without the need for the approval of other authorities.

Requirements for Applying Incentives

In order for a project to benefit from the incentives outlined in the Law, the below requirements must be satisfied:

- The commercial operation of the project must begin within five years from the date of executing the project agreements.
- At least 70% of the project's investment cost must be funded in foreign currency from abroad.
- At least 20% of the project's components must be local, whenever available in the local market.
- The project must contribute in transferring and localizing technology, and the project company must develop and implement training programs for the Egyptian workforce.
- The project company must develop a plan for the development of the local areas where it operates.

Market Reaction

Mr. Tarek El Molla, Minister of Petroleum & Mineral Resources, commented that Egypt is preparing the final draft of its hydrogen strategy, noting the global interest in the hydrogen industry in Egypt due to its location. He further stated that the hydrogen strategy is sustainable and continues until 2040.

Further, members of the Parliament stated that the Law aims at making Egypt a hub for clean energy, and that green hydrogen should represent 30% to 35% of energy in 2050.

Tax Authority Adjustments to Foreign Currency Expenses

By Omar Sherif, Youssef Ihab and Alexandra Arida

In light of the current foreign currency shortages faced by the Egyptian economy, companies, particularly import and export enterprises, have been struggling with accounting their expenses to determine their taxable income, particularly, difficulties with their foreign currency expenses due to the huge gap existing between the official rate and the parallel market rates To alleviate some of the financial burden, the Ministry of Finance (the "**Ministry**") issued Decree No. 34 of 2024 (the "**Decree**"), whereby the calculation of the income tax base will benefit from adjustments to the price differences of foreign currencies.

The Decree was published in the Official Gazette on 27 January 2024.

The key highlights of the Decree can be summarized as follows:

Income Tax Base Adjustment to the Price Differences of Foreign Currencies

For the purpose of calculating the income tax base for natural and legal persons, the Decree has granted businesses the ability to calculate their foreign currency expenses with an adjusted rate accounting for the price differences in foreign currencies where an official rate shall be calculated with an increase of: 9% for the period from January through April 2023, 24% for the period from May through August, 34% for the period from September to October, and 60% for the period from November to December.

Decree's Scope of Application

The Decree specifies that it shall solely be applicable to establishments whose operations inevitably require dealing in foreign currency, such as establishments undertaking import and export activities.

Further, the Decree provides that its provisions do not apply to supplies for which the Central Bank of Egypt and commercial banks acquire foreign currencies at the official exchange rate.

Market Reaction

While no market reaction has been detected to date, this Decree will undoubtedly allow import and export companies to take a breather from the financial burden caused by the price differences in foreign currencies when filing their tax revenue reports.

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Decree extending some incentives of the Investment Law

By Mostafa El Zeky and Malak Mounir

Introduction

In a move aimed at bolstering investor confidence and promoting economic growth, the Cabinet of Ministers issued Decree No. 1 of the year 2024 (the “**Decree**”), which extends the term of the incentives listed under Article 11 of the Investment Law No. 72 of the year 2017 (the “**Law**”), to include companies and institutions incorporated since the effective date of the Law’s Executive Regulations (i.e. 29 October 2017) (the “**Effective Date**”) until 28 October 2026, instead of 3 years since the Effective Date.

Key highlights

The Decree was enacted to provide benefits and extend the incentives entailed in Article 11 of the Law to investors. Such incentives apply to investment projects, as well as their expansions, undertaking specific industrial activities in specific investment areas. They are eligible for a cash investment incentive ranging from 35% to 55% of the tax value paid on their income generated directly from the project.

The Ministry of Finance is required to disburse the incentive within 45 days from the tax filing deadline. To qualify for this incentive, the project or its expansions must secure at least 50% of their funding in foreign currency. In addition, the project must commence within six years from the Effective Date, which the Decree has extended to 28 October 2026.