

Foreign Investment Tax Act, 2019 (1963)

Date of Authentication and Publication

2019.9.29 (13 Jan., 1963)

Amendments:

1. Revenue Tribunal Act, 2031 (1974) 2031.4.18 (2Aug., 1974)
2. Finance Related Some Nepal Acts
(Amendment) Act, 2047 (1990) 2047.8.27 (13 Dec., 1990)
3. Republic Strengthening and Some
Nepal Acts Amendment Act, 2066 (2010)¹ 2066.10.7 (21 Jan. 2010)

Act Number 32 of the Year 2019 (1963)

An Act Made to Provide for Assessment and Recevery of Foreign Investment Tax

Preamble: whereas, it is expedient to impose tax on foreign investment so as to increase national income for the development of the country;

Now, therefore, be it enacted by His Majesty King Mahendra Bir Bikram Shah Dev pursuant to Article 93 of the Constitution of Nepal.

1. **Short title, extent and commencement:** (1) This Act may be called as the "Foreign Investment Tax Act, 2019 (1963)."

(2) This Act shall extend throughtout Nepal and also to the person who resides outside of Nepal who has his/her house (building) and land in Nepal.

¹ This Act came into force on 15 *Jesta* 2065, "*Prasati*" and the word "Kingdom" has been deleted.

(3) This Act shall be deemed to have commenced on and from 9th of Shrawan 2019 (24 July, 1962).

2. **Definitions:** Unless the subject or the context otherwise requires, in this Act:-

(a) "Foreign investment" means and includes any amount invested by a Nepalese citizen in a governmental security, share, bank account, house and land and all other types of cash investment in a foreign country.

Provided that, a current account opened for convenient to do exportation and importation in Nepal shall not be taken as foreign investment

(b) "Foreign investment Tax" means tax levied on investment as referred to in Clause (a).

(c) "Tax Officer" means the tax officer appointed or designated by Government of Nepal for purposes of this Act.

(d) "Prescribed" or "as prescribed" means prescribed or as prescribed in the rules framed under this Act.

3. **Assessment and recovery of foreign investment tax:** If any Act makes provision on levying foreign investment tax for years or for any one year, such foreign investment tax shall be assessed and recovered pursuant to this Act and the Rules framed under this Act.

4. **Duty to Furnish Statement:** (1) A person who is liable to pay the foreign investment tax under this Act or prevailing Nepal law has to furnish, or cause to be furnished the statement of his/her foreign investment within the last day of the month of *Ashwin* of each year with

the Tax Officer of the area where he/she ordinarily resides in such format as prescribed.

- (a) A person who ordinarily resides outside Nepal has to furnish such statement with the Tax Officer of Kathmandu. If a taxpayer desires to get evaluated his/her foreign investment and assessment of tax by the Tax Officer of the area where he/she resides the assessment of tax may be made by submitting the investment of foreign investment to such Tax Officer.
- (b) If a person liable to pay the foreign investment tax under this Act is a minor or insane or dumb, it shall be the duty of his/her guardian to furnish statement of the foreign investment of such person.

(2) A person, who does not furnish or does not cause to be furnished the statement required to be submitted under sub-section (1) or who submits a false statement, may be punished with a fine of upto Five Thousand Rupees, by order of the Tax Officer.

(3) If the Tax Officer suspects any person of holding such foreign investment as may be subject to the tax under this Act or the prevailing Act, he/she may issue a written order requiring such a person to furnish a statement of his/her foreign investment. Such a person has to furnish, or cause to be furnished, a statement of his/her foreign investment with the Tax Officer within Fifteen days after the date of receipt of such order, in such format as prescribed.

Provided that, a person who fails to furnish or cause to be furnished a statement even within the time-limit mentioned above has to give a written notice thereof, accompanied by the reason therefor, to the

Tax Officer within the time-limit specified by that order and the Tax Officer may, if thinks the reason to be believable, give time extension for a period not exceeding of One month.

(4) The Tax Officer may impose a fine of upto Five Hundred rupees to a person who does not abide by the order issued under Sub-section (3).

5. **Valuation of foreign investment**: The Tax Officer shall, on the following basis, value foreign investment for the purpose of the foreign investment tax leviable on such investment pursuant to the prevailing Act:

(a) The value of security share, bank account and such type of investment in cash and goods in-kind shall be determined as per the market price prevailing on the day on which the fiscal year begins. In case where market price cannot be ascertained, it shall be valued as per the face value.

²(b) The value of house (building) and land shall be determined on the basis of rental value of the respective place.

6. **Assessment of foreign investment tax**: (1) The Tax Officer has to assess the amount of foreign investment tax to be recoverable pursuant to this Act for a year within One month, as far as possible, after the statement of foreign investment has been furnished.

Provided that, even though any person has whatsoever foreign investment, statement of all have to be obtained, to be evaluated separately and the foreign investment tax be assessed considering all to be one unit for purposes of this Act.

² Amended by the Finance Related Aome Nepal Acts (Amendment) Act, 2047.

(2) In assessing the tax to be levied in the foreign investment for each year, tax shall be assessed in the name of such person in which possession the foreign investment stand on the first day of the month of *Shrawan* as a right recognised by the law.

(3) In assessing such tax, the Tax Officer shall have all of such powers as the court is entitled to pursuant to the prevailing Nepal law in respect of properly considering the statements furnished by taxpayers and issuing summons in the name of the concerned person, getting them to make depositions, and submit documents for purposes of examining such statements, as the case may be.

Provided that, in taking action pursuant this Section, if the tax payer makes a petition for a time-limit not exceeding Seven days or makes a petition to the tax officer in person or through his/her attorney within Seven days to get the expired time-limit extended, the Tax Officer may accept the petition or extend the time limit. No petition for a time limit shall be accepted nor shall the expired time limit in excess of the said time-limit be extended.

7. **Valuation of foreign investment tax in respect of person failing to furnish statement and assessment of foreign investment tax:** If a person obliged to furnish statement pursuant to Sub-section (1) or (3) of Section 4 fails to furnish, or cause to be furnished, or furnished or causes to be furnished false or incomplete statements, the Tax Officer may, pursuant to Sections 5 and 6, value the foreign investment of that person and assess the tax, based on justifiable presumption to the extent possible.
8. **Payment of foreign investment tax:** (1) A taxpayer has to deposit, or cause to be deposited, the amount of foreign investment tax assessed

pursuant to Sections 6 or 7 with such tax office within Thirty five days of receipt of the tax assessment order as may be specified in that order.

(2) In the event of failure to pay the tax, the local Land Revenue Office or the authority designated by Government of Nepal may realise such amount of tax by confiscating the assets of such tax payer in accordance with the provisions of the prevailing Nepal Law.

39. **Appeal**: An appeal against an order of the Tax Officer pursuant to Sections 4, 5, 6 or 7 may lie in the Revenue Tribunal.

10. **Power of Government of Nepal to remit foreign investment tax**: If a person returns investment being made in a foreign country to Nepal within the month of *Chaitra* of a year Government of Nepal may return or even remit the tax levied on such foreign investment for that year.

11. **Prize to true information provider**: A person who provides the true information that any person obliged to furnish or cause to be furnished statements pursuant to Section 4 does not furnish or cause to be furnished such statements or has furnished or caused to be furnished false statements, shall, after that matter is held to be true, be given, by order of Government of Nepal, a price in a sum of Twenty percent of the figure of the foreign investment tax recovered from the offender (guilt).

12. **Non applicability**: Nothing contained in this Act and Rules framed hereunder shall be applicable to personal foreign investment of⁴ Government of Nepal is, hereby, clarified to remove doubt.

13. **Tax Officers**: (1) Government of Nepal may, for purposes of this Act, appoint Tax Officers in such number as it may deem necessary.

³ Amended by the Revenue Tribunal Act, 2031 (1974).

⁴ Amended by the Republic Strengthening and Some Nepal Laws Amendment Act, 2066.

(2) Government of Nepal may, by a Notification published in the Nepal Gazette, specify as to how many areas or villages are to be assigned under jurisdiction of any Tax Officer.

(3) A Tax Officer may delegate in writing any or all of his/her power to any of his/her subordinate official. Any action carried out by him/her in pursuance of the power so delegated shall be valid as if it were carried out by the Tax Officer.

(4) The documents submitted by the taxpayer pursuant to Sections 4, 6, 9 and 11 of this Act shall be deemed to be strictly confidential. Such documents shall not be disclosed for any other acts except tax related governmental proceedings, and such documents shall not be taken by any Court as evidence in any other matters except for purposes of foreign investment tax.

(5) Government of Nepal may, by a Notification published in the Nepal Gazette, delegate any or all of the powers conferred on it pursuant this Act to the Tax Officer.

14. **Power to frame rules**: Government of Nepal may frame Rules in order to carry out the objectives of this Act.
15. **In the event of inconsistency**: The matters contained in this Act or the Rules framed hereunder shall be governed by this Act or Rules, and the matters not contained herein or Rules shall be governed by the prevailing Nepal law.