|  |  |  |
| --- | --- | --- |
| 19th of June 2012 TUESDAY | **Official Gazette** | Number: 28328 |
| **DECREE OF THE COUNCIL OF MINISTERS** | | |
| **Decree Number: 2012/3305**  It has been resolved by the Council of Ministers on 15/6/2012 that the attached “Decree On State Incentives In Investments” shall be put into effect upon the Report No 43145 of the Ministry for Economy on 15/6/2012 according to Additional Article 2 of Law No. 474 dated 14/5/1964, Article 3 of Law No. 4706 dated 29/6/2001, Additional Article 2 of Law No. 5510 dated 31/5/2006, Article 13 and Temporary Article 30 of Law No. 3065 dated 25/10/1984, Articles 11 and 26 of Decree Law No. 637 dated 3/6/2011 and Article 32/A of Law No. 5520 dated 13/6/2006.  **Abdullah GÜL**  PRESIDENT  Recep Tayyip ERDOĞAN  Prime Minister   |  |  |  |  | | --- | --- | --- | --- | | B. ARINÇ | C. YILMAZ | B. ATALAY | B. BOZDAĞ | | Deputy Prime Minister | Acting Deputy Prime Minister | Deputy Prime Minister | Deputy Prime Minister | |  |  |  |  | | S. ERGİN | F. ŞAHİN | E. BAĞIŞ | N. ERGÜN | | Minister of Justice | Minister for Family and Social Policies | Minister for EU Affairs | Minister for Science, Industry and Technology | |  |  |  |  | | F. ÇELİK | E. BAYRAKTAR | A. DAVUTOĞLU | M. Z. ÇAĞLAYAN | | Minister for Labour and Social Security | Minister for Environment and Urbanization | Minister for Foreign Affairs | Minister for Economy | |  |  |  |  | | T. YILDIZ | E. BAYRAKTAR | M. M. EKER | H. YAZICI | | Minister for Energy and Natural Resources | Acting Minister for Youth and Sports | Minister for Food, Agriculture and Livestock | Minister for Customs and Trade | |  |  |  |  | | İ. N. ŞAHİN | C. YILMAZ | E. GÜNAY | M. ŞİMŞEK | | Minister for Internal Affairs | Minister for Development | Minister for Culture and Tourism | Minister for Finance |  |  |  |  | | --- | --- | --- | | Ö. DİNÇER | İ. YILMAZ | V. EROĞLU | | Minister for National Education | Minister for Defence | Minister for Forestry and Water Affairs |  |  |  | | --- | --- | | R. AKDAĞ | B. YILDIRIM | | Minister for Health | Minister for Transportation, Maritime and Communication |   **DECREE ON STATE INCENTIVES IN INVESTMENTS**  **Purpose**  **ARTICLE 1 - (**1) The purpose of the this Decree is to set the procedures and principles to channel savings to investments with high added value, enhance production and employment rate, encourage regional and big scale investments and strategic investments with a large research and development content and capacity to increase international competitiveness, increase direct foreign investments, dispel regional development differences, support investments aimed at aggregation and environment and research and development activities in accordance with the targets estimated in development plans and annual programmes.  **Definitions**  **ARTICLE 2 - (**1) In the implementation of this Decree the following terms shall mean;  a) Intermediary institution: Banks and leasing companies including the public banks to give interest support,  b) Research and Development (R&D) Investment: Investments for research and development activities based on scientific principles and of which each phase is previously determined in order to develop new products, increase product quality and standards, and adopt any new technology that would reduce the costs and enhance the standards to conditions of the country,  c) Minister: Minister for Economy,  d) Ministry: Ministry for Economy,  e) Large scale investment: Investments stated in Annex-3 and defined within the scope of Article 32/A of the Corporate Tax Law No. 5520 dated 13/6/2006,  f) Environment Investment: Investments concerning the cleaning or disposal of waste such as solid, liquid or gas waste of facilities that already exists or will be established, and which are not directly concerned with commodity production,  g) General Directorate: Ministry for Economy General Directorate for Incentive Implementation and Foreign Capital,  h) Commission: Strategic Investments Evaluation Commission established with the approval of the Minister within the structure of the Ministry for Economy,  i) Accounting Unit: Accounting unit of the Ministry for Economy,  j) Fixed investment amount: Total amount of the items for real property-land, building-construction, machinery and equipment and other investment expenditures,  k) Incentive certificate: Investment incentive certificate,  l) Product: Processed product(s) of the manufacturing industry which are aimed to be obtained by the investment subject to the incentive certificate,  m) Investor: Real persons or legal entities who will realize the investment within the scope of the incentive certificate,  n) Local units: Development Agencies, chambers of industry and other chambers to be assigned by the Ministry.  **Regions**  **ARTICLE 3 - (**1) The provinces with regard to the implementation of the supports contained within the scope of this Decree are divided to six regions by taking into consideration the socio-economic development levels and are listed in Annex-1.  **Incentive system and support elements**  **ARTICLE 4** - (1) The incentive system consists of the investment incentive implementations for the general, regional, large scale and strategic investments.  (2) General incentive implementations: Except for regional, large scale and strategic investments, and those listed in Annex-4 not to be supported and also investment subjects which do not comply to the conditions set forth in Annex-4, investments at or above the fixed investment amounts in Article 5 may benefit from the following support elements regardless of the region.  a) Customs duties exemption.  b) Value added tax (VAT) exemption.  c) Income tax stoppage support (for investments in Region 6).  d) Social security premium employer share support (for ship building investments of shipyards).  (3) Regional incentive implementations: Sectors whose numbers are stated in Annex- 2B on basis of provinces may benefit from the following support provided that they comply with the criteria of the relevant region where the province is Located as stated in Annex-2A.  a) Customs duties exemption.  b) VAT exemption.  c) Tax discount.  d) Social security premium employer share support.  e) Investment land allocation.  f) Interest support (for investments in Regions 3, 4, 5 and 6).  g) Income tax stoppage support (for investments in Region 6).  h) Social security premium support (for investments in Region 6).  (4) Large scale investments: The investment subjects fulfilling the minimum amounts stated in Annex-3 may benefit from the following supports.  a) Customs duties exemption.  b) VAT exemption.  c) Tax discount.  d) Social security premium employer share support.  e) Investment land allocation.  f) Income tax stoppage support (for investments in Region 6).  g) Social security premium support (for investments in Region 6).  (5) Strategic investments: Investments that fulfill the criteria in Article 8 may benefit from the following supports regardless of the region.  a) Customs duties exemption.  b) VAT exemption.  c) Tax discount.  d) Social security premium employer share support.  e) Investment land allocation.  f) Interest support.  g) VAT return.  h) Income tax stoppage support (for investments in Region 6).  i) Social security premium support (for investments in Region 6).  (6) For investments which are eligible to obtain incentive certificates within the scope of paragraph three, four and five, an investment certificate can be issued within the framework of general investment implementations.  **Fixed investment amount and minimum capacity**  **ARTICLE 5 - (**1) For an investment to be eligible to benefit from support elements, the minimum fixed investment amount should be one million Turkish Liras in Regions 1 and 2 and five hundred thousand Turkish Liras in Regions 3, 4, 5 and 6. However, investments to benefit from the support items should also fulfill the minimum capacity, fixed investment amount and the other conditions defined in Article 8 or attached lists if any.  (2) The total amount pertaining to the machinery and equipment subject to leasing in the investments to be made via leasing method should be minimum two hundred thousand Turkish Liras for each leasing company.  (3) The rate of intangible fixed assets (trademark, license, know-how etc.) which are deemed as investment expenditure within the scope of the incentive certificate cannot exceed fifty percent of the fixed investment amount that is registered to the incentive certificate.  **Application**  **ARTICLE 6 - (**1) Incentive certificate applications must be addressed to the Ministry together with necessary information and documents which are published in the relevant communiqué. However, the applications for investments that falls within the scope of general incentive implementations, do not exceed a fixed investment amount of ten million Turkish Liras, and will be determined by a communiqué can be submitted to the local units in the location of investment on the own discretion of the investor.  (2) If the application for an incentive certificate is to be made directly to the Ministry, a fee amounting to four hundred Turkish Liras must be deposited to the account of the Circulating Capital Directorate of the Ministry, and if it is to be made to the local units, a fee amounting to three hundred Turkish Liras must be deposited to the account of the Circulating Capital Directorate of the Ministry and one hundred Turkish Liras to the account of the relevant local unit by the applicant. These amounts are certainly non-refundable.  (3) Except for transaction fees determined by the communiqué related with the incentive certificate, no additional fee can be charged by the relevant local units.  **Issuance of the incentive document**  **ARTICLE 7 - (**1) In order for investments to benefit from the support elements covered under this Decree, project must be approved within the frame of the sectoral, financial and technical evaluations, which are made by taking into consideration the macro-economic programmes and the demand-supply balance, and an incentive certificate must be issued.  (2) Investment expenditures which are realized before the application date for the incentive certificate are not covered by the incentive certificate.  (3) An individual investment certificate is not issued on behalf of the financial leasing company for investments to be realized by the financial leasing method.  **Strategic investments**  **ARTICLE 8 - (**1) Investments, which satisfy all of the following criteria together and are aimed at the production of products with high import dependency are considered as strategic investments.  a) The minimum fixed investment amount is above fifty million Turkish Liras (exclusively including the part to be proportioned to the facility’s established power for the energy investments not based on natural gas to meet the energy needs of these investments).  b) The total domestic production capacity for the product subject to the investment is less than the importation.  c) Based on the principles set by the Ministry, the added value to be provided by the investment contained in the certificate is minimum forty percent.  d) The total import amount of the subject product to be invested in is above fifty million US Dollars within the last year.  (2) Sub-clause (d) of the first paragraph does not apply for the investments for production of products which are not produced domestically, and sub-clause (c) does not apply for refinery and petro-chemical investments.  (3) Applications to the Ministry in this matter shall be examined and evaluated by the Commission and incentive certificates shall be issued for appropriate projects.  (4) Investment subjects listed in Annex-4 which are not subject to support and investments to be realized by State institutions and organizations shall not be evaluated within the scope of this article.  **Customs duties exemption**  **ARTICLE 9 - (**1) Within the scope of the incentive certificate, import of investment goods machinery and equipment, import of CKD components and parts in automobile and light commercial vehicle investments provided that it remains within investment period, and import of hulls in investments for the construction of yachts above fifty meters and ships are exempted from customs duty in accordance with the Import Regime Decree in effect.  (2) If bus, tow truck (excluding those with green motors in conformity with Euro norms), furniture, motorboats, trucks (excluding off-road dump trucks which are not allowed to highways), trans-mixers, concrete plants, forklifts, and concrete pumps are imported within the scope of incentive certificate, customs duties at the rate specified by the current Import Regime Decree are collected. Also, the import of spare parts not exceeding five percent of the cost of machinery and equipment may be imported without providing and customs duty exemption and added to the fixed investment amount.  (3) By considering the sectoral restrictions, following may be deemed suitable by the Ministry;  a) Used or renewed machinery and equipment (excluding land transport vehicles) deemed as appropriate for import in accordance with the Import Regime Decree and the machinery and equipment eligible for import according to Article 7 of the Import Regime Decree can be included within the scope of the incentive certificate,  b) The import of the entire used facility upon evaluation to be made on basis of the project.    (4) Used or renewed machinery and equipment within the scope of incentive certificates for print, press, textile, ready-made clothing and confection investments cannot be imported.  (5) For investments to be realized by the financial leasing method, import transactions are performed by considering the incentive certificate of the investor without issuing an individual investment certificate on behalf of the financial leasing company. The investor and the financial leasing company are severally liable for the import transactions.  (6) Import of machinery and equipment, concerning the investments for which application for incentive certificate is made but not concluded yet, is permitted by the Ministry for Customs and Trade, upon approval of the Ministry, provided that a guarantee in the total amount of tax and other deductions that would be exempted under the investment certificate is deposited. For importation via depositing a guarantee, the period of guarantee allowed at once is maximum six months. In case the investment certificate is not issued within the period of guarantee, application to the Ministry for Customs and Trade is required for a period extension. Start date of the guarantee is the date when the commodity enters into free circulation. The investor must apply to the Ministry for Customs and Trade for the release of the guarantee within the allowed period (including additional periods) by submitting the incentive certificate and import machinery and equipment list attached to it. Otherwise, amount collected as guarantee is retained as revenue.  (7) If a new investment is made concerning the production of automobiles with a minimum capacity of one hundred thousand pieces/year, or if the capacity of existing facilities is increased by minimum one hundred thousand pieces/year, the investors are permitted to import automobiles in A, B and C segments without being subjected to any customs duties after the fixed investment amount registered to the incentive certificate is realized by twenty percent, provided these are within the investment period. The total number of automobiles that are permitted to be imported within the scope of the incentive certificate cannot exceed fifteen percent of the additional capacity registered in the certificate. However, if the certificate contains also the production of motors, the investor is allowed to import automobiles from the above mentioned segments up to an additional fifteen percent of the motor production capacity (if the motor production capacity is greater than the automobile production capacity, the automobile capacity shall prevail).  **VAT exemption and return**  **ARTICLE 10 - (**1) In accordance with the Law on Value Added Tax no. 3065 and dated 25/10/1984, deliveries of imported or domestic machinery and equipment to be made within the scope of an incentive certificate to the investors that posses an incentive certificate can be exempted from VAT. The same provision applies also to the transfer transactions of the incentive certificate or machinery and equipment contained within the scope of incentive certificate and the partial delivery of the goods stated as sets, units, kits and etc. in the machinery and equipment lists.  (2) Building-construction expenditures to be made within the scope of strategic investments of above a fixed investment amount of five hundred million Turkish Liras may benefit from VAT return.  **Interest support**  **ARTICLE 11 - (**1) Upon request, for investments that would benefit from supports within the scope of regional incentive implementations and strategic investments, as well as the R&D and environment investments, the following points of interest rate or profit share to be paid for the investment loans extended by the banks with a maturity of at least one year and not exceeding seventy percent of the fixed investment amount recorded in the incentive certificate can be compensated from the budget resources for the first five years at maximum upon the approval of the Ministry;  a) for the regional investments to be realized in Region 3, three points for the loans in Turkish Lira, one point for the foreign currency and foreign exchange loans,  b) for the regional investments to be realized in Region 4, four points for the loans in Turkish Lira, one point for the foreign currency and foreign exchange loans,  c) for the regional investments to be realized in Region 5, five points for the loans in Turkish Lira, two points for the foreign currency and foreign exchange loans,  d) for the regional investments to be realized in Region 6, seven points for the loans in Turkish Lira, two points for the foreign currency and foreign exchange loans,  e) for the strategic investments, R&D investments and environment investments to be realized in any region regardless of the regions, five points for the loans in Turkish Lira, two points for the foreign currency and foreign exchange loans,  (2) For those investments covered under incentive certificates containing interest support and to be realized with financial leasing method, interest support can be supplied under the same conditions provided that a disbursement plan including interest and profit share payments is prepared.  (3) The amount of interest support to be provided on project basis within the scope of regional investment implementations cannot exceed five hundred thousand Turkish Lira in Region 3, six hundred thousand Turkish Lira in Region 4, seven hundred thousand Turkish Lira in Region 5 and nine hundred thousand Turkish Lira in Region 6.  (4) Regardless of the region, the amount of interest support cannot exceed five hundred thousand Turkish Lira for R&D investments and environment investments, fifty million Turkish Liras provided that this does not exceed five percent of the fixed investment amount for strategic investments.  (5) Incentive certificates to be issued in relation with applications until 31/12/2013 (including this date) regarding strategic investments are subject to interest support. However, such interest support payments related to these certificates start after 1/1/2013.  (6) Interest support implementation for investments to be realized by foreign currency credits is made by taking into account of foreign exchange selling rate of Central Bank of Turkey applicable at the date of maturity.  (7) Interest support shall not apply to investments for used machinery and equipment and for investments made by State institutions and organizations including public economic enterprises and public occupational organizations.  (8) It is not admissible to apply by more than one intermediary for interest support in relation with the investment within the scope of the same incentive certificate. However, it is admissible to apply by more than one intermediary for interest support in relation with strategic investments.  (9) In case of failure by the investor in the reimbursement of the interest, profit share or the principal in due period as specified in the disbursement plan for the first time, the case is notified by the intermediary institutions to the Ministry within the shortest time and upon the notification the Ministry suspends the payments of the interest support. In case of a subsequent notification by the intermediary institution to the Ministry about fulfillment of reimbursement obligation by the investor, the interest support payments are resumed for the remaining periods, without granting an extension period on the payment dates specified at the beginning. In case of failure in obligations regarding the loan reimbursement for the second time, payment of interest support is terminated.  (10) In case of transfer of the investment within the scope of incentive certificate to another investor, and if the incentive certificate of the investor taking over is entitled to interest support and the approval of the intermediary institution is obtained, payment of interest support is proceeded for the new investor in accordance with the new disbursement plan to be issued for the remaining part of the loan without making any modification in the previous plan concerning the maturity, amount and similar conditions. Otherwise, the interest support implementation is ceased.  (11) The intermediary institution is liable to ensure the use of the loan subject to interest support for the expenditures within the scope of incentive certificate. In case the loan is determined to have been used for purposes other than specified, for the banks the amount determined by the Bank by applying the interest or profit share rate specified for a loan within this scope by the relevant bank to the interest support amount already paid by the Ministry, for financial leasing companies the total amount determined by applying the interest or profit share specified in issuance of the disbursement plan to the interest support amount already paid are required to be deposited in the account of accounting unit within five work days to be retained as revenue to the budget. Otherwise, the same amounts are collected by the Ministry;  a) Through transfer from the reserve account in Central Bank of Turkey or by exercising other means of legal remedy for banks,  b) By applying the provisions of the Procedure Law on Collection of Public Claims, law no. 6183 dated 21/7/1953, for financial leasing companies,  (12) In case the interest or profit share rates applied by the intermediary institutions fall below the interest support point determined by regions, the rate applied by the intermediary institution shall be taken into account.  **Social security premium employer share support**  **ARTICLE 12 - (**1) For large scale investments, strategic investments and the investments supported within the scope of regional incentive implementations, part of employers share in social security premium corresponding to minimum wage amount is compensated from the budget of the Ministry for the employments specified below provided that the employment recorded in the incentive certificate whose completion visa is issued is not exceeded;  a) for completely new investments, all employment created by the investment realized within the scope of the incentive certificate,  b) for all other types of investments, following the completion of the investment, amount of employment created by the investment within the scope of the investment certificate and added to the average number of employees notified to the Social Security Institution with the monthly premium and service document in the last six months before commencement of the investment (for investments bearing seasonal characteristics, preceding years’ seasonal average employment figures are taken into account).  (2) Investments which are supported within the scope of large scale investments and regional investment implementations, the above mentioned support shall be implemented for the periods as stated below.   |  |  |  | | --- | --- | --- | | Regions | Investments started before Dec. 31st 2013 (incl. this day) | Investments started after Jan.1st 2014 | | 1 | 2 years | - | | 2 | 3 years | - | | 3 | 5 years | 3 years | | 4 | 6 years | 5 years | | 5 | 7 years | 6 years | | 6 | 10 years | 7 years |   (3) For strategic investments, this support is implemented for ten years in Region 6 and for seven years in all other regions.  (4) The amount of the social security premium employer share support benefited from may not exceed the rates specified below for fixed investment amount concerning the investments supported under regional incentive implementations and for large scale investments.   |  |  |  | | --- | --- | --- | |  | Regional Incentive Implementations | Large Scale Investments | | Regions | Social Security Premium Employer Share Support rate to the Fixed Investment Amount (%) | Social Security Premium Employer Share Support rate to the Fixed Investment Amount (%) | | 1 | 10 | 3 | | 2 | 15 | 5 | | 3 | 20 | 8 | | 4 | 25 | 10 | | 5 | 35 | 11 | | 6 | 50 | 15 |   (5) For strategic investments, the amount of the social security premium employer share shall not exceed fifteen percent of the fixed investment amount regardless of the zone.  (6) In order for the premiums corresponding to employers’ share are compensated, employers are required to submit the monthly premium and service documents for the employees they employ to the Social Security Institution within the legally prescribed period in accordance with the Social Security and General Health Insurance Law No 5510 dated 31/5/2006 and the amount that corresponds to the employee’s share in social security premium and the amount representing the portion of the employers’ share that is not compensated by Ministry must be paid within the legally prescribed period. In case of late payment of the premiums to be paid by the employer, the overdue fine arising out of late payment to the Social Security Institution by the Ministry is collected from the employer.  (7) For shipbuilding investments in shipyards that are supported under general incentive implementations, the portion of social security premium employer share corresponding to the minimum wage to be paid for employees employed in building the ship registered in the certificate may be covered by the Ministry without requiring the completion visa. This support can be applied for maximum eighteen months beginning from the start date of the investment, even if the ship building activity takes longer. Yachts, floating facilities and marine vehicles are considered within this scope.  (8) In the facility for the investment contained in the incentive certificate for which this support shall be applied, the number of employees employed under the same social security workplace number of the employer by the sub-contractors specified in the relevant regulation may also count towards this support.  (9) The procedures and principles for the transfers to the Social Security Institution are determined by the Ministry.  **Social security premium support**  **ARTICLE 13 - (**1) According to this Decree in Region 6; for additional employment to be created by the investment to be realized in line with the incentive certificate within the scope of large scale investments, strategic investments and regional incentive implementations, the portion of the social security employer share corresponding to the minimum wage to be paid to the Social Security Institution by the employer may be paid by the Ministry budget on behalf of the employer for ten years following the issuance of completion visa provided that the number of employment registered in incentive certificate whose completion visa is issued is not exceeded.  (2) In order to benefit from this support, the monthly premium and service documents have to be submitted in the legally prescribed period to the Social Security Institution and the employee share of the premium, which is not covered by the Ministry should be duly and timely paid. In case of late payment of the premiums to be paid by the investor who benefit from this support, the overdue fine arising out of late payment to the Social Security Institution by the Ministry is collected from the employer.  (3) The provision stated in paragraph eight of Article 12 may also be applied to the social security premium support.  **Income tax stoppage support**  **ARTICLE 14 - (**1)For additional employment created by the investments to be realized within the scope of the incentive certificates issued for Region 6 according to this Decree, the income tax that is calculated on basis of the portion of the employees' wages that corresponds to the minimum wage shall be cancelled from the tax accrual by means of tax declaration to be submitted for ten years starting from the whole or partial commissioning of the investment provided that the number of employees registered in the certificate is not exceeded.  (2) In case the investment is not completed or the incentive certificate is cancelled, all taxes that are cancelled within the scope of the income tax stoppage support shall be collected together with delay interest, but without tax loss fines.  (3) In case the investment is transferred before it is commissioned, the transferee shall be entitled to benefit from the same income tax stoppage support, provided the transferee fulfils the same conditions.  (4) In case the investment is transferred after it is commissioned wholly or partially, the transferee shall be entitled to benefit from the income tax stoppage support after the date of transfer and the transferor until the date of transfer.  **Tax discount**  **ARTICLE 15 - (**1) For large scale investments and investments to be realized within the scope of the regional incentive implementations, the corporate tax or income tax pursuant to article 32/A of Law No 5520 shall be applied with reduction at the following rates until the estimated investment contribution amount is attained.   |  |  |  |  |  | | --- | --- | --- | --- | --- | |  | Regional Incentive Implementations | | Large Scale Investments | | | Regions | Investment contribution rate (%) | Corporate tax or income tax reduction rate (%) | Investment contribution rate (%) | Corporate tax or income tax reduction rate (%) | | 1 | 10 | 30 | 20 | 30 | | 2 | 15 | 40 | 25 | 40 | | 3 | 20 | 50 | 30 | 50 | | 4 | 25 | 60 | 35 | 60 | | 5 | 30 | 70 | 40 | 70 | | 6 | 35 | 90 | 45 | 90 |   (2) However, provided that the investment within the scope of the incentive certificates to be issued in accordance with this Decree is to be commenced until 31/12/2013 (incl. this day) the following reduction and contribution rates are applicable.   |  |  |  |  |  | | --- | --- | --- | --- | --- | |  | Regional Incentive Implementations | | Large Scale Investments | | | Regions | Investment contribution rate (%) | Corporate tax or income tax reduction rate (%) | Investment contribution rate (%) | Corporate tax or income tax reduction rate (%) | | 1 | 15 | 50 | 25 | 50 | | 2 | 20 | 55 | 30 | 55 | | 3 | 25 | 60 | 35 | 60 | | 4 | 30 | 70 | 40 | 70 | | 5 | 40 | 80 | 50 | 80 | | 6 | 50 | 90 | 60 | 90 |   (3) For strategic investments, the tax discount rate to be applied shall be ninety percent and investment contribution rate shall be fifty percent in all regions.  (4) Investment contribution amount that is to be applied within the scope of this Article, means the discounted income or corporate tax that is paid by the state by remission to collect, and the rate to be calculated by dividing this amount to the total investment amount means the investment contribution rate.  (5) Discounted income tax or corporate tax may be applied to the profits of the investor for other activities in the investment period to the account of the investment contribution amount that is to be calculated according this Article, on the condition not to exceed the realized investment expenditure amount and not to exceed;  a) for large scale investment and investments within the scope of regional incentive implementations, ten percent in Region 2, twenty percent in Region 3, thirty percent in Region 4, fifty percent in Region 5 and eighty percent in Region 6.  b) For strategic investments, eighty percent in Region 6 and fifty percent in other regions.  (6) Investments made in connection to land, building land, royalty, spare parts and expenditures which are not part of amortisement, also institutions that operate under Law No. 5520 in the finance and insurance field, joint ventures, investments realized under Law No. 4283 on Establishing and Operating Electric Power Plants and Sale of Energy through the Build-Operate Model and Law No. 3996 Regarding the Realization of Certain Investments and Services by the Build-Operate-Transfer Model and royalty contracts shall not benefit from tax discount support.  (7) The reduction rate does not apply in taxation through withholding (stoppage).  **Investment land allocation**  **ARTICLE 16 - (**1) Pursuant to additional article 3 of the Law dated 29/6/2001 and No 4706 and in accordance with the procedures and principles set forth by the Ministry of Finance, land can be allocated to large scale investments, strategic investments and investments to benefit from regional supports with incentive certificate issued by the Ministry.  (2) Investments pursuant to paragraph six of Article 15 are not subject to land allocation.  **Primary investment subjects**  **ARTICLE 17 - (**1) The following investment subjects may benefit from regional supports in Region 5. However, if these investments are located in Region 6, they are subject to the regional supports in the Region they are located.  a) Investments for cargo and/or passenger transportation by seaway.  b) Railway investments of the private sector for intercity cargo and/or passenger transportation and railway investments for urban cargo transportation.  c) Test centres wind tunnels and similar investments (automotive, space and defence industry).  d) Tourism accommodation investments to be realized in Culture and Tourism Protection and Development Regions and eligible for regional supports.  e) International exhibition center investments with a minimum covered area of fifty thousand square meters (excluding accommodation and shopping mall units).  f) Biotechnological pharmaceuticals, oncology pharmaceuticals and blood products production investments which are to be realized after the project approval of the Ministry of Health and with a minimum amount of twenty million Turkish Lira.  g) Investments in the fields of defence, aviation and space which are to be realized after the project approval of the Ministry for Defence and with a minimum amount of twenty million Turkish Liras.  h) Mine extraction and/or processing investments (excluding group I minerals as stated in Mining Law No. 3213 dated 4/6/1985 and crushed stones and extraction and/or processing investments in Istanbul).  i) Primary, secondary and high school education investments of the private sector.  j) Investments regarding the manufacturing of products that are developed as a result of R&D projects supported by the Ministry for Science, Industry and Technology.  **Investments to benefit from sub-region support**  **ARTICLE 18** - (1) Investments with incentive certificates within the scope of large scale investments or regional incentive implementations may benefit from tax discount and social security premium employer share support over the rates and periods valid in one region below the region they exist, provided that they satisfy at least one of the following conditions.  a) If the investment is realized in an organized industrial zone (OIZ).  b) If the investment is realized by an investor who has at least five real person or legal entity partners in the same sector and the investment provides integration to the field of common activity.  (2) The social security premium employer share support for large scale investments and investments within the scope of regional incentive implementations to be realized in Region 6 in accordance with this Article shall be applied by adding two years to the effective period in the Region, and the tax discount support shall be applied by adding five points to the investment contribution rate effective in the Region.  **R&D and environment investments**  **ARTICLE 19 - (**1) R&D investments may benefit from VAT exception, customs duty exemption and interest support. If the mentioned investments are in Region 6, they may also benefit from income tax stoppage and social security premium support.  **Procedures to be executed by local units**  **ARTICLE 20 - (**1) Incentive certificate is issued and sent to Ministry for evaluation for those incentive certificate applications submitted to local units and found appropriate. Incentive certificates found to be appropriate by the Ministry are approved and returned to the relevant local units.  (2) All the procedures, excluding those mentioned in the subparagraph (b) of third paragraph of Article 9 and Article 22 and 23 of this Decree, are concluded by the related local unit who has issued the incentive certificate.  (3) Concerning the investments whose completion visas shall be issued, the relevant local units shall determine the realization of the relevant investments and notify the Ministry according to the format to be determined by the communiqué. The procedures related to completion visa are not deemed to be finalized unless approved by the Ministry.  (4) The local units are obliged to employ adequate number of technical personnel on a full-time basis to carry out the procedures related to incentive certificates.  (5) The local units which are determined to be in breach of the provisions of this Decree are withdrawn from their duties by decision of the Ministry and shall not be assigned for duty before necessary measurements are taken.  (6) The Development Agencies monitor the realization of the investments within the scope of incentive certificates issued by the Ministry and report the development status to the Ministry in six months periods.  **Payments to be made from the budget**  **ARTICLE 21 - (**1) Payments specified below can be made according to the procedures and principles stipulated in the relevant legislation and within the appropriation limit specified in the annual budget for support of investments.  a) Payments to be made in accordance with this Decree.  b) Balance due regarding investment and operational loans payable in accordance with the Council of Ministers’ Decrees published previously.  c) Amounts payable regarding support items foreseen in accordance with the provisions of previous Decrees concerning the State incentives to investments.  d) Return of the amounts which are over-deposited inadvertently or deposited in excess for the incentive certificate application and loss of the documents.  e) The amounts which are required to be reimbursed at the end of the court trials concluded adversely in connection with the claims related to state incentives to investments and expenses such as court and execution fees and charges.  (2) The payments to be made by the Ministry are carried out by the Central Bank of Turkey.  **Transfer, sale, export and rental**  **ARTICLE 22 - (**1) Transfer, sale, export and rental of the machinery and equipment within the scope of the incentive certificate with investment completion visa is permitted after a period of five years following the procurement of the subject investment goods.  (2) In case the machinery and equipment related with investments, whose investment is completed within the scope of the incentive certificate but the completion visa is not issued, are sold after five years as of the date of procurement, and the undertaking has been in operation at least for five years, the Ministry may issue completion visa without imposing any sanctions.  (3) Without taking into consideration whether the completion visa has been issued, the Ministry is authorized for giving permission to;  a) transfer to any other investment with incentive certificate,  b) the sale to another investor not holding an incentive certificate,  c) the exportation,  d) the rental,  of machinery and equipment, that have not fulfilled a service span of five years, partially without disturbing the integrity of the investment or entirely.  (4) Permission of sale for machinery and equipment whose completion visa has not been issued or that have not fulfilled a service span of five years despite its completion visa has been issued, can be granted on the condition that investment integrity is maintained. In such cases, the support items provided for the machinery and equipment for which permission of sale is granted cannot be recovered. However, in case of cancellation of the investor's incentive certificate for any reason following the grant of sale permission, the support items provided for the relevant machinery and equipment are recovered partially or entirely according to the related legislation.  (5) In case of selling or causing to be sold without permission the machinery and equipment that have not fulfilled the period of five years, regardless of the issuance of a completion visa for them, such issue is to be reported to the Ministry as soon as possible. In such a case, support items benefited by means of uncollected customs duties and VAT as well as discounted corporate or income tax, if any, for the sold machinery and equipment are recovered according to the related legislation. In case of decrease in the maximum loan amount due to decline in investment amount resulting from the sale of machinery and equipment, the overpaid amount of interest support corresponding to excess part of the loan is recovered in accordance with Article 11 and uncollected Resource Utilization Support Fund cut-offs are recovered according to relevant legislation.  (6) The rental or free temporary transfer of machinery and equipment procured within the scope of the incentive certificate, to another investor on the condition of purchasing the resulting goods or services by the investor that holds the incentive certificate is subject to the consent of the Ministry.  (7) In case of commencement of execution proceedings or insolvency procedure under court decision against the investors, completion visa of the incentive certificate can be issued by the Ministry for those investments contained in incentive certificate for which completion visa can be issued and the visa for special conditions registered in the certificate can be issued upon the application made by the investor, execution or insolvency authority before the date of finalization of sale by execution or insolvency. However, in case of finalization of sale transaction, the support items benefited for the machinery and equipment, which have not yet completed the periods prescribed for sale, if any, as of the finalization date, are recovered according to the provisions of the relevant legislation.  (8) In case of liquidation of the investor in accordance with the provisions of the relevant law, upon request of the liquidation committee or authority the provisions of the seventh paragraph can be applied.  **Relocation of investments**  **ARTICLE 23 - (**1) The large scale investments and investments within the scope of regional incentive implementations are required to be maintained within the region concerned for a minimum period of five years as of becoming operational. However, under the consent of the Ministry, investments can be moved to other regions if the subject of investment is included among the subjects to be supported in the region to be moved to. Regarding relocations to upper regions with less support, from one OIZ (Organized Industrial Zone) to outside the OIZ or within the same region or to regions where concerned subject of investment is not supported, the portion that exceeds the already benefited support and the support items not included in the new region are recovered according to the related legislation. The relocation of investments operating in the originally designated region for five years from the date of becoming operational to other regions is unrestricted.  (2) Completed investments which have been maintained for at least five years in the region concerned but whose completion visa is not issued yet are required to apply to the Ministry for the issuance of completion visa prior to relocation. Relocation requests of such investments may receive consent after relocation as well.  (3) Request of relocation of investments benefiting from incentive implementations, including the investment period, are evaluated and concluded by the Ministry per project basis.  **Investment period and completion visa**  **ARTICLE 24 - (**1) The starting date of the investment is the date of the application for the incentive certificate to the Ministry or to the relevant local unit. However, for an investment to be deemed to have started, it is necessary to make an expenditure of at least ten percent of the fixed investment amount (this amount is at least five million Turkish Lira for investments with a fixed investment amount above fifty million Turkish Lira) for land, infrastructure, building-construction, machinery and equipment (advance payments and down payments included) and other investment expenditures, by taking into consideration the fixed investment amount on the initial issuance date of the incentive certificate.  (2) Investments within the scope of incentive certificates should be realized within the period foreseen as a result of the assessment performed on basis of the project. In case of failure in realization of the investment within the foreseen period, the investment period can be extended up to half of the initial period registered in the incentive certificate. If such additional period is calculated less than a year, the period may be applied as a full year.  (3) In the case where necessary permissions and licences from state institutions or organizations according to relevant legislation could not be obtained or the investors stop activity or conduct due to practices of state institutions and organizations, the investment cannot be completed within its period due to force majeure or state of emergency and such situation is documented by the investor, the Ministry may grant an additional period by considering the situation.  (4) Investors are required to apply to the Ministry or authorized local unit which has issued the incentive certificate, to obtain the completion visa within six months following the expiry of the initial or extension period. In case of failure of such application or if the incentive certificate is cancelled for any reason or a partial sanction has been imposed, the investor shall be liable for relevant fine arising from such delay.  (5) The Ministry may assign Development Agencies, Chambers of Industry and Commerce, Chambers of Industry, banks or the governorship of the province where the investment is located for the procedures regarding the completion visas of the investments.  (6) If deemed appropriate by the Ministry, completion visa procedures, including incentive certificates that are issued based on previous Decrees, may also be issued in relation to completion expertise report to be prepared by certified public accountant, in addition to information and documents prescribed by the relevant communiqué.  **Loss of documents**  **ARTICLE 25 - (**1) In case of request by the investor for re-certification of the incentive certificate or its attachments due to loss of these documents, an amount of three hundred Turkish Liras for each document is required to be deposited to the account of the Circulating Capital Directorate of the Ministry except for situations of force majeure and state of emergency specified by the relevant communiqué. This amount is certainly non-refundable.  **Implementation**  **ARTICLE 26 - (**1) Implementation of the support items foreseen in the incentive certificate by related public authorities and institutions is obligatory.  (2) The Ministry may delegate the implementation authority concerning certain procedures within the scope of this Decree to other public authorities and institutions within the framework of procedures and principles to be determined by the communiqués.  **Authorities and auditing**  **ARTICLE 27 - (**1) In order to implement this Decree the Ministry shall have the authority;  a) to determine the procedures and principles regarding the implementation and to give instructions,  b) to take necessary measurements by considering macro-economical policies and developing conditions and make relevant arrangements,  c) to demand all kind of necessary additional information, documentation, opinion, permission, licence etc. from the relevant persons, institutions and organizations,  d) to inspect and finalize special situations which are not mentioned in this Decree, to give opinion, to perform necessary procedures in relation to the incentive certificate in cases of force majeure and state of emergency situations and to solve disputes that may arise during the implementation,  e) to audit the compliance to the conditions stated in the incentive certificate and take necessary measures accordingly,  (2) It is mandatory during auditing to provide all relevant information and documents that are requested by the inspection officers and to submit certified copies of the documents and to grant access for on-site inspection.  **Sanctions**  **ARTICLE 28** - (1) Preserving the rules of the second paragraph of this Article, any breach of the provisions in this Decree or implementation regulations, incompliance to the terms and conditions of the incentive certificate, forgery on the incentive certificate or its attachments, falsely provided information issuance and use, forged document use, sale of the machinery and equipment that is within the scope of the incentive certificate before the allowed period, including due to law enforcement and bankruptcy, or cause such sale, uncompleted investments within the given period of the incentive certificate, incompliance to the investment amounts will result with the cancellation of the incentive certificate.  (2) In cases where the investors have not completely fulfilled their obligations but where it is also not deemed as necessary to cancel the incentive certificate, some parts of the provided supports, which have been granted in relation to the certificate shall be taken back as sanction.  (3) In case the incentive certificates are cancelled or partial sanctions are applied, the supports that are provided shall be taken back from the investor in accordance with the provisions of Law No. 6183.  (4) The part of the sanction that correspond to machinery and equipment that is subject to financial leasing, which is imposed in cases where the investors have not completely fulfilled their obligations, may also be partially or entirely applied to financial leasing companies.  **Benefiting from other supports**  **ARTICLE 29 - (**1) Investment expenditures which benefit from the support items within the scope of this Decree shall not benefit from support items provided by other state institutions or organizations. It is not admissible to apply to the Ministry to benefit from supports within the scope of this Decree, for investment expenditures that are supported or will be supported by other state institutions or organizations. In case of breach of this Article, the supports which have been granted under this Decree shall be taken back in accordance with the provisions of the relevant legislation.  **Repealed legislation**  **ARTICLE 30 - (**1) The “Decree Concerning State Incentives To Investments” which entered into force under the Council of Minister’s Decree dated 14/7/2009 and No. 2009/15199 is repealed.  **Pending applications**  **PROVISIONAL ARTICLE 1 - (**1) The applications not concluded prior to publication of this Decree shall be concluded in accordance with the provisions of the Decree in effect on the date of application. However, upon request, applications concerning to issuance of new incentive certificate can be evaluated in accordance with the provisions of this Decree.  **Implementation regarding previous Decrees**  **PROVISIONAL ARTICLE 2 - (**1) Implementations in relation to incentive certificates that have been issued before this Decree has come into force shall continue within the frame of the relevant Decree and other related Decrees. However, in relation to Council of Ministers Decree No. 2009/15199, all issued incentive certificates based on the applications made between 1/1/2012 until the date of publishing of this Decree shall benefit from the favourable provisions of this Decree if requested.  (2) In case of transfer of the machinery and equipment that has been procured within the scope of incentive certificates that have been issued based on previous Decrees, the transferee investor of such machinery and equipment shall not be entitled to benefit form other supports apart from the general incentive implementations.  (3) The second paragraph of Article 22 and the second paragraph of Article 24 of this Decree also apply to the incentive certificates issued according to previous Decrees. This provision also applies to the investments that are within the scope of incentive certificates that are cancelled but do not have any sanctions imposed on or investments that have sanctions imposed on but not collected yet.  (4) The completion visa procedures for those incentive certificates that have been issued according to previous Council of Ministers Decrees and that contain Resource Utilization Support Premiums, can be issued directly by the Ministry based on reports which have been prepared by the bank after physical, financial and technical inspections and on which the premium payments are based.  (5) Those investment certificates for the investments to be realized in Van province, whose investment period including the additional period has not expired as of 23/10/2011 may be granted an additional period equal to the period registered on the certificate upon request.  **Entry into force**  **ARTICLE 31 - (**1) This Decree shall enter into force on the day of its publication.  **Enforcement**  **ARTICLE 32 - (**1) Provisions of this Decree shall be enforced by the Minister for Economy. | | |