Law to Watch: Draft Law on Special Administrative-Economic Zones

A draft of the new Law on Special Administrative - Economic Zones was recently posted on the Government Portal for public review and commentary. This draft law lays the foundation for specialized regimes applicable to special administrative - economic zones (hereinafter “SAEZ”) located in Van Don (Quang Ninh Province), North Van Phong (Khanh Hoa Province) and Phu Quoc Island (Kien Giang Province).

Each SAEZ specializes in developing certain industries, specifically as below:

- **Van Don SAEZ**: Advanced technology; industries supporting advanced technology; eco-tourism, cultural tourism, and culture industry; air transportation and services auxiliary to air transportation; international commerce and consumption.

- **North Van Phong SAEZ**: Precise information, electronics, and mechanics technology; international goods and passengers seaport; tourism; services auxiliary to seaport; commerce and finance.

- **Phu Quoc SAEZ**: Wellness tourism; eco-tourism; international convention and exhibition center; international commerce and consumption; assets management services; and healthcare.

The investment projects that are in line with the above specialized industries for each SAEZ will receive preferential treatment.

Notably, SAEZs investments are entitled to preferential treatment including:

- **Investment – Business registration**

  For the companies/projects located in the SAEZ, the investment and business registration will be conducted at the Public Administrative Center of SAEZ, instead of the provincial-level department of planning and investment.

- **Special treatment for strategic investors**

  An investor that qualifies as a strategic investor in accordance with the Draft Law will be able to receive special treatment (e.g. priority treatment in the processing of investment/business procedures and site clearance and compensation procedures; being allowed to select the investment project which more than 2 investors are interested in, etc).

- **Preferential treatment in land-use rights**

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1. Article 4.2
2. Article 15.1
3. Article 16.1
Besides leasing and sub-leasing land, the foreign-invested enterprise may receive land allocation from the State to conduct the projects in SAEZ.

The term of land use rights may be as long as 70 years. For the investment projects that are in line with the above specialized industries for each SAEZ; and for the investment projects of strategic investors, the term of land use rights may be as long as 99 years, subject to the Prime Minister's decision.4

Investors may be exempted from land and water surface rent for up to 15 years. For the investment projects that are in line with the above specialized industries for each SAEZ and the projects of strategic investors, investors may be exempted from land and water surface lease fee during the project implementation period.5

Non-agricultural land use tax is exempted.6

- **Waiver of construction permit**

  Construction permits may be waived for certain houses and constructions that have been approved in the 1/500 detail zoning plan and small-sized advertisement billboards.7

- **Tax preferential treatment**

  Vietnamese tourists residing in the SAEZ for more than 24 hours at select accommodation may purchase tax-exempt goods in a tax free zone in accordance with this law.8

  Certain products imported for the purpose of creating fixed assets and imported products that cannot be manufactured in Vietnam may be exempt from import tax.9

  The standard enterprise income tax preferential treatment applicable would include special tax rate of 10% for 15 years, tax exemption for 4 years and a 50% reduction for tax payment for 9 years starting from the year taxable income is generated.10 Depending on the nature of the investment projects, the enterprise income tax preferential treatment will vary.

  For casino business, the preferential excise tax rate of 10% may be applied for 10 years, from the date the investment project starts generating revenue.11

- **National treatment in goods trading - No Economic Needs Test**

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4 Article 18.2  
5 Article 29.1  
6 Article 29.2  
7 Article 19  
8 Article 25.1.b  
9 Article 25.3 and 25.4  
10 Article 27.5  
11 Article 28.2
Foreign-invested enterprises headquartered in SAEZ may exercise their import, export and distribution rights within the SAEZ similarly to domestic investors, even in service sectors that have not been included in any applicable treaties. This means that foreign invested trading companies would not be required to obtain a trading license and pass the economic needs test, for each retail store.

- **Immigration preferential treatment**

Foreigners coming into SAEZ by air and sea transport may be exempted from visa requirements if their term of residence does not exceed 60 days.

- **Vietnamese’s access to casino**

Vietnamese are permitted to play casino games in the casinos located in SAEZ.

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12 Article 32.2
13 Article 36.
14 Article 38