

Law 92/IV/93

Of 15 December 1993

(Regime of incentives applicable to the export or re-export of goods and services)

Under the terms of subparagraph b) article 186 of the Constitution, by mandate of the People, the National Assembly decrees the following:

**CHAPTER I
General provisions**

**Article 1
(Object)**

This diploma defines the regime of incentives applicable to the export or reexport of goods and services.

**Article 2
(Definitions)**

1. Any singular and collective persons authorized under the law to exercise the economic activities of export or reexport of goods and services, is considered an exporter.
2. For the purpose of the preceding number, the following are considered export or reexport operations:
 - a) The sale of goods and services to free enterprises, in country;
 - b) The sale of goods and services to other exporters, whenever the goods and services are incorporated or used to produce other export goods and services.

**Article 3
(Ambit of application)**

This diploma applies to all exporters and to the export and reexport of goods or services they do, except for those covered under special regimes, specifically:

- a) Fuel reexport operations;
- b) The export or reexport done by free enterprises installed in the country.

CHAPTER II
Of the incentives

SECTION I
Introductory provisions

Article 4
(Conditions of access)

1. Only the exporters with up to date compliance with the legal regulamentary obligations can benefit from the incentives authorized in this diploma, specifically, compliance with fiscal and social security obligations and compliance with the norms that regulate access to the economic activities of the sectors in which they operate.
2. The right to the incentives authorized in this chapter is recognized only upon presentation of a document requested by the interested exporter.

Article 5
(Rejection)

The right to the benefits allowed in this diploma is not recognized if the exporters present false declarations or proof documents to the public entities responsible for authorizing those same benefits.

SECTION II
Of the benefits

Article 6
(Fiscal incentives)

1. Exporters are entitled to the following reductions in contributions and taxes on income:
 - a) During their first five years of operation, the exporter or reexporter is entitled to a percentage reduction in contributions and taxes on profits equal to the percentage that the revenues in currency represent of the exporter's total revenue;
 - b) The period established in the preceding paragraph is successively and consecutively prorogued by one year, up to maximum of 10 years, for the exporters who, in the last year of the reference period and in each of the successive prorogations, produced in Cape Verde more than 50% of the goods and services they export;
 - c) After the periods established in the preceding subparagraphs, the contributions and taxes on profits are entitled to a percentage reduction

equal to half the percentage that the income in currency represents of the exporter's total income

2. However, under no circumstance will the period in which the exporter benefits from the contributions and taxes on revenue incentives can be greater than ten years, under the terms of this diploma or other legislation in effect in the country.
3. For the purpose of the provisions in n° 1 the following are considered revenue in currency:
 - a) Those coming from exports and reexports done directly by the exporter, proven through documentation demonstrating the entry into the country of the corresponding currency, emitted by the competent national financial institutions;
 - b) Those coming from sales made to free enterprises installed in Cape Verde in accordance with existing laws and regulations;
 - c) Those coming from sales made to other exporters, as long as, with adequate proof, the goods and services sold were incorporated or utilized in the production of other exported goods and services.
4. The fiscal incentives authorized in this section are automatically granted to exporters that, on presenting their respective income declarations they produce sufficient proof of their right to the incentives.

Article 7 **(Customs incentives)**

1. The goods and services, raw materials and subsidiaries, finished and semi-finished products and other materials that are incorporated in or utilized in the production of other export goods and services are exempt from duties, consumption taxes and general customs emoluments and other customs impositions.
2. Fuels and lubricants, except gasoline, used in the production of electricity or water necessary to fabricate products for export or to render services for export, are exempt from duties, consumption taxes and general emoluments.
3. Exporters that directly import merchandise destined for reexport, as well as raw materials and subsidiaries, finished and semi-finished products, with the exception of gasoline, and other materials destined to be incorporated or used in the production of export goods, may do so through suspense customs regimes. This applies specifically to those used for active improvement and industrial inter-posts, under the terms of applicable legislation and regulations.
4. Customs officials must treat the imports referred to in the preceding number with the maximum processing simplicity and speed, without prejudice to indispensable control.

5. The duties, consumption taxes, general customs emoluments and other customs impositions eventually charged in the import of the goods referred to in the preceding subparagraphs, that may have been exported, incorporated in products or used in rendering export services, are restituted, if the restitution is requested within 120 days counting from the date of the export or reexport.

Article 8
(Limits to the customs incentives)

The customs fiscal incentives established in this section are not exempt from payment of the stamp tax or honorarium due as remuneration for services.

Article 9
(Freedom to export and reexport)

1. The export and reexport operations are free and do not require any prior authorization.
2. The freedom to export and reexport, established in the preceding paragraph, does not exempt the exporter from compliance with exchange operations control formalities or conformity of the exported and reexported goods and services to the quality norms and rules of origin required by law, regulations or international accords subscribed to by Cape Verde.

Article 10
(Accounts and currency)

1. Exporters that own accounts in convertible currency, in financial institutions authorized by law, through which they can freely effect their payments to the outside. (Translator's note: Sentence incomplete. Needs to be verified)
2. The accounts referred to in n° 1 above can only be moved on the basis credit, through transfers from the outside, or from other accounts in currency, in existence in financial institutions duly authorized by law.
3. The exporters that own accounts in convertible currency can acquire such currencies only at duly authorized credit institutions, in conformity with the exchange operations norms in effect, when the balances of the referred accounts is zero or insufficient to cover the solicited operations.
4. The Government shall regulament the movements of the accounts referred to in the preceding numbers, under proposal from the Bank of Cape Verde.

SECTION III
Obligations

Article 11
(Obligations)

1. The exporters obligate themselves to:

- a) Own accounting and inventory records sufficiently detailed and accepted by the competent authorities. The records must serve as easy proof of the right to fiscal and customs incentives allowed in this diploma and of the use given the goods and services the same may have benefited from;
- b) Collaborate with the oversight agents in the verification of the inventories and accounting records referred to in the preceding number. Specifically, they should allow access to the same and provide all the necessary information whenever requested;
- c) Request authorization from the General Directorate of Customs, to sell or alienate goods and services acquired with customs benefits under article 7, within 5 days from the date of their acquisition, whenever the alienation and sale are done under conditions not covered in this diploma.

CHAPTER IV

Oversight and sanctions

Article 12 **(Oversight)**

1. Without prejudice to the specific competences attributed to the entities and public services, oversight of the compliance with the provisions of this diploma, pertaining to customs incentives, is the responsibility of the General Directorate of the Customs. Oversight on compliance, pertaining to fiscal incentives is the responsibility of the General Directorate of Contributions and Taxation.
2. For the purpose of the provisions of n° 1, the General Directorates referred to may, at any time, demand that the exporters supply the pertinent information they consider necessary.

Article 13 **(Sanction)**

Fraud and fiscal evasion infractions are punishable under the applicable General Tributary Code and Customs Legislation.

CHAPTER V

Final Dispositions

Article 14 **(Regulamentation)**

1. The regulamentary notes necessary to the implementation of this diploma shall be established through a Regulamentary Decree, taking into account the specificity of its application to the diverse sectors of economic activity.

2. The regulations referred to in the preceding number must be published within a maximum of ninety days, counting from the date of publication of this diploma.
3. It behoves the Minister responsible for the area of finance, in articulation with the members of the Government responsible for the diverse sectors of economic activity, to promote the elaboration and approval of the regulations necessary to the implementation of this diploma.

Article 15
(Revocation)

Articles 26, 33, 35 and 42 of Decree-Law n° 108/89 of 30 December, as well as other legal provisions expressly contrary to the provisions of this diploma, are hereby revoked.

Article 16
(Effective date)

This diploma goes into effect sixty days after its publication.

Approved 18 October 1993

The President of the National Assembly, *Amilcar Fernandes Spencer Lopes*.

Promulgated 29 November 1993

Publish it.

The President of the Republic, ANTÓNIO MANUEL MASCARENHAS GOMES MONTEIRO.

Signed 30 November 1993

The President of the National Assembly, *Amilcar Fernandes Spencer Lopes*.