

**On approval of the Rules of granting
investment subsidies**

In accordance with paragraph 6 of Article 18-5 of the Law of the Republic of Kazakhstan of January 8, 2003 "On Investments", the Government of the Republic of Kazakhstan **RESOLVES:**

1. To approve the annexed Rules of granting investment subsidies (hereinafter - the Rules).

2. This Decree shall enter into force upon expiry of ten calendar days after the day of its first official publication, except for paragraphs 13, 14 and 17 of the Rules that enter into force on January 1, 2015.

**Prime Minister
of the Republic of Kazakhstan**

Karim Massimov

Approved
by the Decree of the Government
of the Republic of Kazakhstan
of “4” November 2014 № 1175

**Rules
of granting investment subsidies**
(with amendments as of 09.04.2015)

1. General provisions

1. These Rules of granting investment subsidies (hereinafter - the Rules) are developed in accordance with paragraph 6 of Article 18-5 of the Law of the Republic of Kazakhstan dated January 8, 2003 "On Investments" and determine the procedure and conditions for granting investment subsidies.

2. The terms and definitions used in these Rules:

1) investment subsidies - a kind of budget subsidies provided as investment preferences on a free and irrevocable basis to a legal entity of the Republic of Kazakhstan that signed an investment contract for implementation of a priority investment project;

2) legal entity of the Republic of Kazakhstan - a legal entity, including a legal entity with foreign participation, created in accordance with the legislation of the Republic of Kazakhstan;

3) the authorized body on investments (hereinafter - the authorized body) - a government body, designated by the Government of the Republic of Kazakhstan for conclusion of investment contracts and control of their implementation;

4) investor - a legal entity carrying out investments in the Republic of Kazakhstan;

5) priority investment project - an investment project, implemented by a newly created legal entity for certain priority activities, a list of which is approved by the Government of the Republic of Kazakhstan, and providing investments in the amount of not less than two million-fold size of the monthly calculation index established by the law on the national budget and acting at the date of filing an application for granting investment preferences (hereinafter - the application);

6) investment contract - a contract for implementation of an investment project involving carrying out investments and granting investment preferences.

3. An investment subsidy is granted under a priority investment project to a newly created legal entity of the Republic of Kazakhstan, provided that:

1) the recipient is a newly created legal entity of the Republic of Kazakhstan operating on the date of filing the application, that makes investments in the amount of not less than two million-fold amount of the monthly calculation index established by law on the republican budget and being current at the date of filing the application,

except for:

autonomous institutions of education in accordance with the tax legislation of the Republic of Kazakhstan and the legislation of the Republic of Kazakhstan on education;

organizations operating within the territory of the special economic zone in accordance with the tax legislation of the Republic of Kazakhstan and the law of the Republic of Kazakhstan on special economic zones;

2) the share of the state and (or) the subject of quasi-public sector as the founder and (or) the participant (shareholder) of a legal entity of the Republic of Kazakhstan does not exceed twenty five per cent.

The participation of the state and (or) the subject of quasi-public sector as the founder and (or) the participant (shareholder) of a legal entity of the Republic of Kazakhstan is no more than five years from the date of registration of an investment contract. Within five years, the state and (or) the subject of quasi-public sector are obliged to withdraw membership of the founder and (or) the participant (shareholder) of a legal entity of the Republic of Kazakhstan, and in case of failure to fulfill the conditions, the application of investment preferences shall be suspended until their (his) full withdrawal of membership of the founder and (or) the participant (shareholder) of a legal entity of the Republic of Kazakhstan for a period not exceeding one year.

Failure to fulfill the conditions for withdrawal of membership of the founder and (or) the participant (shareholder) of a legal entity of the Republic of Kazakhstan during the period of suspension shall entail early termination of the investment contract and return of previously granted investment preferences;

3) budget funds are not attracted for implementation of the priority investment project as sources of financing or guarantees;

4) investment activities are not under a public-private partnership agreement;

5) there is a resolution of the Government of the Republic of Kazakhstan on providing an investment subsidy.

4. For the purposes of applying the investment subsidy for priority investment project, a newly created legal entity of the Republic of Kazakhstan is a legal entity that complies with the following conditions:

1) the state registration of the legal entity was carried out not earlier than twelve calendar months prior to the date of filing the application;

2) the entity carries out activities that are included in the list of priority activities identified for priority investment projects;

3) implementation of the priority investment project is carried out exclusively under one investment contract.

2. Procedure of granting investment subsidies

5. To get an investment subsidy, a legal entity of the Republic of Kazakhstan shall send an application to the competent authority in the form prescribed by the competent authority.

The application which provides investment subsidies shall be adopted at availability of the following documents:

- 1) the certificate of state registration (re-registration) of a legal entity;
- 2) a copy of the Articles of Association of a legal entity certified by the signature of the head and by the seal of a legal entity (if present);
- 3) the business plan of the investment project, compiled in accordance with the requirements established by the authorized body;
- 4) copies of documents, the list of which is established by the legislation of the Republic of Kazakhstan, supporting the estimated cost of construction and installation works and the cost of acquisition of fixed assets, raw materials and (or) materials used at implementation of the investment project, certified by the signature of the head and the seal of the legal entity;
- 5) certificate from the tax authority at the place of registration about absence of tax arrears, outstanding mandatory pension contributions and social expenditures;
- 6) pre-project documentation certified by the signature of the head and the seal of the legal entity and having the conclusion of the state examination in accordance with the legislation of the Republic of Kazakhstan.

6. In case of ascertainment of the fact of incompleteness of the documents submitted at the time of application, the authority shall send the investor a written reasoned response within two (2) working days.

7. The authorized body within ten (10) working days from the date of filing:

- 1) verifies compliance of the legal entity of the Republic of Kazakhstan with the conditions of granting investment subsidies specified in subparagraphs 1) - 4) of paragraph 3 of these Rules;
- 2) carries out analysis of the documents relative to the investment project.

8. After consideration of the application, the authorized body shall send the investor a written reasoned response within three (3) working days.

9. In compliance with paragraph 3 of these Rules, the authorized body shall develop and submit to the Government of the Republic of Kazakhstan a draft resolution of the Government of the Republic of Kazakhstan on granting an investment subsidy to the legal entity of the Republic of Kazakhstan, in accordance with the procedure established by the legislation of the Republic of Kazakhstan.

10. Since the day of enactment of the resolution of the Government of the Republic of Kazakhstan on granting an investment subsidy, the authorized body shall log the application in the registration log and shall send the applicant an answer in writing within three (3) working days from the date of filing the application.

11. The authorized body shall prepare an investment contract for signing, taking into account the provisions of the model-based contract, within ten (10) working days from the day of official publication of the resolution of the Government of the Republic of Kazakhstan on granting an investment subsidy.

12. The investment contract shall be registered by the authorized body within five (5) working days from the date of its signing and shall enter into force on the date of its registration.

The date of the investment contract is the date of its registration by the authorized body.

13. An investment subsidy shall be provided through reimbursement of up to 30 (thirty) percent of the actual costs of construction and installation works and purchase of equipment, excluding value added tax and excise duties, on the basis of supporting documents, but not exceeding the cost of costs provided by the pre-project documentation, having available conclusion of the state examination in accordance with the legislation of the Republic of Kazakhstan.

The limit of the size of granting an investment subsidy shall be established by joint order of the authorized bodies for investment and development, budget planning and national economy of the Republic of Kazakhstan in the framework of the republican budget for the relevant financial year in accordance with the budget legislation of the Republic of Kazakhstan.

14. Payment of investment subsidies is carried out after putting production into full operation established by the investment contract, provided that the investor meets investment obligations.

15. The schedule and the annual amounts of payments of an investment subsidy shall be established under the investment contract by allocating the investment subsidy by equal installments for a period, depending on the amount of investment and the profitability of the priority investment project, within three years after commissioning of production and until termination of the investment contract.

16. After completion of implementation of the work program, the investor shall submit an audit report to the authorized body. The report shall contain:

- 1) information on performance of the investment obligations under the work program of the investment contract;
- 2) a transcript of fixed assets acquired in accordance with the work program;
- 3) a consolidated register of documents confirming the implementation of the work program;
- 4) information on performance of the conditions of the investment contract.

17. In case if the investor exceeds the total planned annual rate of production load, established in the investment contract, the investor shall be paid the amount of the subsidy up to the amount of the sum established in the investment contract.

The formula of calculating the actual payment of the investment subsidy (F):

$$F = \text{The sum planned to be repaid} * \frac{\text{The actual volume of production output in \%}}{\text{The planned volume of production output in \%}}$$

According to the actual volume of production output, the investor submits to the authorized body the documents confirming the sale of goods and (or) data for the year in the form approved by the authorized body of the Republic of Kazakhstan on Statistics.

In case if the investor fails to execute the annual indicator of production load, specified in the work program, the investor shall be paid the amount of subsidy, proportional to the percentage of execution of this indicator.

At non-execution of the indicator of production load, the sum of unpaid subsidies (R) shall be paid in subsequent years after the end of the schedule and the annual payments of the investment subsidy on an annual basis according to the following formula:

$$R = \frac{\text{The actual amount of production output} \quad * \quad (\text{The sum planned to be repaid} \\ \text{(in physical terms)} \quad \quad \quad \text{–the actual sum of repayment)}}{(\text{The planned output rate – The actual output rate}) \\ \text{(in physical terms)}}$$

18. Authorized body shall send a written notice to the investor within two (2) working days after taking the decision on the sum of the investment subsidy paid.

19. The authorized body shall pay the investment subsidy within the limit of the funds provided in the republican budget for the relevant financial year in accordance with the budget legislation of the Republic of Kazakhstan.
