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## **Application Decree**

### **Article 20 of Law 444 on Environment, July 29, 2002**

The President of the Republic (or the Council of Ministers),  
Based on the Constitution, in particular Article 62,  
Based on the Law on Protection of the Environment Number 444 dated 29 July 2002, in particular Article 20,  
Based on the proposal of the Ministers of Environment and Finance,  
After the opinion of the Council of State (Opinion Number 112 / 2015 2016 date January 27, 2016),  
And following the approval of the Council of Ministers during its session dated .....,

**Decreases the following**

### **Section 1: Definitions**

#### **Article 1: Definitions**

Wherever they are used in this decree, the following terms mean:

1. **Activities that protect the environment** include *environment industry activities* and *sustainable environmental protection expenditures*.
2. An **environment industry activity** is one that is undertaken by an individual or legal entity and meets all of the following criteria and conditions:
  - (a) It is designed to generate revenue or profit.
  - (b) It is not funded directly or indirectly from public funds, or through loans or grants provided by international institutions or foreign governments; this condition also applies to subcontractors.
  - (c) It falls within one or more of the following categories:
    - Gray water collection, treatment or reuse
    - Collection or treatment of sewage, or treatment of sewage sludge
    - Solid waste collection, treatment or disposal, or treating byproducts of solid waste management
    - Waste sorting
    - Materials recovery (e.g. plastic, glass, or other materials) or recycling; outputs of recycling may be sold domestically or internationally
    - Solar power, wind power, hydropower, geothermal power, or waste-based fuels
    - Cleaning up contamination in the natural environment
    - Professional activities including but not limited to:
      - evaluations of environmental impacts of all types;
      - environmental audits;
      - energy audits;
      - emissions or other environmental monitoring
      - laboratory work related to environmental monitoring

- research and development related to sustainable consumption and production, including but not limited to cleaner production, energy efficiency, renewable energy, and pollution management;
- assisting individuals or legal entities in reducing environmental impacts of their activities, including but not limited to reducing energy consumption
- developing or improving emergency management plans
- Manufacture or sale of machinery that can only be used for environmental protection purposes, such as recycling equipment, pollution management equipment, and equipment for solar, wind, hydropower, geothermal power, or waste-based fuel; installation, repair or maintenance of such machinery.

The following are specifically excluded from the definition of environment industry activities:

- Electricity generation by any means except solar power, wind power, hydropower, geothermal power, or waste-based fuel.
- Using recycled material as an input, except if the individual or legal entity is also involved with producing the recycled material.
- Economic activity whose primary purpose is not environmental protection, but which is carried out in an environmentally preferable way or which has a beneficial environmental impact. This includes but is not limited to manufacturing, agriculture, transportation, and building design and construction.
- Manufacture and/or sale of equipment for export.

**3. A sustainable environmental protection expenditure** is one that is incurred by an individual or legal entity and meets all of the following criteria:

- Its primary purpose is sustainable environmental protection.
  - It is not designed to generate revenue or profit.
  - It is not paid for directly or indirectly with public funds , or through loans or grants of international institutions or foreign governments. This condition applies also to subcontracts.
  - Expenditures that may be included under this definition are limited to:
    - Depreciation of capital equipment, including but not limited to equipment to monitor emissions, environmental impact, or environmental quality.
    - Depreciation of solar power, wind power, hydropower, geothermal power, or waste-based fuel equipment that was installed to reduce use of fossil fuel-based power by the investor.
    - Interest on loans exclusively used to cover capital expenditures for environmental protection that meet criteria (a) through (c) in this paragraph (3).
    - Outside contracts for maintenance, spare parts, and materials, when these are needed for equipment that meets criteria (a) through (c) in this paragraph (3).
    - Outside contracts for services including and limited to:
      - evaluations of environmental impacts of all types;
      - environmental audits;
      - energy audits;
      - emissions monitoring or other environmental monitoring;
      - laboratory work related to environmental monitoring;
      - research and development related to cleaner production, energy efficiency, renewable energy, pollution management ;
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- assisting individuals or legal entities in reducing environmental impacts of their activities, including but not limited to reducing energy consumption;
- developing or improving emergency management and plans;
- any service that falls under the definition of environment industry activities.

The following expenditures are specifically excluded from the definition in this paragraph (3):

- those that generate financial savings by reducing energy consumption
- expenditure on emergency response activities conducted in response to an environmental accident.

4. **Tax** refers to the tax paid on profits from commercial and non-commercial industries, which is "part 1 - income tax" under Legislative Decree 144 dated 12 June 1959 and its amendments.

5. The **tax deadline** is the day on which any concerned applicant is required to submit a tax return or pay the tax. The specific date will vary from one taxpayer to another. If the applicant has been granted an extension by the Ministry of Finance, his or her tax deadline will be adjusted accordingly.

## Section 2: Tax credits for environment industry activities

### Article 2: Tax credit rate

1. Beginning in the fiscal year following the entry into force of this decree, any individual or legal entity engaged in environment industry activities and meeting all of the criteria and conditions listed under Article 1 of this decree may receive a credit on the income tax paid on profits accruing from those activities, according to the following schedule:

Fiscal years 1 to 5 following entry into force of all application decisions to this decree except that required under Article 6 paragraph 4.	50%
Fiscal year 6 following entry into force of all application decisions as above	40%
Fiscal year 7 following entry into force of all application decisions as above	30%
Fiscal year 8 following entry into force of all application decisions as above	20%
Fiscal year 9 following entry into force of all application decisions as above, and thereafter.	10%

2. When an environment industry activity is carried out under a contract, such contract must have been signed after entry into force of all application decisions as in the table above. When the contract is issued in response to a request for proposals, such request for proposals must have been issued, and the proposals submitted, after entry into force of all application decisions as in the table above.

3. The applicable tax credit rate will be the one in effect in the fiscal year for which the taxes on the environment industry activity are owed.

4. An environment industry activity for which a tax credit is received under this section of this decree is not eligible for a tax credit under Section 3 of this decree, pertaining to sustainable environmental protection expenditures. The tax credit under this section also may not be combined

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with tax exemptions mentioned in Article 5/2 of the Income Tax Law. An applicant working both on environment industry activities and on other activities may receive Section 2 credit for the former and Section 3 credit for the latter (if applicable).

### **Article 3: Procedures to take advantage of this tax credit**

1. Any individual or legal entity wishing to benefit from this tax credit must:

- (a) Submit to the Ministry of Finance a full tax return mentioning the tax credit, using the template prepared by the Ministry of Finance based on the decision issued by the Minister of Finance.
- (b) Obtain a tax credit authorization from the Ministry of Environment, detailing which income qualifies as coming from environment industry activities. Applications for such authorization should be submitted to the Ministry of Environment before the tax deadline for that year.
- (c) Notify the Ministry of Finance before the tax deadline that they have applied to the Ministry of Environment for the tax credit authorization. Such notification must include as an attachment all details and documents related to income and expenditures for environment industry activities, as specified in the application decision issued by the Minister of Finance.
- (d) If the taxes are paid before any Ministry of Environment authorization or denial of the application, the applicant pays the reduced taxes assuming the credit is authorized.

2. Applications to the Ministry of Environment for a tax credit authorization under this section must include:

- (a) identification of all activities for which tax credit is sought,
- (b) description of the work carried out through each activity, and
- (c) proof that they qualify as environment industry activities as defined in Article 1 of this decree.

The application decision issued by the Minister of Environment will include details on the documentation required for such applications.

3. Based on a review of this information, the Minister of Environment will issue or deny the authorization for a tax credit, or authorize it partially. In case of denial or partial authorization, the decision must be justified by the Ministry.

The Ministry of Environment must rule on each application for tax credit within 150 days of the date of submission; otherwise the credit will be authorized automatically.

The Minister of Environment will issue a decision including details on how applications for environment industry tax credits will be reviewed within the Ministry.

4. The applicant will take the following steps after the Minister of Environment rules on the application:

- (a) If the tax credit is authorized in full, whether after review or automatically according to paragraph (3) of this article, the applicant must present the authorization to the Ministry of Finance, attaching other documentation as specified in the decision issued by the Minister of Finance.
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- (b) If the tax credit is denied by the Minister of Environment, the applicant must recalculate the tax liability and pay to the Ministry of Finance the difference between the amount paid with the tax return and the amount owed without the tax credit. The applicant will also have to pay a penalty as mentioned in Article 110 of the Code of Fiscal Procedures.
- (c) If the tax credit is partially authorized, the applicant must provide the authorization and recalculate and pay remaining tax liability, plus the penalty as mentioned in Article 110 of the Law of Fiscal Procedures.

The applicant must submit the decision of the Ministry of Environment to the Ministry of Finance within six months of the tax deadline. Otherwise, the request to the Ministry of Finance for the tax credit will be refused by that Ministry, which will recalculate the tax and applicable penalty under Article 110 of the Law on Fiscal Procedures, in addition to the penalty for delayed payment of tax under Article 55 of the Law on Fiscal Procedures.

### **Section 3: Tax credits for expenditures on sustainable environmental protection activity**

#### **Article 4: Tax credit rate**

1. Beginning in the year following the entry into force of this decree, any individual or legal entity making sustainable environmental protection expenditures may credit against their income tax the lesser of:

- (a) 15% of sustainable environmental protection expenditures as defined in Article 1 Paragraph 3 of this decree or
- (b) a share of their taxes on profits from commercial and non-commercial industries, according to the following schedule:

Fiscal years 1 to 5 following entry into force of all application decisions to this decree except that required under Article 6 paragraph 4.	50%
Fiscal year 6 following entry into force of all application decisions mentioned above	40%
Fiscal year 7 following entry into force of all application decisions mentioned above	30%
Fiscal year 8 following entry into force of all application decisions mentioned above	20%
Fiscal year 9 following entry into force of all application decisions mentioned above, and thereafter.	10%

2. The tax credit shall be available only if the individual or legal entity made, signed a contract for, or otherwise committed to, the expenditure after the entry into force of all application decisions as in the table above.

3. The tax credit rate applicable will be the one in effect during the fiscal year in which the sustainable environmental protection expenditures were made.

4. A sustainable environmental protection expenditure is not eligible for a tax credit under this section of the decree if the activity whose impact it is designed to reduce received a tax credit under Section 2 of this decree. The tax credit under this section also may not be combined with tax exemptions mentioned in Article 5/2 of the Income Tax Law.

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## **Article 5: Procedures to take advantage of this tax credit**

1. Any individual or legal entity wishing to obtain this credit must:

- (a) Submit to the Ministry of Finance a full tax return mentioning the tax credit, using the template prepared by the Ministry of Finance based on the decision issued by the Minister of Finance
- (b) Obtain an authorization from the Ministry of Environment, detailing which expenditures qualify as sustainable environmental protection expenditures as defined in Article 1 of this decree. Applications for such authorization should be submitted to the Ministry of Environment before the tax deadline for that year.
- (c) Notify the Ministry of Finance before the tax deadline that they have applied to the Ministry of Environment for the tax credit authorization. Such notification must include as an attachment all details and documents related to expenditures for sustainable environmental protection, as specified in the application decision issued by the Minister of Finance.
- (d) If the taxes are paid before any Ministry of Environment authorization or denial of the application, the applicant pays the reduced taxes assuming the credit is authorized.

2. Applications to the Ministry of Environment for a tax credit authorization under this section must include:

- (a) identification of all expenditures for which the authorization is sought and their cost, and
- (b) proof that they qualify as sustainable environmental protection expenditures as defined in Article 1 of this decree.

The decision issued by the Minister of Environment will include details on the documentation required for such applications.

3. Based on a review of this information, the Minister of Environment will issue or deny the authorization for a tax credit, or authorize it partially. In case of denial or partial authorization, the decision must be justified by the Ministry.

The Ministry of Environment must rule on each application for tax credit within 150 days of the date submission; otherwise the credit will be authorized automatically.

The Minister of Environment will issue a decision including details on how applications for tax credits for sustainable environmental protection expenditures will be reviewed within the Ministry.

4. The applicant will take the following steps after the Minister of Environment rules on the application:

- (a) If the tax credit is authorized in full, whether after review or automatically according to paragraph (3) of this article, the applicant must present the authorization to the Ministry of Finance, attaching other documentation as specified in the decision issued by the Minister of Finance.
  - (b) If the tax credit is denied by the Minister of Environment, the applicant must recalculate the tax liability and pay to the Ministry of Finance the difference between the amount paid with the tax
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return and the amount owed without the tax credit. The applicant will also have to pay a penalty as mentioned in Article 110 of the Code of Fiscal Procedures.

- (c) If the tax credit is partially authorized, the applicant must provide the authorization and recalculate and pay remaining tax liability, plus the penalty as mentioned in Article 110 of the Law of Fiscal Procedures.

The applicant must submit the decision of the Ministry of Environment to the Ministry of Finance within six months of the tax deadline. Otherwise, the request to the Ministry of Finance for the tax credit will be refused by that Ministry, which will recalculate the tax and applicable penalty under Article 110 of the Law on Fiscal Procedures, in addition to the penalty for delayed payment of tax under Article 55 of the Law on Fiscal Procedures.

#### **Article 6: Other provisions**

1. An applicant for a tax credit authorization under Article 5 above shall include in the application the following data, unless the applicant has previously provided them to the Ministry of Environment:

- (a) data on current levels of the emissions from the plant or facility at which the expenditures are to be made; and
- (b) estimates of expected emissions once those expenditures have been made, if emissions are expected to change.

2. Such data apply to all plant or facility emissions; they are not limited to those that will be reduced through the expenditures for which the tax credit is sought.

3. Any individual or legal entity not providing these data will not be eligible for tax credits.

4. The Minister of Environment will issue a decision including the detail concerning submission of these data.

### **Section 4: Customs Duty Abatement for Environmental Goods**

#### **Article 7: Customs Duty Abatement Rate**

1. Following the issuance of this decree, any individual or legal entity importing goods to be used to avoid, reduce, or eliminate pollution, or to treat, recycle, or reuse waste, may receive an abatement in customs duties according to the following schedule:

Fiscal years 1 to 5 following entry into force of all application decisions to this decree except that required under Article 6 paragraph 4.	50%
Fiscal year 6 following entry into force of all application decisions mentioned above	40%
Fiscal year 7 following entry into force of all application decisions mentioned above	30%
Fiscal year 8 following entry into force of all application decisions mentioned above	20%
Fiscal year 9 following entry into force of all application decisions mentioned above, and thereafter.	10%

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Goods receiving this customs abatement must be ordered after entry into force of all application decisions as in the table above. The rate of abatement applicable will be the one in effect on the day the item clears customs in Lebanon.

2. This customs duty abatement is applicable to any goods (including but not limited to equipment and technology) used to:

- (a) Avoid, reduce or eliminate any kind of pollution, which shall be interpreted to include but is not limited to:
  - i. equipment to monitor emissions, environmental impact, or environmental quality;
  - ii. equipment for production of solar power, wind power, hydropower, geothermal power, or power from waste-based fuels, when installed to reduce use of fossil fuel-based power by the investor; and
  - iii. inputs to the manufacture of machinery that can only be used for environmental protection purposes, if that machinery is sold for use in Lebanon; or
- (b) Treat waste, which shall be interpreted to include (but is not limited to): collection, sorting, treatment, disposal, or reuse of gray water, sewage, or solid waste; treating by-products of solid waste management; and treatment of sewage sludge; or
- (c) Recycle or reuse waste.

This includes goods meeting criteria (a), (b), or (c) that are imported for resale in Lebanon.

3. This customs duty abatement specifically excludes:

- (a) Imports of recycled inputs if they do not meet the criteria set out in Article 7, Paragraph 2.
- (b) Goods paid for directly or indirectly with public funds, or through loans or grants of international institutions or foreign governments. This condition applies also to subcontracts.

#### **Article 8: Procedures to take advantage of this customs abatement**

1. Individuals or legal entities wishing to benefit from this customs abatement must apply for an initial authorization from the Ministry of Environment to consider the imported goods as complying with paragraphs 2 and 3 of Article 7.
  2. Applicants for authorization to benefit from this customs abatement must submit a description and the cost of the items being imported. The Minister of Environment will issue a decision including details on the exact documentation required for such applications.
  3. Within one week after the date that the application is entered in the official registrar of the Ministry, the Ministry of Environment must send to the applicant a letter stating that the request is under study. Within 150 days after the date of registration of the application, the Minister of Environment must issue or deny the authorization; otherwise the credit will be authorized automatically. If it is denied, the Ministry of Environment must justify its denial. The Ministry of Environment must notify the Customs Authority in the Ministry of Finance of its decision, through a letter approving or refusing the abatement.
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The Minister of Environment will issue a decision specifying how applications for authorization of this customs abatement will be reviewed.

4. When the goods arrive at the Lebanese Customs Authority, the following procedures apply:

- (a) If the authorization has already been issued at the time of clearing customs, the applicant presents the authorization and pays the appropriate reduced customs duty based on the fiscal year of the date of clearing customs, as per the table in Article 7 above.
- (b) If the authorization request is still pending, the applicant presents to the Customs Authority the Ministry of Environment letter saying that the request is under study, and pays the full customs duty. The Customs Authority will place the amount of the abatement in an escrow account pending the decision by the Ministry of Environment, and transfer the remainder to its own account as revenue.
  - i. If the authorization is later granted, the applicant presents it to the Customs Authority with a request for a refund of the customs abatement.
  - ii. The applicant has until the 31<sup>st</sup> of December four years after the date of payment of the full duty to claim the refund; otherwise it is forfeited to the Customs Authority.
  - iii. If the authorization is later denied, Customs Authority transfers the funds from the escrow account to its own account as revenue.

## **Section 5: Other Provisions**

**Article 9:** For as long as an individual or legal entity continues to obtain tax deductions under a given authorization, they must continue to be in compliance with all terms of this decree and related application decisions. The Ministry of Environment has the authority to inspect the applicant's facilities at any time to ensure that compliance.

**Article 10:** This decree is applicable immediately after its publication in the Official Gazette.

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