

The Private Investment Companies, A New Investment Vehicle in Lebanon

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I- Introduction

In line with the Lebanese open economy and the accelerated pace of globalization, Lebanon enacted a new Law No. 163 on May 14th, 2020 to enhance both local and international investments and build a solid legal land for the latter actors. Inspired by the Lebanese trading system and its attractive features, the government put in place, through this new Law, a new type of institutional and highly sophisticated commercial entity:

The Private Investments Companies (P.I.C.).

II- What is the P.I.C.?

The P.I.C. is a limited partnership¹ company (*partnership in commendam*) with some specific derogations mentioned in the law (i.e. the intervention of a limited partner in the company's management does not entail its liability as general partner).

The object of the P.I.C. pertains solely to the investment in financial products issued by private entities and not already placed in the financial market, the management of these entities, the provisions of financial facilities to these entities provided that the P.I.C. holds at least 10 percent of the shares, and finally, the acquisition of real movable and immovable assets strictly allocated to the needs of the company's business and in accordance with the foreign ownership of real estate law restrictions.

Endowed with an attractive tax regime and innovative techniques and characteristics, this type of company will be an epicenter that will attract foreign investments.

¹ A limited partnerships company is formed by two types of partners:

- General partners with unlimited liability, who are in charge of management and are personally liable thereto.
- Limited partners with limited liability capped to the amount of their capital contribution with no rights to interfere in the management of the partnership.

III- Transparency and the Professional Management Schemes

The management and preservation of investments introduced by Law No. 163 are based on transparency schemes and management delegation to qualified experts.

Regarding [the management of the investment funds](#), the P.I.C. may delegate the governance of its investments funds to one or many capital management companies duly licensed by the Capital Markets Authority (CMA) for this purpose or by foreign jurisdictions and authorities regulated by a system requiring similar criteria and conditions to the Lebanese system.

The investment management company will be invested with the power to take decisions related to the investments' management and to represent the P.I.C., in compliance with the provisions of the statutes and the contract between the P.I.C. and the investment management company.

Regarding [the preservation of investment funds](#)², law No. 163 aims at adopting best practices of the fund governance, and therefore imposes, mandatorily, a key element which is the appointment of a depositary that must protect the interests of P.I.C. and perform oversight of the funds under his personal liability.

Such appointment is subject to two conditions, the first is that the depositary must be licensed by the CMA and the second is that the depositary must be absolutely independent and shall not be part of any economic entity with the directors of the P.I.C. and the investment management company of the P.I.C. The depositary must act within the framework of the director's directives and the company's statutes, failure which he will be held liable.

² Article 13 to 17 of Law no. 163.

The depositary will be the holder of the P.I.C. funds on a consignment basis, such funds being deemed independent assets within the depositary's financial assets and secured from any action of the depositary's personal creditors.

Consequently, the Lebanese legislator promotes the delegation of the management and preservation of investment funds to impartial professionals with a high level of expertise in order to ensure an optimal efficiency and productivity, within the framework of a scheme of total transparency.

IV- The Risk Limitation Strategy

Law No. 163³ allows the P.I.C. to explicitly segregate a group of its portfolios together with their related and exclusive deriving rights and obligations. The segregated portfolio is therefore considered independent of other portfolios and only the assets of each segregated portfolio can meet liabilities to creditors in respect of that segregated portfolio.

Effectively, where there are liabilities arising from a matter attributable to a particular segregated portfolio, the creditors of a segregated portfolio may only have recourse to the assets attributable to that segregated portfolio.

This concept constitutes an exception to the general legal principle of creditors' general rights over the debtor's assets as stated in Article 268 of the Lebanese Code of Obligations and Contracts.

Therefore, this risk limitation strategy adopted by the law no. 163 prevents the risk of a negative domino effect in the company. Thus, if a portfolio turns out to be unsuccessful or

³ Article 28 of Law no. 163.

ineffective, it will not affect others company's assets. This mechanism establishes a balance between different types of portfolios and assets in the company.

V- Attractive Fiscal Regime

Despite its qualification as a moral person, Law No. 163 does not treat P.I.C. as such for tax purposes. In fact, gains and profits generated by the P.I.C. are directly retained in each shareholder's financial assets and taxed accordingly.

Moreover, profits deriving from movable capital (for instance dividends) and from the company's activities or from shares transfers are exempted from income tax, noting that this exemption does not include income tax on certain resources mentioned by the same law.

In addition, P.I.C. also benefits from an exemption from Value Added Tax, stamp duty on its statutes and shares subscriptions, issuance, redemption, transfer, as well as the shareholders loans.

Accordingly, P.I.C. benefits from significant exemptions and circumvent double taxation.

VI- Conclusion:

As a conclusion, transparency and professional management schemes of P.I.C as well as its risk limitation strategy and tax advantages make it an interesting new investment vehicle in Lebanon.