

**Policy Position Paper By
the Egyptian Junior Business Association on**

**THE MICRO, SMALL,
& MEDIUM-SIZED ENTERPRISE
DEVELOPMENT LAW OF 2020**

June 2020



** This paper includes the key points and takeaways from the Egyptian Junior Business Association (EJB) meeting on May 11, 2020*

RESPONSIBLE ENTITIES:

- * The Cabinet
- * The Micro, Small, & Medium-Sized Enterprises Development Agency

KEY FEATURES OF THE MSME LAW:

Definition of MSMEs according to MSMEs law issued by Egyptian Parliament on April 22, 2020

The following table shows the criteria, however according to article 2 of the said law, the Minister in charge, upon the board recommendation, and in agreement with the Central Bank of Egypt, may reduce the minimum and maximum thresholds prescribed for the annual turnover, as well as the paid-in capital and invested capital, within 50%. The article also allows for introducing new criteria to define MSMEs according to the nature of the economic activity, and may increase the minimum and maximum thresholds prescribed for the annual turnover, as well as the paid capital and invested capital up to 10% annually based on economic conditions.

CRITERIA	MICRO ENTERPRISE	SMALL ENTERPRISE	MEDIUM-SIZED ENTERPRISE
ANNUAL TURNOVER	Less than LE 1 million	LE 1 million - LE 50 million	LE 50 million - LE 200 million
PAID-IN CAPITAL OR INVESTED CAPITAL FOR A NEWLY ESTABLISHED INDUSTRIAL ENTERPRISE	Less than LE 50,000	LE 50,000 - LE 5 million	LE 5 million - LE 15 million
PAID-IN CAPITAL OR INVESTED CAPITAL FOR A NEWLY ESTABLISHED NON-INDUSTRIAL ENTERPRISE	Less than LE 50,000	LE 50,000 - LE 3 million	LE 3 million - LE 5 million

ACCESS TO FINANCE - TEMPORARY REAL PROPERTY ALLOCATION, LAND AND BUILDINGS

- * Based on the request of the enterprise, the entity with jurisdiction may issue, in the name funding provider, a temporary real property allocation; the enterprise shall assume all the obligations arising out of the allocation contract.
- * The temporary allocation system shall apply, irrespective of the mode of property acquisition, whether it is a sale, a sale of the right-to-use, a right-to-use license, a lease, or lease-to-own.
- * In the event the enterprise violates the terms of the funding contract or the allocation contract, the funding provider (or the entity with jurisdiction) may take all the necessary actions to recover the real property and sell the right embodied in the allocation contract; upon the execution of the sale, the funding provider shall collect his dues after the obligations owed to the entity with jurisdiction are fulfilled.
- * The funding provider may relinquish the temporary allocation of real property issued to him to another funding provider, according to the procedures set in the executive regulations; the transfer is considered effective against third parties, without the need to follow any procedures set in other laws.

INCENTIVES

- * Upon beginning operations, the enterprise may be refunded, in whole or in part, the utility connection costs.
- * Enterprises may be granted extended payment terms for utility connections, including a full or partial exemption from paying interest on late payments.
- * The state may assume a portion of the costs of providing technical training to workers.
- * Land may be allocated free of charge or at a nominal charge.
- * A refund, that does not exceed %50 of the value of the allocated land, may be issued to the enterprise.
- * At the time of real property allocation, the enterprise may be granted an exemption from submitting the required collateral until the beginning of operations or may be granted a reduction in the value of the required collateral.
- * The enterprise may be refunded, in whole or in part, the cost of participating in fairs.
- * Enterprises are exempt from the following:
 - » The registration fee for patents, utility models, and layout design for integrated circuits.
 - » The stamp tax, notarization, and publication fees for contracts of incorporation of companies and establishments, as well as loan and mortgage contracts related to their business for five years from the date of registration in the Commercial Register.
 - » The tax and fees referred to in the contracts of registration of lands required to set up these enterprises.
 - » Tax on the profits generated from the sale of assets or production machinery and equipment belonging to enterprises subject to the provisions of the Law, if the sale proceeds are used for the purchase of new assets or production machinery and equipment, within one year of the sale.
 - » The tax imposed on dividends generated from the activities of a one-person company for enterprises subject to the provisions of the Law and the Income Tax Law, provided that the only partner is a natural person.
 - » A unified custom tariff of %2 of the value of imports is imposed on all imports of machinery, equipment, and devices required for setting up these enterprises; passenger vehicles are excluded.

LAND ALLOCATION AND SHARE IN GOVERNMENT PROCUREMENT

- * Consideration is given to allocating, to MSMEs, no less than 30% of vacant land in industrial zones, touristic zones, urban communities, land reclamation areas, and other plots of land falling under the jurisdiction of competent entities.
- * The selling price of the lands stipulated in Article (47) of the Law shall be within the utility connection cost; MSMEs may request the right to use any of the lands provided for in Article (47) of the Law for an annual fee not to exceed 5% of the estimated selling price.
- * Medium-sized enterprises are to be awarded no less than 20% of government contracts for the purchase of products, provision of technical works, services, consultancy studies or construction needed for these government agencies; micro and small enterprises are also to be awarded no less 20% of these. In some cases, the procurement may be restricted to MSMEs.

PERMANENT SIMPLIFIED TAX TREATMENT

- * The prescribed tax rate for enterprises with an annual turnover of LE 1 million-LE 10 million is set as follows:
 - » 0.5% of the turnover for MSMEs with a turnover of LE 1 million-LE 2 million
 - » 0.75% of the turnover for MSMEs with a turnover of LE 2 million-LE 3 million
 - » 1% of the turnover for MSMEs with a turnover of LE 3 million-LE 10
- * The prescribed tax rate for micro enterprises with an annual turnover that does not exceed LE 1 million is set as follows:
 - » LE 1,000 annually for enterprises with an annual turnover of less than LE 250,000
 - » LE 2,5000 annually for enterprises with an annual turnover of LE 250,000-LE 500,000
 - » LE 5,000 annually for enterprises with an annual turnover of LE 500,000-LE 1 million

EJB PERSPECTIVE

- * The Law lacks clarity in some areas, such as:
 - » The formula for calculating the annual turnover, which is one of the criteria used for defining MSMEs. Will balance sheets, field surveys, or other elements be used to calculate the turnover?
 - » In practice, using the rental and the right-to-use contracts as a temporary collateral may not be appropriate as these contracts do not entail the transfer of ownership right over the land on which the enterprise is set up.
- * The incentives prescribed in the Law suffer from some pitfalls, such as:
 - » By focusing on activities that require land for their operations, the incentives might not be very attractive to all types of enterprises.
 - » The incentives are geared more towards the industrial sector than towards the service sector.
 - » The benefits resulting from applying many of the incentives that entail a reduction of fees and taxes are quite meager in terms of money, thus, they do not constitute a real and effective stimulus to motivate enterprises.
 - » Investors are not allowed to combine the incentives prescribed in the Investment Law with the incentives prescribed under the MSME Law.

* There is a jurisdictional overlap between the Micro, Small, and Medium-sized Enterprise Development Agency (MSMEDA) and the Industrial Development Authority. It is critical that such conflict is eliminated in the executive regulation to ensure against overly complex and convoluted business procedures.

* Large enterprises may manipulate the system and establish enterprises that fall under the definition of MSMEs stipulated in the Law to enjoy the incentives and benefits granted to these enterprises.

RECOMMENDATIONS

- » The executive regulations should eliminate any ambiguity in the definition of MSMEs, specifically with regards to turnover and age (the period of incorporation) in order to prevent an implementation gap from occurring.
- » Ensure that there is no jurisdictional overlap between MSMEDA and any other competent government agency, especially the Industrial Development Authority and the Investment Authority.
- » The executive regulations should leave the door open for adding activities, other than the ones prescribed in the Law, that are eligible to benefit from the incentives stipulated in the Law.
- » The MSMEs Development Agency to monitor and ensure full enforcement of the provisions that require giving preference for local products in government procurement.
- » Put in place adequate oversight mechanisms to ensure that large enterprises do not circumvent the Law in order to benefit from the incentives granted to SMEs.
- » MSME Development Agency to undertake the responsibility of establishing a mechanism to issue classification certifications confirming the MSME status of an enterprise, in line with the criteria stipulated in the Law, in order to facilitate its procedures and interaction with public and private agencies.
- » If a medium-sized enterprise grows into a large enterprise, it should not be required to retroactively refund any benefits it enjoyed because of its MSME status, whether related to incentives or taxes.
- » The Law should not differentiate between Egyptian and foreign companies with regard to benefits and incentives to encourage foreign investment and help Egypt gain international trust and credibility.