DECREE NO. 722

THE LEGISLATIVE ASSEMBLY OF THE REPUBLIC OF EL SALVADOR,

WHEREAS:

I. Article 101 of the Constitution of the Republic provides that it is the obligation of the State to promote economic and social development by increasing production, productivity and the rational use of resources.

II. Technological innovation industries contribute to economic growth, employment and social welfare.

III. One of the principles of the Digital Agenda El Salvador 2020-2030 is the Economic and Digital Development, for which it suggests the strengthening of economic activities that allow the growth of productivity and competitiveness of the country, such as those derived from technological innovation industries.

THEREFORE,

In exercise of its constitutional powers and at the initiative of the President of the Republic, through the Minister of Economy,

DECREES, the following:

LAW FOR THE PROMOTION OF INNOVATION AND THE MANUFACTURE OF TECHNOLOGIES

CHAPTER I
GENERAL PROVISIONS

Object

Art. 1.- The purpose of this law is to contribute to the economic growth and sustainable development of the country by strengthening competitiveness through the promotion of innovation and the manufacture of technology developed in the national territory, promoting the growth of the labor force trained to generate advanced technological products and services, also strengthening the participation in the supply chains essential for the development of the technology industry at a global level.

Purpose

Art. 2.- The purpose of this law is to:

a) Accelerate technological innovation and manufacturing, such as microelectronics and semiconductor components;

b) Develop innovative materials and processing technologies;

c) Lead the development of advanced technology manufacturing in Latin America;

d) Expand and diversify Salvadoran human talent for technological manufacturing;

e) Develop, scale and promote education and training in advanced manufacturing technology, strengthening connections between employers and educational organizations.

f) Improve supply chain access and interconnections and expand efforts to reduce supply chain vulnerabilities for technological innovation and manufacturing;

g) Strengthen and revitalize innovation, technological manufacturing and commercialization ecosystems; and,

h) Provide appropriate incentives through tax reductions and other incentives specifically designed to encourage investment and development of the technology industry in the national territory.

Authority

Art. 3.- The application of the present Law shall correspond to the Ministerio de Economía. The supervision and effective control of the customs and fiscal regime shall correspond to the Ministerio de Hacienda, in accordance with this Law, its Regulations and other fiscal regulations, for which purpose they may carry out inspections in order to verify compliance with legal obligations.

Powers of the Authority

Art. 4. - The Authority shall have the following powers:

a) Regulate the operation and application of this law;

b) Issue Qualification Agreements in accordance with the provisions of this law and its regulations;

c) Carry out inspections and controls to verify compliance with the obligations established in this law;

d) Promote the design and implementation of public policies, in coordination with the *Secretaría de Innovación de la Presidencia*, to facilitate industrial technological innovation and promote cooperation and exchange among the main technological innovation organizations at the national and international levels;

e) Promote supply chain agility by supporting the development of technology that supports manufacturing surge capacity and lead time reduction, especially during crises and the effects of supply chain stressors;

f) Establish and implement best practices in advanced processes and workforce training through collaboration between leading companies and suppliers;

g) Fostering collaboration within supply chains at national and international levels, promoting public-private partnerships to enhance adoption

h) The company is committed to the development of technology and security in technology manufacturing supply chains, as well as to building trust and transparency among the participants in the supply chains.

i) Dissemination and protection of the results of industrial technology innovation and promotion of technology transfer and commercialization.

j) Create and maintain the National Registry of Technological Innovation and Manufacturing Industries Enterprises; and,

k) Any other established by the laws in force.

Scope of application

Art. 5.- The beneficiaries of the present law shall be natural or legal person, national or foreign, who develop within the national territory a new investment in innovation projects or technological manufactures included in article 6 of the present law.

Investments made prior to the entry into force of this law, as well as investments related to operations already established in the territory or those under special regime derived from the increase of equity as a result of mergers, takeovers, spin-offs or any type of operational and administrative restructuring of assets, are excluded from the benefits of this law.

Natural or legal person that enjoy the benefits included in other special tax regimes, such as those contemplated in the regulations governing Industrial and Commercialization Free Zones and those governing International Service Centers and Parks, among others, may not avail themselves of this law.

Incentivized activities

Art. 6.- The present law shall be applicable to natural or legal person, national or foreign, that develop commercial activities in productive sectors related to at least one of the following items:

a) Programming, management, maintenance, consulting and analysis of computer systems or software;

b) Development and commercialization of cloud computing and data streaming services; artificial intelligence; massive data analytics; distributed logging technology; cybersecurity solutions; quantum computing;

c) Technologies based on the manufacture of parts, materials and equipment or facilities, assembly, including manufacturing plants for technological equipment or hardware, semiconductors, communications technology, robotics, nanotechnology, aircraft and unmanned vehicles;

d) Systems engineering and technologies needed to integrate basic industrial technologies into global production chains;

e) New sources of energy generation and storage, which do not currently exist within the national energy matrix, which will be subject to the corresponding authorizations and concessions.

f) Research and Development of new technologies.

CHAPTER II
TAX INCENTIVES

Tax incentives

Art. 7.- The beneficiaries of the present law that have a Qualification Agreement in force issued by the Ministerio de Economia will be eligible for the following tax incentives for a term of fifteen years counted as of the day following the notification of the issuance of the Qualification Agreement by the Ministerio de Economia:

a) Total income tax exemption with respect to the incentivized activities;

b) Exemption from all types of income tax withholdings with respect to the incentivized activities;

c) Total exemption from municipal taxes on the net assets declared by the beneficiaries;

d) Exemption from the payment of Capital Gains, stipulated in Articles 14 and 42 of the Income Tax Law;

e) Total exemption from the payment of import duties and taxes levied on the importation of goods, inputs, machinery, equipment and tools necessary for the development of the incentivized activities.

Assets subject to exemption

Art. 8.- The total exemption of Import Duties and taxes levied on the importation of goods indicated in literal e) of article 7 of this law, is applicable only to the goods that are indispensable for the benefited activity, being obligatory that they are duly identified by the beneficiaries as being of exclusive use for the activity in question. Likewise, the amount of goods to be imported must be proportional to the installed capacity of the beneficiary through which the incentivized activity will be developed. No exemption regulated in this law will be extended to the importation of firearms, ammunition, goods for the consumption of directors, partners or personnel of the company, their relatives or related companies, and goods of the current assets.

CHAPTER III
BENEFICIARIES

Eligibility requirements

Art. 9.- In order to be beneficiaries of the tax incentives established in the present law, the interested parties must comply with the following requirements:

a) Be natural or legal persons, national or foreign;

b) To be registered before the Salvadoran tax authority, which will be accredited with the Tax Identification Number of the applicant;

c) Prove that its activities are included within those established in Article 6 of the present law and prove that they correspond to new investments; and,

d) Rating Agreement in force issued by the *Ministerio de Economia.*

The procedure for obtaining and keeping the Qualification Agreement shall be established in the regulations of this law.

Obligations of beneficiaries

Art. 10.- Every beneficiary holder of a Qualification Agreement granted in accordance with the present law shall comply with the following obligations:

a) Those established in the present law and in the respective Agreement, during the stipulated term;

b) Comply with the operating permits and authorizations corresponding to the type of productive activity, commerce or services to be performed;

c) Keep separate accounting records to demonstrate and prove reliably the amount of income subject to the tax incentives established in this law. Separate records must be understood as those accounting books, records and reliable documentation that contain only the economic information of the activity in question. Said separate records must also comply with the general requirements on the matter provided by the tax regulations, relevant laws and specific provisions provided by the tax authority for these purposes;

d) Keep and maintain at the disposal of the tax administration, in physical or electronic form, all documents and evidence that prove compliance with the respective tax obligations, for the term stipulated in the first paragraph of article 147 of the Tax Code;

e) To provide the information requested by the Ministerio de Economia, in the exercise of the powers conferred by this law, for which purpose it may require reports certified by qualified auditors; and

f) At least 5% of the company's operating budget must be allocated to the Research, Development and Innovation area of your company.

CHAPTER IV
INTERNATIONAL COOPERATION

On the promotion of bilateral agreements

Art. 11.- The President of the Republic or the Ministerio de Relaciones Exteriores may, upon recommendation of either the *Ministerio de Economía* or the Oficina de Promoción de Inversiones,

enter into bilateral agreements with advanced nations in matters of innovation and technological manufacturing, with the purpose of promoting joint programs and investments in such matters or the creation of joint programs or funds for such purpose.

On the promotion of reciprocal agreements

Art. 12.- The President of the Republic or the Minister of External Relations may enter into cooperation agreements with multinational companies, for the purpose of making joint investments in industrial research and development in innovation and manufacturing technology. The investment project must have the approval or recommendation of the Ministerio de Economía.

CHAPTER V
INFRACTIONS AND PENALTIES

Violations

Art. 13.- For the purposes of this law, infractions are divided into less serious, serious and very serious.

The following are considered very serious infractions:

a) Apply the tax incentives and benefits granted by this law to activities that are not those incentivized by this law;

b) To use the goods imported under the incentives granted by this law for a different purpose than the one declared.

c) Providing false information to the *Ministerio de Economía* in its capacity as the governing body of this law, to the tax authority or the customs authority during the application for qualification, issuance of Agreement or obtaining tax benefits and incentives.

Failure to comply with the provisions of Article 10 of this law shall be considered a serious infringement.

It is considered a less serious infraction to refuse to appear without just cause at the summons legally issued to them by the institutions mentioned in this law.

In addition to the penalties established by law, the corresponding criminal or civil liability shall be imposed.

Sanctions

Art. 14.- Without prejudice to the payment of duties and taxes owed, the infractions established in the present law shall be sanctioned administratively by the *Ministerio de Economía* in the following manner:

a) The least serious infraction will be sanctioned with a fine of between 2 and 5 minimum monthly salaries for the commerce and services sector;
b) The serious infraction will be sanctioned with a fine between 6 to 15 minimum monthly

salaries of the commerce and services sector; and,

c) The very serious infraction will be sanctioned with a fine between 15 and 20 minimum monthly salaries of the commerce and services sector. Recidivism in this type of sanctions will result in the cancellation of the Benefit Qualification Agreement.

For the determination of the fine, the size of the company, the seriousness of the infringement, the damage caused, the circumstances in which the infringement was committed and the recidivism shall be taken into account.

Suspension and revocation

Art. 15.- If a natural or legal person, owner of a company, after having obtained the benefits of this Law, has had them suspended or revoked, he/she may not request them for another company or appear as a shareholder or director of companies requesting them.

Prohibition

Art. 16.- The companies in which people who were Directors or Shareholders of other companies that were sanctioned with suspension or revocation of the benefits conferred by this Law shall not be entitled to the benefits granted by this Law.

Sanctioning procedure

Art. 17.- Upon becoming aware of the non-compliance with the obligations established in this law, the *Ministerio de Economía* shall initiate the sanctioning procedure in accordance with the provisions of the Law on Administrative Procedures. If at any time during the sanctioning procedure, the *Ministerio de Economía* considers that the facts on which it instructs may constitute a criminal offense, it shall certify the documentation and shall notify the Attorney General's Office in a timely manner so that it may promote and exercise the corresponding actions.

CHAPTER VI
FINAL PROVISIONS

Specialty of the Law

Art. 18.- The present law, by its nature, is of a special nature and shall prevail over any other legal ordinance that is contrary to it, whether it is in force at the time the present regime enters into force or issued thereafter.

The amendment or derogating of any of the provisions of this law must be expressly made.

Tax incentive evaluation mechanism

Art. 19 - The *Ministerio de Economía* shall evaluate, after a term of three years as from the effective date of this law, the effectiveness of the tax incentives set forth in Article 7 for the fulfillment of the purposes or objectives of this law.

For this purpose, the *Ministerio de Economía* shall:

1. Within a period of six months from the effective date of this law, prepare and publish a guide establishing indicators of compliance with the objectives and purposes expected from the establishment of the tax incentives indicated in Article 7 of this law.

2. Within six months following the completion of the three-year term as from the effective date of this law, prepare and publish a performance evaluation of the objectives and purposes expected with the establishment of the tax incentives of this law, in accordance with the guidelines indicated in the preceding paragraph.

3. If the result of such performance evaluation is unsatisfactory in the opinion of the Ministerio de Economía, to prepare and submit to the Legislative Assembly, through the President of the Republic, a proposal to reform the present decree containing improvements on the established tax incentives, which may be modified, reduced or replaced.

4. Any amendment introduced by virtue of this article shall in no case affect Qualification Agreements duly granted by the *Ministerio de Economía* or any other right acquired by virtue of this law.

Procedure for revocation

Art. 20.- If any natural or legal person receiving the benefits of this Law ceases to operate for a period of three continuous months, the benefits granted by this Law shall be revoked, except in the case of force majeure or unforeseeable circumstances, after application of the procedure provided for the imposition of sanctions in this Law. If the resolution determines the cancellation of the benefits, the *Dirección General de Aduanas* and the *Dirección General de Impuestos Internos* shall be notified for the corresponding effects.

Regulation of the law

Art. 21.- The President of the Republic shall issue the General Regulations of the present Law, as well as such special regulations as may be necessary to make the correct application of the present Law feasible.

Supplementary application of the Tax Code and customs legislation

Art. 22.- In all aspects not contemplated in the present regime, the supplementary application of the Tax Code and other pertinent tax laws, as well as the customs legislation, as the case may be, may be resorted to for the purpose of regulating these events, and in this way, maintain a coherent application of the provisions of this law, in order to be able to enjoy the benefits granted by this regime. When it is a question of resorting to the application of the customs legislation, the *Dirección General de Impuestos Internos* shall promote the respective pronouncement by the *Dirección General de Aduanas*, with the purpose of solving any situation that requires this pronouncement.

Effective date

Art. 23.- This decree shall enter into force thirty days after its publication in the Official Gazette.

GIVEN IN THE BLUE ROOM OF THE LEGISLATIVE PALACE: San Salvador, on the eighteenth day of April, two thousand twenty-three.

ERNESTO ALFREDO CASTRO ALDANA,
PRESIDENTE.

SUECY BEVERLEY CALLEJAS ESTRADA,
FIRST VICEPRESIDENT

RODRIGO JAVIER AYALA CLAROS,
SECOND VICEPRESIDENT

GUILLERMO ANTONIO GALLEGOS NAVARRETE,
THIRD VICEPRESIDENT

ELISA MARCELA ROSALES RAMÍREZ,
FIRST SECRETARY

NUMAN POMPILIO SALGADO GARCÍA,
SECOND SECRETARY

REYNALDO ANTONIO LÓPEZ CARDOZA,
THIRD SECRETARY

REINALDO ALCIDES CARBALLO CARBALLO,
FOURTH SECRETARY

PRESIDENTIAL HOUSE: San Salvador, on the second day of May of the year two thousand and twenty-three.

PUBLISH,

NAYIB ARMANDO BUKELE ORTEZ,
President of the Republic.

MARÍA LUISA HAYEM BREVÉ,
Minister of Economy.

D. O. N° 81
Volume No. 439
Date: May 4, 2023

NGC/adar
09-05-2023

GLOSARY

1. **Dirección General de Aduanas:** General Directorate of Customs
2. **Dirección General de Impuestos Internos:** General Directorate of Internal Taxes
3. **Ministerio de Economía:** Ministry of Economy
4. **Ministerio de Hacienda:** Ministry of Finance
5. **Ministerio de Relaciones Exteriores:** Ministry of Foreign Affairs
6. **Oficina de Promoción de Inversiones:** Investment Promotion Office
7. **Secretaría de Innovación de la Presidencia:** Secretariat of Innovation of the Presidency