Investment Climate in Nepal

1. Foreign Investment and Technology Transfer Act (FITTA) 1992

Investment
- 100 percent Foreign Investment is allowed in industries except in the few sectors. (See annexure I)
- Foreign investment approval within 30 days from the date of application.
- Foreign investment can be made by a foreign investor in any industry in the following forms:
  a) Investment in share (Equity),
  b) Reinvestment of the earnings derived from the clause (a) above,
  c) Investment made in the form of loan or loan facilities and
  d) Investment in kinds, e.g., machineries and equipment
- The Department of Industry approves Foreign Investment with fixed assets up to Rs. 2 billion.
- The Industrial Promotion Board approves Foreign Investment with fixed assets more than Rs. 2 billion.

Technology Transfer
- Technology transfer is possible even in areas where foreign investment is not allowed.
- Forms of "Technology Transfer" to be made under an agreement between an industry and a foreign investor:
  a) Use of any technological right, specialization, formula, process, patent or technical know-how of foreign origin
  b) Use of any trademark of foreign ownership,
  c) Acquiring any foreign technical consultancy, management and marketing service,

Visa Arrangements
- Foreign investors and/or his/her authorized representative and their dependents will be granted a business visa for up to a period of five years.
- Foreign investor making an investment equivalent to more than US $ one hundred thousand, at one time and in convertible foreign currency, will be granted a residential visa.
- Expatriate personnel working in the industries will be granted a non-tourist visa for duration of one year at a time.

Repatriation
Simple and easy repatriation process for repatriation of
- The amount received by the sale of the share of foreign investment as a whole or any part thereof
- The amount received as profit or dividend from foreign investment,
* The amount received as the payment of principal and interest on any foreign loan.
* The foreign investor or a foreign technology supplier is also entitled to repatriate the amount received under the agreement for the technology transfer.
* Foreign national, working in any industry may repatriate his/her salaries, allowances, emoluments etc. in convertible foreign currency in an amount not exceeding seventy five percent of such salaries, allowances and emoluments.

**Dispute Settlement**

* For industries with fixed assets investment of up to NRs. 500 millions, if the dispute can not be settled by mutual consultations in the presence of the DOI, it shall be settled by arbitration in accordance with the prevailing arbitration rules of the United Nations Commission on International Trade Law (UNCITRAL). The arbitration should be held in Kathmandu. The laws of Nepal shall be applicable in arbitration.
* For industries with fixed assets investment of above NRs. 500 millions, disputes may be settled as mentioned in the Joint Venture Agreement.

2. **Industrial Policy 2010**

   a) 2 new Industrial classifications\(^1\) have been added, namely, Information and Communication Technology (ICT) and Export Oriented.
   b) New Sectors has been added to the industrial classification: eg. Mountain flight, wild life conservation (under Tourism); green house (under Agro/forest); Business Process Outsourcing (BPO), IT Park (under ICT); Waste Water Treatment Plant, Special Economic Zone (under Construction) etc.

**Facilities to the Industries:**

**Income Tax Related**

a) **5% point rebate** on corporate rate of income tax (except for tobacco & alcohol based and Kattha industries)

b) **90%, 80%, 70% tax rebate for 10 years** for industries established in the areas listed in annex 9, 10 and 11 of the Industrial Policy respectively.

c) **40% tax rebate for 10 years** for Fruit based alcohol (max 12% content) industry established in areas listed in annex 9 of the Industrial Policy.

d) **90% rebate on income tax for 7 years** for Hydropower, Mineral Quarry, Local Limestone based cement industry, Petroleum/Natural gas industry.

e) **50% rebate on income tax** for ICT industries established inside an IT Park.

f) **Up to 40% rebate on income tax** depending upon the number and type of labors

g) Expenses incurred by industry for the long-term benefit provided to its workers and employees including housing, life, insurance, health facilities, education and training can be deducted for the purpose of the income tax

---

h) Expenses incurred by industry for the long-term benefit provided to its workers and employees including housing, life, insurance, health facilities, education and training can be deducted for the purpose of the income tax

i) Reduction from the taxable income for the investment of an industry on process or equipment, which has the objective of controlling pollution or which may have minimum effect on the environment

j) For income tax purpose
   a. Up to 5% of total sales can be spent on productivity enhancement training programs, research and development etc.
   b. Up to 10% of total sales can be spent on market development and advertisement,
   c. Premium paid to insurance for physical infrastructure can be deducted
   d. Depreciation on the fixed assets: entitled to add on third to the rate or depreciation allowed under the existing income tax laws.

k) 40% of fixed asset investment made by the reinvestment by an industry for the diversification or for 25% or more capacity increment can be deducted for the purpose income tax.

l) Expenses incurred on IP registration in Nepal can be deducted for the purpose of Income tax.

m) Expenses/Donations given to Natural disaster management/social works can be deducted for the purpose of Income tax

**Custom Duty, Excise Duty and VAT related**

a) No Excise Duty and VAT on Exports.

b) Custom Duties, Excise duty and VAT on raw material etc. shall be refunded on export of the product. Same for Deemed Export.

c) Only 1% Custom Duty on the industrial machineries and equipment, transformer, generator imported by an industry. Same for the additional machineries and equipment used for expansion of the industry.

d) Only 1% custom duty on Laboratory machineries and equipment, Scientific Equipment, R & D machineries and Equipment.

3. **Investment Board Act 2068**

   The Investment Board has been formed under the chairmanship of the Prime Minister with the following members.

   a. Prime Minister - Chairperson
   b. Minister appointed by the Prime Minister - Co-Chairperson
   c. Minister, Ministry of Finance - Member
   d. Minister, Ministry of Industry - Member
   e. Minister, Ministry of Forest - Member
   f. Co-Chairman, National Planning Commission - Member
   g. Governor, Nepal Rastra bank - Member
   h. Chief Secretary, Government of Nepal - Member
   i. 4 Experts including 1 female appointed by the Board from Industry, Tourism, Infrastructural Development, Trade Law, Financial Sector - Member
Projects attracted by Investment Promotion Board Act 2068 is listed in annexure II.

Approval Process
- Office of Investment Board shall evaluate and recommend the project to the Investment Board for approval or disapproval within 30 days from application date.
- Possibility of bilateral dialogue with the investor, if necessary, within 7 days.
- The investor shall register the project and form the company within 15 days of approval.
- 3 months period shall be given for Environmental Impact Assessment (EIA)/Initial Environmental Examination (IEE), if necessary, for the approved projects. (3 more months can be extended.)
- Decision on EIA/IEE reports shall be given by the authority within 21 days. If not, there is provision of penalization to the authorized person.

Facilities
- The project will receive the facilities prescribed by this Act and also all facilities as per the Industrial Enterprise Act and Foreign Investment and Technology Transfer Act or any other Acts which provides facilities to the industries.
- The Investment Board may prescribe more facilities to the prescribed projects by notification in the Nepal Gazette.
- Investments approved under this Act shall not be nationalized within the period of the license.
- No other investment shall be approved with the similar nature in the same region, if the earlier approval is granted on the competitive base.
- Normally, Terms and Conditions on the license shall not be altered once it is issued.

4. Potential Sectors for Investment
- Energy – Hydropower, Other alternative sources of energy (Solar, Wind mills, Biogas)
- Mineral based – Cement, Natural Gas, Petroleum, Precious Stones
- Tourism - Health Tourism, Resorts in High altitudes, Adventurous Tourism, Bungee Jumping, Kayaking etc
- Service - IT/ICT, BPOs, Higher Education Institutes, Health Sector (Hospitals, Diagnostic Centers)
- Agro/Forest Based Manufacturing - Herbs Plantation and Processing, Dairy Processing
- Infrastructure Development - Construction of Railways, Roads etc. Public transportation system

5. Strengths of Nepal
• Availability of Cheap Labor with good English skills
• Diversified geography from plains to mountains, suitable for various agro-forest based, Mineral based, Tourism based industries
• Cheap Communication Charges
• Trade Treaty with India, allowing Nepalese Products customs free entry into India.  
• Members of South Asian Association for Regional Cooperation (SAARC), South Asian Free Trade Agreement (SAFTA), World Trade Organization (WTO), Bay of Bengal Initiative for Multi-Sectoral Technical and Economic Cooperation (BIM-STEC), Multilateral Investment Guarantee Agency (MIGA), International Centre for the Settlement of Investment Disputes (ICSID)
• Entered into Bilateral Investment Treaties (BITs) with countries such as France, Germany, Mauritius, and United Kingdom.
• Entered into Double Taxation Treaties (DTTs) with 10 countries, namely, India, Norway, PR China, Pakistan, Sri Lanka, Austria, Thailand, Mauritius, Republic of South Korea and Quatar
• Business Visa to the Investors or to the Representatives, and to the dependents
• Residential visa for the investors making and investment more than US$100,000 or equivalent.
• Easy Repatriation procedure

6. Recent Initiatives taken by Ministry of Industry
   a) New Industrial Policy 2010
   b) Construction of Special Economic Zones (SEZs) is underway
   c) SEZ Act has been finalized and is under considerations of Constitution Assembly.
   d) Formulation of New Industrial Enterprise Act is on final phase
   e) Preparation of New Foreign Investment Policy is on the way
   f) Formation of a separate Intellectual Property (IP) office is on the way
   g) Formulation of Nepal Accreditation Board Act is on the way
   h) Formulation of Nepal Standard Act is on the way

2 Products manufactured in Nepal with minimum 30% of Nepalese/Indian Material Content are entitled for this facility.
Annexure – I

Areas Not Allowed for Foreign Investment

Foreign investors are permitted to own up to 100 percent equity share in industries except in the few as mentioned below.

Cottage Industries, Personal Service businesses (Business such as hair cutting, beauty parlor, tailoring, driving training, etc.), Arms and Ammunition Industries, Gunpowder and Explosives, Industries related to Radio-Active Materials, Real Estate Business (excluding construction industries), Film Industries (National Languages and other recognized languages of Nation), Security Printing, Bank notes and Coins, Retail Business (excluding international chain retail business with its business in at least two countries), Bidi (excluding more than 90% exportable), Internal Courier Service, Atomic Energy, Poultry, Fisheries, Bee Keeping, Consultancy Services such as Management, Accounting, Engineering, Legal Services (excluding consultancy with maximum 51% foreign investment), Beauty Parlor, Processing of Food Grains on Rent, Local Catering Services, Rural Tourism
Projects attracted by Investment Promotion Board Act 2068

a) Fast Track Roads, Tunnel way, Railway, Ropeway, Trolley bus as prescribed by the Government of Nepal
b) Construction of international or regional airports and investments in up-gradation and management of airports in operation
c) Waste management and waste processing plant in urban area
d) Chemical fertilizer manufacturing industry
e) Petroleum refinery
f) Big bridges as prescribed by the Government of Nepal
g) Establishment and operation of Banks and financial institutions or Insurance, re-insurance company with more than 51% foreign investment
h) Medical college and hospital or Nursing Home with modern facilities with more than 300 beds
i) Hydropower with capacity 500 megawatts or more.
j) Construction of Special Economic Zone, Export Promotion or Processing Zone, Special Industrial Zone or Information Technology Park
k) Infrastructure or Service Industry with fixed investment more than Rs. 10 billion. (construction, mineral based, tourism, airways)
l) Manufacturing industries with fixed investment more than Rs. 10 billion.