NEW CHANGES TO CUBA'S INVESTMENT LAWS

In 2014, Cuba changed its own investment rules to make investing in Cuba more attractive. When America modifies or eliminates its embargo against Cuba, then American citizens will be able to take advantage of these changes.

On March 29, 2014, Cuba's National Assembly approved a new foreign investment law, effective 90 days later.

The law's salient points are as follows:

1. Taxation: The old law imposed a tax of up to 45% on mining, oil and other raw material ventures, 30% on non-extractive investments, plus 25% on labor. The new law cuts the taxes in half on non-extractive investments, to 15% . Plus, the 25% labor tax is eliminated. For the mining, oil and other raw material ventures, the taxes can be as high as 50% "depending on the Council of Minister's decision." In addition, investors in joint ventures and in "international economic association contracts" have a new 8-year moratorium on any taxation, and this can be extended if the income is reinvested in Cuba. Finally, investors were subject to a Cuban income tax, and that has been eliminated.

2. Foreign Ownership: Previously, the Cuban government rarely allowed for a foreign investor to own 100% of an investment. The new law says that 100% foreign ownership will be allowed (although a 100% foreign-owned investment will not get the new 8-year moratorium on taxation that is available for a joint venture with a Cuban company). Previously, joint ventures were allowed with only state-run companies. Now, joint ventures are also allowed with private Cuban companies if they are farms or non-farm cooperatives.

3. Foreigners may now buy real estate, including residences and buildings dedicated to housing, tourism and offices, or invest in real estate developments used for tourism.

4. All joint ventures and foreign companies may now import supplies directly, without having to use a state import agency.

Two important areas of Cuban business law that are NOT changed by this new law are:

a. Settlement of Disputes: Disputes have to be settled by Cuba-based arbitration unless otherwise specified in agreements.
b. Labor: Joint ventures and other forms of association must still hire labor (except top executives) through state-run companies, paying agreed-

upon wages in convertible currency. The hiring organization then pays Cuban workers in the local peso with a much lower exchange rate. This means that the workers get paid much less than what is actually paid by the employer, and if the employer is unhappy with an employee's performance, then they may not be able to fire that employee.

One letter-to-the-editor published in the Gamma newspaper in Havana a day before the March 29 vote by the National Assembly urged the leaders to eliminate the law that forces foreign companies to hire through a state agency. The letter said that it "only serves to create bureaucracy and corruption" and scares away investors. Unfortunately, the National Assembly did not heed this advice.

Finally, one big area of concern to foreign investors may continue to be potential confiscation of their assets, whether a business or real estate. This is because the new law says that no property will be confiscated EXCEPT in "cases of national interest". One published report said a case of national interest could be "for reasons of public utility or social interest". In such a case, the confiscation will be "in accordance with international treaties" and due indemnification will be made.