ENCOURAGEMENT OF CAPITAL INVESTMENTS
LAW 5719-1959

CHAPTER ONE: INTRODUCTION

Objective
1. The objective of this Law is to attract capital to Israel and to encourage economic initiative and investments of foreign and local capital, in order to –
   (1) develop the productive capacity of the national economy, to utilize its resources and economic potential efficiently, and to utilize fully the productive capacity of existing enterprises;
   (2) improve the State’s balance of payments, to reduce imports and to increase exports;
   (3) absorb immigration, to distribute the population over the area of the State according to plan and to create new sources of employment.

Means of attainment
2. In order to attain the objectives of this Law, the grants, exemptions, reductions, facilities and permits said in it (hereafter: benefits) shall be granted either generally or on the basis of a project, all as will be specified in the following Chapters.

Project
3. For purposes of this Law, a project is a project for one or several of the following:
   (1) the establishment or expansion of an enterprise or of part thereof;
   (2) the establishment, enlargement or acquisition of an asset that is a rental building, within its meaning in section 53A, or of an asset that serves a purpose designated by the Ministers;
   (3) the investment by a foreign resident in the capital of an enterprise or in an asset;
   (4) a foreign currency loan by a foreign resident, repayable in the course of at least seven years.

Implementation
4. The Minister of Finance and the Minister of Industry and Trade jointly (hereafter: the Ministers) are charged with the implementation of this Law and they shall prescribe guiding rules for the realization of its objectives; the rules shall be made public.
Establishment of the Center
5. The Investment Center (hereafter: the Center), which shall work for the realization of the objectives of this Law, is hereby established.

Authorities of the Center
6. The authorities of the Center are –
   (1) the Director of the Center (hereafter: the Director);
   (2) the Board of the Center (hereafter: the Board);
   (3) the Council of the Center (hereafter: the Council).

Appointment of the Director
7. The Government shall appoint the Director, who shall ex officio be a member of the Board and of the Council and the chairman of both.

Functions of the Director
8. (a) The Director is charged with the implementation of decisions by the Board and the Council, shall act in their name and shall carry out any other function assigned to him under any enactment.
   (b) Anything to be submitted to the Board, to the Council or to the Ministers shall be submitted through the Director, and any announcement on their behalf shall be made by him.

The Board
9. (a) The Board shall include the following members in addition to the Director:
   (1) The Director of the Investment Authority, and in his absence a person appointed by the Minister of Finance to be his deputy;
   (2) a representative of the Ministry of Finance, appointed by the Minister of Finance;
   (3) a representative of the Ministry of Industry and Trade, appointed by the Minister of Industry and Trade;
   (4) a representative of the Ministry of Agriculture, appointed by the Minister of Agriculture;
   (5) a representative of the Ministry of Tourism, appointed by the Minister of Tourism;
   (6) a representative of the Ministry of the Economy and Planning, appointed by the Minister of the Economy and Planning;

and the Government may appoint a representative of the public as an additional member of the Board.

(b) When the opinions in the Board are evenly divided, the Director’s opinion shall be decisive.

(c) Members of the Board shall also be members of the Council.
Nonpermanent members of the Board

9A. For purposes of approving a project, the subject of which is in the sphere of a Government Ministry not represented on the Board, a representative of the said Ministry shall be an additional member of the Board, appointed by the Minister in charge of that Ministry.

Functions of the Board

10. (a) These are the functions of the Board:
   (1) to initiate and organize activities for the encouragement of investments of foreign and local capital, for the immigration of capital investors and their absorption in Israel, and to provide for the establishment of conditions required therefor;
   (2) to grant approval to projects (hereafter: approval);
   (3) to maintain contact between investors and Government departments and other authorities concerned, to provide and disseminate information on capital investment in Israel, and to assist investors in the implementation of their projects;
   (4) to recommend to any competent authority that it grant – within the scope of enactments that apply to its sphere of competence or with the implementation of which it is charged – any exemption, reduction, facility and license for any enterprise, asset, investment or loan, which is likely to help attain the objectives of this Law.

(b) When the Board has made a recommendation before a competent authority, as said in subsection (a)(4), in connection with an application related to the establishment or expansion of an enterprise for which the relevant legal conditions have been met, then the competent authority shall reply within 12 working days after the day on which it received the application; when the Board has made an aforesaid recommendation on any other matter, the competent authority shall reply within 24 working days after the day on which it received the application; if the competent authority did not reply within the said period, then it shall be deemed to have given an affirmative reply at the end of the period.

Procedures of the Board

11. The Board shall determine its procedure and order of business, as far as those have not been prescribed by regulations.

Appointment of Council

12. The Government shall, after consultation with local authorities and with economic, public, scientific and professional organizations and institutions concerned with branches of the economy which are of national importance, appoint ten members of the public to the Council, in addition to the Board members.
Functions of the Council
13. These are the Council’s functions:
   (1) to advise the Government on any matter related to the realization
       of the objectives of this Law and, in particular, on basic principles
       of the encouragement of capital investments, on ways for their
       implementation and on legislation for the encouragement of
capital investments;
   (2) to consider, as provided in section 25, contestations lodged under
       that section and to give an opinion thereon to the Ministers.

Procedure for activities of the Council
14. The Council shall set its procedure and order of business, as far as
    those have not been prescribed by regulations.

Payments to members of the Council
15. A public member of the Council is entitled to be reimbursed by the
    Treasury for expenses, including loss of wages, incurred by him in
    consequence of his participation in Council meetings.

Secrecy
16. The policy of the Board or Council and material supplied to them shall
    not be disclosed, except by the Director or the Government, or with
    their consent.

CHAPTER THREE: APPROVALS AND CONTESTATIONS

Applications for approval
17. A person who applies for an approval shall submit a project to the
    Board, which includes a detailed description of the operation he
    believes should be carried out, and he shall also supply any additional
    particular or document required for the examination of the project.

Approval of project
18. (a) (1) The Board may, at its discretion and in accordance with
     amounts budgeted for this purpose in the State budget,
     approve a project submitted to it or part thereof, if it finds
     that its implementation is likely to help realize the objective
     of this Law and that it is desirable to encourage its
     implementation by the grant of approval;
     (4) The Board may approve a project, as said in paragraph (1),
         until March 31, 2005; the Ministers may, with approval by the
         Knesset Finance Committee, extend the said period by
         order to a date no later than August 1, 2009.
     (5) A project or part of a project approved under this subsection
shall be an approved project.

(b) If the Board did not approve a project submitted to it or part thereof, then it shall inform the applicant of its reasons in writing.

Approval of a project for an industrial enterprise and a hotel

18A. (a) In this section –

"area" – Judea, Samaria and the Gaza Region, except for the areas included under the territorial jurisdiction of the Palestine Authority under the agreement about the Gaza Region and the Jericho area, signed on May 4, 1994, in Cairo between Israel and the Palestine Liberation Organization;

"biotechnology" – technological research based on biological processes that involve genetic engineering;

"hotel" – a hotel or camping ground in Israel, as defined in the Tourism Services Law 5736-1976;

"the Ordinance" – the Income Tax Ordinance;

"R&D Encouragement Law" – the Encouragement of Industrial Research and Development Law 5744-1984;

"knowhow" – knowhow developed by the enterprise in Israel, in respect of which a patent was registered, or if the Director of the Industrial Research and Development Administration determined that the knowhow is fit to be the subject of a research and development project;

"turnover", "base turnover", "determining year" – as defined in section 74;

"base turnover in a certain market" – each of the following, as the case may be:

(1) the average turnover of the enterprise=s sales in a certain market during the three years before the determining year;

(2) if a minimum investment was made, such as entitles to a two year period – the average turnover during the two years before the determining year; however, if the turnover in the year that preceded the determining year differed from the turnover in the preceding year by more than 12.5%, then the larger annual turnover of the two years that preceded the determining year;

"benefited enterprise" – as defined in section 51;

"industrial enterprise" – as defined in section 40A;

"nanotechnology" – technological research concerned with the construction of new materials by assembling units on a nanometric scale;

"relative" – as defined in section 105K of the Ordinance;

"Director of the Industrial Research and Development Administration" – within its meaning in the R&D Encouragement Law;

"market" – a separate state or customs territory;
“foreign resident” – as defined in the Ordinance;
“R&D project” – a project, as defined in the R&D Encouragement Law;
"benefit period" – within its meaning in section 45.

(b) In respect of an industrial enterprise and a hotel the Board shall approve a project or part thereof under the provisions of section 18 only if it is satisfied that the industrial enterprise or the hotel will contribute to the national economic independence and that it is a competitive enterprise that contributes to the gross domestic product; for this purpose, an industrial enterprise and a hotel shall be deemed to be competitive and contributing to the gross domestic product, if it meets one of the conditions in subsection (c), as the case may be; however, if the project is for the expansion of an enterprise, the Board shall approve the project or part thereof only if one of the said conditions is met by the part of the enterprise that is to be added by the expansion.

(c) The following are the conditions for the purposes of subsection (b):

(1) in respect of an industrial enterprise, other than an industrial enterprise said in paragraph (2), one of the following shall hold true for it in each tax year of the benefit period:

(a) its main activity is in the field of biotechnology or nanotechnology, and that is certified by the Director of the Industrial Research and Development Administration before the project was approved, as said in this section;
(b) its income during a tax year from sales to a certain market do not exceed 75% of its total income from sales in that tax year;
(c) 25% or more of its total income in the tax year from sales to a certain market, is from sales to a certain market which numbers at least twelve million inhabitants;

(2) in respect of an industrial enterprise that sells a product, which is the component of another product made by another industrial enterprise – conditions prescribed by the Minister are met; for this purpose, "another industrial enterprise" – an industrial enterprise that is a benefited enterprise or an approved enterprise, or which was such an enterprise, and it meets the conditions said in paragraph (1);

(3) in respect of a hotel – at least 25% of all overnight stays in it during any tax year, or as calculated by averaging the tax year and the two tax years that preceded it, as the case may be, are overnight stays of foreign residents who are not residents of the area; the average for purposes of this paragraph shall be calculated by taking all overnight stays of
foreign residents in that hotel during the said years, and dividing them by the total number of overnight stays in that hotel in those years.

(d) For the purposes of subsection (c)(1) –

(1) each of the following shall be considered income from the enterprise’s sales, on condition that the income was produced or arose in the course of the enterprise’s ordinary business:

(a) income from the sale of products produced in that enterprise, including their components that were produced in another enterprise;

(b) income from the sale of products that are semiconductors, produced in another enterprise – that is not owned by a relative of the owner of the enterprise – according to knowhow developed by the enterprise;

(c) income from granting permission to use information or computer software developed by the enterprise, as well as income from royalties received for the said use;

(d) income from services connected to sales said in subparagraphs (a) and (b), and also from service connected to the right to use knowhow or computer software or to the royalties said in subparagraph (c);

(2) if the project was for the establishment of a new enterprise, then the enterprise’s income from sales in a certain market shall be calculated by finding the average income in the tax year and the preceding two tax years, but tax years in which the enterprise did not yet have any income whatsoever shall not be taken into account;

(3) if the project was for an expansion of the enterprise, then the following provisions shall apply to the examination whether the enterprise meets the conditions prescribed in subsection (c)(1)(b) and (c):

(a) only income from sales that relate to the part of the enterprise added by the expansion shall be taken into account;

(b) income from sales of the enterprise shall be credited to each part of the enterprise as said in section 74;

(c) income from the enterprise’s sales in a certain market shall be credited to each part of the enterprise according to the enterprise’s turnover in that market after its expansion, less the base turnover in that market; the Ministers may prescribe ways of calculating and ways of proving how the enterprise’s sales in the certain market are credited to each part of the enterprise, in accordance with this subparagraph.
(c) The conditions said in subsection (c) shall be taken as conditions prescribed under the provisions of section 19, in respect of the approval granted to the project or to part thereof.

Conditions of approval

19. (a) The Board may, at its discretion, make the coming into effect of an approval conditional on the fulfillment of prior conditions prescribed in the approval, and in that approval it may lay down conditions in respect of the project’s implementation and of subsequent activities.

(b) Without derogating from the provisions of subsection (a), the Minister of Industry, Trade and Employment shall – with approval by the Knesset Economics Committee – prescribe:
   (1) conditions for the grant of approval, including preconditions for the approval going into effect, such as concern the quality of the environment; regulations under this paragraph shall be made after consultation with the Minister of the Environment;
   (2) provisions for making the grant of approval contingent on compliance with the Minimum Wage Law 5747-1987.

Approval by Director, according to directives

19A. (a) The Board may prescribe directives and conditions for the approval and change of categories of projects – except for projects the subject of which is the establishment or enlargement of an enterprise – and when it has done so, the Director being satisfied that the directives and conditions have been complied with and with the consent of the Board member who represents the Ministry in whose sphere the subject of the project lies, then it may –
   (1) approve the project;
   (2) approve a change in an approved project.

(b) For the purpose of granting approval under subsection (a), the Director shall have the authority vested in the Board under section 19 and the approval shall be treated like an approval under section 18.

(c) If the Director does not see fit to approve the project, he shall return it to the Board for consideration.

Approval of changes on the basis of directives

19B. (a) The Board may empower a person, even if he is not a State employee, to approve in accordance with its directives –
   (1) a change in a project due only to changes in the price of assets, which does not affect the quantity or types of equipment or the floorspace or category of buildings;
   (2) a change in a project that is not material as to the quantity or categories of equipment or the floorspace or categories of
buildings;
(3) a change in the dates of a project's implementation.

(b) Approval of a change under subsection (a) shall be treated like an approval under section 18.

Approval in writing
20. Approval shall be in writing and signed by the Director.

Approved project
21. The enterprise or asset, including their expansion, or the investment or loan, or that part of them the implementation of which is the subject of an approved project, shall become:
(1) an approved enterprise or an equipment leasing enterprise;
(2) an approved asset;
(3) an approved investment;
(4) an approved loan;
all as specified in the approval.

Ownership of an approved enterprise
22. An enterprise shall not be recognized as an approved enterprise unless it is owned by one of the following:
(1) a company, within its meaning in the Companies Ordinance;
(2) a foreign company, within its meaning in the Companies Ordinance;
(3) a cooperative society, within its meaning in the Cooperative Societies Ordinance;
(4) a partnership registered under the Partnership Ordinance [New Version] 5735-1975 (hereafter: Partnership Ordinance) as a foreign limited partnership, all the Israel partners of which are bodies corporate;
(5) a partnership registered under the Partnership Ordinance, all the partners of which belong to the categories of bodies corporate enumerated in paragraphs (1) to (4);
(6) whoever the Board agrees to.

Approved asset
23. The provisions of this Law that relate to an approved enterprise apply also to an approved asset, except for sections 22 and 51 and the provisions of Chapter Six.

Approved loan
24. The provisions of this Law on an approved investment also apply to an approved loan.

Contestations of the Board's decisions
25. (a) If a person disputes a decision by the Board on an application
which he submitted under section 17, or its decisions under sections 74, 75(a), 75A or 75B(a), or decisions by the Director under sections 19A, 75A or 75B(a), then he may – within 60 days after the day on which notice of the decision was served on him – contest to it before the Ministers; the contestation shall be in writing and shall specify the reasons.

(b) The contestation shall be submitted to a committee of five, which the Ministers shall appoint and who may be members of the Council, other than the Director and Board members, on condition that at least two are representatives of the public; the committee shall consider the contestation with the Director=s participation and shall give its opinion to the Ministers.

(c) The Ministers may confirm, cancel or change the Director=s or the Board=s decision.

Appeal in certain cases

25A. (a) Appeal against decisions of the Board under section 75(b) and 75B(c) may be lodged with the District Court within 60 days after the day on which notice of the decision was served on the appellant; when an appeal has been filed, the period prescribed in the said provisions shall be extended until 30 days after the decision on the appeal was handed down.

(b) A decision by the District Court under subsection (a) may be appealed on a point of Law.

(c) The Minister of Justice may make regulations on procedure in appeals under this section.

Chapters Four and Five (sections 26 through 40): Repealed
Definitions

40A. In this Chapter –

"industrial enterprise" – includes a mine and other enterprise for the extraction of minerals, which is not an enterprise for petroleum exploration, within its meaning in the Petroleum Law 5712-1952, or extraction;

"assets of the enterprise" – buildings, machinery and other equipment – other than private motor vehicles within their meaning in the Traffic Ordinance – owned by the owner of the approved enterprise and used by the enterprise in accordance with an approved project, not having been used previously, and including assets brought to Israel for that purpose in used condition with the Board’s approval and not previously used in Israel, and including structures and equipment located within the premises of the enterprise and used as vocational training centers, as industrial schools or as day care centers for the employees’ children;

"equipment for lease" – machinery and other equipment, other than private motor vehicles within their meaning in the Traffic Ordinance, owned by an equipment leasing enterprise and – in accordance with its approved project – intended to be leased to approved enterprises, when it was proven to the Director that –

(1) it was first leased to an approved enterprise before the end of the period for the project’s implementation, as prescribed in that enterprise’s instrument of approval, and in respect of which the enterprise – had it been the owner of the equipment – would have been entitled to an investment grant;

(2) the lease complies with the conditions of the approval of the equipment leasing enterprise;

(3) the lessee enterprise’s instrument of approval states that it shall lease machinery and equipment of the category which it leased;

(4) the machinery or equipment was not sold, leased or lent before it was first leased as said in paragraph (1), and – if it was imported into Israel in used condition with the Board’s approval for that purpose – it was not previously used in Israel;

"land development" – land preparation and land development, carried out for purposes of the approved enterprise in accordance with an approved project;

"building owned by owner of an approved enterprise" – including a building used by the approved enterprise, the construction of which was financed by the owner of the enterprise, exclusive of a building leased to it for a period of not more than ten years;

"industrial building" – a building erected according to an approved project, in respect of which it was proven to the Director that –

(1) its construction was completed after April 1, 1968;
(2) all or most of its floorspace will first be leased as specified below in the proportion prescribed in the instrument of approval and within the period prescribed:
   (a) to an approved enterprise which is an industrial enterprise, the project of which includes the leasing of an aforesaid building, on condition that eight years not yet having passed since the date of the approval of its project;
   (b) to a benefited enterprise which is an industrial enterprise, on condition that eight years have not yet passed since the end of the year in which the minimum entitling investment for it began;
(3) repealed;
(4) the building or the part to be leased as aforesaid will not be sold, leased or rented before it is first leased as aforesaid;
"repaired building" – a building, including buildings used for vocational training centers or industrial schools or day care centers for employees– children, which was previously used and is owned by the owner of the approved enterprise, which is used by the enterprise in accordance with the approved project and was repaired according to that project;
"repaired industrial building" – a building which was previously used as an industrial building, or an industrial structure which was used previously but is not an industrial building, it or part of it having been repaired with approval by the Board, the repaired part to be leased within a period to be prescribed by the Board, to an enterprise as follows:
   (1) to an approved enterprise which is an industrial enterprise in the project of which such a building is included, on condition that eight years have not yet passed since the approval of the project;
   (2) to a benefited enterprise which is an industrial enterprise, on condition that eight years have not yet passed since the end of the year in which the minimum entitling investment in it began;
"repair" – additions, alterations or repairs of floors, ceilings, walls, electrical systems, plumbing systems, heating and cooling systems or drainage systems and – with the Director’s approval – of other parts, or land development, all in order to adapt them to the needs of an approved enterprise according to an approved project;
"tourism enterprise" – an enterprise intended to serve tourism to Israel, including a hotel or camping ground, within their meaning in the Tourism Services Law 5736-1976;
"original cost" – within its meaning in section 21 of the Income Tax Ordinance, exclusive of financing expenses, administrative and general expenses usually regarded as such under accepted bookkeeping rules, traveling expenses, running in expenses and other similar expenses to be designated by the Ministers by order with approval by the Knesset Finance Committee;
"controlling member" – as defined in section 32(9) of the Income Tax Ordinance;
"grant" – an investment grant;
"benefited enterprise", "minimum entitling investment" – as defined in section 51.

Entitlement to investment grant

40B. The following shall be entitled to an investment from the State in accordance with the provisions of this Chapter and subject to the provisions of section 94:

(1) a company, within its meaning in the Companies Ordinance, which has a share capital;
(2) a cooperative society, within its meaning in the Cooperative Societies Ordinance;
(3) a partnership registered under the Partnership Ordinance as a foreign limited partnership, in which all Israel members are bodies corporate;
(4) a partnership registered under the Partnership Ordinance, all the members of which belong to categories of bodies corporate said in paragraphs (1), (2) and (3);
(5) a partnership registered under the Partnership Ordinance, including a foreign partnership, the members of which are individuals, if the Board recognized it as an approved enterprise under section 22(6);

which owns an approved enterprise that is an industrial enterprise, or an equipment leasing enterprise, an industrial building, a repaired industrial building or a tourism enterprise; however, if the enterprise is a mine or some other enterprise for the extraction of minerals or an enterprise for the processing of minerals extracted in Israel, then giving the grant requires the Ministers’ approval.

Amount of investment grant

40C. (a) (1) The grant under section 40B shall be the percentage specified in the Schedule, of all the following:

(a) the original price of the enterprise's assets or of the industrial building;
(b) the expenses incurred by the owner of the enterprise for land development;
(c) the expenses incurred by the owner of the enterprise that owns a repaired building for repairing the building;
(d) the expenses incurred by the owner of a repaired industrial building for repairing the building;
(e) in an equipment leasing enterprise – the original price of the equipment for lease, according to the zone in which the enterprise which first leases that equipment is located.
(2) The amount of the grant, as said in subsection (1), shall not exceed –

(a) in a company – the amount actually paid, including premiums, for shares allocated against capital approved within the framework of the project;
(b) in a cooperative society – the amount actually paid as registered equity in order to carry out the project;
(c) in a foreign limited partnership – the amount actually paid by the partners into the partnership's capital in order to carry out the project;
(d) in any other partnership – the amount actually paid into the capital of the participating bodies corporate, in accordance with the provisions of subparagraphs (a), (b) and (c) and in proportion to their proportional shares in the partnership, for the implementation of the project; however, if there are individual partners in the partnership – the amount proven, to the Director's satisfaction, to have actually been paid into the partnership's capital by the individual partners for the implementation of the project in the proportion of their proportionate shares of the partnership.

(3) The Ministers may, with approval by the Knesset Finance Committee, prescribe that the amount of grant to an enterprise in Development Area A or to an equipment leasing enterprise in respect of lease equipment leased to an enterprise located in Development Area A shall not be limited in the manner said in paragraph (2) or shall be limited to an extent they will prescribe; and that, in the case of an equipment leasing enterprise, the proportion between the original cost or the cost said in subsection (b) of the equipment leased to an enterprise in Development Area A shall be taken into account, in proportion to the aforesaid cost of all the equipment for lease by the enterprise.

(4) If, before the end of the benefit period—within its meaning in section 45, the amount of capital according to which the amount of grant was calculated is reduced, otherwise than as a result of losses, then the owner of the enterprise shall, in accordance with the provisions of section 75B(a), refund that part of the grant which would not have been paid to him if the amount of the capital had been the reduced amount from the outset; for this purpose, reduction of capital—includes any amount paid by the owner of the enterprise to a controlling member out of the said capital or debited to his account, all either directly or indirectly, other than—

(a) amounts deductible as expenses in calculating liable
income for purposes of the Income Tax Ordinance;

(b) amounts distributed as dividends;

(c) repayment of a loan extended by a controlling member before the grant was paid, or so extended thereafter, if only extended for a period of not more than one year.

(b) Notwithstanding the provisions of subsection (a), the grant in respect of assets of the enterprise, which the owner of the enterprise produced or built, shall be in the percentages specified in the Schedule, and in respect of lease equipment or of an industrial building – in accordance with the area in which the enterprise that leased the equipment or rented the building is located – of the lower of the two following amounts:

(1) the cost price, plus reasonable profit, on condition that the profit not exceed 10% of the cost price in the case of a building, and in the case of any other asset – 15% of the cost price;

(2) the price – at a sale by a willing seller to a willing buyer – of assets similar to the assets of the enterprise that were produced or built in Israel; if there is no local production of similar machines or equipment, or if there is no price for them from a willing seller to a willing buyer – the import cost of similar machines or equipment, and if there is no price between a willing seller and a willing buyer of a similar building – the price of the building as determined by the Chief Government Assessor.

(c) (1) Notwithstanding the provisions of subsection (a), an investment grant to a person entitled as said in section 40B whose place of residence is south of latitude line 100 on the Israel Cassine-Solander method grid – other than enterprises specified in subparagraph (2) (hereafter: enterprise in the Negev) – shall be as said in section 3 of the Schedule.

(2) These are the enterprises:

(a) repealed

(b) a mine or other enterprise for the extraction of processing of minerals;

(c) a tourism enterprise not for popular hospitality;

(d) any tourism enterprise within the jurisdiction of the Eilat Municipality and in the Zohar - Ein Bokek zone.

**Determination of zone boundaries**

40D The boundaries of the zones enumerated in the schedule shall be prescribed by the Ministers with approval by the Knesset Finance Committee, and they may, with the consent of the Minister of Tourism, set special zones for tourism enterprises.

40E and 40F. Repealed
Surety
40G A grant shall be paid after surety to secure its repayment under section 75B has been provided to the Director’s satisfaction.

Time for payment of grant
40H. (a) (1) An investment grant, other than the part of which payment was withheld under section 40I, shall be paid not later than 60 days after the day on which the owner of the approved enterprise proved, to the Director’s satisfaction, that he carried out the approved project and that he incurred the expenses for the acquisition of the assets of the enterprise or of the lease equipment or for their production, and in the case of production – that he also paid the costs said in section 40C(b), and the expenses he incurred for land development or for the construction of a building or for repair of a repaired building or of a repaired industrial building; however, if – under section 19 – the coming into effect of the approval was made conditional, then the grant shall be paid within 60 days after the approval comes into effect, or at the time prescribed in this subsection, whichever is later;

(2) for purposes of this section, “carrying out” – in respect of machines and equipment: their arrival on the premises of the enterprise; in respect of equipment for lease: its arrival on the premises of the enterprise that leases it; and in respect of construction, land development, or repairs of a repaired building or of a repaired industrial building: their actual completion.

(b) Notwithstanding the provisions of subsection (a), the Director may approve payment of an advance on account of an investment grant (hereafter: grant advance) to the owner of an approved enterprise, at rates and on conditions which the Director prescribed.

(c) For purposes of sections 40B, 40G, 75, 75A and 75B, a grant advance shall be treated like a grant.

Powers of the Board
40I. The Board may prescribe rules for the implementation of the provisions of this Chapter, including the procedure of applying for a grant, the particulars to be included in the application, the documents to be attached thereto, the surety required for payment of the grant, the times when the grant is to be paid in installments or all at once, as well as rules for withholding payment of part of the grant, which must not exceed a given proportion thereof, as the Ministers shall prescribe with approval by the Knesset Finance Committee.

Prevention of duplicate grant
40J. In respect of any asset a grant shall not be paid more than once.
Waiver of grant in consideration of alternate benefits
40K. No investment grant shall be paid to anyone who opted for the alternate benefits track under section 51.

CHAPTER SEVEN: INCOME TAX BENEFITS

Article One: Tax Benefits for Approved Enterprises

Definitions
41. In this Chapter –
   (1) every term shall have the meaning it has in the Income Tax Ordinance (in this Chapter: the Ordinance);
   (2) "tax" – income tax, company profits tax and every other tax imposed on income, other than a tax imposed on capital gains.

Benefits for a family company
41A. An approval given under this Law to a company which is a transparent company, as said in section 64A1 of the Ordinance, shall be deemed – for purposes of this Chapter – to have been given to the shareholder, within the meaning of that term in the said section.

Accelerated depreciation
42. In calculating the income of an approved enterprise, which is entitled to deduct depreciation under section 11(1)(i) of the Ordinance in respect of machines or equipment used for the purposes of that enterprise and first used in Israel after May 15, 1948, or in respect of buildings used for the purposes of that enterprise, the said assets being included in the approved project – a depreciation allowance under section 11(1)(i) of the Ordinance shall be granted, upon the enterprise’s application, in respect of each of the first five tax years in which those machines, that equipment or those buildings are used, as specified hereunder:
   (1) in respect of machines or equipment – at a rate equal to 200% of the rate set in Income Tax (Depreciation) Regulations 1941 (hereafter: the regulations);
   (2) in respect of buildings – at a rate equal to 400% of the rate set in the regulations, on condition that no deduction of more than 20% per annum be allowed.

Depreciation allowance in case of unusual wear and tear
43. If it is proved to the Assessing Officer that, in an approved enterprise, there is unusual wear and tear on machines or equipment said in section 42, because it is being operated in additional shifts or under extremely difficult conditions, then the Assessing Officer may grant –
instead of the rate set under section 42 – a depreciation allowance under 11(1)(i) of the Ordinance at a rate equal to 250% of the rate set by the Income Tax (Depreciation) Regulations 1941.

Depreciation and exemption because of land development grant

43A. If the owner of an approved enterprise received an investment grant in respect of land development expenses, then – for purposes of depreciation under any enactment – the amount of the grant shall be deducted from the original cost of any building situated on the land or of any other asset to which the said expenses are related; the grant shall be exempt from income tax.

44. Repealed

Benefit period

45. (a) Benefits under sections 46 and 47 shall be granted in respect of the investment, asset or enterprise, the implementation of which is the subject of an approved project, and they shall be given –

(1) on income derived during the seven years that begin with the year in which taxable income was first derived, and in respect of an approved investment in an approved enterprise, for the purpose of benefits under section 46 – from the year in which income was first derived from it, on condition that 14 years have not passed since the year in which the approval was granted, nor 12 years since the year in which – according to the Director’s determination – the enterprise began to operate or in which production was begun, or in which the citrus plantation, vines or fruit trees first bore fruit; however, the Board may remove the said 14 year and 12 year time limits in respect of pioneering enterprises; for this purpose, income from granting the right to use knowhow developed in the enterprise, income from royalties and income from any service that accompanies the right to use knowhow or the royalties shall be deemed income derived from the approved enterprise, on condition that they were earned in the ordinary course of business of the approved enterprise;

(2) on dividends paid out of income derived during the seven years said in paragraph (1), even if it accrued to the assessee within the 12 years after the end of the said seven years;

(3) the Board may determine that a foreign-investment-intensive company, as defined in section 53H, shall be entitled to benefits during a period of five years in addition to the periods said in paragraphs (1) and (2), on condition that during all of those five years at least 80% of the company’s
total income from the approved industrial enterprise, on the average, is income from export; the average shall be computed on the basis of income during periods of up to three consecutive years, at the company’s choice.

(b) The provisions of subsection (a)(1) apply to a company of foreign investors, as defined in section 47(a1), to income earned during the ten years that begin at the times set in subsection (a), and the benefit period in respect of dividends paid out of income earned during the said ten years shall be unlimited.

Tax on income from an approved investment during the benefit period
46. (a) If an individual receives taxable income, the source of which is an approved investment, then he shall not be liable to income tax thereon at a rate of more than 25% of that income, and that income shall, for tax purposes, be deemed the highest bracket of his taxable income.

(b) If a company received taxable income, the source of which is an approved investment, then it shall be liable to income tax thereon at a rate of 25% of that income and it shall be exempt from all other taxes thereon.

(c) Proceeds of an investment, paid by a company out of income said in subsection (b), shall be treated like income the source of which is an approved investment.

Tax on income from approved enterprise during benefit period
47. (a) If a company owns an approved enterprise, then it is liable to companies tax on its liable income derived from that enterprise –
(1) if the enterprise was approved until September 3, 1970 – at a rate of not more than 28% of the said income;
(2) if the enterprise was approved after the date said in paragraph (1), but until March 31, 1976 – at a rate of not more than 33% of that income;
(3) if the enterprise was approved after the date said in paragraph (2), but until July 30, 1978 – exclusive of such as elected under section 42(a) of the Encouragement of Capital Investments (Amendment No. 17) Law 5738-1978 (hereafter in this section: Amendment 17) to receive benefits under subparagraph (4), and including those who under section 42(b) of Amendment 17 elected to receive benefits under this subparagraph – at a rate of not more than 35% of that income;
(4) if the enterprise was approved after July 30, 1978 – but in respect of an enterprise in Development Area A until December 31, 1996 – exclusive of such as elected under section 42(b) of Amendment 17 to receive benefits under subparagraph (3), and including those who under section...
42(a) of Amendment 17 elected to receive benefits under this subparagraph – at a rate of not more than 25% of that income;

(5) if the enterprise was approved in Development Area "A" after January 1, 1997 – at a rate of not more than 25% of that income; however, in the first two years of the benefit period, within its meaning in section 45, the company that owns an aforesaid approved enterprise shall be exempt of paying companies tax in respect of that income; and it shall be exempt from any other tax on it;

(a1) if a company of foreign investors owns an approved enterprise in respect of which application for approval was submitted to the Board by the date set under the provisions of section 18, then it shall be liable – on its liable income obtained from that enterprise – to companies tax according to the provisions of paragraphs (1) to (3), and it shall be exempt of any other tax thereon;

(1) in a tax year, in which the proportion of foreign investment in it is 49% or more, but less than 74% – at a rate of not more than 20% of that income;

(2) in a tax year, in which the proportion of foreign investment in it is 74% or more, but less than 90% – at a rate of not more than 15% of that income;

(3) in a tax year, in which the proportion of foreign investment in it is 90% or more – at a rate of not more than 10% of that income;

however, a foreign invested company that is the owner of an approved enterprise in Development Area A, that was approved on or after January 1, 1997, shall be exempt of companies tax on that income during the first two years of the benefit period within its meaning in section 45;

for purposes of this subsection –

"company of foreign investors" –

(a) a foreign invested company, within its meaning in section 53H, for which one of the following holds true:

(1) the enterprise owned by it was approved on or after April 1, 1985;

(2) the enterprise owned by it was approved during the period that began on April 1, 1983, and ended on March 31, 1985; for this purpose, "enterprise" – exclusive of the expansion of an enterprise;

(3) an expansion of an enterprise owned by it was approved before April 1, 1985, and the company was entitled to benefits under Chapter Seven A, but it shall be deemed a company of foreign investors only in respect of the period that begins at the end of ten years after the beginning of the benefit period under
Chapter Seven, and ends at the end of the benefit period prescribed in section 45(b) in respect of the expansion;

(d) a company that was a company of foreign investors when the project was approved as an approved enterprise or in the year of choice of a benefited enterprise, shall continue to be deemed a company of foreign investors even if some or all of its shareholders, who were foreign residents at the said time, became Israel residents for the first time, on condition that the proportion of their holdings in the company was not changed, all until the end of the benefit period of that enterprise, including the benefit period of part of the enterprise that was added because of an expansion within five years after the shareholders became Israel residents for the first time, if the said part of the enterprise had liable income in those years.

"proportion of foreign investment", in any tax year – that proportion during that tax year, than which the proportion of none of the following rights to which the foreign investment entitled was lower:

1. the right to profits;
2. voting rights;
3. the right to appoint Directors;
4. share capital, including shareholders' loans;
5. share capital alone;

however, if the foreign investment during any tax year entitled to a proportion of more than 50% of each of the rights enumerated in paragraphs (2), (3) and (5), then the rights enumerated in paragraphs (2) and (3) shall not be taken into account in determining the proportion of foreign investment; for purposes of this definition, in instances in which a foreign investment does not entitle to a certain right, it shall be deemed to entitle to that right in the proportion of zero;

"foreign investment" and "shareholder's loan" – within their meaning in section 53H.

(a2) Notwithstanding the provisions of subsections (a) and (a1), if a company distributes dividends out of the profits of an enterprise earned during a period when the company was tax exempt under subsections (a) and (a1), then it shall be liable to companies tax on the amount of the distributed dividend in the tax year in which the dividend is distributed, at the rate of companies tax at which it would have been liable in the tax year in which the income was produced, had it not been exempt of companies tax in that year, and the provisions of section 51B(a)(2) shall apply to dividend distributions under this subsection; the said tax shall be paid to the Assessing Officer together with the income tax that must be
deducted at the source from dividend recipients, and all provisions that relate to deductions at the source shall relate to it; for this purpose, "amount of the distributed dividend" – including the amount of companies tax that applies because of its distribution.

(a3) If in tax years 2003 to 2005 a company that owns an approved enterprise had income from interest paid on money raised abroad through an issue to the public and not yet used, which the company deposited with a banking institution abroad that operates under the Laws of the state in which it operates, then that shall be deemed income of the approved enterprise.

(b) (1) If a person received a dividend, less companies tax applicable to it as said in subsections (a)(1) or (2), paid out of liable income which was earned in tax year 1958 or thereafter, then he shall be exempt on it from every tax in addition to the tax paid by the company; the same shall apply to investment proceeds paid by a company out of dividends as aforesaid;

(2) (a) If a person received a dividend, less companies tax applicable to it as said in subsections (a)(3) to (5) or in subsection (a1) or in section 53C(b), paid out of liable income, then he shall be liable to income tax thereon at the rate of 15%; the same holds true for a dividend paid by a company out of an aforesaid dividend.

(b) If a company received a dividend said in subparagraph (a) and distributed it as a dividend, then it shall be entitled to subtract from its income liable to income tax under subsection (a) (hereafter in this paragraph: preferred income) the dividend it distributed in that tax year; if the company had no preferred income in that tax year, or if its preferred income was smaller than the amount of dividend distributed, then it may deduct the dividend distributed or the balance, as the case may be, from its preferred income in tax years prior to that tax year, one after the other beginning with the tax year immediately preceding that year, and the assessments for the previous years shall be deemed to have been amended accordingly, but refunds due because of a said amended assessment shall be made with the addition of interest and linkage differentials from the end of the tax year in which the dividend was distributed until the day of the refund.

(3) The provisions of paragraphs (1) and (2) shall also apply to dividends up to the amounts required for the adjustment of profits distributed by an eligible company out of profits permitted to be deducted as a capital stabilization allocation; for this purpose, every term shall have the meaning it has in
Chapter Seven

(c) A person entitled to an investment grant under section 40B(2) to (5) (in this subsection: person entitled to investment grant) or an individual who owns an approved enterprise, shall be liable to income tax on the liable income derived from the approved enterprise –

(1) if the enterprise was approved until March 31, 1976 – at the rate of 25%;

(2) if the enterprise was approved after the date said in paragraph (1), but until July 30, 1978, exclusive of whoever elected under section 42(b) of Amendment 17 to receive benefits under subparagraph (3), and including whoever elected under section 42(a) of Amendment 17 to receive benefits under this subparagraph – at the rate of 35%;

(3) if the enterprise was approved after July 30, 1978, exclusive of whoever elected under section 42(b) of Amendment 17 to receive benefits under subparagraph (2), and including whoever elected under section 42(a) of Amendment 17 to receive benefits under this subparagraph – at the rate of 25%;

and he shall be exempt of any other tax on it;

(4) if the enterprise was approved after May 31, 1981, but in respect of an enterprise in Development Area A owned by an entitled person and approved until December 31, 1996 – at a rate of no more than 35%, and if during the tax year he invested in fixed assets depreciable under section 21 of the Ordinance, other than passenger cars – at the rate of 25% on that part of the approved enterprise’s liable income which is equal to the excess of investments in fixed assets over receipts from the sale of fixed assets during the tax year;

(5) (a) if the enterprise in Development Area "A" is owned by a person entitled to an investment grant and was approved on or after January 1, 1997 – at the rates prescribed in paragraph (4), but –

(1) during the first two years of the benefit period within its meaning in section 45 the liable income obtained from the aforesaid approved enterprise shall be exempt of tax, if during the tax year the enterprise acquired fixed assets on which depreciation is allowed under section 21 of the Ordinance, in the amount by which the acquisition of the fixed assets exceeds the consideration from the sale of fixed assets during the tax year (hereafter: excess acquisitions);

(2) in each of the tax years after the tax year in which
the approved enterprise's liable income was exempt of tax as said in paragraph (1) and until the end of the benefit period, within its meaning in section 45, if the amount of the consideration from the sale of fixed assets exceeded the amount of acquisition of fixed assets in the approved enterprise (hereafter: excess sales), then the amount of excess sales shall be liable to tax at the rate at which the person entitled to the investment grant would have been liable, had he not been exempt of tax under paragraph (1), or at the rate of 25%, whichever is less; the provisions of this paragraph shall apply to the amount of excess sales up to the lower of the following two amounts:

(a) the amount of excess purchases in the first two years of the benefit period, adjusted in respect of each of the said two tax years at the rate of the index increase from the end of that tax year until the end of the tax year in which the amount of excess sales is debited;

(b) the amount of chargeable income that was exempt of tax in the first two years of the benefit period, adjusted in respect of each of the said two tax years at the rate of the index increase from the end of that tax year until the end of the tax year in which the amount of excess sales is debited;

(b) for purposes of this paragraph –

"amount of acquisition of a fixed asset" – the original price of the fixed asset, in respect of which depreciation will be calculated under section 21 of the Ordinance, plus the capital gain not made liable to tax under section 96 of the Ordinance, which was subtracted from the original price of this asset;

"fixed assets" – assets used or to be used by the approved enterprise in the production of its income, exclusive of 30% of the enterprise's assets as defined in section 40A, which were acquired as part of the plan approved under section 21(1) or (2), in respect of which the benefit was given in the tax year and in respect of which a grant was given under this Law;

(d) the Ministers may prescribe that benefits under this section in respect of all or particular categories of enterprises not located in Zone AA@ or AB@ be conditional on the enterprise exporting a
specified portion of its output.

Special exemption for foreign residents
48. If a company paid the tax due from it on its taxable income, and if a foreign resident receives from that company – out of that liable income after the deduction of the companies tax applicable to it – a dividend on his approved foreign currency investment, then it shall be exempt from all tax, other than the tax which the company is required to deduct under section 161 of the Ordinance.

49. Repealed

Income of an approved specialist
50. The tax rate imposed on the income of an approved specialist, which stems from his employment for which he was engaged, within its meaning in section 5(1)(b) of the Ordinance, shall not exceed 25% of that income, which shall be deemed the highest bracket of his liable income; this reduction shall be granted during three tax years from the beginning of the tax year in which the specialist first became liable to tax on his said income; however, the Board may extend the period of reduction by up to five additional years.

Temporary interruption of entitlement to benefits of industrial enterprise or hotel
50A. If an approved enterprise, which is an industrial enterprise or a hotel within their meaning in section 18A(a), in a certain tax year did not comply with one of the conditions enumerated in section 18A(c) or with one of the conditions enumerated in the Board’s approval, then in that tax year the company that owns the said approved enterprise shall not be entitled to benefits under section 47; if during the benefit period the company again complies with the said conditions in respect of the approved enterprise, then the company shall be entitled to benefits under section 47 during the remainder of the benefit period.
Article Two: Tax Benefits for a Benefited Enterprise

Definitions

51. In this Article –
"area", "hotel", "knowhow", ">Director of the Industrial Research and Development Administration" – as defined in section 18A(a);
"benefited income" – income from a benefited enterprise, as specified below, as the case may be, all less discounts granted, on condition that the income was produced or arose in the course of the enterprise=s ordinary activity;

(1) in respect of a benefited enterprise that is an industrial enterprise, each of the following:
(a) income from the sale of products produced in that enterprise, including their components that were produced in another enterprise;
(b) income from the sale of products that are semiconductors, produced in another enterprise – which is not owned by a relative of the owner of the enterprise – according to knowhow developed by the enterprise;
(c) income from granting permission to use information or computer software developed by the enterprise, as well as income from royalties received for the said use;
(d) income from services connected to sales said in subparagraphs (a) and (b), and also from service connected to the right to use knowhow or computer software or to the royalties said in subparagraph (c);

(2) in respect of a benefited enterprise that is hotel – income from the provisions of tourism services;

"expansion", of an enterprise – each of what is specified in paragraphs (1) and (2) of this definition, but excluding expansion by the acquisition of an existing enterprise or through a structural change under Part Five of the Ordinance:
(1) increasing the productive capacity of an existing enterprise or acquiring a new technology not previously used by the enterprise, and in respect of a hotel – expanding the building or adding a building in order to increase the number of overnight stays in the hotel;

(2) setting up an approved enterprise;

"minimum entitling investment" – investment in the acquisition of productive assets, and in an industrial enterprise – exclusive of investment in buildings during the period of not more than three tax years that ends with the year of choice, for the establishment of a new enterprise or for the expansion of an enterprise, in an amount specified in paragraphs (1) and (2) of this definition, as the case may be:
(1) in respect of a new enterprise – an amount of not less than NS 300,000;
(2) in respect of the expansion of an enterprise – an amount of not less than the higher of the following amounts:
   (a) the amount said in paragraph (1);
   (b) an amount equal to the entitling proportion of the value of all the enterprise’s productive assets, and in respect of an industrial enterprise – exclusive of the value of buildings, as it was at the end of the tax year before the year in which the minimum entitling investment was begun; for purposes of this definition –
      (1) "entitling proportion" –
          in respect of the part of the asset value up to NS 140 million – 12%;
          in respect of the part of the asset value in excess of NS 140 million up to NS 500 million – 7%;
          in respect of the part of the asset value in excess of NS 500 million – 5%;
   (2) productive assets not owned by the owner of the enterprise and said productive assets of part of the enterprise that was added because of an expansion or of a connected enterprise shall also be deemed productive assets of the enterprise;
(3) the value of a productive assets shall be calculated as the differential between the original cost, as defined in section 88 of the Ordinance, and the amounts of depreciation that were deductible in respect of that asset under the Income Tax Regulations (Depreciation) 1941 up to the date on which the asset value is being calculated, that differential being adjusted at the rate of change of the index from the date on which the asset was acquired until the end of the tax year before the year in which the minimum entitling investment was begun;
"foreign-invested company" – as defined in section 53H;
"benefited company" – a company incorporated in Israel, the business of which is managed and operated in Israel, which owns a benefited enterprise and for which the following hold true:
(1) sections 64A and 64A1 of the Ordinance do not apply to it and it is not a kibbutz, as defined in section 54 of the Ordinance;
(2) the company keeps acceptable account books during the year and submits returns under this Law and under the provisions of the Ordinance;
(3) during ten years before the year of choice and during the benefit period the company and its officers, as defined in section 119A(d) of the Ordinance, were not found guilty of any of the offenses
specified below:
(a) an offense under sections 216, 216A, 216B, 216C, 217 to 220 and 224A of the Ordinance;
(b) an offense under sections 117, 117A to 120 of the Value Added Tax Law 5736-1975;
(c) an offense under sections 98, 98A and 99 of the Real Estate Taxation (Appreciation, Sale and Acquisition) Law 5723-1963;

"grant" – a loan or grant under this Law;
"new enterprise" – a newly established enterprise that is not a linked enterprise;
"benefited enterprise" – an industrial enterprise or a hotel, for which the provisions of section 18A(b) and (c) hold true, in respect of its being a competitive enterprise that contributes to the gross domestic product, and a minimum entitling investment was made for its establishment, on condition that the new enterprise or the part of the enterprise added by the expansion is not an approved enterprise; however, in respect of the expansion of an enterprise, only the part of the enterprise added by the expansion shall be deemed a benefited enterprise; for this purpose, the terms specified in section 18A shall have the meaning they have in this Article, and section 18A(c)(1)(a) shall be read as if A before approval of the project as said in this section had been replaced by A before the year of choice;

"linked enterprise" – one of the following:
(1) an enterprise owned by a company that owns or owned another enterprise in the same sphere;
(2) an enterprise owned by a company, in which a controlling member also is a controlling member in another company that owns or owned another aforesaid enterprise;
(3) an enterprise owned by a company, a controlling member of which also was a controlling member of another company that owns or owned another aforesaid enterprise;
however, an enterprise said in paragraphs (1) to (3) shall not be deemed an linked enterprise, if it is one of the following:
(a) all the following hold true for it to the Assessing Officer’s satisfaction:
(1) in respect of an industrial enterprise, it produces a product that significantly differs from the product produced by the other enterprise;
(2) in respect of an industrial enterprise, it produces by use of a technology that differs from that used by the other enterprise;
(3) its location is separate from that of the other enterprise, but in respect of an industrial enterprise that is not a producer of computer software and does not meet this condition – all its customers and all its productive assets are new customers
and new productive assets;

(4) 60% or more of its employees, but not fewer than ten
employees, are new employees;

(b) an enterprise said in paragraphs (1) to (3), owned by a company
that sold the other enterprise, or the controlling member sold all
his rights in the other company, and the Director, as defined in the
Ordinance (in this Law: Director of the Taxes Authority) certified
that the sale was carried out in order to continue operation of the
enterprise and was not to a relative of the company or of the
person who was its controlling member, as the case may be, and
the provisions of Chapter Five A B of the Ordinance do not apply
to it; for purposes of this definition —

"controlling member" — a person who directly or indirectly, alone
or together with another, holds at least 50% of one of the means
of control, as defined in section 75B(a)(3) of the Ordinance;

"together with another" — together with his relative and also
together with a person who is not his relative, if they jointly are
controlling members of another group of persons, or if — by
agreement, directly or indirectly — there is constant cooperation
between them on substantive matters of the company;

"industrial enterprise" — an enterprise in Israel, the main activity of
which in the tax year is productive activity, other than an approved
agricultural enterprise, as defined in section 4 of the Encouragement of
Capital Investment in Agriculture Law 5741-1980; in this definition,

"productive activity" — including

the production of computer software products and development, as well
as industrial research and development for a foreign resident, on
condition that approval therefor was given by the Director of the
Industrial Research and Development Administration, and including
other activity designated by the Ministers, but exclusive of the following
activities:

(1) packaging;
(2) construction;
(3) commerce;
(4) transport;
(5) storage;
(6) provision of communication services;
(7) provision of sanitation services;
(8) provision of personal services;
(9) other activity designated by the Ministers;

"productive assets" — assets specified in paragraphs (1) to (3) of this
definition, used or intended to be used by an enterprise, on condition
that they are not included in the project approved by the Board:

(1) buildings
(2) machines and other equipment, which had not been used before
in Israel or in an area, exclusive of private vehicles or commercial
vehicles, as defined in the Traffic Ordinance;

(3) buildings and equipment on the premises of the enterprise and used as vocational training centers or industrial schools, or homes for the employees—children;

"relative" – as defined in section 105K of the Ordinance;

"year of choice" – within its meaning in section 51D;

"Initial year" – the tax year in which the benefited company for the first time had liable income from the benefited company, or the year of choice, whichever was later;

"benefit period" – within its meaning in section 51C.

Tax benefits

51A. (a) A benefited company is entitled to benefits in respect of its benefited income for every tax year in the benefit period, according to the following provisions:

(1) if the benefited enterprise is located in Development Area A, then the company shall be entitled to benefits under subsections (a) or (b), at its choice by notice in its return under section 131 of the Ordinance, which it submitted for the year of choice; if the company chose a benefit according to this paragraph, then it cannot withdraw its choice within the entire benefit period;

(a) tax exemption;

(c) companies tax at the 11.5% rate;

(2) if the benefited enterprise is located in Development Area B, then the company shall be entitled to exemption from tax for a period of six years from the initial year, and during the remainder of the benefit period – to Companies Tax at the rate, at which the company’s income would have been charged under the provisions of section 47, if the enterprise were an approved enterprise that was approved at the beginning of the year of choice;

(3) if the benefited enterprise is located in another area, then the company shall be entitled to exemption from tax during two years from the initial year, and during the remainder of the benefit period to companies tax to which the company’s income would have been liable under the provisions of section 47, if the enterprise were an approved enterprise that was approved at the beginning of the year of choice;

(4) if the benefited enterprise is an industrial enterprise located in Development Area A, then the company is entitled to exemption from tax, on condition that all the following apply:

(a) the minimum entitling investment in respect of the enterprise is not less than NS 900 million, and in respect of a benefited enterprise located in an entitling area – not less than NS 600 million;
(b) the company’s total income, and if its income is included in an amalgamated report under accepted accounting rules – its total income according to the said report was NS 20 billion or more in the tax year before the tax year in which the minimum entitling investment was begun, or according to the annual average of the three tax years before that year, and in respect of a benefited enterprise located in an entitling area – the company’s said income or according to the said amalgamated report in the said period was NS 13 billion or more.

(b) In respect of the productive assets used by a benefited company the company is entitled to accelerated depreciation, at the rates and under the conditions prescribed in section 42.

(c) For purposes of this paragraph, "entitling area" – an area south of latitude 075 and north of latitude 258.

(d) The Ministers may – because of special reasons that shall be recorded, if they concluded on the basis of an economic opinion submitted to them for this purpose that the investment will make a substantive contribution to the Gross Domestic Product, to economic activity and to Israel industry – prescribe any of the following:

1. that the provisions of this paragraph apply to a benefited enterprise not located in Development Area @, if the conditions prescribed in paragraphs (a) and (b) in respect of a benefited enterprise located in a Development Area @ that is not an entitling area are met;

2. that the provisions of this paragraph apply to a benefited enterprise in a Development Area @, if the conditions prescribed in paragraphs (a) and (b) in respect of a benefited enterprise in an entitling area are met, all on conditions and with adjustments prescribed by them.

Dividend distribution
51B. (a) Notwithstanding the provisions of section 51A(a)(1)(a), (2) and (3), if a benefited company distributes dividends out of benefited income earned during a period in which the company’s income was exempt of tax under the provisions of the said paragraphs, then in the tax year in which the dividend is distributed it shall be liable to companies tax on the amount of the distributed dividends, including the amount of companies tax that applies because of its distribution, at the companies tax rate to which its income would have been liable under section 47, if the benefited enterprise had been an approved enterprise; the said companies tax shall be paid to the Assessing Officer together with the income tax that must be deducted from the income of the persons who
received the dividend, and all the provisions that relate to deductions at the source shall apply to it.

(c) For the purposes of subsection (a), each of the specified below shall be deemed a dividend distributed by the benefited company:

(1) an amount the owner of the benefited enterprise gave to his relative, to his controlling member as defined in section 32(9) of the Ordinance or to a body corporate under their control, or if he directly or indirectly debited them with it, unless the Assessing Officer is satisfied that for the recipient the said amount constitutes income liable to tax, other than a dividend, and that the tax thereon has been paid;

(2) an amount that stems from the company’s profits, given to its shareholders in the course of the company’s liquidation;

(3) a consideration the company paid its shareholders for its acquisition of its shares.

(c) If a person received a dividend paid out of benefited income, less the companies tax that applies thereto, including a dividend paid out of a said dividend, then the following provisions shall apply for purposes of the tax charge:

(1) if the dividend was paid out of benefited income to which the provisions of paragraphs (1), (2) and (3) of section 51A(a) apply, then the dividend shall be charged 15% tax, on condition that – in respect of a benefited company that is not a foreign invested company – twelve years have not yet passed since the end of the benefit period;

(2) notwithstanding the provisions of paragraph (1), if the dividend was paid to a foreign resident out of benefited income that was charged 11.5% tax, as said in section 51A(a)(1)(b), then the dividend shall be charged 4% tax; for purposes of this paragraph, "foreign resident" – as defined in the Ordinance, for which the provisions of section 68A of the Ordinance hold true;

(3) if the dividend was paid out of benefited income to which paragraph (4) of section 51A(a) applies, then the dividend shall be exempt of tax.

(d) If a company received a dividend said in subsection (c)(1) and distributes it as a dividend, then it is entitled to deduct from its liable income under subsection (c)(1) (in this paragraph: preferred income) the dividend it distributed in that year; if the company had no preferred income in that year or if its preferred income was smaller than the amount of dividend it distributed, then it shall be allowed to deduct the dividend it distributed or the balance, as the case may be, from the preferred income it had in tax years before that year, one after the other beginning with the tax year before that year, and the assessments for the previous years shall be taken to be amended accordingly, on condition that any tax refund
in consequence of a said amended assessment shall be made with the addition of linkage differentials and interest from the end of the tax year in which the dividend was distributed until the day of the refund.

**Benefit period**

51C. (a) Benefits under the provisions of section 51A shall be given to a benefited company in the course of a period specified below, as the case may be, on condition that twelve years have not yet passed since the beginning of the year of choice:

1. in respect of a benefited enterprise in Development Area "A" – ten tax years, beginning with the year of choice;
2. in respect of a benefited enterprise which is not in Development Area "A" – seven tax years, beginning with the year of choice;
3. in respect of a benefited enterprise which is not in Development Area "A" and which in any tax year during the period said in paragraph (2) was owned by a foreign invested company or came to be owned as aforesaid – a period in addition to the period said in paragraph (2), during which the company was continuously owned by a foreign invested company, but no more than three additional years after the end of the period said in paragraph (2).

(b) Notwithstanding the provisions of the opening phrase of subsection (a), in respect of the establishment of an enterprise in Development Area A, the benefit period said in paragraph (1) of that subsection shall be taken into account, on condition that fourteen years have not passed since the beginning of the year of choice.

(c) Notwithstanding the provisions of subsection (a), in respect of a benefited enterprise owned by a foreign-investment-intensive company the benefit period shall be the period said in subparagraphs (1), (2) or (3) of subsection (a), as the case may be, plus five years, if during all of the said five years at least 80% of the company’s total income from the enterprise, according to an average calculation, was foreign currency income, on condition that seventeen years have not yet passed since the beginning of the year of choice; the average shall be calculated according to the said income in periods of up to three consecutive years, as chosen by the company.

(d) In this section, "foreign-investment-intensive company" – as defined in section 53H, with the following changes:

1. in paragraph (1) of the said definition, after an approved enterprise insert aor a benefited enterprise;
2. in paragraph (3) of the said definition, after according to the approved project insert aor in the benefited enterprise, as
the case may be.

Year of choice
51D. If a company is interested in the benefits under the provisions of section 51A, then it shall select a tax year which, for the purposes of this Article, shall be deemed the year of choice, by a notice submitted to the Assessing Officer when the annual return is submitted, but not later than twelve months after the end of that tax year, on condition that the following conditions are met:

(1) during a period of up to three tax years that end in the year that will be deemed the year of choice, the company invested a minimum entitling investment in the establishment of a new enterprise or in the expansion of the enterprise;

(2) if the minimum entitling investment said in paragraph (1) was in the expansion of the enterprise, and if there was a previous different year of choice in respect of the initial establishment of the enterprise or of another expansion thereof – at least three years passed since the beginning of the previous year of choice; however, if the present minimum entitling investment was carried out during the two years that end in the year of choice – at least two years passed since the beginning of the previous year of choice;

(3) if the minimum entitling investment said in paragraph (1) was in the expansion of the enterprise, and if a grant was given in respect of the initial establishment of the enterprise or of another expansion thereof – at least four years passed since the end of the year, in which the project for which the grant had been received was activated.

Temporary interruption of entitlement to benefits
51E. If in any tax year during its benefit period a company did not meet any of the conditions enumerated in the definition of benefited company in section 51, or if an enterprise owned by it did not meet any of the conditions enumerated in the definition of benefited enterprise in the same section, then in that year it shall not be entitled to benefits under section 51A; if the company or the enterprise again meet the said conditions during the benefit period, then the company shall be entitled to the benefits under section 51A during the remainder of the benefit period.

No duplicate benefits
51F. (a) The provisions of this Article shall not apply in any of the following instances:

(1) the benefited company received a grant in respect of the benefited enterprise or in respect of the productive assets used by it;

(2) the benefited enterprise uses machines or equipment, in
respect of which a person other than the benefited company received a grant, and four years have not yet passed since the end of the tax year in which the said grant was received;

(3) the benefited enterprise uses a building, in respect of which a person other than the benefited company received a grant, and the company has the right to acquire the building or the Assessing Officer is of the opinion that a special relationship exists between the benefited company and the other person.

(b) A company entitled to benefits under this Article shall not be entitled to other benefits under this Law, beginning with the year of choice and until the end of the benefit period.

Restriction on a cooperative society
51G. If a cooperative society received benefits under this Article, then the provisions of sections 61 and 62 of the Ordinances shall not apply to it beginning with the year of choice and until the end of the benefit period.

Adjustment of amounts
51H. The amounts stated in the definition of minimum entitling investment in section 51 and section 51A(4) shall be adjusted on January 1 of each tax year at the rate of the index increase in the preceding tax year.

Advance approval of entitlement to benefits on the alternate track
51I. (a) A company that wants a benefit under this Article may apply to the Director of the Taxes Authority, not later than six months after the end of the year of choice, and request an advance certification that an enterprise which it owns, or an enterprise it intends to establish or to expand meets the requirements said in the definition of industrial enterprise or the restrictions said in paragraph (a)(1) to (3) of the definition of linked enterprise in section 51.

(b) A company that requests certification under this section shall pay an application fee in the amount prescribed by the Ministers, with approval by the Knesset Finance Committee.

(c) An application for certification under this section shall include all the relevant substantive particulars and facts that relate to the application, and documents, certifications, opinions, declarations, valuations, contracts and every other substantive particular shall be attached to it, all as the Director of the Taxes Authority shall prescribe in rules; the Director of the Taxes Authority may demand any additional particular, which he deems necessary for his decision on the application.

(d) The Director of the Taxes Authority may certify that the enterprise, which is the subject of the application, meets or will meet the conditions prescribed in subsection (a), if conditions he prescribes are met and if acts he orders are carried out, and he may also
make the issue of the said certification subject to conditions he will prescribe.

(e) The Director of the Taxes Authority shall inform the applicant company of his decision and of his reasons therefor within ninety days after the day on which the application and all the documents said in subsection (c) were delivered to him; however, for reasons that shall be recorded, he may extend the period for an additional period of not more than thirty days, on condition that he so informed the applicant company before the end of the ninety day period.

(f) If the decision of the Director of the Taxes Authority on an application submitted under this section was not handed down within the time said in subsection (e), then that shall be taken to be certification that the enterprise, which is the subject of the application, meets the conditions stated in subsection (a), in respect of which certification had been requested.

Contesting the decision on an application for certification
51J. (a) If a company deems itself wronged by the decision of the Director of the Taxes Authority on the question whether conditions stated in section 51I are being met, then it may contest the decision before a Contestations Committee established under the provisions of section 51M (in this Article: the Contestations Committee) within thirty days after notice of the decision was served on the company.

(b) The Contestations Committee may approve the decision of the Director of the Taxes Authority, cancel it or decide otherwise; if opinions on the Contestations Committee are divided, then the majority shall decide; if there is no majority for one opinion, then the opinion of the chairman shall be decisive.

Contestation of decision of the Assessing Officer
51K. If a company did not apply to the Director of the Taxes Authority as said in section 51I, or if a company applied as aforesaid, but did not contest the decision under the provisions of section 51J, and if it deems itself wronged by the decision of the Assessing Officer under section 152(b) of the Ordinance, then it may contest the Assessing Officer=s aforesaid decision before the Contestations Committee within thirty days after his decision had been served, only on the question whether the conditions said in section 51I have been met, and the provisions of section 51J(b) shall apply, mutatis mutandis.

Miscellaneous provisions on contestations
51L. (a) The period from the day on which contestation was brought, as said in sections 51J or 51K, as the case may be, until the decision is made on the contestation and on an appeal said in section 51N, shall not be taken into account for the periods said in sections
145, 152 and 153 of the Ordinance.

(b) If the company did not bring a contestation under the provisions of section 51J or 51K, as the case may be, then it may appeal the decision of the Director of the Taxes Authority or the decision of the Assessing Officer before the District Court, together with the appeal under section 153 of the Ordinance.

(c) The Ministers may, with approval by the Knesset Finance Committee, set a fee for bringing a contestation under sections 51J and 51K.

Contestations committee
51M. (a) A Contestations Committee shall have four members, as follows:
(1) a retired District Court judge, appointed by the Minister of Justice in consultation with Ministers and with approval by the President of the Supreme Court, and he shall be the chairman;
(2) the Director General of the Ministry of Finance or another staff member of that Ministry, appointed by the said Director General;
(3) the Director General of the Ministry of Industry, Trade and Employment or another staff member of that Ministry, appointed by the said Director General;
(4) a public representative designated by the Ministers with the consent of the Attorney General.

(b) The Committee shall prescribe its own procedure.

(c) The Ministers may make provisions on remuneration for Contestations Committee members, who are not State employees.

Appeal to the District Court
51N. A decision of the Contestations Committee under section 51J or 51K may be appealed before the District Court within forty-five days after the decision was served; the District Court’s decision on the appeal shall be handed down within six months after the last of the parties summations, and it shall be final.

Article Three: Foreign Resident Company

Foreign resident company
52. (a) Notwithstanding the provisions of sections 47 and 51, if a foreign resident company owns an approved enterprise, then in respect of its liable income from that enterprise it shall be liable to companies tax under section 47(a1) in accordance with the proportion of foreign investment in it, and in addition thereto to tax at the rate of 15% on its said income, after companies tax was deducted from it.

(b) Notwithstanding the provisions of subsection (a), the Director of
the Taxes Authority may postpone payment of the tax at the 15% rate, so long as it has been proven to his satisfaction that the income on which the said tax is due has been left in Israel and is used for the company’s business in Israel, and he may prescribe adjustments and other conditions that apply to this matter.

53. Repealed

CHAPTER SEVEN

A: TAX BENEFITS IN RESPECT OF RENTAL BUILDINGS

Definitions

53A. (a) In this Chapter –

(1) every term shall have the meaning it has in the Income Tax Ordinance (in this Chapter: the Ordinance), unless it is provided otherwise;

(2) "building" – includes a number of buildings built during the same period and on the same site as one unit, exclusive of part of a building;

(3) "rental building" – a building approved as an approved asset, of which at least 70% of the floorspace is intended to be let for residential purposes in accordance with the provisions of section 53B(a) or (c), on condition that its construction was completed after July 31, 1988;

(3a) "new rental building" – a rental building for which also one of the following holds true:

(1) it was approved in the determining period;
(2) it was approved before the determining period and was first rented out after the determining date;
(3) the rented part of the building was first rented out before the determining date for a period of not less than five years, and after the determining date and the end of the said period it was rented out – in whole or in part, but not less than 70% of its floorspace – for an additional rental period of not less than five years, and on condition that, in respect of its sale after the determining date, benefits shall be granted with the required adjustments;

(3b) "the determining date": November 7, 2001;
(3c) "the determining period": the period that begins on the determining date and ends on December 31, 2006;

(4) "inflationary amount" – the amount obtained by adding the following two items:

(a) the original cost of the part of the land that relates to
the part sold, multiplied by the index increase from when the land was acquired until the time of sale, the impermanent component having been subtracted; for this purpose, "impermanent component"—the original cost of the part of the land that relates to the part sold, multiplied by the index increase during the period during which the land was not a fixed asset for purposes of the Inflationary Adjustments Law, the resulting amount being adjusted from the time when the land became a fixed asset for purposes of the said Law or from the time when it was taken into account as a negative change for purposes of the said Law, whichever was earlier, until the date of sale;

(b) an amount equal to the construction costs that were not depreciated until the date of sale, multiplied by the index increase from the time when they were taken into account as a negative change for purposes of the Inflationary Adjustments Law, or from the time when they became a fixed asset under the said Law, whichever was earlier, until the date of sale;


(b) Notwithstanding the provisions of subsection (a), the Board may approve—in respect of a certain building—that only part of the building be a rental building, if the following conditions have been met:

(1) the approved part comprises at least eight dwellings, and in a new rental building the approved part comprises at least six dwellings;

(2) any person who holds rights in the approved part when construction is completed or when benefits are received, does not hold any right whatsoever in any other part of the building, and he is not a relative of any person who does hold said rights; for this purpose—

(a) "rights"—ownership or rental rights, and in a real estate association, a right to its capital or a voting right in it;

(b) a person shall be deemed the relative of another person in each of the following instances:

(1) he is his relative, according to the definition of relative in section 76(d)(1) of the Ordinance;

(2) he is a controlling member of the other person;

(3) the other person is a controlling member of him;

(4) a third person is a controlling member of both;

(c) "controlling member"—as defined in section 32(9) of
53A1. Repealed

Entitlement to benefits

53B. (a) The owner of a rental building shall be entitled to the benefits specified in sections 53C and 53D, if at least half of the floorspace of the building comprises dwellings that were rented for residential purposes during at least ten years out of the twelve years that followed the completion of construction, and if in their respect no sale within its meaning in section 88 of the Ordinance was performed before the end of the said ten years of rental.

(b) Notwithstanding the provisions of subsection (a), the owner of a rental building first rented out during the period between September 1, 1991, and the end of tax year 2006 shall be entitled to the benefits specified in sections 53C and 53D, if at least half the floor space of the building comprises dwellings that were rented out for residential purposes, their average rental period being at least five years out of the seven years after the completion of construction, on condition that – in respect of half the floor space of the building – no sale within its meaning in section 88 of the Ordinance was performed before the five years of rental passed.

(c) (1) Notwithstanding the provisions of subsections (a) and (b), whoever built a rental building shall be entitled to benefits under subsection (a) or (b), as the case may be, also if he sold the dwellings that are to be rented out as said in subsection (a) before the end of five years of rental, on condition that he sold at least fifty dwellings to a single purchaser who undertook to rent out the dwellings in accordance with the provisions of subsections (a) or (b), that the sale is included in the project approved by the Board before construction was completed, and that the conditions set by the Director of the Taxes Authority under paragraph (2) were met.

(2) The Director of the Taxes Authority shall make the benefits said in paragraph (1) conditional on the provision of surety – by the seller, the buyer or any other person he may designate – for the payment of tax, linkage differentials and interest as said in subsection (e), and on giving advance notice of the sale at a time to be prescribed by the Director of the Taxes Authority.

(3) The person who bought the rental building from whoever built it, as said in paragraph (1), and rented it out in accordance with the conditions set in subsections (a) and (b) shall be entitled to the benefits set in section 53C.
(4) If the person who built the building waived all the benefits to which he is entitled under this Chapter and gave written notice thereof in a manner and at a time prescribed by the Director of the Taxes Authority, then the purchaser shall be liable to only 0.5% acquisition tax for the purchase of the building, on condition that the conditions set in paragraphs (1) and (2) were complied with.

(d) The Director of the Taxes Authority may make the grant of the benefits specified in section 53C conditional upon the submission of an auditor’s certificate, to the effect that the conditions prescribed in subsection (a) or (b), as the case may be, have been met, and the Director of the Taxes Authority may also, in consultation with the Director, prescribe the times and the rules for reporting, which constitute conditions for granting the benefits.

(e) (1) If a benefit was granted under section 53C or 53D, or under section 85(d) of the Ordinance, and if any of the conditions prescribed in subsection (a) have not been complied with, then the benefit shall be canceled retroactively and the owner of the building or the person who rents out the building, as the case may be, shall have to pay the tax he would have had to pay, if not for the benefit, with the addition of linkage differentials and interest from the end of the tax year in respect of which the benefit was granted.

(2) If a person acquired a rental building and did not comply with all his obligations, as said in subsection (c), then the person who built the building shall pay the tax from which he was exempted, with the addition of linkage differentials and interest from the date on which he would have had to pay the tax had the exemption not been granted, until the date of actual payment.

Tax benefits for owner of rental building

53C. (a) The rate of depreciation under section 21 of the Ordinance, on a dwelling unit in a rental building which during the tax year was rented for residential purposes, shall be 10%; however, in respect of a rental building first rented out between September 1, 1991, and the end of tax year 2006, the rate of depreciation of a dwelling that was rented out for residential purposes during the tax year shall be 20%; if the dwelling was rented out for residential purposes during part of the tax year, then the owner shall be entitled to a proportional part of the said depreciation.

(b) The provisions of section 47(a), (a1) or (c), respectively, shall apply to liable income from the sale of a rental building or of a part of it, but instead of the rates prescribed in the said sections a 10% tax rate shall apply to the part of the income that equals the liable inflationary amount; the provisions of this subsection shall apply
both to liable income, as defined in section 1 of the Ordinance, and to appreciation, within its meaning in section 6 of the Land Appreciation Tax Law 5723-1963; for this purpose, "liable inflationary amount" – the inflationary amount, which would have been liable to tax, if the asset had been sold on December 31, 1993.

(b1) The provisions of subsection (b) shall apply to liable income or real appreciation from the sale or rental or a new rental building, but instead of the tax rates prescribed in section 47(a), (a1) or (c), as the case may be, the following tax rates shall apply:
(1) in respect of a company – 18%;
(2) in respect of a foreign invested company – 18% or the rates set in section 47(a1), whichever is lower;
(3) in respect of an individual – 25%.

(c) The restriction of the benefit period under section 45 shall not apply for purposes of this Chapter.

(d) Notwithstanding the provisions of subsection (b), companies tax under section 47(a1) shall apply to the liable income of a foreign resident company from the sale of a rental building or of part of a said building, according to the proportion of foreign investment in it, and in addition thereto tax at the rate of 15% on the said income after the said companies tax has been subtracted from it.

(e) If the liable income from a rental building is smaller than the amount of depreciation to which the owner of the building is entitled under subsection (a), and if five years have not yet passed since rental began, then the amount of depreciation may be deducted or set off, respectively, only against income from a rental building to the sale of which the provisions of subsection (b) apply; the amount of depreciation not deducted or not set off as aforesaid shall not – in whole or in part – be subtracted from the cost of the rental at the time of the sale, on condition that any loss generated because of the depreciation shall not be set off under the provisions of the Ordinance; for this purpose, "amount of depreciation" – including any loss generated because of it and including the deduction of any depreciation allowed on it.

(f) repealed

(g) When a rental building is sold, on or after the determining date, then real interest payments paid by the seller between the day of acquisition and the day of sale in respect of a loan he received in order to purchase the building and which are not deductible under the Ordinance may be deducted in order to determine the amount of appreciation, in accordance with the provisions of section 39A of the Real Estate Taxation Law, mutatis mutandis.

Exchange of rental building and new rental building
53C1. (a) Notwithstanding the provisions of the Real Estate Taxation Law,
the sale of a rental building or of a new rental building (in this section: the sold building) is exempt of appreciation tax and of sale tax, on condition that the following apply:

1. the seller=s rights in the sold building were sold in full;
2. within twelve months before the sale or twelve months thereafter the seller acquired a building or land specified below to replace the sold building (in this section: exchanged building) with –
   (a) a rental building;
   (b) a new rental building;
   (c) land for the construction of a rental building or of a new rental building, on condition that one of the following be true within five years after its acquisition or after the sale of the sold building, whichever is earlier:
      (1) there is a scheme, within its meaning in the Planning and Building Law 5725-1965 (in this section: scheme), which permits construction on the land, and a rental building or a new rental building is built on it with a floorspace equal to at least 70% of the total area that can be built under the scheme that applies to the land when permission is given for the provision of services, within its meaning in the definition of "completion of construction" in section 19(4)(b)(2) of the Real Estate Taxation Law.
      (2) a scheme, as said in subparagraph (a), is in existence and a rental building or a new rental building is built on it and its construction costs were no less than 70% of the sale value of the sold building;
   (3) the adjusted value of the exchanged building is not less than the sale value of the sold building;
   (4) all rental dwellings in the exchanged building, the value of which is up to the sale value of rental dwellings in the sold building, were rented out after the acquisition of the exchanged building for a period of at least five years;
   (5) the sale of the sold building – whether it is a rental building or a new rental building – took place after the end of the rental period, which is a condition for the grant of benefits said in section 53B(b);
   (6) the sold building was not sold to a relative, and the exchanged building was not acquired from a relative, and they do not constitute a change of designation.

(b) (1) The provisions of section 49K(c) of the Real Estate Taxation Law shall apply, mutatis mutandis, to the sale of a sold building, in respect of which all the conditions said in
subsection (a) were met, other than the condition said in paragraph (3) of that subsection;

(2) if the adjusted value of the exchanged building is greater than the sale value of the sold building, then the provisions of section 49K(d) of the Real Estate Taxation Law shall apply, mutatis mutandis.

(c) The following provisions shall apply to the sale of all or part of an exchanged building and to the acquisition of all or part of a exchanged building:

(1) if the sold building and the exchanged building are new rental buildings, then the real appreciation shall be charged tax at the rate prescribed in section 53C(b1);

(2) if the sold building and the exchanged building are rental buildings, then the real appreciation shall be charged tax at the rates prescribed in sections 47(a), (a1) or (c), as the case may be;

(3) if the sold building is a rental building and the exchanged building is a new rental building, then the real appreciation up to the day of exchange shall be charged tax at the rates prescribed in section 47(a), (a1) or (c), as the case may be, and the remainder of the real appreciation shall be charged tax at the rates prescribed in subsection 53C(b1);

(4) if the sold building is a new rental building and the exchanged building is a rental building, then the real appreciation up to the day of exchange shall be charged tax at the rate prescribed in subsection 53C(b1), and the remainder of the appreciation shall be charged tax at the rates prescribed in section 47(a), (a1) or (c), as the case may be.

(d) The provisions of the sections of the Real Estate Taxation Law specified in this subsection shall apply In respect of a sold building or an exchanged building – mutatis mutandis and as the case may be – also if the sale of the sold building was after the determining period, as defined in Chapter Five "C" of the said Law: 29B, 37(1)(i), 39(12)(c) 40(b) and (c), and the definition of "balance of acquisition value" in section 47, within its meaning in reference to a replacement right, 49N and 49Q.

(e) The Minister of Finance may, with approval by the Knesset Finance Committee, prescribe rules for the implementation of this section, including the matter of reporting.

(f) (1) In this section –

"adjusted value of the exchanged building" – the value of the exchanged building, multiplied by the index on the day of sale of the sold building and divided by the index on the day of acquisition of the exchanged building, plus expenses incurred for its construction, multiplied by the index on the
day of sale and divided by the index on the day on which they were incurred; for this purpose, the day on which they were incurred is the day on which ended two thirds of the period from the day on which construction began until the day on which construction was completed;

"Real Estate Taxation Law" – the Real Estate Taxation (Appreciation, Sale and Acquisition) Tax Law 5723-1963;

"day of exchange" – the day on which the sold building was sold or the exchanged building was bought, whichever was later;

"remainder of real appreciation" – the differential between the real appreciation and the real appreciation up to the day of exchange;

"relative" – as defined in section 105K of the Income Tax Ordinance;

"real appreciation up to the day of exchange" – the part of the real appreciation, which is a part of the total real appreciation, in the proportion of the period from the day of acquisition of the sold building until the day of exchange, to the period from the day of acquisition of the sold building until the day of sale of the exchanged building;

"value of exchanged building" – the sale value of the exchanged building, and if it is land for construction of a rental building or of a new rental building, including construction expenses on the sale of that building;

"change of designation" – as defined in section 49K of the Real Estate Taxation Law.

(2) every term in this section shall have the meaning it has in the real Estate Taxation Law, unless a different meaning is explicitly provided.

Exemption from property tax and authority to exempt from building fee
53D. (a) If the Board approved the construction of a rental building on a piece of land, then an exemption from property tax shall apply to it beginning with the tax year that preceded the year in which the first ceiling in the building was cast, or beginning with another date determined by the Board, but the first year of exemption shall not be earlier than the year after the year in which the building was approved as an approved asset, or the tax year 1988, whichever was later.

(b) The Minister of the Interior may, by regulations in consultation with the Minister of Finance, exempt the erection of a rental building from all or from part of the building permit fee under the Planning and Building Law 5725-1965, either in general or in certain areas or for certain categories of approved buildings, and the said regulations may prescribe conditions for the exemption
Foreign resident association

53D1. (a) If a foreign resident sells a share in a real estate association of foreign residents, then he shall be exempt of land appreciation tax in respect of the sale of the share.

(b) If a foreign resident acquires a share in a real estate association of foreign residents and if he acquired it directly from the association, then he shall be exempt of acquisition tax in respect of the acquisition of that share.

(c) In this section, "real estate association of foreign residents" – a company that is a real estate association, as defined in the Land Appreciation Tax Law 5723-1963, which was approved for this purpose by the Director of the Taxes Authority and for which all the following hold true:

1) all its share holders are individuals who were foreign residents when they acquired the shares, and not one of them is a controlling member in the company, as defined in section 3(i) of the Income Tax Ordinance;

2) it has at least 50 shareholders;

3) its major occupation is the construction, rental or sale of houses and it owns at least 50 dwellings.
CHAPTER SEVEN ՀԹ/©: TAX BENEFITS FOR INTERNATIONAL TRADING COMPANIES AND THEIR SHAREHOLDERS

Definitions
53E. In this Chapter –
"international trade" – trade which in its entirely is conducted outside Israel and does not include export from or import to Israel;
"international trading company" – a company registered in Israel as a foreign company, all the business of which is in international trade; for this purpose, other business, insignificant when compared to the international trade and approved in advance by the Board, shall not be deemed business of the company;
"foreign resident" – including a person who was a foreign resident when he acquired shares in the international trading company;
"tax" – income tax, including tax on capital gains and any other tax imposed on income;
other terms – within their meaning in the Income Tax Ordinance (hereafter: the Ordinance).

Benefits for the company and its shareholders
53F. The Minister of Finance may, upon recommendation by the Board, wholly or partly exempt from tax –m
(1) the income of an international trading company derived from international trade which is deemed to be produced in Israel only under section 5(1) of the Ordinance; this exemption may be granted for a period of not more than ten years from the first tax year in which the company had liable income;
(2) dividends distributed to foreign residents by an international trading company out of income in respect of which exemption was granted under paragraph (1); if the company’s income also included other income, then the exemption shall apply only to that part of the dividend which bears to the total dividend the same proportion as the company’s income from international trade bears to its total income; this exemption may be granted for a period of not more than twenty years from the first tax year in which the company had liable income.

Exemption from capital gains tax
53G When exemption under section 53F was granted, then a capital gain shall also be exempt from tax if –
(1) it accrued to the company from the sale of assets outside Israel during the period of the exemption granted on the company’s income;
(2) it accrued to a foreign resident from the sale of shares in the company during the exemption period granted in respect of dividends.
CHAPTER SEVEN: TAX BENEFITS FOR FOREIGN-INVESTED INDUSTRIAL COMPANIES

Definitions
53H In this Chapter –

"share capital" – includes premiums on shares;

"foreign investment" – an investment in an amount of not less than NS 5 million, made directly or indirectly in a company by a foreign resident, which vests in him part of the share capital, including shareholders= loans, and also part of each of the following rights: profits, voting rights and the appointment of Directors (hereafter: the rights); for purposes of foreign investments –

(1) a company directly or indirectly controlled by an Israel resident, or a company of Israel residents who directly or indirectly benefit from or are entitled to 25% of more of its income or profits shall not be deemed a foreign resident; however, but the Minister of Finance may prescribe that it be deemed a foreign resident if it is controlled by a company the shares of which are traded on a stock exchange, and if its share capital held by foreign residents and its obligations to foreign residents add up to not less than 75% of the aggregate of its share capital and obligations;

(2) repealed

(3) "shareholder=s loan" – a loan extended to a company by a shareholder for repayment over a period of not less than three years;

(4) a foreign resident's investment shall be deemed an investment in the company also if he acquired its shares from another, on condition that the paid up share capital of the company, the shares of which were acquired as aforesaid, exceeds NS 5 million;

"foreign-invested company" – a company, in which the foreign investment gives their investors more than 25% of each of the rights and more than 25% of the share capital, including shareholders= loans, on condition that the participation in the share capital alone also exceeds 25%; for purposes of a foreign-invested company, an indirect investment through a company shall constitute a foreign investment only if it was carried out through a company which is also a foreign-invested company (hereafter: the investing company) and the following provisions shall apply to the said investment:

(1) the amount to be taken into account in order to determine the investing company=s proportion of foreign investment in the share capital, including shareholder=s loans, of a certain company shall as is the proportion of foreign investment in the investing company=s share capital, including shareholders= loans, to the entire aforesaid share capital in the investing company, but no more than an amount which, together with the investing
company=s aggregate foreign investment, exceeds the foreign investment in the investing company at the rate of exchange at the time of the investment in the company concerned, plus that part of the undistributed profits, including capitalized profits, accumulated by it, as is equal to the foreign investors= share in the right to profits in the investing company at the beginning of the tax year;

(2) the part to be taken into account in order to determine the investing company=s share of the rights in a certain company shall be a part of the investing company=s rights in that company in the proportion of foreign investors= rights in the investing company;

"large-foreign-invested company" – a foreign-invested company that is one of these:

(1) a company, in which the foreign investments give their investors more than 49% of each of the rights, as well as a proportion of more than 49% of the share capital, including shareholders= loans, on condition that the proportion of the share capital alone also exceed 49%;

(2) a company, in which the foreign investments are not less than an amount equal to US$ 10 million, constituting at least two thirds of its share capital;

"foreign-invested industrial company" – a foreign-invested company which is one of the following:

(1) an industrial company, as said in the Encouragement of Industry (Taxes) Law 5729-1969 (hereafter: Encouragement of Industry Law);

(2) a shipping company to which section 49(1) of the said Law applies;

(3) an Israel resident company, which derives at least 70% of its income from the lease of equipment for lease, within its meaning in section 40A, or from the lease of industrial buildings which, in accordance with the approved project, are intended for leasing to approved enterprises;

(4) a large-foreign-invested company that is the owner of an approved enterprise and is not an industrial company as said in paragraph (1), and which belongs to an aforesaid category of companies approved for this purpose by the Ministers with approval by the Knesset Finance Committee;

"foreign-investment-intensive company" – a foreign-invested company for which all the following hold true:

(1) it is an industrial company, as said in the Encouragement of Industry Law, the industrial enterprise of which is an approved enterprise;

(2) the foreign investments in it give their investors more than 74% of
each of the rights, as well as more than 74% of the share capital including shareholders’ loans, on condition that their proportion of the share capital alone also exceeds 74%;

(3) the investment according to the approved project is not less than an amount equal to US$ 20 million;

"exchange rate adjustment coefficient", for any tax year – the difference between the exchange rate of the Israel lira to the US dollar at the end of the tax year and at the end of the base year, divided by the rate of exchange at the end of the base year; however, if a special assessment period was set –

(1) if it ends before September 30, then the exchange rate adjustment coefficient shall be the coefficient of the tax year that preceded the tax year to which the special period relates;

(2) if it ends after September 29 and before December 31, then the exchange rate adjustment coefficient shall be the coefficient of the tax year to which the special assessment period relates;

"base year" –

(1) in respect of depreciation – the tax year in which the asset was activated, and if more than a year passed between the date of the first payment for the asset until its activation – the tax year that preceded the tax year in which the asset was activated; for this purpose, different assets operated as one system during the same period of time shall be deemed a single asset activated when the system was activated;

(2) in respect of a long term loan – the tax year in which the loan was received;

(3) in respect of current assets, current obligations, share capital and profits – the year that preceded the tax year;

"long term loan" – a loan received, other than a shareholder’s loan, and to be repaid over a period of not less than four years after the date of its receipt;

"current assets" and "current obligations" – as prescribed by regulations;

"amount for the adjustment of depreciation or amortization" – the amount of depreciation or amortization deductible in any tax year, multiplied by the exchange rate adjustment coefficient;

"amount for the adjustment of a long term loan installment" – the installments maturing within the tax year, multiplied by the exchange rate adjustment coefficient;

"amount of adjustment of current assets" – the amount of current assets at the end of the year that preceded the tax year, multiplied by the exchange rate adjustment coefficient;

"amount of adjustment of current obligations" – the amount of current obligations at the end of the year that preceded the tax year, multiplied by the exchange rate adjustment coefficient;
"amount of adjustment of profit" – the profits, multiplied by the exchange rate adjustment coefficient; for this purpose, "profits" – the total of surpluses included in the equity according to the company’s balance sheet at the end of the year that preceded the tax year, which stem from profits available for distribution;

"amount of adjustment of share capital" – the amount of paid up share capital at the end of the year that preceded the tax year, multiplied by the exchange rate adjustment coefficient, and – if the paid up capital increased during the tax year – with the addition of the increased amount on April 1, July 1, or October 1, according to the nearest date before which it was increased, multiplied by the number of months remaining from the said date until the end of the tax year or of the special assessment period, divided by twelve and multiplied by the exchange rate adjustment coefficient;

other terms – within their meaning in the Income Tax Ordinance (in this Chapter: the Ordinance).

Entitlement to benefits
53l. (a) (1) As long as a company is a foreign-invested industrial company, it shall – upon its application – be entitled to benefits under this Chapter during ten years from the year in which it first received the benefits, on condition that – in the first year in which it applied for the benefits – it owned an industrial enterprise which is an approved enterprise in respect of which, or in respect of the last expansion of which, 12 or 10 years, as said in section 45, have not yet passed (a said company hereafter: entitled company); the said benefits shall be granted:

(a) to a large-foreign-invested company or to a foreign-investment-intensive company which received approval for the establishment or expansion of its enterprise until March 31, 1983;

(b) to any other foreign-invested company, if it applied for the benefits before tax year 1982;

(2) a large-foreign-invested company or a foreign-investment-intensive company, which in tax years 1978 to 1981 received approval for the establishment or expansion of its enterprise shall be entitled – from the year in which it implemented at least one fourth of the project – on its application, to benefits under Section 53Q instead of the other benefits under this Chapter (hereafter: alternative benefits), on condition that a said company, which carried out at least one fourth of the project before it became an industrial company, shall be entitled to the alternative benefits from the tax year in which it became a said company also in respect of the years from the completion of
one fourth of the project until it became a said company; if
the company was an entitled company also before it
received approval as aforesaid, then the earlier years of its
entitlement shall be included in the count of the ten years
said in paragraph (1).

(3) Notwithstanding the provisions of paragraphs (1) and (2), the
Ministers may, with approval by the Knesset Finance
Committee, extend the time for the receipt of benefits.

(b) No benefits shall be granted in any particular tax year, unless the
returns and certifications were submitted as prescribed by
regulations.

Capital stabilization allocation
53J. (a) In order to determine the taxable income of an entitled company,
it shall be allowed to deduct a capital stabilization allocation; the
capital stabilization allocation consists of the amounts required to
adjust the depreciation or amortization in a given tax year and
amounts required to adjust the cost of current assets, less
amounts required to adjust long term loan installments that must
be paid during the tax year, the amounts required to adjust current
obligations and the exchange rate differentials paid to foreign
resident shareholders, which are deductible under section 17(1) of
the Ordinance or under section 14 of the Encouragement of
Industry Law.

(b) If the capital stabilization allocation is negative, then it shall be
deemed income for that year in an amount no greater than the
capital stabilization allocation which the company was allowed to
deduct in the preceding two tax years; if the amount of the
negative allocation exceeds the amount of the said allocation that
was allowed to be deducted as aforesaid, then the excess shall
be carried forward to the next two years in succession and be
deducted from the capital stabilization allocation in those years;
for this purpose an allocation is negative when the aggregate of
the long term loan installment adjustment, the current obligations
adjustment and the exchange rate differentials said in subsection
(a) exceeds the aggregate of the depreciation or amortization
adjustment and the current assets adjustment.

(c) If a company was an entitled company during only part of the tax
year or special assessment period, then it shall be entitled in that
year to deduct for capital stabilization the full depreciation or
amortization adjustment allowed it in that year, less the full
amount of adjustment of the long term loan installments that must
be paid in that year; but it shall only be entitled to deduct part of
the current assets adjustment, less the current obligations
adjustment, in the proportion of the number of whole months
during which it was entitled to twelve, all less the proportional part
as aforesaid of the exchange rate differentials that are deductible as said in subsection (a).

**Capital stabilization fund**

53K.(a) The capital stabilization allocations in a particular tax year, plus the total of all aforesaid allocations accrued up to the preceding tax year, less the total of negative allocations in those years, the amounts distributed as bonus shares in the said years and the amounts required for the adjustment of profits in those years, shall constitute the capital stabilization fund at the end of that year.

(b) In its financial reports the company shall make proper disclosure of the amount in its capital stabilization fund at the end of the preceding tax year and it shall specify the changes which occurred in it during the tax year.

**Distribution of profits from capital stabilization fund**

53L. If a company distributed profits out of the capital stabilization fund in a certain tax year, then – in that year – it shall be liable to pay the tax from which it was exempt because of the deduction of the allocation under section 53J(a), plus arrears interest for the period from the end of the year in which it made the allocation out of which the profits were distributed, until the date of payment.

**Depreciation adjustment for purposes of asset replacement and capital gains**

53M Half the amount of the depreciation adjustment shall be treated like an additional deduction for purposes of the provisions of section 12 of the Encouragement of Industry Law and for purposes of the definition of adjusted depreciation in section 88 of the Ordinance.

**Tax exemption of inflationary surplus when shares are sold**

53N When a foreign resident's share in a foreign-investment industrial company is sold to another foreign resident, the inflationary gain is exempt of tax, if in calculating the inflationary gain the rate of exchange of the currency with which the asset was acquired is taken as the index; this provision shall not apply in respect of amounts deemed inflationary gains under section 94B of the Ordinance.

**Denial of right to depreciation under other Laws and allocations before and after entitlement**

53O (a) A company that receives benefits under this Chapter shall not be allowed additional depreciation under the Income Tax (Additional Depreciation Allowance on Business Property) Law 5718-1958, or under the Income Tax (Additional Depreciation Allowance on Business Property) Law 5724-1964, and no additional depreciation and deduction under the Encouragement of Industry
Law.

(b) (1) If a company became an entitled company in a particular tax year, and if it claimed depreciation under the Encouragement of Industry Law and in the preceding two tax years or in one of them, then that depreciation shall be canceled and the company shall be entitled to deduct for those years the depreciation adjustments for the equipment in respect of which the said depreciation was canceled, less the long term loan installment adjustment in respect of installments which matured in those years;

(2) if a company=s entitlement ended in a certain tax year, then it shall be entitled to deduct from its income in the two tax years following that year the amounts necessary for the adjustment of its depreciation or amortization allowed it in those years, less the amounts necessary for the adjustment of long term loan installments which mature in those years, and it shall be entitled to depreciation under the Encouragement of Industry Law only on the remainder of its assets after the end of the said two years;

(3) the amounts required for the adjustment of loan installments in excess of the amounts required for the adjustment of depreciation or amortization shall be treated like a negative allocation, within its meaning in section 53J(b).

Renewal of entitlement

53P. If a company=s entitlement lapsed during a whole tax year, and if the reason for the lapse of entitlement is eliminated within two tax years after the year in which entitlement lapsed, and if notice thereof was given to the Assessing Officer when the return for one of the said two years was submitted, then the following provisions shall apply:

(1) if the reason for the lapse of entitlement was the company=s own request or its failure to submit the returns and certifications which it was required to submit under section 53I(b), then it shall again become an entitled company – within the benefit period – from the date when its entitlement lapsed, and the assessments made for it under section 53O shall be amended accordingly;

(2) if the reason for the lapse of the company=s entitlement was noncompliance with the conditions set out in the definition of "foreign-invested company", then the company can again become an entitled company only from the date on which the reason was eliminated.

Benefit for Large-Foreign-Invested Company

53Q. (a) If an entitled company, which is a large-foreign-invested company, applied for alternative benefits, then the following provisions shall apply:

(1) (a) it shall be allowed to deduct the amounts required for
the adjustment of the share capital and the amounts required for the adjustment of profits, less half the amount of the profits distributed in the tax year, on condition that — within three years after the tax year in respect of which the deduction was allowed — it capitalizes by way of a share issue an amount of profits equal to the amount allowed to be deducted as aforesaid; if the said amount is not so capitalized, then the company shall refund the amount of tax not imposed on it because of the said deduction, together with interest at the rate of 26% per annum from the end of that tax year until the date of payment;

(b) notwithstanding the provisions of subparagraph (a), the Minister of Finance may permit a certain company to adopt some other method prescribed by him, rather than capitalization, to assure that the profits will not be distributed, and he may set a different proportion for a company the shares of which are traded on a stock exchange, in place of half the amount of profits distributed during the tax year which is to be deducted for purposes of the profit adjustment, or he may prescribe that the said profits shall not be deducted at all;

(2) in calculating the inflationary surplus for the purposes of section 88 of the Ordinance upon the sale of an asset, only two thirds of the index increase shall be taken into account in respect of years in which the company was a large-foreign-investment company;

(3) if the company was an entitled company during less than half of the tax year or of the special assessment period, then it shall not be entitled to a deduction under paragraph (1);

(4) the company shall not be given additional depreciation under the Income Tax (Additional Depreciation Allowance on Business Property) Law 5718-1958, or the Income Tax (Additional Depreciation Allowance on Business Property) Law 5724-1964, and no additional depreciation and deduction under the Encouragement of Industry Law;

(5) if the company became an entitled company in a certain tax year and in two preceding tax years or in one of them, and if it claimed depreciation under the Encouragement of Industry Law, then the said depreciation shall be canceled;

(6) if the company’s entitlement lapsed in a certain tax year, then it shall not be entitled to depreciation under the Encouragement of Industry Law in the following two tax years;

(7) the provisions of Sections 53N and 53P shall apply to it.
(b) The Minister of Finance may make the applicability of subsection (a) conditional on part of the company’s property, such as he may prescribe, being invested in assets of the enterprise, including its working capital, and he may also prescribe –

(1) that an amount invested in specific assets shall, for purposes of granting the deduction under subsection (a)(1), be subtracted from the equity; for this purpose, "equity" – the amount of paid up share capital and profits;

(2) the definition of paid-up share capital, for purposes of the said deduction.

Chapters Eight, Eight A, Eight "B" and Nine (Sections 54 to 71): Repealed

CHAPTER TEN: GENERAL PROVISIONS ON
THE APPLICABILITY OF BENEFITS

Duty to furnish information
72. Whosoever was given approval shall deliver to the Director, on his demand, information, documents and other evidence on the implementation of the approved project, on compliance with the conditions of the approval and of permits, and for the determination of the rate of benefits.

Stability of benefits
72A. Whosoever was given approval or opted for the tax benefits in respect of a benefited enterprise, as said in Article Two of Chapter Seven, is entitled to the benefits prescribed by this Law, as it was in effect on the day on which the approval was given or in the year of choice, as the case may be, in accordance with the conditions and limitations prescribed as aforesaid.

Compliance with provisions – a condition for the applicability of benefits
73. The provisions of this Law shall apply notwithstanding anything provided in any other statute, but no benefit shall be given unless the provisions of this Law and of the regulations made under it have been complied with and – in respect of an approved enterprise or investment – unless the approved project and the conditions of the approval have also been complied with.

"Foreign resident" for the purpose of benefits
73A. "Foreign resident" shall, for the purpose of benefits or other rights granted him under this Law, have the meaning it has in the Income Tax
Ordinance.

Benefited company
73B. Without derogating from the provisions of Article Two in Chapter Seven, a company entitled to benefits under that Article in respect of a benefited enterprise it owns, shall be treated – for all intents and purposes, except for the benefits under this Law – as if it owns an approved enterprise.

Special provisions in respect of trusteeship
73C. If the means of control in a company that owns an Approved Enterprise or a benefited enterprise are held – directly or indirectly – in trusteeship, then the provisions of Chapter Four "B" of Part Four of the Ordinance shall apply, mutatis mutandis.

Mixed enterprise
74. (a) In this section – "expansion differential" – an amounted calculated in accordance with these provisions, as the case may be:

(1) if the enterprise had one expansion – an amount equal to the enterprise=s turnover in the tax year, after the adjusted base turnover of that expansion was subtracted from it;

(2) if the enterprise had several expansions – in respect of the last expansion – the amount said in paragraph (1), and in respect of every other expansion that preceded it (in this definition: other expansion) – an amount equal to the adjusted base turnover of the first expansion after the other expansion, in respect of which the expansion differential is a positive amount, after the adjusted base turnover of the other expansion was subtracted from it; if, after the other expansion, there was no expansion in respect of which the expansion differential is a positive amount, then the enterprise=s turnover in the tax year, after the adjusted base turnover of that expansion was subtracted from it, shall be the expansion differential in respect of the other expansion;

(3) if the amount under the provisions of paragraphs (1) or (2) is a negative amount, then the expansion differential shall be zero;

(4) if the expansion is an enterprise linked to an enterprise owned by a different person (in this paragraph: the other enterprise), and if the other enterprise=s turnover in the tax year was less than its turnover in the base year of the expansion, the said turnover being adjusted to the change in the index from the end of base year to the end of the tax year, then – in order to calculate the expansion differential under the provisions of paragraph (1) and the closing
passage of paragraph (2) – the differential between the other enterprise’s turnover in the said base year and its turnover in the tax year (that differential having been adjusted for the change of the index from the end of the base year to the end of the tax year) shall be subtracted from the turnover of the enterprise;

"expansion", of an enterprise – in respect of a benefited part – as defined in section 51, and in respect of an approved part – according to the Board’s decision;

"the determining year" –
(1) respect of the approved part – the year of that part’s activation, on which the Board decided;
(2) in respect of the benefited part – the year of choice;

"knowhow" – as defined in section 18A(a);

"index" – the wholesale index of industrial output, published by the Central Bureau of Statistics, or another index determined by the Ministers;

"turnover" of an enterprise –
(1) income from the sale of products produced in that enterprise,
Both in its approved or benefited parts and in its other parts, including income from the sale of their components that were produced in another enterprise;
(2) income from the sale of products that are semiconductors, produced in another enterprise – which is not owned by a relative of the owner of the enterprise – according to knowhow developed by the enterprise;
(3) income from granting permission to use information or computer software developed by the enterprise, as well as income from royalties received for the said use;
(4) income from services connected to sales said in paragraphs (1) and (2), and also from service connected to the right to use knowhow or computer software or to the royalties said in subparagraph (3);

"base turnover" – each of the following, as the case may be:
(1) the average turnover in the three tax years that preceded the determining year;
(2) if a minimum entitling investment was made during the two year period that ends in the year of choice – the average turnover in the two tax years that preceded the determining year; if the differential between the turnover in the year that preceded the determining year and the turnover in the year that preceded it was greater than 12.5% – the larger of the turnovers in the two years that preceded the determining year;
"adjusted base turnover" – the base turnover, adjusted to the change of the index from the end of the base year to the end of the tax year, on condition that it is not greater than the enterprise’s turnover in the tax year;

"benefited enterprise", "linked enterprise", "year of choice", "relative" – as defined in section 51;

"mixed enterprise" – an enterprise in which one or more expansions were made and for which one of the following holds true:

1. part of it is an approved enterprise (in this section: the approved part) and part of it is not an approved enterprise;
2. part of it is a benefited enterprise (in this section: the benefited part) and part of it is not a benefited enterprise;
3. it has several approved parts or several benefited parts, which were established at different times;

"base year" – the tax year before the determining year;

(b) Every other term in this section shall have the meaning it has in the Income Tax Ordinance (in this section: the Ordinance), unless a different meaning is explicitly provided.

(c) The owner of a mixed enterprise is entitled to the benefits prescribed by this Law for an approved enterprise or a benefited enterprise only in respect of the approved or benefited part, as the case may be, and if there are several approved or benefited parts – in respect of each part, according to the date on which it was approved, or according to the year of choice, as the case may be.

(d) The following provisions shall apply to the calculation of tax on the liable income of a mixed enterprise:

1. liable income shall be attributed to each part which the expansion added to the enterprise according to the growth of the enterprise’s turnover, by multiplying the enterprise’s liable income in the tax year by the ratio of the expansion differential of that expansion to the enterprise’s turnover in the tax year;

2. the calculation for attributing the liable income of the parts of the enterprise, as said in paragraph (1), shall be carried out in the order from the part added to the enterprise by the last expansion, to the part added to the enterprise by the first expansion that was carried out in it;

3. if a mixed enterprise utilized machines or other equipment that had previously been used in Israel, then the liable income that stems from the use of the said machinery or equipment shall be subtracted – according to rules prescribed by the Director of the Taxes Authority – from the liable income in respect of which it is entitled to benefits under this Law; the Director of the Taxes Authority may prescribe that machines and equipment not be deemed
machines and equipment previously used in Israel, if they had been used during a period of less than six months after the day of their acquisition and on conditions he prescribed, on condition that all the following hold true:

(a) the machinery or equipment was bought during a company's liquidation proceedings, which were not voluntary liquidation proceedings;

(b) the owner of the enterprise that acquired the machinery or equipment as aforesaid is not a relative of the liquidating company;

(c) the liquidating company had not received a grant in respect of the machinery or equipment that was acquired as aforesaid;

(4) (a) the amount of dividend paid by the enterprise in a certain tax year out of its liable income, which is entitled to benefits under section 47(b), shall be in the proportion between the liable incomes, less the companies tax that applies to it, of the different parts of the enterprise, according to the calculation in paragraphs (1) to (3) in that year;

(b) the provisions of subparagraph (a) shall not apply to a dividend distributed out of the income of the approved part, which is exempt under the provisions of section 47, or out of the liable income of the benefited part, which is exempt under section 51A(a)(1)(a), (2) or (3); for this purpose the approved part of the benefited part shall be treated like a separate enterprise.

(e) The Ministers may prescribe provisions on the following matters:

(1) reducing the base turnover in instances, on conditions and in a manner they shall prescribe, including making it possible to apply to a Contestation Committee, within its meaning in section 51J, with the question whether at least 50% of the products produced by the enterprise were replaced; when the Ministers have prescribed as aforesaid, then the provisions of sections 51J to 51N shall apply with the necessary changes;

(2) repealed

(f) (1) The Director of the Taxes Authority may prescribe rules for the allocation of the income of a person who operates in different development areas or of a person who operates in a development area and in another area to the different areas of operation.

(2) Notwithstanding the provisions of paragraph (1), the Director of the Taxes Authority may – upon an application submitted to him and if he is convinced by the reasons presented – decide to allocate income differently from what was
prescribed in rules under paragraph (1), with conditions and adjustments that he shall prescribe; if the applicant is the owner of an approved enterprise, then the application also requires approval by the Board; the provisions of Chapter Two "B" of Part Nine of the Ordinance shall apply, mutatis mutandis, to a decision said in this paragraph.

Waiver of benefits
74A. Whosoever received an approval may waive all or some of the benefits under this Law, in whole or in part.

Transfer of benefits to transferee company in a merger
74B. (a) Benefits to which a transferor or transferee company in a merger, or a split company in a split – under Chapter Five "B" of the Income Tax Ordinance – would have been entitled in respect of an approved enterprise or a benefited enterprise, were it not for the merger or split, shall be granted to the transferee company or to the new company, as the case may be, if approval thereof is given by the Director of the Taxes Authority, and in respect of an approved enterprise also approval of the Board, all with the necessary adjustments.
(b) An application for the grant of the benefits to the transferee company or to the new company, as the case may be, shall be submitted in respect of an approved enterprise – to the Board, and in respect of a benefited enterprise – to the Director of the Taxes Authority when the application is submitted to the Director of the Taxes Authority under section 103I of the Income Tax Ordinance, if such was submitted, and if it was not submitted – within 30 days after the date of the merger or of the split, as the case may be.
(c) If the Board or the Director of the Taxes Authority, as the case may be, does not respond within 90 days after the application is submitted, then the application shall be deemed to have approved.

Restrictions on the calculation of income at the establishment of a new enterprise
74C. The provisions of section 74(d)(3) and (4) shall apply to the calculation of income, in respect of which benefits will be given under this Law upon the establishment of a new enterprise that is an approved enterprise or a benefited enterprise, in which machinery and equipment will be used which was previously used in Israel; for this purpose, "new enterprise", "benefited enterprise" – as defined in section 51.

Suspension and cancellation
75. (a) If the Director finds that a person who received an approval failed
to comply with any of the provisions of this Law or of the regulations made under it, or that he did not comply with the approved project or with any condition of the approval, then he may send to the holder of the approval advance notice of his intention to propose that the Board consider the suspension or the prospective or retrospective cancellation of the approval; when an aforesaid notice has been given, the Board may:

1. withhold benefits until the matter is clarified;
2. suspend or cancel the approval, prospectively or retrospectively, if the holder of the approval failed to comply – in spite of the notice and within 15 days after its receipt – with the aforesaid provisions, project or conditions of approval; when it has done so, the holder of the approval shall pay the taxes and other compulsory charges in respect of which the benefits were granted, unless the Board prescribed that they shall not be paid, or that they be paid only in part; payment shall be made at the times prescribed by the Board or by the Director in accordance with its directives.

(b) If the Board concludes that an approval was obtained on the basis of false or knowingly misleading statements, then it shall cancel it retroactively from the day on which it was granted, and all the taxes, duties and other compulsory charges said in subsection (a) shall be paid at the end of 60 days after the date of the notice of cancellation.

(c) All the taxes, duties and other compulsory charges, which become payable in consequence of cancellation of an approval under this section, shall have arrears interest added to them from the date on which they would have become payable, if not for the exemption, or an addition of 20% of the amount to be repaid, whichever is higher.

Partial cancellation of benefits

75A. If the Board concludes that the conditions of approval were not fully complied with, then it may decide that part of the taxes and other compulsory charges in respect of which benefits were granted shall be paid at times which the Board shall prescribe or which the Director shall prescribe in accordance with its directives, and if the enactment that imposes them does not establish the obligation to pay linkage differentials and interest on them – with arrears interest from the day on which payment would have been obligatory, if not for the benefits, to the day of payment.

Cancellation of grant

75B.(a) If any grant whatsoever was given under this Law and the owner of the enterprise or the building did not prove that he complied
with the provisions of this Law and the regulations made under it and that he implemented all of the approved project and complied with all conditions of the approval, then he shall repay the grant, unless the Board determined that he shall not repay it, or shall repay only part of it; repayment of the grant shall be with arrears interest – as specified in the notification of the Chief Accountant in the Ministry of Finance in respect of delays in the transmission of funds from the banking system (in this Law: arrears interest), or with the addition of linkage differentials and interest, whichever is the greater amount, within 90 days after the day on which the notice of his obligation to repay it was sent to the owner of the enterprise or of the building, or at a later time which the Board shall determine, or which the Director shall determine in accordance with its directives; for purposes of section 25, the notice shall be deemed a decision by the Board to demand repayment of the grant, and if the owner of the enterprise contested it and was required to repay the grant or part thereof, he shall repay it within 60 days after the day of the Ministers= decision on the contestation.

(b) If a company or a cooperative society received any grant whatsoever under this Law and a winding up order is made for it or a resolution for voluntary winding up is adopted or a receiver is appointed for it before it implemented all of the approved project and fulfilled all the conditions of approval – then it shall be deemed to have been required to repay the grant, together with linkage differentials and interest from the day it was received, before the winding up order was made or the resolution adopted or the receiver appointed, unless the Board decides that the grant shall not be repaid or that it shall only be repaid in part, and the same shall apply to an individual in respect of whom a receiving order has been made in bankruptcy proceedings.

(c) If a grant was obtained on the basis of false or knowingly misleading statements, then the Board shall cancel it, and the owner of the enterprise shall be obligated to repay it within 60 days after the day on which notice of the cancellation was sent to him, with the addition of 100% of its amount and with linkage differentials and interest.

(d) The provisions of this section shall not derogate from any other statute.

(e) If a grant or part of it was repaid under paragraphs (a) or (b), then the income for the years between payment of the grant and its repayment shall be determined as if the grant or the part repaid had not been paid from the outset, and the assessments for the said years shall be corrected accordingly.

(f) In this section – "linkage differentials and interest" – an addition to the amount
of the grant equal to the said amount multiplied by the rate of the
index increase during the period from the day on which the grant
was received until the day of its repayment, plus interest on the
amount of the grant;
“index” – the consumer price index published by the Central
Bureau of Statistics;
“interest” – interest at the rate set in the definition of "linkage
differentials and interest" in the Interest Adjudication and Linkage

Investment in securities
76. The Minister of Finance may, by regulations with approval by the
Knesset Finance Committee –
(1) make benefits applicable for investments in securities and in loans
secured by mortgages, make their applicability conditional and
prescribe for it periods different from those specified in this Law;
(2) exempt from stamp duty or other similar tax a series of bonds
issued on conditions and in a manner prescribed by the Minister
of Finance.

Publication of Board=s rules
76A. Rules set by the Board under this Law shall be made public.

CHAPTER ELEVEN: GENERAL PROVISIONS
ON APPOINTMENTS AND POWERS

Publication of appointments
77. Notices of appointments under this Law shall be published in
Reshumot.

Saving of powers
78. The powers conferred by this Law shall not derogate from the powers
conferred by any other enactment.

Delegation of Director=s authority
78A. The Director may, with the Board=s approval, delegate any of his
powers under this Law or under regulations made thereunder, except
the authority to serve as member and as chairman of the Board and of
the Council.
79. Repealed

Delegation of authority of Ministers
80. Each of the Ministers may delegate any of his powers which are vested
in him alone.
Regulations

81. The Ministers may make regulations on any matter that relates to the implementation of this Law.

Powers of the Director of the Taxes Authority

81A. (a) The Director of the Taxes Authority may prescribe reports, forms and particulars that must be submitted to him for the implementation of the provisions of this Law.

(b) Forms said in subsection (a) do not have to be published in Reshumot, and they shall be published as the Director of the Taxes Authority orders; when aforesaid forms have been prescribed, then they alone shall be used.

Chapter Twelve (Sections 82 to 93): Repealed

CHAPTER THIRTEEN: APPLICABILITY OF CHAPTER SIX

Period of right to an investment grant

94. (a) The right to an investment grant said in Chapter Six is accorded to the owner of an enterprise or building if –

(1) he received approval between January 1, 1971, and March 31, 1976, and implemented the project within the period prescribed by the Board in the instrument of approval, but not later than March 31, 1983;

(2) he received approval between April 1, 1976, and July 30, 1978, and implemented the project within the period prescribed by the Board in the instrument of approval, but not later than March 31, 1986, and in respect of the owner of an approved enterprise that is a hotel – if he received approval between April 1, 1976, and July 30, 1978, and implemented the project within the period prescribed by the Board in the instrument of approval, but not later than March 31, 1987;

(3) he received approval between July 31, 1978, and March 31, 1981, and implemented the project within the period prescribed by the Board in the instrument of approval, but not later than March 31, 1987, and if the enterprise is a hotel – not later than March 31, 1988;

(4) he received approval between April 1, 1981, and March 31, 1984, and implemented the project within the period prescribed by the Board in the instrument of approval, but not later than March 31, 1990;
(5) he received approval between April 1, 1984, and March 31, 1986, and implemented the project within the period prescribed by the Board in the instrument of approval, but not later than March 31, 1992;

(5a) (a) he received approval between April 1, 1986, and the date set under the provisions of section 18, and implemented the project within the period prescribed by the Board in the instrument of approval, on condition that five years have not passed from the date on which the instrument of approval was issued in respect of the original approved project; and if he received approval for a tourism enterprise, on condition that seven years have not passed from the date on which the instrument of approval was issued in respect of the original approved project;

(b) notwithstanding the provisions of subparagraph (a), in respect of an approved enterprise located in an area in respect of which a rear area emergency situation was proclaimed, within its meaning in section 9C of the Civil Defense Law 5711-1951, the Board may extend the period for implementation of implementation of the program by no more than an additional twelve months, if it is satisfied that the special real area situation caused the delay in implementing the program.

(6) he submitted an application for the grant not later than 18 months after the day on which the project was implemented or not later than 6 months after the day on which the approval came into effect, if the Board postponed the coming into effect of the approval for a period of more than 18 months after the day on which the project’s implementation was completed;

(7) the benefit period to which he was entitled came to an end under Article Two in Chapter seven.

(b) For purposes of this section, “implementation” – in respect of machinery and equipment – its arrival on the site of the enterprise, in respect of equipment for lease – its arrival on the site of the lessee’s enterprise, and in respect of construction, repair and land development – their actual completion.

95. Repealed
SCHEDULE  
(Section 40C)

1. The rate of investment grant for an approved enterprise which is an industrial enterprise, an equipment leasing enterprise, an industrial building or a repaired industrial building:

   In Development Area $\text{AA}^\oplus$ - 20%
   In Development Area $\text{AB}^\oplus$ - 10%

2. The rate of investment grant for an approved enterprise which is a tourism enterprise:

   In Development Area $\text{AA}^\oplus$ -
   Hotel, camping ground – 20%
   other tourism enterprise – 10%

   In Development Area $\text{AB}^\oplus$ -
   hotel, camping ground – 10%

3. The rate of investment grant for an enterprise in the Negev – up to 30%.