



TIRUCHELVAM  
ASSOCIATES

# INVESTING IN SRI LANKA



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## Table of Contents

Restrictions on Areas on Investment	1
Land and Property Ownership	2
Board of Investment (BOI)	3
Company Registration	3
Visa/Immigration	4
Changes Effected By the Budget 2011	4

## Restrictions on Areas on Investment

Sri Lanka has a list of business activities which restrict foreign investment. The degree of restriction varies across different areas of investment and they are as follows;

### **Areas Totally Reserved For Sri Lankans**

Foreign investment is not permitted in the following areas:

1. Money lending
2. Pawn broking
3. Retail trade investment with a capital of less than One Million US Dollars
4. Providing personal services other than for the export or tourism sectors
5. Coastal fishing
6. Education of students who are citizens of Sri Lanka and not over 14 years of age
7. Award of local educational degrees<sup>1</sup>

### **Areas Subject to Automatic or Conditional Approval**

Foreign investments in the areas listed below will be approved provided that the ownership limited to 40%. Foreign ownership in excess of 40% will be approved on a case-by-case basis by the BOI.

1. Production of goods where Sri Lanka's exports are subject to internationally determined quota restrictions
2. Growing and primary processing of tea, rubber, coconut, cocoa, rice, sugar and spices
3. Mining and primary processing of non renewable national resources
4. Timber based industries using local timber
5. Fishing (deep sea fishing)
6. Mass communications
7. Education
8. Freight forwarding
9. Travel agencies
10. Shipping agencies

### **Regulated Areas**

Foreign investments in the areas listed below will be approved by the respective Government agency or BOI.

1. Air transportation
2. Coastal shipping

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<sup>1</sup> However, this provision is likely to be amended in light of recent Government and University Grants Commission approval given to those hoping to establish private institutions and other higher education establishments, allowing them to grant recognized university degrees.

3. Industrial undertaking in the Second Schedule of the Industrial Promotion Act No. 46 of 1990, namely -
  - any industry manufacturing arms, ammunitions, explosives, military vehicles and equipment aircraft and other military hardware
  - any industry manufacturing poisons, narcotics, alcohols, dangerous drugs and toxic, hazardous or carcinogenic materials
  - any industry producing currency, coins or security documents
4. Large scale mechanized mining of gems
5. Lotteries

## Land and Property Ownership

In terms of recent amendments to the Finance Act 100% transfer tax is applicable to non-citizens of Sri Lanka.

The tax prescribed above will be applicable to a company, which is incorporated under the Companies Act of Sri Lanka, if more than twenty five per centum of the issued shares in such a Company are owned by a non-citizen of Sri Lanka.

Exemptions are granted by Extra Ordinary Gazette No. 1386/18 dated 30/03/2005 to the following categories.

### (1) Exemption on BOI Enterprises

Business Activity	Investment criterion	Other Conditions
1. Construction of housing units or condominium apartments for residents or non residents		a) 100 units should be constructed b) Each housing unit should be constructed on a land not exceeding 10 perches. c) Total value of the land is met by inward remittance of foreign currency
2. Construction and operation of a hospital or a hotel project	US \$ 10 Mn. or its Rupee equivalent	Total value of the land is met by inward remittance of foreign currency
3. Infrastructure development or any other development determined by the Minister as being essential for economic progress of Sri Lanka	US \$ 50 Mn or its Rupee equivalent	Total value of the land is met by inward remittance of foreign currency
4. Manufacture of non-traditional goods for export	US \$ 1 Mn or its Rupee equivalent	a) Land should be utilized to construct its manufacturing plant, office, stores, dormitories for workers b) Total value of the land is met by inward remittance of foreign currency

## Board of Investment (BOI)

The Board of Investment is the initial stop for any foreign investor. The BOI provides potential investors with information regarding investment opportunities and incentive packages that are on offer. The BOI also offers special investment incentives for those interested in the Northern and Eastern sections of Sri Lanka.

A fee of US\$ 150 or the Rupee equivalent is charged to process the application. All completed forms are to be submitted to the Appraisal department. Once the completed form reaches the Appraisal Department, a case officer is assigned to assist and guide the investor throughout the approval process.

When a Letter of Approval is received, it must be responded to in writing, agreeing to the terms and conditions set out. In order to finalize the agreement, the business must be incorporated as a company with the Registrar of Companies and the following documentation must be submitted to the BOI.

- Memorandum or articles of association
- Name of the Company secretary
- Location of the Registered office
- Particulars of Directors
- Lists of all machinery and equipment required

The formal agreement is then signed within the period stipulated in the Letter of Approval.

Service fees are US\$ 1000 for legal costs plus an additional US\$ 1500 if normal/ infrastructure development and US\$ 500 for agricultural developments.

Organizations intending to employ expatriate personnel must obtain a letter of Recommendation from the Appraisal Department. This letter is then to be submitted to the Department of Immigration and Emigration to obtain the necessary visa and work permits.

## Company Registration

### Registrar of Companies (ROC)

In order to be able to register a company with the Registrar of Companies there are several steps that need to be taken and they are as follows:-

#### (a) Name Search Application

1. A name search application must be submitted with a payment of Rs 417.59 to the ROC
2. A search will then be run to verify the name

3. The Registrar/ officers have sole discretion to either approve or disapprove the name. The name may be approved or there will be a request for further information made to the applicant. Once approved, the approval number can be collected the following day.
4. The reservation of the name will be valid for a period of 3 months from the date of application only.

(b) Registering a Private Company

After name approval is obtained, the following forms must be prepared along with two copies of the Articles of Association.

- ✓ Form 1 – Registration of a Company
- ✓ Form 18 – Consent and certificate of director
- ✓ Form 19 – Consent and certificate of Secretary/ s

*The current registration fee is Rs 10,982.50 inclusive of VAT*

## Visa/Immigration

The Government has stated that in order to encourage more foreign investment, Sri Lanka will soon start issuing *multiple entry visas* to foreign businessmen hoping to embark on investments in Sri Lanka. The multiple visas will be issued as an alternative to the tourist visa being issued for all immigrants.

The multiple visas will be issued on recommendations of the embassies representing the countries of the applicants.

## Changes Effected By the Budget 2011

### Changes to Income Tax Rates

- Income tax rates have been reduced to 28% and apply uniformly to all companies (other than those dealing in liquor & tobacco)
- It is likely that the above proposal will come into effect from 1<sup>st</sup> April 2011

### Charitable Institutions

- Currently the profits from any trade or business carried out by a charitable institution are exempted from income tax. It has been proposed to remove this exemption (effective from 1<sup>st</sup> April 2011)
- Furthermore, the definition of a 'charitable purpose' will also be amended to exclude the educational activities carried out as a company or business.

### Relaxation of Exchange Control regulations

During the year 2010, the Controller of Exchange has published by gazette and in the form of directions relaxed certain restrictions with regard to foreign currency transactions. The following shows the type of relaxations and the person to whom such relaxations would be applicable. In addition to these there have been recent announcements by the Central Bank of Sri Lanka that during the forthcoming budget there will be further liberalization in areas such as foreigners being permitted to buy corporate debt. This appears to be with the objective of channeling overseas funds in to private companies.

### Securities Investment Account (SIA)

#### The following are eligible to open SIA's

- (i) Foreign institutional investors;
- (ii) Corporate bodies incorporated outside Sri Lanka;
- (iii) Citizens of foreign states;
- (iv) Non- resident Sri Lankans;
- (v) Sri Lankan professionals living in Sri Lanka who receives inward remittances;
- (v) Dual citizens who receives inward remittances;

The following significant changes in exchange control restrictions with regard to the capital account transactions have been introduced with effect from **November 22, 2010**. General permission has been granted to banks and authorized dealers to effect these changes including the procedures to be followed.

#### BENEFICIARY

#### □ FACILITY

Foreigner	Can invest in Rupee denominated debentures
Sri Lankan Company	Can borrow from foreign sources
Foreign company	Can open places of business in Sri Lanka
Foreigners on tour or Business in Sri Lanka	Can open accounts in foreign currency in Sri Lanka
Staff of foreign embassies	Can open foreign currency accounts in Sri Lanka

### Tax Holidays

The following tax holidays have been proposed both under the Inland Revenue Act and the BOI.



- A five year tax holiday has been proposed for any new company which carries on a new undertaking with an investment between US\$ 5 and US\$ 10 million by an order published in gazette having regard to the development of the national economy.
- Currently a tax exemption is granted under section 24 for any investment in the Eastern Province and lagging regions. It has now been proposed to specify the businesses that will qualify the exemption.
- A five year exemption has been proposed commencing 1st April 2011 for investments in fishing and cultivation and primary processing of agricultural seeds or planting material.

### **Education**

- Rs 15 billion to be utilized to develop 1,000 well equipped secondary schools throughout the island over a period of 5 years.
- “English as a Life Skill” initiative to be expanded in 2011 with a budget allocation of Rs 750 Million.
- Rs 100 Million allocated to support programs under the relevant line ministries for the “Trilingual Sri Lanka” Initiative.
- A three year development initiative with Rs 300 Million for all those state universities to project a unique core identity for each university.
- Rs 16 billion allocated for investment in skills development over a 3 year period.