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The Gazette of the Democratic Socialist Republic of Sri Lanka

EXTRAORDINARY

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PART I : SECTION (I) — GENERAL

Government Notifications

THE FINANCE ACT No. 12 OF 2012

REGULATION made by the Minister of Finance and Planning under PART IV of the Finance Act, No. 12 of 2012, as amended by Finance Act, No. 12 of 2013.

MAHINDA RAJAPAKSA,
Minister of Finance and Planning.

Ministry of Finance and Planning,
Colombo 01,
10th July, 2013.

Regulation

1. This Regulation may be cited as the Finance Act - Commercial Hub Regulation No. 1 of 2013.

2. The Board of Investment of Sri Lanka established by the Board of Investment of Sri Lanka Law No. 4 of 1978, as amended (hereinafter referred to as "the Board") may, in addition to the contents of Regulations No. 01 of 1978 published in *Gazette Extraordinary* No. 8/2 of October 31, 1978, embodied or incorporated in any agreement entered into between the Board and any Enterprise in terms of Section 17 of the said Law, and give effect to the following Provisions provided for in PART IV of the Finance Act, No. 12 of 2012 (Principal Act) as amended by the Finance Act, No. 12 of 2013.

(1) Any new enterprise which is established or incorporated in Sri Lanka and engaged in any one or more of the following business activities, where at least Sixty Five percent (65%) of its total investment has been from foreign sources including and transfers from a Foreign Currency Banking Unit of a licensed Commercial Bank operating in Sri Lanka, and of which the total turnover is from export of goods and or services, shall be exempted from the application of Provisions of the Customs Ordinance (Chapter 235), the Exchange Control Act (Chapter 423), the Imports and Exports (Control) Act, No. 1 of 1969, and acts referred to in schedule referred to in the Principal Act as amended by the Finance Act, No. 12 of 2013.

(a) entreport trade involving an import, minor processing and re-export ;

(b) off-shore business where goods can be procured from one country or manufactured in one country and shipped to another country without bringing the same into Sri Lanka ;

(c) providing front end services to clients abroad ;



- (d) operations of the Headquarters of leading buyers for the management of the finance supply chain and billing operations ;
- (e) logistic services such as a bonded warehouse or in the case of operation of multi-country consolidation in Sri Lanka ;

Further, if an Enterprise engaged in entrepot trade in manufacturing a product, as defined in the Principal Act and having considered the importance of availing such product in the domestic market in the interest of the national economy, such Enterprise may be permitted domestic sales upto a certain percentage payable in Sri Lanka Rupees, and permission for such sales shall be given by the Board, with prior concurrence of the Minister of Finance and in such case the turnover of such domestic sale shall be treated as turnover from deemed exports, in the hand of such Enterprise.

Provided however —

- (i) a new Enterprise which is engaged in business activities referred under (a) and (e) above and engaged in the physical importation of goods, wares or merchandise for re-export, shall be required to operate such business activities in a Free Port or in a designated Bonded Area. However, where an Enterprise engaged in entrepot trade as defined in the Principal Act obtained the approval under these Provisions for manufacturing or assembling a product, such Enterprise is required to be operated either in a Free Port or in a specified bonded area ;
- (ii) a new Enterprise which is engaged in business activities referred under (b), (c) and (d) above, may be established outside a Free Port or a Bonded Area ;
- (iii) the minimum investment of a new Enterprise which is engaged in business activities referred under (a) above shall be United States Dollars Five Million (US\$ 5 Mn.), required to be invested in fixed assets within Six (06) months from the date of the related agreement signed between the Enterprise and the Board. It shall also be required that such Enterprise shall achieve an annual re-export turnover of not less than US\$ 20 Mn. over a period of Five years from the date of commencement of operations of such business ;
- (iv) the minimum investment of a new Enterprise which is engaged in business activities referred under (e) above shall be United States Dollars Three Million (US\$ 3 Mn.), required to be invested in fixed assets within Six (06) months from the date of the related agreement signed between the Enterprise and the Board. It shall also be required that such Enterprise shall achieve an annual re-export turnover of not less than US\$ 15 Mn. over a period of Five years from the date of commencement of operations of such business ;
- (v) the minimum investment of a new Enterprise which is engaged in business activities referred under (b) and (c) and/or (d) above shall be United States Dollars One Million (US\$ 1 Mn.), required to be invested in fixed assets and which investment shall be remitted within six (06) months from the date of the related agreement signed between the Enterprise and the Board. It shall also be required that such Enterprise shall achieve an annual re-export turnover of not less than US\$ 10 Mn. over a period of Five years from the date of commencement of operations of such business.

3. A new Enterprise which is engaged in business activities referred under 2. (1) (a), (b), (c), (d) and (e) above shall maintain clear detailed records of all its transactions in the prescribed forms provided by the Board, which shall include details relating to all inward and outward remittances of Foreign Exchange, and such records shall be submitted to the Board and the Controller of Exchange, annually. Further, such records shall be maintained at the operational premises of the Enterprise pertaining to the past three consecutive years at any given point in time, to facilitate easy submission of the same whenever the Board or the Controller of Exchange may require.

4. A new Enterprise which is engaged in business activities referred to under 2.(1) (a), (b), (c), (d) and (e) above shall be subject to a synchronized operational procedure/s that shall be introduced by the Department of Customs, the Board of Investment of Sri Lanka and Sri Lanka Ports Authority in respect of or Free Port or the Bonded Area, as may be relevant.

5. Movement of goods to an from a Free Port or a Bonded Area in to or from the Sri Lankan territory, shall be subject to the provisions of the said Customs Ordinance and the Imports and Exports (Control) Act as may be applicable, as if such goods have been imported into Sri Lanka or exported from Sri Lanka, as the case may be.

6. Notwithstanding the exemptions granted in terms hereof, it is hereby required that Enterprises referred to in this Regulation are subject to the restrictions and prohibitions imposed in Schedule (B) to the Customs Ordinance. As such, the Director General of Customs or any officer authorized by him shall have the power to enter into any business premises to which this Regulation applies and take necessary action, if any such Enterprise is said have acted contrary to the prohibitions or restrictions set out in Schedule (B) to the Customs Ordinance.

7. However, the 'Limitations' set out in Section 3(a) of *Gazette* No. 1232/14, 2002 of 19.04.2002, by the Controller of Exchange in terms of Sections 7, 10, 11, 15 and 30(5) of the Exchange Control Act (Chapter 432 of the CLE) as may be amended, shall not apply to such an Enterprise, and as such, foreign ownership shall be permissible in such Enterprise.

8. A new Enterprise which is engaged in any business activity referred under 2 (1) (a), (b), (c), (d) and (e) above shall be eligible for tax concessions available under Section 13(b)(i), 13(b)(ii), 13(b)(iii), and 13 (ddd), 16(c), 16(D) and Section 17(A) of the Inland Revenue Act, No. 10 of 2006, as amended, subject to the fulfillment of the requirements specified under the respective Section/s.

9. A new Enterprise that is engaged in any business activity referred under 2(1) (a), (b), (c), (d) and (e) may also be considered in terms of the Strategic Development Projects Act, No. 14 of 2008, having followed the due process as set out in the said Act, provided the investment is not less than US\$ 10 Mn.

10. The 'Country of Origin Certificate' issued by the Department of Commerce will be made available to any enterprise referred to in this Regulation, only in respect of domestic exports entering into the Bonded Area or the Free-Port Area, under this Regulation.

11. The Colombo and Hambantota Ports as declared in terms of Section 2(iii) of the Sri Lanka Ports Authority Act, No. 51 of 1979, are hereby declared as Free Ports, for the purposes of this Regulation.

12. Katunayake Export Processing Zone and Koggala Export Processing Zone declared in terms of the Board of Investment Law No. 4 of 1978, are hereby declared as Bonded Areas for the purposes of this Regulation.

13. Mattala Rajapaksa International Airport located at Mattala, declared under The Air Navigation Regulation of 1955 - Notice under Regulation 126 issued in terms of *Gazette Extraordinary* No. 1795/52, dated 01st February 2013, and boundaries set out in Schedule A of *Gazette Extraordinary* No. 1800/25 dated, 07th March 2013 issued under Section 111 of the Customs Ordinance (Chapter 235) and Mirijjawila Export Processing Zone declared in terms of the Board of Investment Law No. 4 of 1978, are hereby declared as specified Bonded Areas for the purposes of this Regulation.

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