

ශ්‍රී ලංකා ප්‍රජාතාන්ත්‍රික සමාජවාදී ජනරජයේ ගැසට් පත්‍රය
අති විශේෂ

The Gazette of the Democratic Socialist Republic of Sri Lanka
EXTRAORDINARY

අංක 1841/3 - 2013 දෙසැම්බර් මස 17 වැනි අඟහරුවාදා - 2013.12.17
No. 1841/3 - TUESDAY, DECEMBER 17, 2013

(Published by Authority)

PART I : SECTION (I) — GENERAL

Government Notifications

Strategic Development Projects Act, No. 14 of 2008

Notification Under Subsection 3(2)

BY virtue of the powers vested in me in terms of Sub section (2) of Section 3 of the Strategic Development Projects Act, No. 14 of 2008 as amended, I, Lakshman Yapa Abeywardena, being the Minister in charge of the subject of Investment Promotion, in consultation with the Minister in charge of the subject of Finance, do by this Notification;

- (1) Identify as a Strategic Development Project for the purposes of the aforesaid Act, the Project to establish an Integrated Super Luxury Tourist Resort facility which includes high end shopping malls and high quality residencies and office spaces/service spaces with associated facilities at Glennie Street/Justice Akbar Mawatha, Colombo 2, in the District of Colombo, Western Province(the "Project"), at a total investment equivalent to United States Dollars Seven Hundred and Fifty Million (US\$ 750 Mn.), on the basis that an investment equivalent to United States Dollars Six Hundred and Fifty Million (US\$ 650 Mn) shall be made in Phase I within Five (5) years from the date of the Agreement signed between the Board of Investment of Sri Lanka and the Project Company (the "Project Agreement") and a further investment equivalent to United States Dollars One Hundred Million (US\$ 100 Mn.) may be made in Phase II, (if undertaken), within Three (3) years from the commencement of Phase II, attracts strategic importance, in view of the substantial contribution:
 - (i) Towards promoting tourism which attracts high priority in economic development as per the development strategy of the Government;
 - (ii) Through the inflow of Foreign Direct Investment into the country to the value of United States Dollars Three Hundred Million (US\$ 300 Mn.) in Phase 1, within Five (5) years from the date of the Agreement signed between the Board of investmnet of Sri Lanka and the Project Company.
 - (iii) Through potential employment generation of Three Thousand (3,000) at capacity and consequent income earning opportunities for the people of Sri Lanka; and
 - (iv) Towards changing the landscape of the country with the construction of an Integrated Super Luxury Tourist Resort facility of international repute that will enable to attract high spending foreign tourists and



the consequent large foreign exchange turnover that could be generated.

- (2) The name of the Project Company is Waterfront Properties (Private) limited ("the Project Company"). The date of commencement of the Project Implementation Period of Phase I, shall be the date stated in the Project Agreement signed between the Board of Investment of Sri Lanka and the Project Company or any other extended date as determined by the Board of Investment of Sri Lanka. The Project Implementation Period of Phase I could be up to Sixty (60) months from the date stated in the Project Agreement. Commercial Operation of the Project shall commence soon after completion of the Project Implementation Period of Phase I. The date of commencement of the Project Implementation Period of Phase II, if undertaken, may , be soon after the completion of the Project Implementation Period of Phase I. The Project Implementation Period of Phase II could be up to Thirty Six (36) months from the date of commencement of the Project Implementation Period of Phase II.
- (3) As envisaged in Section 2 of the Strategic Development Projects Act No. 14 of 2008 as amended, the exemptions from the applicability of laws on the payment of taxes for the period/s set out in the Schedule hereto, will be granted on the basis that the following conditions shall be complied with:-
- (i) The Foreign Direct Investment of the Project shall be United States Dollars Three Hundred Million (US\$ 300 Mn.) which shall be made within Five (5) years from the date of the Agreement signed between the Board of Investment of Sri Lanka and the Project Company.
- (ii) Account/s shall be maintained by the Project Company in relation to foreign exchange transactions associated with the Project, to ensure effective monitoring.

Schedule

1. Inland Revenue Act, No. 10 of 2006

(i) Corporate Income Tax

The provisions of the Inland Revenue Act, No. 10 of 2006, on the imposition of Income Tax shall not apply on the profit and income of the Project Company that are generated from the activities of the Project including sale, lease, rent proceeds of apartments, office and service spaces. Room charges and rental income from all tenants, for a period of ten (10) years. This tax exemption period will commence, either from the first year in which the Project Company makes taxable profits or three (03) years from the date of commencement of Commercial Operations of the Project upon completion of Phase I, whichever occurs earlier.

Commencing immediately after the expiration of the aforesaid Tax Exemption Period, there will be a Partial Tax Exemption Period of fifteen (15) years relating to the profits and income including rental of the Project Company that are generated from the activities of the Project, during which time a tax rate of six *per centum* (6%) or fifty *per centum* (50%) of the Income Tax rate prevailing at the time for the hotel industry, whichever is lower, shall apply.

Provided however, after the expiration of the aforesaid Tax Exemption Period and the Partial Tax Exemption Period, income tax in respect of the profits and income of the Project Company shall be payable in terms of the provisions of the Inland Revenue Act.

In the event the Project Company expands activities beyond the scope of the Project covered in terms of relevant statutes, profits from such activities shall be liable for corporate income tax in terms of the Inland Revenue Act, as modified proportionately in line with the profitability in terms of volume of business turnover.

(ii) **Tax on Dividend**

Dividend distributed to shareholders of the Project Company during the Tax Exemption Period of 10 years, and a further 1 year thereafter, will also be exempted from Income Tax.

(iii) **Withholding Tax**

The Project Company will be exempted from having to deduct and pay Withholding Tax with regard to the following:-

- On interest on foreign loans and debt taken for capital expenditure and on technical fees;
- On management fees and royalty payment provided however the total of such charges does not exceed three per centum (3%) of the gross operating revenue;
- On marketing fees provided however the total of such fees does not exceed one point five per centum (1.5%) of the gross operating revenue;
- On incentive management fees provided however the total of such fees does not exceed ten per centum (10%) of the gross operating profit.

(iv) **PAYE Tax**

The expatriate staff of the Project Company shall be exempted from the charge and payment of Pay-As-You-Earn Tax (PAYE Tax) subject to the restriction that this concession shall apply subject to the maximum number of Twenty (20) employees. This concession shall be applicable for a period of five (5) years from the date of commencement of Commercial Operations. The Project Company shall be required to gradually replace expatriate staff with local employees, on a best-effort basis.

2. **Value Added Tax (VAT) Act, No. 14 of 2002**

The importation of Project related goods as approved by the Board of Investment of Sri Lanka and services and any local purchase of Project related goods or services required for the Implementation of Phase I, shall be exempted from the charge and payment of VAT, during the Project Implementation Period of Phase I. Any contractor or a subcontractor who supplies to such contractor, to the Project, will be entitled to the deferment as permitted in the VAT Act.

Similar exemptions shall be available, for a further period of up to thirty six (36) months ,on the importation of Project related goods and services and any local purchase of Project related goods or services required for the Implementation of Phase II.

Subject to the above, the Project Company shall be liable to pay VAT as provided in the VAT Act, No. 14 of 2002 on the value of supply as therein defined from the commencement of commercial operations, notwithstanding the fact that Phase II is being implemented and the Project Company will continue to enjoy the concessions available for Project related goods and services.

3. **Ports and Airports Development Levy Act, No. 18 of 2011**

Confined to Project related goods imported as approved by the Board of Investment of Sri Lanka for Phase I and/or Phase II during the respective periods as provided above, the Project Company shall be exempted from the payment and charge of Ports and Airports Development Levy on the importation of Project related goods. This exemption shall be applicable on direct imports by the Project Company for the Project or on imports by a contractor or subcontractor for the purposes of the Project, so long as the consignee of such goods is the Project Company, subject to the same conditions referred to in item 5 below.

4. Finance Act, No. 5 of 2005

The contractor/s and sub-contractors of the Project Company to the extent associated with Phase I and/or Phase II shall be exempted from Construction Industry Guarantee Fund Levy imposed under the Finance Act, No.5 of 2005, in relation to the Project.

5. Customs Ordinance (Chapter 235)

Exemption from Customs Duty will be applicable to all project related items in capital nature and any other project related items as approved by the Board of Investment of Sri Lanka imported in the name of the Project Company implementing the Project in relation to items so imported solely for the purpose of the Project whether directly imported by the Project Company or sourced through the contractors or sub-contractors to the contractors provided that the goods are consigned in the name of the Project Company other than the items mentioned in the Negative list within the Project Implementation Period. The Items in the Negative list will be exempted from Customs Duty only where such items are either not wholly produced in Sri Lanka or are unavailable in sufficient quality, quantity and time lines for Project completion.

As such, in general, project related goods could be imported through a contractor or a subcontractor in respect of Phase I or Phase II during the respective periods as provided above, only if the Project Company is named as the consignee of such goods. Hence, if such imports have been done along with any other imports, the Project Company shall be solely responsible to ensure that the concessions noted herein shall be available only to Project related goods of the Project Company. If for any reason this condition has been violated, taxes and levies payable under laws and regulations prevailing at the time shall apply to all goods that do not form part of Project related goods for the Project and such taxes shall become payable forthwith. It is noted that any personal effects imported by the Project Company for the private/personal use of any employee, consultant or any other of the Project Company, shall not be treated as Project related goods. It is further noted that in view of the exemptions/concessions granted to the Project Company under the Strategic Development Project Act, No. 14 of 2008, no tenant or any other party associating with the Project or the Project Company will be granted any exemptions or concessions under this Act in view of or consequent to such Association.

LAKSHMAN YAPA ABEYWARDANA, MP,
Minister of Investment Promotion.

Colombo,
17th of December, 2013.

01-06