



TAX RELATED EXEMPTIONS OR INCENTIVES AVAILABLE TO BUSINESSES IN THE COLOMBO PORT CITY

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The Colombo Port City, built on 269 hectares of reclaimed land adjoining Colombo’s Central Business District, aims to be Sri Lanka’s premier special economic zone.¹ In 2021, Sri Lanka’s legislature passed the Colombo Port City Economic Commission Act No. 11 of 2021 [hereinafter referred to as the ‘CPCEC Act’].² The CPCEC Act established the Colombo Port City Economic Commission [hereinafter referred to as ‘Port City Commission’], which serves as the principal regulator of the investments and affairs carried out in the Colombo Port City.³ In terms of the CPCEC Act, the Port City Commission is empowered to determine and grant, in consultation with the relevant Minister in charge of the Colombo Port City, certain tax related exemptions and incentives to investors.⁴

The Regulations to Grant Tax Related Exemptions and Incentives

In this context, on the 4th of August 2023, the Colombo Port City (Guidelines on the Grant of Exemptions or Incentives to Businesses of Strategic Importance) Regulations, No. 2 of 2023 were promulgated under the CPCEC Act, and published in Gazette (Extraordinary) No. 2343/60 dated 4th of August 2023 [hereinafter referred to as ‘the Regulations’].⁵ As its name suggests, the purpose of the Regulations is to transparently set out the guidelines and policies that will be adhered to when granting tax related exemptions and incentives to businesses in the Colombo Port City.

Classification of Businesses Strategic Importance

In terms of the CPCEC Act, the Port City Commission shall identify businesses that would “*ensure the success of the objectives in establishing the Colombo Port City, having regard to the national interest or the advancement of the national economy*” and designate such businesses a ‘Business of Strategic Importance’.⁶ Such Businesses of Strategic Importance that invest in the Colombo Port City will be entitled to certain tax related exemptions and incentives.⁷

¹ Official Website of the Colombo Port City, at <https://www.portcitycolombo.lk/> [last accessed on the 15th of August 2023]

² Colombo Port City Economic Commission Act No. 11 of 2021, at <https://www.parliament.lk/uploads/acts/gbills/english/6218.pdf> [last accessed on the 15th of August 2023].

³ CPCEC Act, Section 3.

⁴ CPCEC Act, Section 52 and Section 53.

⁵ Colombo Port City (Guidelines on the Grant of Exemptions or Incentives to Businesses of Strategic Importance) Regulations, No. 2 of 2023, at http://documents.gov.lk/files/egz/2023/8/2343-60_E.pdf [last accessed on the 15th of August 2023].

⁶ CPCEC Act, Section 52(2).

⁷ CPCEC Act, 52(3).

The Regulations categorise Businesses of Strategic Importance as Primary Businesses of Strategic Importance and Secondary Businesses of Strategic Importance, by setting out specific criteria that the businesses must satisfy in order to be designated as such.

The following table sets out the different criteria that businesses must satisfy in order to be designated as a Primary or Secondary Business of Strategic Importance.

Primary Business of Strategic Importance	Secondary Business of Strategic Importance
<p>A Business of Strategic Importance that either:</p> <ul style="list-style-type: none"> i. invests a minimum of United States Dollars One Hundred Million (USD 100,000,000/-) per plot of land, or a pro-rated investment in a sub-divided plot of land according to the Colombo Port City (Development Control) Regulations; <p style="text-align: center;">OR</p> <ul style="list-style-type: none"> ii. invests a minimum of United States Twenty-Five Million (USD 25,000,000/-) in the plots of land for the Marina or Social Infrastructure of the Colombo Port City.⁸ 	<p>A Business of Strategic Importance that promotes or encourages any one of the following activities:</p> <ul style="list-style-type: none"> i. global and regional economic activity in international trade; ii. shipping and logistic operations; iii. offshore banking and finance; iv. information technology; v. business process outsourcing; vi. corporate headquarters operations; vii. regional distribution operations; viii. tourism and other ancillary services; ix. innovation; x. entrepreneurship; xi. entertainment; xii. generation of employment opportunities; xiii. sustainable development; or, xiv. urban amenity operations in the settlement of a residential community.⁹ <p style="text-align: center;">AND</p> <p>the Business of Strategic Importance must establish that:</p> <ul style="list-style-type: none"> i. the business or its parent company has an annual global revenue of more than United States Dollars Fifty Million (USD 50,000,000/-);

⁸ The Regulations, Regulation 2.

⁹ The Regulations, Regulation 4(2).

	<ul style="list-style-type: none"> ii. the business will employ a minimum of hundred (100) employees within the Colombo Port City within five (05) years of commencing business operations; iii. the business is a start-up or growth-stage business with an enterprise value of at least United States Dollars Five Hundred Thousand (USD 500,000/-) within five (05) years of being authorised to carry out business in the Colombo Port City; iv. the business can demonstrate, to the satisfaction of the Port City Commission, that it will contribute to the economic and social development of Sri Lanka by fostering innovation, knowledge and technology transfer, research and development, or generate the impetus for creating an international finance centre within the Colombo Port City.¹⁰
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Exemptions and Incentives

The CPCEC Act authorises the Port City Commission to, in consultation with the Minister in charge of the Colombo Port City, grant a Business of Strategic Importance certain tax related exemptions and incentives in relation to the laws set out in Schedule II of the CPCEC Act.¹¹ The specified laws are the Inland Revenue Act No. 24 of 2017, the Value Added Tax Act No. 14 of 2002, the Finance Act No. 11 of 2002, the Finance Act No. 5 of 2005, the Excise (Special Provisions) Act No. 13 of 1989, the Customs Ordinance, the Ports and Airport Development Levy Act No. 18 of 2011, the Sri Lanka Export Development Act No. 40 of 1979, the Betting and Gaming Levy Act No. 40 of 1988, the Termination of Employment of Workmen (Special Provisions) Act No. 45 of 1971, the Entertainment Tax Ordinance, the Foreign Exchange Act No. 12 of 2017, and the Casino Business (Regulation) Act No. 17 of 2010.

¹⁰ The Regulations, Regulation 4(3).

¹¹ CPCEC Act, Section 52(3).

In terms of the Regulations, a business that is designated as a Primary Business of Strategic Importance or a Secondary Business of Strategic Importance becomes eligible to receive the following tax related exemptions and incentives.

Primary Businesses of Strategic Importance	Secondary Businesses of Strategic Importance
<p>A Primary Business of Strategic Importance shall choose either of the two following exemption and incentive schemes:¹²</p> <ul style="list-style-type: none"> i. exemptions from, or incentives under, the enactments set out in Schedule II to the Act, for a period of twenty-five years from the date of publication of an Order in the Gazette in terms of sub-section (3) of section 53 of the Act; together with, ii. an incentive of 50% of the prevailing corporate tax rate applicable for the respective year of assessment under the Inland Revenue Act, No. 24 of 2017 from all gains and profits of such Primary Businesses of Strategic Importance, for a period of ten years following the expiry of the period of twenty-five years specified in item (i). <p style="text-align: center;">OR</p> <ul style="list-style-type: none"> i. an incentive of an enhanced capital allowance of 300% of the expenses incurred on depreciable assets, other than intangible assets used within the Area of Authority of the Colombo Port City during a year of assessment. The capital allowance will be computed in accordance with the Fourth 	<p>Exemptions from, or incentives under, the laws set out under Schedule II of the CPCEC Act, for a period of twenty-five (25) years.¹⁴</p>

¹² In terms of Regulation 4(2) of the Regulations, a Primary Business of Strategic Importance shall not be allowed the change the exemption and incentive scheme that it chooses.

¹⁴ The Regulations, Regulation 5. Note that, in terms of Section 53(3) of the CPCEC Act, the Minister shall make an Order and publish the specific exemptions and incentives that will be granted under each of the laws set out in Schedule II of the CPCEC Act.

<p>Schedule to the Inland Revenue Act, No. 24 of 2017. Where enhanced capital allowances computed and deducted results in unrelieved loss, such unrelieved loss may be deducted for the purposes of calculating the income for a year of assessment in any of the succeeding years, but not exceeding forty years from the date of publication of an Order in the Gazette in terms of subsection (3) of Section 53 of the Act, together with,</p> <p>ii. exemptions from, or incentives under, the enactments set out in Schedule II to the Act other than the Inland Revenue Act, No. 24 of 2017, for a period of twenty-five years.¹³</p>	
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Timeline for Designation as a Primary or Secondary Business of Strategic Importance

It must be noted, however, that in order to be entitled to the aforesaid tax related exemptions and incentives, a business is required to be designated as a Primary or Secondary Business of Strategic Importance within two (02) years of the publication of the Regulations.¹⁵ Therefore, businesses that are keen to invest in the Colombo Port City and benefit from the tax related exemptions and incentives granted by the Regulations would be required to obtain their desired designation before the **3rd of August 2025**.

¹³ The Regulations, Regulation 4(1). Note that, in terms of Section 53(3) of the CPCEC Act, the Minister shall make an Order and publish the specific exemptions and incentives that will be granted under each of the laws set out in Schedule II of the CPCEC Act.

¹⁵ The Regulations, Regulation 6.