

SAINT LUCIA

No.12 of 2014

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I ASSENT

[L.S.] PEARLETTE LOUISY,
Governor-General.

May 13, 2014.

SAINT LUCIA

No.12 of 2014

AN ACT to facilitate the further development of the tourism sector and to provide for special incentives, tax relief and exemptions for proposed, new and existing tourism projects and for related matters.

[ON ORDER]

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the House of Assembly and the Senate of Saint Lucia, and by the authority of the same, as follows: ·

Short title and commencement

1.-(1) This Act may be cited as the Tourism Stimulus and Investment Act, 2014.

(2) This Act shall come into force on a date to be fixed by the Minister by Order published in the Gazette.

Interpretation

2. In this Act-

"**approved development**" means a tourism project which is granted tax reliefs and exemptions under this Act;

"**CARICOM**" means the Caribbean Community established pursuant to the Treaty of Chaguaramus establishing the Caribbean Community including the CARICOM Single Market and Economy that was signed in the Bahamas on the 5th July, 2001;

"**recreational facilities**" includes pools, gymnasiums, gardens, shops, bars, restaurants and any other facilities used for recreational activities within a tourism project which are available for use by guests;

"**condominium**" means either a building, complex or several buildings which includes individually owned flats, units or houses, with supporting recreational facilities which is available for purchase, rent or lease;

"**development period**" means a period of not more than 25 years approved by Cabinet under section 11;

"**hotel**" means a building or group of buildings used to provide services and accommodation to guests for reward containing not less than 6 bedrooms, and may also contain-

- (a) one or more kitchens in which meals may be prepared by employees of the hotel owner or hotel operator for the guests; and
- (b) one or more dining rooms shared in common by all the guests in which meals may be served by employees of the hotel owner or operator to such guests;

"**investor**" means a person other than a commercial bank, who by means of a loan or otherwise, provides funding for the construction, refurbishment or extension of an approved development;

"**Minister**" means the Minister responsible for tourism;

"**person**" includes a body corporate or unincorporated body;

"**tourism project**" includes —

- (a) a proposed hotel, villa resort, condominium or luxury residential complex;
- (b) the construction of a new hotel, villa resort, condominium or luxury residential complex;
- (c) reconstruction or renovation of an existing hotel, villa resort, condominium or luxury residential complex; or
- (d) an existing hotel, villa resort, condominium or luxury residential complex.

"**luxury residential complex**" means a development of more than 6 luxury homes guided by an overall master plan and which offers a range of recreational facilities within the development;

"**villa resort**" means a development which includes more than 6 dwelling units with supporting recreational facilities available for purchase, rent or lease;

Application for an Approved Development

3.-(1) A person who wishes to own or operate a tourism project as an approved development shall apply to the Minister in writing.

(2) An application under subsection (1) shall-

- (a) be in the prescribed form specified in Schedule 2;
- (c) specify the tax reliefs or exemptions required;
- (d) be accompanied by the information required under section 4;
- (e) be submitted to the Minister.

(3) An application for an approved development shall be made prior to 31st March, 2020.

Supporting Information

4.-(1) An application under section 3 shall be accompanied by the following supporting information-

- (a) evidence of ownership of the tourism project;
- (b) evidence of ownership of the land or valid leasehold to be used for the tourism project;
- (c) where the application refers to a rental or leasehold property, proof that the period of the rent or leasehold is for a minimum of 50 years;
- (d) evidence of planning approval or conditional planning approval, as required, for the tourism project, under the Physical Planning and Development Act, Cap 5.12;
- (e) estimated cost of the tourism project and evidence of the financial arrangements and the source of the funds to be used; and
- (f) a project feasibility study forecasting the economic benefits to Saint Lucia.

(2) The Minister may request in writing from the applicant any further information reasonably required to enable a proper consideration of the application, within 14 days of receipt of the application and supporting information under sections 3 and 4.

(3) Where the Minister makes a request for further information under subsection (2), the applicant shall submit the relevant information in writing within 21 days of the request being made or within a further period of time granted and specified in writing by the Minister.

Compliance

5. An approved development shall comply with the laws in force in respect of land development.

Exemption: income tax

6. Where an investor makes a loan of any sum of money raised for the purpose of financing an approved development during the development period, the amount of interest received by the investor in respect of that loan shall be exempt from income tax.

Exemption: value added tax

7. Notwithstanding the provisions of the Value Added Tax Act, No.7 of 2012, an approved development shall, during the development period, be exempt from the payment of value added tax on building material, furniture, equipment and locally produced art and craft.

Exemption: other taxes

8. An approved development shall, during the development period, be exempt from the payment of the taxes and duties specified in paragraphs 1, 2 and 3 of Schedule 1.

Exemption: corporate tax

9. Notwithstanding the Income Tax Act, Cap. 15.02, an approved development shall not pay corporation tax for the duration of the development period.

Determination by Cabinet

10. - (1) Upon receipt of an application, supporting information and any further information as specified under sections 3 and 4, the Minister shall submit the application to Cabinet for its consideration.

(2) Where Cabinet has approved a tourism project as an approved development -

- (a) Cabinet may grant any or all of the tax reliefs and exemptions specified in the Act for the period specified;
- (b) the decision of Cabinet shall specify -
 - (i) the tax reliefs, exemptions and the termination dates granted;
 - (ii) the time frame for completion of the tourism project;

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- (iii) a condition that the approved development must be used as such; and
- (iv) any other conditions as it deems necessary.

(3) The Minister shall inform the applicant in writing of the decision of Cabinet which shall take effect as of the date of Cabinet's decision.

Order by Minister

- 11.** Where Cabinet grants approval of an application under section 3, the Minister shall, by Order published in the *Gazette*-
- (a) declare the tourism project to be an approved development pursuant to this Act;
 - (b) specify-
 - (i) the tax reliefs and exemptions granted;
 - (ii) the termination date of each tax relief and exemption; and
 - (iv) any other conditions specified by Cabinet under section 10.

Failure to comply with conditions specified by Cabinet

12. — (1) Where a person fails to comply with the conditions specified by Cabinet under section 10, Cabinet may revoke or suspend in whole or in part the approval granted under section 11.

(2) All tax reliefs and exemptions specified in the first mentioned Order shall be suspended or terminated, as the case may be, with effect from the date specified in the Order under subsection (1).

(3) The person shall be liable to pay to the Government of Saint Lucia the amount of any tax relief or exemption realized after the date of the publication of the Order made under this section.

Exemption for financial institutions

13.-(1) Where the funds to be used for an approved development are wholly or in part sourced from a financial institution in Saint Lucia or in another CARICOM country, a percentage of the quantum of the investment of the financial institution in the approved development shall,

subject to subsection (2), be exempt in calculating the liability to tax of the financial institution.

(2) The exemption for a financial institution under subsection (1) shall be determined in accordance with paragraph 4 of Schedule 1.

Monitoring of compliance

14.-(1) The Ministry with responsibility for tourism shall monitor compliance by an applicant with the terms and conditions upon which a grant of tax reliefs and exemptions was made by Cabinet.

(2) In pursuance of its duty under subsection (1) a duly authorised official of the Ministry may visit the offices, building sites and other premises from which the applicant conducts business and make inquiries pertinent to the approved development.

(3) An applicant, his or her officers and agents, shall provide the duly authorized official of the Ministry with all information and documents requested in the course of the official's duty under subsection (1).

Sale or transfer of an approved development

15.-(1) Where an approved development is sold or transferred during the development period, the tax reliefs and exemptions provided under this Act may on the approval of Cabinet, continue to apply to the new owner or lessee, as the case may be, for the remainder of the period.

(2) The owner or lessee of an approved development shall inform the Minister, in writing, of proposed changes in the ownership or leasehold of the approved development.

(3) The Minister may require additional information from the new proposed owner or lessee of an approved development.

(4) Notwithstanding the provisions of subsection (1), Cabinet reserves the right to alter or revoke, in whole or in part, the approval granted in section II should the information supplied in the initial application differ significantly as a result of the sale or transfer of an approved development.

(5) Where an approved development for which an exemption from alien's landholding licensing fees is granted under this Act, is sold or transferred to an alien, the exemption from alien's landholding licensing fees shall not apply to the purchaser or transferee, unless approval is granted under the Aliens Licencing Act, Cap 15.37.

Provisions of other acts

16.-(1) Notwithstanding a decision taken by Cabinet under this Act, any requisite necessity of obtaining a permission or licence or of meeting a standard, where such permission, licence, or standard is required under the Tourism Incentives Act, Cap 15.30 or any law in force in Saint Lucia, shall continue to apply.

(2) An income tax relief and exemption under this Act shall not be in addition to another income tax relief or customs duty exemption under the Tourism Incentives Act, Cap 15.30 and the more beneficial income tax relief or customs duty exemption shall prevail.

Amendment of Schedules

17. Cabinet may by Order published in the Gazette amend the Schedules to this Act.

Regulations

18. The Minister may make regulations generally for giving effect to the provisions of this Act.

Savings

19. Notwithstanding subsection 3(3), the benefits, declarations and Orders made or issued under this Act shall continue in force for the approved duration.

SCHEDULE 1

(Section 8 and 13)

TAX RELIEFS AND EXEMPTIONS FOR AN APPROVED DEVELOPMENT

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1. (a) Subject to subsection 15 (5), a 100 percent exemption from property tax and aliens landholding licence fees for the duration of the development period;
- (b) A 100 percent exemption from payment of stamp duty and vendor's tax, on the conveyance or transfer on sale of any immovable property for a tourism project, on the initial transfer.
2. 100 percent customs duty exemption on imports including fixtures and fittings for a period to be determined by Cabinet.
3. 100 percent duty exemptions on imports of alternative energy and energy saving equipment, devices and fittings used for the approved development.
4. A percentage tax credit for financial institutions based on the quantum of the investment, as follows:
 - (a) EC\$1 million and under- 1 percent
 - (b) over EC\$1 million and up to EC\$5 million – 2 percent
 - (c) over EC\$5 million and up to EC\$10 million- 3 percent
 - (d) over EC\$10 million – 4 percent

The tax credit shall be available only in respect of the tax year in which the investment was made.

SCHEDULE 2

(Section 3 (2))

**APPLICATION FOR DECLARATION OF
AN APPROVED DEVELOPMENT AND FOR
THE GRANT OF TAX RELIEFS AND EXEMPTIONS**

A person who wishes to operate a tourism project as an approved development shall submit an application with the following information:

A. IDENTIFICATION

1. Name of Applicant
2. Nature of Applicant (corporate or unincorporated body)
3. Address of applicant (if corporate body, address of registered office)

B. INCENTIVES SOUGHT

1. Relief sought on property tax, vendor's tax, or Alien Land Holding licence.
2. Income tax holiday
3. Customs duty exemptions

C. DETAILS OF PROJECT OR UNDERTAKING

Please provide background/rationale for incentives sought. Indicate previous application (s) for concessions if applicable. The following should be considered:

- Details of facilities and amenities on offer
- Profile of Applicant
- Anticipated implementation of the tourism product

D. PLANNING APPROVAL OF AN APPROVED DEVELOPMENT

(incentives are subject to DCA approval of the accommodation project)
Has the project received approval from Development Control Authority?

- (i) DCA approval in principle
- (ii) DCA full approval

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(iii) DCA Application submitted/pending

E. FINANCING

- (i) Estimated Cost of Project
- (ii) Source(s) of Financing

F. PROJECTED ECONOMIC BENEFITS

Indicate where applicable the economic and social benefits of the proposed activity to Saint Lucia to include but not be limited to employment during the construction and operational phase.

G SIGNATURE AND CONTACT INFORMATION

- (i) Name of Applicant
- (ii) Signature of Applicant Date: (dd) (mm) (yr)
- iii) On behalf of (if applicable)
- (iv) Address of Applicant
- (v) Telephone No.
- (vi) Facsimile
- (vii) Email Address

This Application must be made prior to 31" March 2020 and shall be accompanied by the following supporting information-

- (i) .evidence of ownership of the tourism project ;
- (ii) evidence of ownership of the land to be used for the approved development;
- (iii) in the case of leaseholds, evidence of a valid leasehold for the land to be used for the approved development, for a period of no less than 50 years;
- (iv) evidence of at least planning approval in principle for the approved development;

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- (v) estimated expenditure on the approved development and evidence of the financial arrangements and the source of the funds to be used;
- (vi) a project feasibility study forecasting economic benefits to Saint Lucia;

Applications should be submitted to:

The Minister responsible for Tourism
Ministry of Tourism
Sir Stanislaus James Building
The Waterfront
CASTRIES

Passed in the House of Assembly this 15th day of April, 2014.

PETER I. FOSTER,
Speaker of the House of Assembly.

Passed in the Senate this 17th day of April, 2014.

CLAUDIUS J. FRANCIS,
President of the Senate.