



WHITE PAPER

Ministry of Finance, Trade and Economic Planning

POLICY CHANGES AROUND THE INTERNATIONAL TRADE ZONE ACT 1995

White Papers communicate a decided Government policy or approach on a particular issue. They are chiefly intended as statements of Government policy.

The Ministry of Finance, Trade and the Economic Planning is proposing the following policy changes for the regulation of the International Trade Zone Act 1995. This document will be used for consultation with stakeholders before finalisation. There will be a series of consultation meeting which will be communicated to the public in due course.

1. Introduction

An International Trade Zone (ITZ) is a zone created by an Act of Parliament to allow for international trading in and through Seychelles. All such zones, are effectively considered as ex-territorial whereby there is movement of goods in and out of the zone. Proposed amendments to the International Trade Zone (ITZ) Act 1995 introduces changes to the law to bring it at par with the reality of today's economic environment based on the various tax reforms that the country has undertaken from 1995 to 2017 in numerous other sectors

In order to implement the proposed amendments, changes will be required to various provisions of the ITZ Act 1995 which will be approved by the National Assembly of Seychelles.

This paper will therefore focus on the main changes introduced to the Act and reflects the information that will be contained in the amended or new provision which will be added. The stipulated time frame for the implementation of the policy changes is for 1st January 2018, which will be announced through the 2018 budget, but comes into force in January 2019.

The one year delay in coming into force of the amendments, will allow existing ITZ companies to adjust their cash flow and do the necessary alterations were necessary according to the new law for enforcement by FSA. All new ITZ companies would adhere to the provisions of the new law.

2. Framework

All ITZ zones, are effectively considered as ex-territorial and as such some specific laws do not apply. In the context of Seychelles these laws are specified in the ITZ Act, 1995 section 3(2) schedule. Non-Applicability means that the laws specified shall not apply to the operators of the Zone for example Business Tax is not applicable on the licensee given that the Business Tax Act 2009 is listed in the schedule. Moreover, concessions in terms of goods, equipment, vehicles are also granted to ITZ license holders in line with their operations, subject to the ITZ Act as may be amended from time to time.

As the ITZ Act, falls under the purview of the Financial Services Authority (FSA), the authority is responsible for the oversight and regulating the sector as prescribed in the Financial Services Authority Act 2013, Schedule one.

3. Reasons for changes

Proposed amendments to the ITZ Act 1995 introduces changes to the law to bring it at par with the reality of today's economic environment based on the various tax reforms that the country has undertaken from 1995 to 2017 in numerous other sectors. The ITZ companies have enjoyed preferential treatment under favorable trade regime for more than twenty years which today does not match economic environment similar to other small island developing states. Furthermore, numerous legal provisions in the Non applicability schedule has been changed or amended and therefore needs to be brought in line with relevant legislations. The expansion and growth in the nature and conduct of businesses has evolved which needs ample enforcement and adequate supervision to ensure that the intention of an international trade zone are sustainable.

The amendments are no means to deter investment in that sector, but a way to strengthen and ensure the longevity and competitiveness of such zone, based on the ever-evolving economic environment.

4. New changes

More adequate regulatory power to prevent abuses and allow more flexibility for the government to change policies.

- a. Current provision provides SITZ companies over-and-above preferential treatment of not being “disadvantaged by any regulations”. This presents a situation whereby the Minister is not able to issue any regulations that may disadvantage the ITZ operators in the eventuality of a policy change by the Government. Approval must be sought by the ITZ operators first. To counter this situation the proposal being made to delete Section 14(2) of the act, to remove the limitation on the Minister’s regulatory power.
- b. To give effect to FSA regulatory and oversight role as the Administrative Authority a proposal is in section 14(1) to add “after consulting the Authority”. This addition will ensure the FSA is consulted on before any regulations is decided upon by the Minister. The FSA would then consult the ITZ operators for discussion on policy changes. This is in the spirit of “inclusive consultation”.
- c. As it stands, ITZ companies are benefiting from concessions on importation of vehicles and goods, equipment and materials used for operation. However, due to the improper use of those vehicles, concession shall only be applicable to special purpose vehicles and no longer on passenger vehicles. Furthermore, it will now become a legal requirement that all bills of import be endorsed by FSA.
- d. Some broad measures to be undertaken in consideration to ITZ licenses whereby substance will be added to give transparency to rejection on license application. Provision will now be made to add more substance to the revocation of a license and also to cover FSA instructions on the companies’ timeframe to set up their business, process and consequences for not meeting the required timeframe.
- e. Under the new proposed changes, it will now become a requirement for ITZ companies to have physical substance in Seychelles and the holder of an ITZ license shall now have to give notice in writing to the FSA before it makes substantial change to the company. The term changes encompasses:-
 - a change in the category of business activity,
 - a change in the ownerships/director-ship on interest of companies.
 - a change in appointment or resignation, removal or death of a director of a licensee
 - a takeover or acquisition of, or merger involving, a licensee;
 - a change in the location of a licensee’s principal place of business in Seychelles; or
 - a change of a licensee’s auditor; or

- f. To clearly define the requirements the FSA needs in regards to Audited Financial Statement (AFS), as submission is sometimes an issue. Also if submitted late the information provided are seen as out dated. Non submission of the AFS should lead to a penalty fee like in the Companies Act or given that the ITZ licensed companies have high revenues a suggested fee of SCR 5000 for each month or part thereof during which the contravention continues.
- g. Changes to the Non - Applicability Schedule under Section 3(2) of the ITZ Act is to be undertaken to consider the adequacy of the current non applicable legal provisions and there relevancy to current economic environment.
- h. The fees for ITZ licenses dates back to the coming into force of the Act in 1995. Therefore, a review of fees is being proposed which includes a reclassification of the activities to be considered under the ITZ regime.
- i. There will be a new set of criteria's as prescribed by FSA that may be amended as and when needed in order to be acquire an ITZ license. the criteria's being proposed are:-
 1. The applicant for a licence must be a new company incorporated under the Companies Act, 1972. (Although the IBCs already having an ITZ licence will not be affected).
 2. The applicant should export all of its output (goods or services) to clients outside Seychelles. Approvals may be provided for sale of a small proportion of the output to clients in Seychelles.
 3. There should be no direct competition with the local market
 4. The company must have an adequate equity base and access to capital to enable it develop an International Trade Zone or operate in an International Trade Zone
 5. The activities of the projects for which the Operator seeks the Licence must be commercially viable for Seychelles.
 6. The company must employ at least 60% Seychellois
 7. The company must have identified a potential location for its business operations for demarcation purposes
 8. Minimum capital investment (Rs 1,000,000)
 9. Minimum annual domestic expenditure to be met by the company (Rs 500,000)

5. Review of Non-Applicability of legal provision

- j. Immovable Property (Transfer Restriction) Act.

Given that restrictions no longer exist, the Ministry of Finance, Trade and Economic planning along with the Financial Services Authority (FSA) are of the view to remove this legal provision from the list, hence transfer restriction under the said act shall be applicable.

- K. Excise Tax

In respect of vehicles imported into a zone for use by the holder of a licence in respect of the business operation within the zone only, the whole Act shall be inapplicable;

L. Trades Tax

For treatment of Customs Duty, all mentions of Trades Tax should be replaced with relevant wording of current legislation; that is Customs Duty.

M. Social Security Act 1987

To remove the repealed Social Security Act 1987 from being Non-applicable. Provisions of the Social Security Act 2010 (which replaced the 1987 Act) should be integrated in the International Trade Zone (Employment) Regulations 1997 in view that the Act refers to benefits entitled to an employed persons.

N. Stamp Duty Act

It is being proposed that properties demarcated for SITZ operations should only be leasehold instead of freehold. Henceforth, Non-applicability to remain for leasehold transactions only. For freehold transactions stamp duty shall be applicable.

O. International Trade Zone (Employment) Regulations 1997

Amending the regulation to incorporate 13th month salary for Seychellois employees parallel to the conditions in Act 24 of 2016 Employment (Amendment) Act, 2016. Moreover, other employment related matters such as salary schemes and pension would be incorporated in the amendment. Both the ITZ (Employment) Regulation 1997 and ITZ (Conditions of Employment) Order 1997, are currently under review in collaboration with the Ministry responsible for Employment.

P. Business Tax

For the business tax, proposals is to have a tax holiday for 5 years. Consideration must be made in view that some companies have made major investments and have a long loan pay off period. Such companies will likely start making a substantial profit after the 5 year period.

Furthermore, to keep the ITZ product attractive after the tax holiday, instead of being liable to the normal tax rate, it is proposed that they are made liable to only 50% of the normal tax rate

Q. Schedule for fees

The fees for ITZ licenses dates back to the coming into force of the Act in 1995. An evaluation of the license fees has not been undertaken since then to consider the adequacy of the fees against the contemporary economic situation.

Therefore, a review of fees is being proposed which includes a reclassification of the activities to be considered under the ITZ regime.

Type of Licenses	Processing Fee	Annual Fee	Reason
Redistribution Licence	US \$ 1,300	US\$ 1,650	Have a processing fee which is across the board at US\$ 1,300
Light-Assembly Licence	US \$ 1,300	US\$ 1,650	
Manufacturing Licence	US \$ 1,300	US\$ 5,400	Proposal is to have a substantial annual Licence Fee to compensate for the low Business Tax
Processing Licence	US \$ 1,300	US\$ 5,400	

Licenses granted under the Broadcasting and telecommunication Act would be removed completely as it is not under the FSA’s purview therefore not providing those licenses. The same applies to interactive gambling and sportsbook and Export Services Licences. Such removal is in line with BEPS commitment to eliminate any ring-fencing opportunities in our regime with regards to mobile activities which are service oriented.

6. Benefits of review

The review incorporates addition of substance to the different licensing sections of the Act to allow FSA to appropriately define their requirements. Amendments to the Non–Applicability schedule to update relevant legal provisions and their relevant functionality. The review to be undertaken will enable the government to align the economic importance of the International Trade Zone to the current economic environment.