

# Sri Lanka

## Changes and Developments of Foreign Direct Investment Policy 2016/2017

### 1. Sri Lanka: Country Profile

Official name	: Democratic Socialist Republic of Sri Lanka
Widely use name	: Sri Lanka
Internet domain	: .lk

<p><b><u>Demographic</u></b></p> <p>Population : 20.9 Mn.</p> <p>Ethnic groups : Sinhalese (74.9%), Tamils (15.4%), Muslims (9.2%), Others (0.5%)</p> <p>Religions : Buddhist (70.2%), Christian (7.4%), Hindu (12.6%), Islamic (9.7%), Other (0.1%)</p> <p>Official languages : Sinhala &amp; Tamil</p> <p>Business Language : English</p> <p><b><u>Geography &amp; Climate</u></b></p> <p>Geographical location : South Asian Region</p> <p>Geo – Coordinates : Between 5 55”and 9 50”North Latitudes Between 79 31”and 81 53”East Longitudes</p> <p>Land area : 65,610 sq. km with 2905 sq. km of Inland water</p> <p>Administrative divisions : 9 Provinces, 25 Districts</p> <p>Capital city (Administrative) : Sri Jayewardenepura Kotte (Commercial) : Colombo</p> <p>Standard time : GMT + 5.30 hours</p> <p>Climate : Tropical - with two monsoons</p> <p>Climate variations : North- East Monsoon (September - March) South –West Monsoon (May - August)</p> <p>Annual average rainfall : 1,687 mm</p> <p>Average temperature : Min 24.4 c - Max 31.7 c</p>	<p><b><u>Resources</u></b></p> <p>Agricultural : 18.29% Arable Lands 29.7% Forest cover</p> <p>Major commercial crops : Tea, Rubber, Coconut, Cinnamon, Pepper</p> <p>Major food crops : Rice Wide range of Fruits &amp; Vegetables, Spices</p> <p>Marine : About 1,620 km coastal line</p> <p>Minerals : Limestone, Graphite, Mineral Sand, Gem, Phosphate, Clay</p>
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### 2. Investment Policy of Sri Lanka and its Recent Developments

In 1978, Sri Lanka shifted away from a socialist orientation and opened up to foreign investment. From 1978 to 2017, Sri Lanka could attract around US\$ 14 bn foreign direct investment to the country for various sectors such as Manufacturing, Infrastructure development, Tourism, IT/BPO etc.

The new government elected in 2015, follows a pro-business stance with an emphasis on expanding exports, upgrading industry, and boosting private investment and public-private partnerships.

Having identified that Sri Lanka needs high levels of FDI to meet its growth targets, several initiatives have been taken by the new government to promote and facilitate sustainable investments.

The following transparent investment laws in Sri Lanka aim to foster foreign direct investments and there had been several changes and development of these laws and regulations during 2016/2017.

## **I. The Board of Investment Law (BOI Law)**

The Board of Investment (BOI) Law No. 4 of 1978 and its amendments is the principal law applicable to foreign investments in Sri Lanka. BOI is structured to function as the Central Facilitation point for investors and empowered to enter into agreements with investors.

- **Role and the Legal power of the Board of Investment of Sri Lanka**

The Board of Investment of Sri Lanka (BOI) is the central facilitation point for foreign investors. BOI provide assistance and advice throughout the investment process from initial point of inquiry through project approval, implementation, monitoring and aftercare facilities.

- **Changes to the provisions of BOI Law in 2016/2017**

Since inception BOI has been granting incentives including fiscal incentives as a strategy to attract FDI.

As per the powers vested by the said Law, the BOI could deviate from the laws and acts stipulated in the Schedule B of the BOI act including Inland Revenue law, Customs Ordinance and Exchange Control Act. Accordingly, the BOI granted investment incentives including tax holidays, tax concessions, and granted exemptions from customs Ordinance & exchange control laws for qualified investments. The BOI exercised its authority under the BOI Law until 2011 and in 2012 BOI-Inland Revenue tax concessions were amalgamated and the BOI followed the same tax concessions granted under the Inland Revenue Act thereafter.

In 2017, the government introduced a new Inland Revenue Act in consultation with IMF, allowing the Government to scrap the complicated tax system and establish a “fair but transparent” tax policy for Sri Lanka with plans to increase government revenue from direct taxes.

Instead of providing traditional tax holidays for investments, Sri Lanka has moved to a new incentive regime with the introduction of the new Inland Revenue Act. Accordingly, investors will be granted Incentives by way of Accelerated Depreciation Allowance (ADA) and Tax Credits (TC) based on the investments made on depreciable assets.

## **II. Exchange Control Laws Applicable for foreign Investments**

The exchange Control Act (Chapter 423) has been repealed and a new foreign exchange Act No. 12 of 2017 has been introduced in July 2017.

The new Exchange Control Act has further liberalized foreign investments and the regulation to implement this act is to be gazetted by 1<sup>st</sup> November 2017.

The Regulation issued under the previous Exchange Control Act (Regulation No. 1232/14 dated 19-04-2002 as amended by regulation No.1248/19 dated 08-08-2002 and regulation No 1970/49 dated 10-06-2016) granted permission for the issue and transfer of shares in a company up to 100% of the issued capital of such company, to approved country funds, approved regional funds, corporate bodies incorporated outside Sri Lanka and individuals resident outside Sri Lanka (inclusive of Sri Lankans resident outside Sri Lanka) subject to the exclusions, limitations and conditions herein after set out.

### **Exclusions:-**

- (i) Pawn Broking
- (ii) Retail trade with a capital of less than One Million US Dollars
- (iii) Coastal Fishing

### Limitations: -

(a) Foreign investments in the areas listed below could get approval only up to 40% of the issued capital of such company or a higher percentage of foreign investment when approval has been granted by the Board of Investment of Sri Lanka.

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| i. Production of goods where Sri Lanka's exports are subject to internationally determined quota restrictions | vi. Timber based industries using local timber |
| ii. Growing and primary processing of tea, rubber, coconut, cocoa, rice, sugar and spices                     | vii. Fishing (deep sea fishing)                |
| iii. Mining and primary processing of non-renewable national resources  | viii. Mass communications                      |
|   | ix. Education                                  |
|   | x. Freight forwarding                          |
|   | xi. Travel agencies                            |
|   | xii. Shipping agencies                         |

(b) The permission granted in respect of the shares of a company engage in following areas only up to the percentage of the issued capital of the company for which percentage either general or special approval has been granted by the Government of Sri Lanka or any legal or

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| i. Air transportation                       | v. Industrial enterprise in the Second Schedule of the Industrial Promotion Act, No. 46 of 1990, namely – any industry manufacturing arms, Ammunitions, explosives, military vehicles and equipment aircraft and other military hardware; any industry manufacturing poisons, narcotics, alcohols, dangerous drugs and toxic, hazardous or carcinogenic materials; any industry producing currency, coins security documents |
| ii. Coastal shipping                        |  |
| iii. Large scale mechanized mining of gems; |  |
| iv. Lotteries                               |  |
- administrative authority set up for the approval of foreign investment in such businesses.

### III. Land (Restrictions on Alienation). Act, No. 38 of 2014 and its amendments

Under the Land (Restriction of Alienation) Act No. 38 of 2014, foreigners and foreign companies with foreign shareholding over 49% are prohibited to purchase land on outright basis. It introduced a lease arrangement with an upfront lease tax of 15%, which was relaxed subsequently under the Land (Restrictions on Alienation) Amendment Act, No. 3 of 2017.

### IV. Investment Protection

The Article 157 of the island's constitution guarantees the safety of investment protection treaties and agreements approved by parliament by a two thirds majority. Sri Lanka has signed bilateral Investment Protection Agreements (IPA) with 28 countries. Sri Lanka also has bilateral Double Tax Avoidance Agreements (DTAA) with 42 countries.

### 4. Recent Reforms done & Initiatives taken to boost investment climate

The key initiatives taken by BOI during 2016/2017 period are;

- a. Contribution to improve the investment climate (Doing Business Ranking, Country benchmarking studies, policy recommendations)
- b. Targeted Investment Promotion
- c. Acceleration of investment approval process
- d. Improvements to investment facilitation
- e. Development of new zones and upgrading of existing zones
- f. Addressing the issue of worker shortage in BOI Projects
- g. Refocusing BOI Strategy