

BELIZE:

FISCAL INCENTIVES BILL, 2022

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BELIZE:

BILL

AN ACT to repeal and replace the Fiscal Incentives Act Chapter 54 of the Substantive Laws of Belize, Revised Edition 2020; to streamline the fiscal incentive programme to improve the regulatory functions to allow foreign companies to apply for incentives; to offer new fiscal incentives; to improve access to incentives for MSMEs; and to provide for matters connected therewith or incidental thereto.

(Gazetted, 2022)

PART I

Preliminary

1. These Regulations may be cited as the,

FISCAL INCENTIVES ACT, 2022.

Short title

2. In this Act, unless the context otherwise requires,

Interpretation.

“approved activity” means economic activity that is listed in Schedule I;

“business tax” has the meaning assigned to it under the Income and Business Tax Act;

CAP. 55.

“Fiscal Incentive Order” means an Order issued by the Minister under section 6;

“company” has the meaning assigned to it under the Belize Companies Act;

No.11 of 2022.

“Comptroller” has the meaning assigned to it under the Customs Regulation Act;

CAP. 49.

“date of operation” means the date specified in a Fiscal Incentive Order by which an approved enterprise commenced its operations;

“duty exemption period” means the period during which an approved enterprise enjoys the benefit of an incentive granted under section 6;

“excise duty” has the meaning assigned to it under the Custom and Excise Duties Act;

CAP. 282.

“Executive Director of BELTRAIDE” has the meaning assigned to it under the Belize Trade and Investment Development Service Act;

CAP. 282.

“fit and proper” means, at a minimum, a person who is of good character and reputation, not a bankrupt, not convicted of an offence involving fraud or dishonesty and includes any other matter as the Minister deems appropriate;

No.11 of 2022. “foreign company” has the meaning assigned to it under the Belize Companies Act;

CAP. 63. “general sales tax” has the meaning assigned to it under the General Sales Tax Act;

CAP. 282. “excise duty” has the meaning assigned to it under the Custom and Excise Duties Act;

“Minister” means the Minister responsible for Fiscal Incentives and “Ministry” shall be construed accordingly;

“non-controlled item” means any good that is intimately related to the approved activity of an approved enterprise;

S.I. 37 of 2016. “revenue replacement duty” has the meaning assigned to it under the Custom and Excise Duties Act; and

“tax holiday period” means the period during which an approved enterprise enjoys the benefit of any incentive granted under section 5.

PART II

Application, Eligibility, Grant, Variation, Suspension, Revocation

Application for fiscal incentives. **3.—(1)** A person who desires to be granted an incentive, may apply to the Minister through the Executive Director of BELTRAIDE for the –

- (a) grant;
- (b) renewal; or
- (c) variation,

of the incentive, and pay the prescribed fees.

(2) The manner, form and details in relation to an application for a fiscal incentive, shall be as prescribed in Regulations.

(3) The Executive Director of BELTRAIDE shall submit a recommendation, in writing, to the Minister on the question of whether in their opinion, an application for an incentive should be approved.

(4) An application under sub-section (1), may be considered by the Minister, after consideration of the recommendation under sub-section (3), and after consultation with the Minister responsible for relevant approved activity.

(5) The Minister may approve or refuse an application for an incentive and where an application is approved, the Minister shall, by Order published in the *Gazette*, issue a Fiscal Incentive Order.

4. A person may be eligible for a fiscal incentive where the person—

Eligibility for fiscal incentives. Schedule I.

- (a) is conducting an approved activity prescribed in Scheduled I; or
- (b) satisfies the requirements for eligibility for an incentive.

5.—(1) The incentives granted by the Minister may include exemption from—

Fiscal incentives to be granted.

- (a) import duty;
- (b) revenue replacement duty;
- (c) excise duty; or
- (d) the payment of business tax.

(2) An incentive granted by the Minister under this Act may be for a period of not more than five years, in the first instance, and may be renewed on application for up to a maximum of twenty-five years, in accordance this Act.

(3) A person who is granted an incentive under this Act may, during the relevant duty exemption period, import into Belize, free from any duty or tax under sub-section (1), any category listed under paragraphs (a) to (d) that is considered necessary to establish, expand or operate an approved enterprise—

- (a) building materials, plant, machinery, equipment, tools, specialized tools, utility and transport vehicles, aircrafts, marine crafts, fixtures and fittings, office equipment, appliances, or agriculture machinery and supplies;
- (b) spare parts on plant and plant related machinery, agricultural machinery, aircraft engines and spare parts for aircrafts, marine parts;
- (c) raw materials and packaging; or

(d) any other category as determined by the Minister.

CAP. 55.

(4) An exemption from any tax granted under this Act shall not exempt the person to whom the exemption is granted from any requirement under the Income and Business Tax Act, to file any return required under that Act.

(5) Notwithstanding sub-section (1), the Minister may refuse to grant an incentive on any category as he deems fit.

The Fiscal
Incentive Order.

6. A Fiscal Incentive Order issued by the Minister under this Act shall specify—

- (a) that the person to whom an incentive is granted is declared to be an approved enterprise;
- (b) the name of the approved enterprise;
- (c) the address of the approved enterprise;
- (d) the names of the proprietors or shareholders of the approved enterprise;
- (e) the approved activity and its description;
- (f) any conditions that the approved enterprise may be subject to;
- (g) the incentive granted to the approved enterprise;
- (h) the date of commencement and expiration of the incentives granted; and
- (i) where applicable, the proposed date of commencement of operations of the approved enterprise.

Variation of
Fiscal Incentive
Order.

7. An approved enterprise may apply to the Minister to vary, the information contained in a Fiscal Incentive Order including, in relation to any change to any of the following information—

- (a) the name of the approved enterprise;
- (b) the address of the approved enterprise;
- (c) the approved activity and its description;
- (d) the names of the proprietor or shareholders of the approved enterprise;

- (e) the incentives granted to the approved enterprise; or
- (f) any other relevant information contained in the Fiscal Incentive Order.

8. The Minister may suspend a Fiscal Incentive Order granted to an approved enterprise in accordance with the conditions for suspension prescribed in Regulations. Suspension of Fiscal Incentive Order.

9.—(1) The Minister may revoke a Fiscal Incentive Order in accordance with any of the grounds for revocation under section 10. Revocation of Fiscal Incentive Order.

(2) the procedure and conditions for revocation of a Fiscal Incentive Order shall be as prescribed in Regulations.

10. The Minister may revoke a fiscal incentive granted to an approved enterprise on any of the following grounds— Grounds for revocation of Fiscal Incentive Order.

- (a) where the Minister is satisfied that the approved enterprise—
 - (i) through its own fault, fails to initiate operations of its business within the date for same as specified in the Fiscal Incentive Order;
 - (ii) ceases to conduct operations for two consecutive years;
 - (iii) has repeatedly violated the provisions of this Act; or
- (b) any of the following has occurred—
 - (i) a request for revocation is made by an approved enterprise;
 - (ii) the fiscal incentives of the approved enterprise are suspended for more than twelve consecutive months; or
 - (iii) a principal of an approved enterprise is convicted of an offence involving—
 - (aa) fraud or dishonesty; or
 - (bb) firearms or illegal drugs; or
 - (iv) any information furnished in the application for the fiscal incentives is false in a material particular.

- Requirements as to goods imported.
- 11.** An approved enterprise that imports goods in relation to an approved activity shall—
- (a) keep a record in the form and containing the particulars, of the goods so imported, as may be required by the Comptroller and the Minister;
 - (b) cause the goods to be marked with any mark and in any manner as may be required by the Comptroller; and
 - (c) permit the Comptroller or any person authorised by the Minister at any reasonable time, to inspect the record and examine any goods for the purpose of satisfying themselves of the accuracy of the particulars in the record in relation to the goods.
- Assignment of goods imported.
- 12.**—(1) No good imported into Belize free of import duty, revenue replacement duty or excise duty shall be sold, hired, lent, given away or otherwise disposed of except—
- (a) in case of an assignment of an approved enterprise, to the assignee thereof;
 - (b) after payment of import duty, revenue replacement duty or excise duty on the value of the good at the date of the transaction assessed by the Comptroller; or
 - (c) where sold, hired, lent, given away or otherwise disposed of, after expiration of ten years from the date of importation.
- (2) An approved enterprise that contravenes or fails to comply with sub-section (1), shall pay a fine of twenty thousand dollars or three times the value of the good, as assessed by the Comptroller, whichever is the greater.
- (3) Notwithstanding sub-section (2), where the goods in respect of which a contravention under that sub-section occurred, are assessed to be less than one thousand dollars, the approved enterprise shall be liable to a fine equal to three times the market value of the goods.
- Progress report.
- 13.**—(1) An approved enterprise shall electronically submit, a progress report, to the Executive Director of BELTRAIDE and the Ministry, not more than one month after the end of every six month period.
- (2) The progress report under sub-section (1), shall be based on a calendar year, beginning January 1 to December 31, and contain—
- (a) particulars as to the capital investment made by the approved enterprise; and

- (b) any other particulars relating to the approved enterprise which the Ministry may require.

(3) An approved enterprise that fails to comply with the requirements under this section shall pay the relevant administrative penalty prescribed in Regulations.

14.—(1) An approved enterprise shall submit a copy of their audited financial statements to the Executive Director of BELTRAIDE and the Ministry, no later than ninety days after the end of each financial year of the approved enterprise.

(2) Notwithstanding the requirement under sub-section (1), the following approved enterprises shall be exempt from the requirement to submit audited financial statements under that sub-section—

- (a) an MSME, as defined under regulation 18(2);
- (b) an approved enterprise that was granted a fiscal incentive under section 5, on any goods for a capital investment in an approved activity with an import value of up to one million dollars; or
- (c) an approved enterprise that is not operational but is in the construction phase.

(3) Notwithstanding any other law, the import value of goods under sub-section (2)(b), shall not include the cost of freight or insurance.

15.—(1) An approved enterprise that forms the intention to change the shareholders of the approved enterprise, shall inform the Minister through BELTRAIDE of that intention, prior to the change.

Change of shareholder.

(2) An approved enterprise that fails to comply with the requirements under sub-section (1), shall pay the relevant administrative penalty prescribed in Regulations.

16. Where an approved enterprise contravenes any provision of this Act, the Minister shall cause the enterprise to be informed of the contravention, in writing, outlining the elements of contravention and the related sanction or penalty.

Contravention of Act.

PART III

One-Off Fiscal incentive

One-off fiscal
incentive.

17.—(1) A person may apply to the Minister, in the approved form, for a one-off duty exemption, in accordance with the requirements prescribed in Regulations.

(2) The Minister may approve or refuse an application under sub-section (1), and where an application is approved, the Minister shall inform the owner of the approval, in writing, within seven working days of the decision.

(3) Where an application under sub-section (1) is approved, any exemption granted shall be for a period of not more than one year.

(4) An application under sub-section (1) shall include—

- (a) a brief description of the project;
- (b) proof of registration of business name, where applicable; and
- (c) where applicable, the constitutional documents of the company, in accordance with the Belize Companies Act.

S.I. 11 of 2022.

(5) For the purposes of this Part “one-off fiscal incentive” means an exemption from import duty, revenue replacement duty or excise duty on goods for a capital investment in an approved activity with an import value of maximum of not more than one million dollars, excluding the cost of freight or insurance that is granted by the Minister for a period of not more than one year, on not more than one occasion in any calendar year, to the same approved enterprise.

PART IV

Fiscal incentives to Micro, Small and Medium Enterprises

Eligibility for
fiscal incentives
to MSMEs.
Schedule II.

18.—(1) Notwithstanding section 4, an MSME may be eligible for a fiscal incentive where the MSME—

- (a) is conducting an activity not prescribed in Scheduled II; or
- (b) satisfies the requirements prescribed in Regulations.

(2) For the purposes of this Part, a reference to a “micro, small or medium-sized enterprise” or “MSME” is a reference to a company or business that has the following characteristics—

- (a) for a micro enterprise, the company or business consists of—

-
- (i) less than five employees working on a full-time basis; or
 - (ii) annual sales of less than one hundred thousand dollars;
- (b) for a small enterprise, the company or business consists of—
- (i) five or more but not more than to twenty employees working on a full-time basis; or
 - (ii) annual sales of one hundred thousand dollars or more but less than five hundred thousand dollars; and
- (c) for a medium enterprise, the company or business—
- (i) consists of—
 - (i) twenty-one or more but not more than fifty employees working on a full-time basis; or
 - (ii) an annual sales of five hundred thousand dollars or more but not more than four million and five hundred thousand dollars.

(3) For purposes of classifying the size of an enterprise, the size of a company or business shall be the larger classification if the enterprise satisfies a qualifying indicator in more than one category.

(4) The Minister may, by Order published in the *Gazette*, subject to negative resolution, alter any of the characteristics of a company or business specified in sub-section (2).

19.—(1) In addition to the fiscal incentives under section 5, an MSME may be eligible for the following fiscal incentives—

Additional fiscal incentives to MSMEs.

- (a) exemption from import duty, revenue replacement duty or excise duty on goods with an import value of up to one million dollars, for a period of up to four years, with an option for a renewal for a further period of up to four years, and in any case up to a maximum of eight years; or
- (b) prioritization of Government stores and contracts.

(2) For the purposes of sub-section (1)(b)—

- (a) “stores” has the meaning assigned to it in the British Honduras Stores Orders, 1968; and

CAP. 15.

CAP. 15. (b) “contracts” has the meaning assigned to it in the Financial Orders.

(3) Notwithstanding the British Honduras Stores Orders, 1968 and the Financial Orders or any law to the contrary, twenty percent of all stores purchased or contracts entered into by the Government, shall be purchased from or made with an MSME.

Fiscal incentives for MSMEs not registered prior to Act.

20. An MSME existing and conducting a trade or business in Belize, prior to January 1, 2022, but not registered with the Belize Companies and Corporate Affairs Registry and the Belize Tax Service, and which, on or before December 31, 2023, registers with the Belize Companies and Corporate Affairs Registry and the Belize Tax Service, shall not be liable for any accrued business or general sales tax, interest or penalties, otherwise payable upon such due registration, and shall be eligible for exemption for a period of up to one year from the payment of business tax or general sales tax, local purchases and imported raw materials that are deemed to be intimately related to the production of a good or service produced by the MSME, and which period may be extended for a period of up to three years in special circumstances, where the Minister is satisfied upon the advice of BELTRAIDE that it is in the public interest to do so.

Fiscal Incentive Order re MSMEs.

21. Where, after consideration of all relevant facts, circumstances, and recommendations, the Minister is satisfied that an application for a fiscal incentive by an MSME, meets the requirements set out in this Act for the grant of the fiscal incentive, and that such grant would promote the development of MSMEs, the Minister shall grant the fiscal incentive.

Review by BELTRAIDE.

22. Upon an application by an MSME for a variation or renewal of a fiscal incentive, BELTRAIDE shall examine the MSME to determine whether it continues to satisfy the requirements for the fiscal incentive granted and submit a report on its findings to the Ministry.

PART V

Miscellaneous

Fees.

23.—(1) An approved enterprise shall, on every anniversary date of the issue of a Fiscal Incentive Order in relation to a fiscal incentive granted to the approved enterprise, pay an administration and monitoring fee prescribed in Regulations.

(2) Any additional fees or costs to be incurred, including for verification of certificates of incorporation and registration, shall be borne by the applicant.

24.—(1) An approved enterprise that contravenes or fails to comply with a provision of this Act shall be liable to an administrative penalty, prescribed in Regulations.

Administrative penalties.

(2) Where any fee or penalty payable under this Act, is not paid on or before the day on which the fee or penalty becomes due, the following late fee may apply—

- (a) where the fee or penalty is unpaid for up to one month after the due date, twenty percent of the fee or penalty, subject to a minimum of one hundred and fifty dollars; or
- (b) for each additional period of one month, or any part of an additional period, during which the fee or penalty remains unpaid, ten percent of the fee or penalty, subject to a minimum of eighty dollars.

(3) Any payment of a fee or penalty payable under sub-section 1(a) or (b) are cumulative, but in any case shall not exceed one hundred percent of the fee or penalty payable.

25.—(1) All administrative penalties payable under this Act shall be paid into the Consolidated Revenue Fund or a separate fund approved by the Ministry responsible for finance.

Administrative penalty payable to Consolidated Revenue Fund.

(2) All fees payable under this Act shall be paid to BELTRAIDE.

26.—(1) The Minister may make regulations as necessary for giving effect to the provisions of this Act, including but not limited to—

Regulations.

- (a) prescribing application fees and administrative fees and penalties;
- (b) prescribing requirements for eligibility for the grant of a fiscal incentive;
- (c) prescribing conditions for suspension of a fiscal incentive;
- (d) prescribing conditions for revocation of a fiscal incentive;

(2) Regulations made pursuant to sub-section (1) shall be laid before the National Assembly as soon as may be after the making thereof and be subject to negative resolution.

27. The Minister may from time to time by Order published in the *Gazette*, amend any of the Schedules.

Minister may amend the Schedules.

28.—(1) The Fiscal Incentives Act stands repealed.

Repeal.
CAP. 54.

(2) Notwithstanding sub-section (1), any fiscal incentive granted, or Approved Enterprise Order issued to an approved enterprise under the repealed Fiscal Incentives Act shall be deemed to have been granted under this Act, and every such fiscal incentive or Approved Enterprise Order shall be subject to all rights, privileges, benefits and obligations conferred or imposed by or under that Act.

SCHEDULE I

Approved Activities

[Section 2]

1. Agriculture, Forestry and Related Activities
2. Agro Processing
4. Fishing, Operation of Fish Hatcheries and Farms, or Services or Activities Incidental to Fishing
5. Health Care Services
6. Hotel that is licensed with the Belize Tourism Board, and its Amenities, including any Restaurant or Bar
7. Tourism related services, including, tour guiding or tour operating service
8. Manufacturing
9. Renewable Energy
10. Recycling Plants
11. Taxi or Bus Services
12. Information Technology Enabled Services, including Data Processing
13. Software Engineering and Network Services (IT-enabled Services)
14. Medical Tourism
15. Nautical Tourism
16. Food Processing
17. Aquaculture and Mariculture
18. Air Transportation
19. Orange Economy Activities
20. Education Services
21. Logistic Services

SCHEDULE II

*[Section 2]***MSME negative list activities**

1. A bar that is not an ancillary to a hotel
2. Gaming and Lotteries
3. Retail or Wholesale of Imported Goods or Services
4. Real Estate Agents
5. Professional and Consultancy Services, excluding IT-Enabled Services
6. Financial or Money Lending Services
7. Import, Retail, or Wholesale of Petroleum-Based Products
8. Restaurant that is not an ancillary to a hotel
9. Construction and Masonry Services
10. Rental of Real Estate or Goods not including hotels or auto rental services
11. Production or Sale of any Service or Good or Prohibited by any Law
12. Entertainment Promotion Services, excluding Promotion of Local Artists or Entertainers