

Sri Lanka Legal Provisions

Compiled by:

Embassy of Switzerland, Sri Lanka

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General remarks

Sri Lanka's legal system is derived from the Roman-Dutch Law. The common law of Sri Lanka is the Roman-Dutch Law. English law is prevalent in commercial matters and the penal code is derived from the Indian Penal Code. The legal system also has customary laws embedded in it. The English legal procedure is generally followed in both civil and criminal proceedings.

Customs System

Sri Lanka Customs works with compatible systems that are in operation in any other part of the world. Product identification numbers identical to those used all over the world are in use. It is known as the HS Code (Harmonised System Code).

Valuation for tariff purposes is done on the basis of the World Trade Organisation (WTO) Valuation Agreement. Until December 2002 the method used was Brussels Definition of Value (BDV).

Sri Lanka Customs, apart from being the authority collecting Customs Duties also performs additional controlling functions on behalf of state agencies. Collection of taxes such as the Value Added Tax, Excise Duty, Cess (a local tax contributing to export development) and Royalties are done on behalf of the respective agencies. These are in respect of imports and exports only.

Enforcing the Customs Ordinance it exercises control with restrictions and prohibitions and also Commercial Fraud within the customs system. Trafficking in drugs or other national archaeological/national treasures is also detected at the points of entry/departure.

The Sri Lanka Customs web address is as follows: www.customs.gov.lk

Import duties

Customs Duty: - From the Home page of the website click on "Tariff" to see how Duty and Taxes are calculated by Sri Lanka Customs Department.

Import / export regulations

Standardisation and Quality Control regulations are in force and these are seen in the website of the Sri Lanka Customs. A schedule of items and the applicable regulations are furnished. Certification of compliance is sought from the Sri Lanka Standards Institute.

Import export regulations are compatible with the international norms. Where bilateral or free trade agreements exist with countries, tariff rates will depend on the agreed terms. Sri Lanka customs also introduced a Minimum Retail Prices (MRP) system to be applied of some items.

There may be Tariff and Non-Tariff barriers on certain products like in any other country. This is to prevent dumping by countries that produce low priced products. Local industries engaged in the same industry are protected by imposing higher tariffs and by making the regulations rigid on such imports.

On a product by product basis line Ministries may need to give an authorisation permit. These should be predetermined by the importer from the relevant authorities ahead of time.

Registration Procedure for products

- Such registrations procedure exists for certain products. For instance, where pharmaceuticals are concerned only those registered with the Cosmetic Devices & Drugs Authority of Sri Lanka can be imported.
- Sole Agency agreements-: Agency agreements are operative on the basis of mutual trust between 2 parties. In other countries if there is a sole agent for a product, no one else can import the product. A third party importing has to pay a commission to the sole agent. It is the Customs that controls the imports and ensures that commission is paid. But in Sri Lanka this practice is not operative.
- It is a requirement for every importer and exporter to register with the customs in order that they provide services. The "Automated Customs Cargo Entry System" in Sri Lanka identifies only the allocated tax identification number known as TIN.
Those with no TIN could export or import through a 3rd party which has TIN, at an additional cost by way of fees.

Labelling Regulations

Labelling regulations applied vary according to product sector.

Food that contain genetically modified raw materials should carry labels that state that fact. This regulation came into effect from 01.01.2007.

Sri Lanka Customs, uses English as the key commercial language therefore facts presented in the labels should best be in English.

The Food Act comes under the purview of the Ministry of Health and it covers also labelling. Food labels should carry the common name of the contents in 2 of the following 3 languages English, Sinhalese and Tamil. Permission may be obtained to affix labels to fulfil this need.

The Consumer Affairs Authority has labelling regulations that requires the following as a must: Production and Expiry dates, Batch numbers and the Retail Price.

On 19.01.2005 the Ministry updated regulations for implementation. The "Food Labelling and Advertising regulations 2005" requires conformity to the following requirements in the labels.

- a) Country of Origin
- b) Date of Manufacturing, expiry and batch number.
- c) In the case of bulk supplies re-packed, the date of such re-packing.
- d) Declare nutrient claims only with prior approval
- e) Claims on disease curing properties or cholesterol free, low sugar etc should conform to the parameters prescribed in the Food Act.
- f) Additives and Colouring should be identified with INS numbers (International Numbering System).

For pharmaceuticals the labelling should include English language and the labelling requirements stipulated in the British Pharmacopoeia / United States Pharmacopoeia should be followed along with other international standards. All products should be registered with the Cosmetic Devices & Drugs Authority of Sri Lanka. The authority requires the labels to show particulars such as: Storage temperature, Special preconditions, Production / Expiry and batch number. Manufacturer's name and address. Finished product specifications which should include the generic name etc. The stipulated requirement is that the brand name and the generic name should be in the same sized print. Local manufacturers adhere to this. Brands produced under licence are registered as separate products specifying country of origin. In addition paediatric medical preparations cannot have pictures of children or pictures that attract children.

Environmental Legislation

Environmental protection - The Central Environmental Authority, which was established in 1981 under the provisions of the National Environmental Act No. 47 of 1980, is the premier body responsible for the environmental conservation management in Sri Lanka. Among the main regulatory activities of the CEA are the controls of pollution of air, water and soil and the mitigation of environmental impacts.

Website: www.cea.lk

Taxes

Income Tax Laws of Sri Lanka are regulated by the Inland Revenue Tax Act No. 38 of 2000 and subsequent amendments. Amendments are usually announced during the presentation of the Budget Proposals in Parliament.

Corporate Tax

A Company which is resident in Sri Lanka is liable to income tax on its world-wide income. A non-resident company is liable to tax on profits and income earned and derived from Sri Lanka.

The tax rate applicable to companies of which taxable income exceeds Rs. 5 million is taxed at 35% according to the budget for 2007.

(<http://www.treasury.gov.lk/FPPFM/fpd/pdfdocs/budget2007/BUDGETSPEECH2007.pdf>)

As an incentive for capital market development newly quoted companies will be taxed at 33 1/3 percent for 5 years.

Tax rate on Small and Medium Enterprises if the income rate does not exceed 5 million, it is taxed at 15%-

Different forms of Taxes in force

- Income tax – Payable by individuals, sole proprietors and partnerships
- Corporate tax - Companies are liable to pay tax on profits earned
- Withholding tax – Taxes deducted at source such as Interest and dividends
- Tax on Goods and Services VAT (value added tax)
- Value Added Tax VAT replacing Turnover tax – this is now replaced by VAT
- Economic Service Charge- Based on turnover exceeding Rs. 50 million.
- Tax on International Trade – relates to imports
- Excise tax – Levied on tobacco, liquor, petroleum
- Licence fees – Motor vehicle licence etc
- Capital Gain Tax – Arising from change of ownerships
- Double Tax Relief – Avoidance of double tax where it is agreed

- Social Responsibility Levy
- Stamp Duty
- Port & Airport Development Levy (PAL)
- Cess
- Regional Infrastructure Levy

Tax concessions are availed based on special criteria. Tax rates are determined by the government and announced at the time of presentation of budgets.

In respect of VAT 20% percent is charged for luxury items and 15% for the other items. 5% is charged for selected food items. Raw materials imported by exporters will have 0% VAT.

Sources of Taxable Income:

- Income from employment,
- Profit from trade, business,
- profession or vocation,
- Dividends,
- Interest,
- Rents,
- Royalties,
- Charges and annuities,
- Capital gains.

Commercial Law

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Setting up a Company

Internationally recognised professional institutions exist for providing secretarial services in setting up companies. Services of long established Accounting (& audit) firms that comply with international standards are available to cater to requirements stipulated in the company law.

Company Law

The Companies Act (No. 17 of 1982) contains the rules, procedure, accounting and reporting requirements for companies incorporated or registered in Sri Lanka. The registration of companies, filing of accounts and annual returns are done with the Registrar of Companies. As a distinct legal entity, companies can purchase, hold and sell property, enter into contracts, can sue and be sued. They have perpetual existence and cannot normally be involuntarily terminated except by their creditors (in the event of default) by taking action leading to liquidation.

Joint ventures

A business may enter into a Joint Venture with a company incorporated in Sri Lanka or with an overseas company. A Joint Venture may be incorporated, or operated as an unincorporated business, as in the case of a partnership.

Laws exist with regard to accounting and taxation.

Promotion investment / Tax relief

The Government of Sri Lanka is committed to promoting foreign trade with its policy objective for an export-led growth economy. The 2 major political parties in Sri Lanka are committed to free enterprise and individual freedom.

Foreign Investors are provided with preferential tax rates, exemptions from exchange control and 100% repatriation of profits based on certain criteria. Bilateral investment agreements supported by a constitutional guarantee provide protection for foreign investment in Sri Lanka.

The Board of Investment of Sri Lanka (BOI), set up by an Act of Parliament, is the apex agency of the government to identify, promote and facilitate direct foreign investment in Sri Lanka by providing transparent and efficient service to investors.

- Under section 17 of the Act, the BOI is empowered to grant special concessions to companies, which satisfy eligibility criteria, which are designed to meet strategic economic objectives of the government. The mechanism through which such concessions are granted is the agreement, which modifies, exempts and waives, identified laws in keeping with BOI regulations. These laws include Inland Revenue, Customs, Exchange Control and Import Control.
- Under section 16 of the Act a foreign investment entity is permitted to operate within the 'normal law' of the country. That is, for such enterprises, the provision of the Inland Revenue, Customs and Exchange Control laws shall apply.

Board of Investments of Sri Lanka

The BOI's provides information on investment opportunities in Sri Lanka and incentive packages on offer. Higher incentives are offered to industrial sectors that have been chosen for development by the state.

The incentive schemes offered include:

- Tax Free Import of Capital Goods and Raw material where relevant
- Relaxed regulations for transfer of profits abroad

The Website of the Board of Investment of Sri Lanka (BOI) provides details of the current incentive schemes in a table titled Industry-wise Incentives at a Glance. It is recommended that BOI be contacted by e mail to obtain the current information in addition to consulting their website.

The Board of Investment specifies US\$ 250,000/= as the minimum for a foreign investment company. However selected service companies are permitted to set up business with a sum of 150,000 US \$ minimum investment. Information Technology companies are eligible under this scheme. For further details please refer to the website www.boi.lk.

Procedure for collecting payments / reminders

Letters of Credit (L/C) is the most common payment term used in the country. If it is desired that L/C's be "Confirmed L/C's" then bank charges can be high. It can vary from one bank to another.

Where payment in advance or payment on delivery is concerned there is an upper limit fixed for such transaction. (Please get the latest information before entering into contracts)

Sri Lanka has the infrastructure to facilitate swift transfer of funds. All commercial banks in Sri Lanka have authorisation to deal with transfers to foreign countries.

If desired a Swiss exporter could use the services of agencies providing Swiss Export Risk Guarantee. Access the web site www.swiss-erg.com to get information.

This works like an insurance policy. Uncertain political or economic conditions in the buyer's country may make him unable to pay up. This risk is covered using Export Risk Guarantees.

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