



Tourism Investment Act 2017

Policy Guidelines, Conditions & Procedures

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1. Tourism Investment Relief Chart:

Property Type	A. New Hotel	B. Refurbished Hotel	C. New Restaurant	D. Existing Restaurant	E. Attraction
Qualifying Criteria	Development on a vacant lot or an operating hotel with costs not less than 50% of Appraised Market Value – construction completed within 3 years	Development costs not less than 25% of Appraised Market Value – construction completed within 2 years	Project costs not less than \$1m – built within 12 months	Project costs not less than \$250k construction completed within 12 months	Project costs not less than \$100k construction completed within 3 years
# of Years Relief	Not exceeding 15 (Land Tax year 6 - year 15)	Not exceeding 15	Not exceeding 5	Not exceeding 3	Not exceeding 5
Customs Duty	100%	100%	100%	100%	100%
Payroll Tax	100% Employers share, conditional upon verification from Work-force Development that a management training programme for Bermudians is in operation	100% Employers share, conditional upon verification from Work-force Development that a management training programme for Bermudians is in operation	100% Employers share, conditional upon verification from Work-force Development that a management training programme for Bermudians is in operation	N/A	N/A
Hotel Occupancy Tax	100%	100%			
Land Holding Charges	100%	100%			
Land Tax	100% Commencing six years after the hotel's opening date, ending in year fifteen after the hotel's opening date, subject to 70% of the hotel's staff being Bermudian for the same period	N/A			



2. Policy Aim:

To provide a clear understanding of the types of relief, qualifying criteria, number of years for the scale of relief and the 'opening date' process for a Tourism Investment Order under the Tourism Investment Act 2017.

3. Purpose of legislation:

The purpose of this legislation is to incentivize local and foreign developers of hotels, restaurants and tourism products, including attractions, natural sites, monuments, museums or historical structures, to invest or 'reinvest' significantly in Bermuda's tourism product offerings to ensure our visitor's expectations regarding luxury and quality are met and/or exceeded. Full relief is provided, where applicable, for customs duty; hotel occupancy tax; land tax; payroll tax and the deferral of landholding charges.

4. Legal Authority:

Government of Bermuda - www.bermudalaws.bm

The Minister will review to confirm that the development is in the best interests of Bermuda and may impose terms and conditions. The Minister has the power to amend or revoke a Tourism Investment Order and to make regulations and issue guidance in respect of Tourism Investment Orders.

5. Leading Authorities:

- a) Ministry responsible for Tourism
- b) Business Development Agency Bermuda

The leading authorities are accountable for policy guidelines and transparency. The application for a Tourism Investment Order is not considered a confidential process and may be vetted or consulted with any of the various stakeholders listed below in point #7.

6. PATI Contacts:

Ministry responsible for Tourism – Rhonda Woods-Smith
rwsmith@gov.bm

7. Stakeholders:

- Ministry responsible for Tourism
- Ministry of Finance
- Ministry responsible for Economic Development
- Ministry responsible for Public Works
- Bermuda Tourism Authority (BTA)



- Economic Development Committee of Cabinet (EDC)
- Department of Workforce Development
- Office of the Tax Commissioner
- Department of Customs
- Bermuda Fire & Rescue Service
- Bermuda Police Service
- Department of Health
- Department of Planning
- Department of Immigration
- Bermuda Monetary Authority
- Registrar of Companies

8. Guide to relevant legislation:

- Hotels (Licensing and Control) Act 1969
- Hotels (Licensing and Control) Regulations 1976
- Timeshare (Licensing and Control) Act 1981
- Timeshare (Licensing and Control) Regulations 1976
- Hotels Concession Act 2000
- Bermuda Fire & Rescue Service Act 1982 [pending amendments]
- Public Health Act 1949
- Development & Planning Act 1974
- Bermuda Tourism Authority Act 2013
- Bermuda Monetary Authority Act 1969
- The Companies Act 1981
- Limited Liability Company Act 2016
- Revenue Act 1898
- Bermuda Immigration and Protection Act 1856-
- Bermuda Immigration and Protection [Landing-Holding Charges] Regulations 2007
- Bermuda Immigration and Protection [Tourist Accommodation and Hotel Residences] Regulations 2010
- Restaurant Act 1961
- Revenue Act 1898

9. Interpretations:

“hotel”



- (a) an hotel as defined in the Hotels (Licensing and Control) Act 1969; and
- (b) any other premises which the Minister is satisfied are or will be used for at least six months in any year to accommodate paying guests who are not ordinarily resident in Bermuda,

and includes purpose-built accommodation for at least 20 members of staff of the hotel and associated offices and storage facilities, whether or not on the grounds of the hotel as defined in paragraph (a) or (b);

“new hotel”

- (a) an hotel being developed on a vacant lot; and
- (b) the redevelopment of an operating hotel with estimated development costs of not less than 50% of the appraised market value of such hotel and expended over a period not exceeding three years; or
- (c) the development of a derelict hotel with estimated development costs of not less than 50% of the appraised market value of such hotel and expended over a period not exceeding three years.

“refurbished hotel”

means an operating hotel subject to rehabilitation, refurbishment or extension with estimated development costs of not less than 25% of the appraised market value of such hotel and expended over a period not exceeding two years;

“opening date”

- (a) in relation to a new hotel, the date on which its initial license to operate granted under the Hotels (Licensing and Control) Act 1969 comes into operation; and
- (b) in any other case, the date on which a tourism project, as provided in the developer’s application, is certified in writing by the Minister as complete;

“appraised market value”

means the value of an hotel as appraised by an hotel appraiser who is approved by the Minister in consultation with the Business Development Agency Bermuda.

Note: the land value should be listed separately by the appraiser, per the Qualifying Criteria listed in Schedule 1 of the Tourism Investment Act 2017.

“restaurant”

has the meaning assigned by the Restaurant Act 1961 - any tavern, public house or place trading for profit by provision to the public of food or refreshment with or without entertainment but shall not be deemed to include any such accommodation when provided by a members’ club or by a hotel if the same is used by the hotel primarily for persons resident thereat.



“**attraction**” means a site that residents and overseas visitors visit that has an identifiable operation and management structure and can be characterized as natural, historical, cultural or man-made.

“**tourism product**” means a new hotel, a refurbished hotel, a restaurant or an Attraction.

“**tourism project**” means the development or redevelopment of a tourism product.

10. Conditions:

The following ‘Conditions’ and ‘Compliance Standards’ apply:

1. **Developers** must own the Tourism Product and the land that the Tourism Product is situated on [freehold or leasehold].
2. **Tourism Products** must meet full regulatory and compliance standards within their respective governing legislation, including where applicable, Health, Fire, Planning and Hotel Licensing. Failing which, a portion of relief may be forfeited and/or the Tourism Investment Order may be revoked by the Minister responsible for Tourism. There should be no financial or operational issues that cause a Tourism Product not to meet with full regulatory requirements during the lifetime of the Order.
3. **Employer’s share of payroll tax relief for a new hotel, refurbished hotel and/or a new restaurant** is conditional upon the Developer submitting annual verification letter(s) from the Director of Workforce Development, addressed to the Minister responsible for Tourism, confirming that a satisfactory management training programme for Bermudians took place during the reporting period. Tourism Products who do not meet this condition during the lifetime of the Order may forfeit the payroll tax relief and/or the Order may be revoked by the Minister responsible for Tourism.
4. **A new hotel and/or a refurbished hotel must take nightly transient guests for at least six-months of the year** and preferably in peak season. This includes a ‘Hotel Residence’, a ‘Condo Hotel’, or a ‘Condominium’ unit with-in a hotel complex or tourist accommodation in order to qualify for a Tourism Investment Order. This measure is to secure tourism zoned land for the future of Bermuda and ensure



relief is applied only to a tourism product. Hotels who do not meet this condition may forfeit their Tourism Investment Relief and/or the Order may be revoked by the Minister responsible for Tourism.

5. **New hotels qualify for full exemption from land tax** commencing in year six after the Opening Date and ending in year fifteen and is subject to the hotel verifying in writing to the Minister that 70% of the hotel's staff are Bermudian, in each year of the reporting period between years six and fifteen.

11. Application Guidelines:

Tourism investment relief is based on qualifying criteria and the scale of relief [see Schedule 1 and 2 of the Tourism Investment Act 2017] and the developer may apply to the Minister responsible for Tourism for a Tourism Investment Order.

- 1) Applications should be addressed to the Minister responsible for Tourism.
- 2) Include the type of tourism product 'Tourism Investment Relief' applying for under the Tourism Investment Act 2017:
 - A. New Hotel
 - B. Refurbished Hotel
 - C. New Restaurant
 - D. Existing Restaurant
 - E. Attraction
- 3) History of the Tourism Product [development].
- 4) Biography of the developer/owner.
- 5) Objectives of the development.
- 6) Verification that the developer owns the land (freehold or leasehold, if leasehold – how many years), and confirmation of the zoning of land.
- 7) Provide in detail the timing of each project phase by date and the estimated date the project will be fully completed.
- 8) Total value of the financial investment to be committed.
- 9) The projected development costs which have a direct impact on the amount of Customs Duty Relief that is being sought under a Tourism Investment Order, to



include the category, cost, shipping and estimated costs of duty under the Revenue Act 1898, recommended template on pg. 8:

Example: <i>Projected Development Costs directly impacting amount of Customs Duty Relief</i>			
Category	Cost	Shipping	Customs Duty
Building Materials			
Furnishings			
Fixtures			
Equipment			
Operational Supplies			
Totals			
Estimated Value of Duty Relief			

If a hotel, please do not include any full-ownership or residential component of the development, unless, all units/keys are put back into hotel inventory for at least six months, every year.

- 10) Map showing the location of the development.
- 11) Plans and drawings of the project.
- 12) 'Special Development Order' or 'Environmental Impact Study' if applicable.
- 13) Projected financial statements for five years if a hotel; three years if a restaurant and one year if a tourism product. Please include Hotel Occupancy Tax if a hotel and Payroll Tax (breakdown to reflect the employer's share) where applicable. To include clearly, if applicable:

Annual Expenditure
Employers share of Payroll Tax \$
Hotel Occupancy Tax \$
Land Tax \$



- 14) List the Estimated savings of Land Holding charges for a Tourist Accommodation or Hotel Residence, if applicable.
- 15) Provide a five-year estimate of the number of employees – to reflect the number of Bermudian employees and the number of non-Bermudian employees. How many Bermudians/non-Bermudians are employed now [if a going concern] or how many Bermudians/non-Bermudians will be employed during the redevelopment (construction phase) and then the post development phase.
- 16) Types of training programmes to be offered to Bermudian employees and the number and types of positions that have been identified for succession planning. These training programmes will be evaluated by and commented on by Workforce Development.
- 17) Attachments required if applicable:
 - i. Certificate of Incorporation [company must be a limited liability company]
 - ii. 114B License, if applicable
 - iii. 129A License' if applicable
 - iv. Letter of confirmation that full-financing is in place to carry out the committed scope of work of the development as described in this application.

12. Timelines – For the Making of a Tourism Investment Order:

STEP 1 – Application

- 1) Application by way of a formal letter with attachments is sent to the Minister responsible for Tourism.
- 2) Application is vetted and recommendations are made to the Minister responsible for Tourism.
- 3) Minister responsible for Tourism shares the application and the recommendation(s) with the Economic Development Committee and any stakeholder feedback if applicable.
- 4) Approval in principle is conveyed to the applicant [or non-approval]

STEP 2 - Cabinet Approval for a Tourism Investment Order

- 1) The Minister responsible for Tourism seeks Cabinet's approval for the recommended relief and for the authorization to issue drafting instructions to the Attorney-General's Chambers to create a Tourism Investment Order

STEP 3 - Tourism Investment Order passes through the legislature by the Affirmative



Resolution Procedure

- 1) A draft Order is created and shared with the applicant
- 2) The draft Order is submitted to the Legislative Committee for approval
- 3) The draft Order is sent back to Cabinet for final approval of the Order
- 4) The draft Order is laid, debated and approved in the House of Assembly and The Senate
- 5) The Order is signed by the Governor and is published in the Gazette

Note (a): The Minister responsible for Tourism reserves the right to request any supporting documentation relevant to this application.

Note (b): The Minister responsible for Tourism reserves the right to request a second "Appraisal" on the value of the hotel development if the minister is not satisfied with the appraisal submitted with the application. Any costs associated with the second appraisal are to the Developers account.

Note (c): Above timelines do not include any periods of time when Parliament is not in session.

13. Tourism Investment Relief Process – Upon Order becoming law:

Step 1

The Ministry responsible for Tourism is the regulatory authority that oversees the Tourism Investment Act 2017. Once a Tourism Investment Order becomes law, Customs Duty Relief is accessible immediately. The Developer should apply to the Department of Customs for a CAPS ID Number online at <https://www.gov.bm/online-services/apply-caps-id-number>

Step 2

Once the Developer completes the construction of the Tourism Project as committed in the application process, a letter of confirmation, signed by the Developer, is to be sent to the Minister of Tourism to confirm the total investment made and include where applicable, the acquisition costs, redevelopment/development costs, construction labour, materials, furnishings, fixtures, fittings and operational supplies. The Minister reserves the right to request any supporting documentation if not satisfied.

- A. New Hotel - 50% of the appraised market value was invested.
- B. Refurbished Hotel - 25% of the appraised market value was invested.
- C. New Restaurant - minimum of \$1m was invested and project completed in 12 months from the Order becoming law.
- D. Existing Restaurant - minimum of \$250k was invested and project



completed in 12 months from the Order becoming law.

- E. Attraction - minimum of \$100k was invested and project completed in 3 years from the Order becoming law.

For **‘Existing Restaurants’** and **‘Attractions’** you are to invite the Compliance Officers of the Ministry of Tourism to inspect the Tourism Project once completed, to verify the project is complete and confirm the value of investment that was made and that it meets with the criteria set-out in the Order. No further steps are required thereafter.

Step 3 –Hotels and New Restaurants

The Developer invites the Compliance Officers of the Ministry of Tourism to perform an inspection, to verify that the development is complete, and that proof of investment matches the accounting detail provided in the application and meets the criteria set-out in the Order. Upon satisfaction, a recommendation will be made to the Minister to issue the Opening Date Certificate.

Step 4

The Opening Date is agreed between the Ministry and the Developer to start and coincide with Government’s Tax cycle. A letter will be written by the Ministry of Tourism to the Developer to confirm the Opening Date and provide a certificate. A copy will be sent to the Office of the Tax Commissioner. Employer’s share of Payroll Tax and Hotel Occupancy Tax relief, where applicable, will commence as per the conditions of the Tourism Investment Order.

Step 5

For new hotels, land tax relief will commence in year six and run through to year fifteen providing the conditions set-out in the Tourism Investment Order are met.