

Tourism Investment Act

AN OVERVIEW



BUSINESS DEVELOPMENT AGENCY
BERMUDA

PURPOSE OF LEGISLATION:

The purpose of this legislation is to incentivise 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. This is intended to ensure our visitors' 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.

LEGISLATED POLICY:

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.

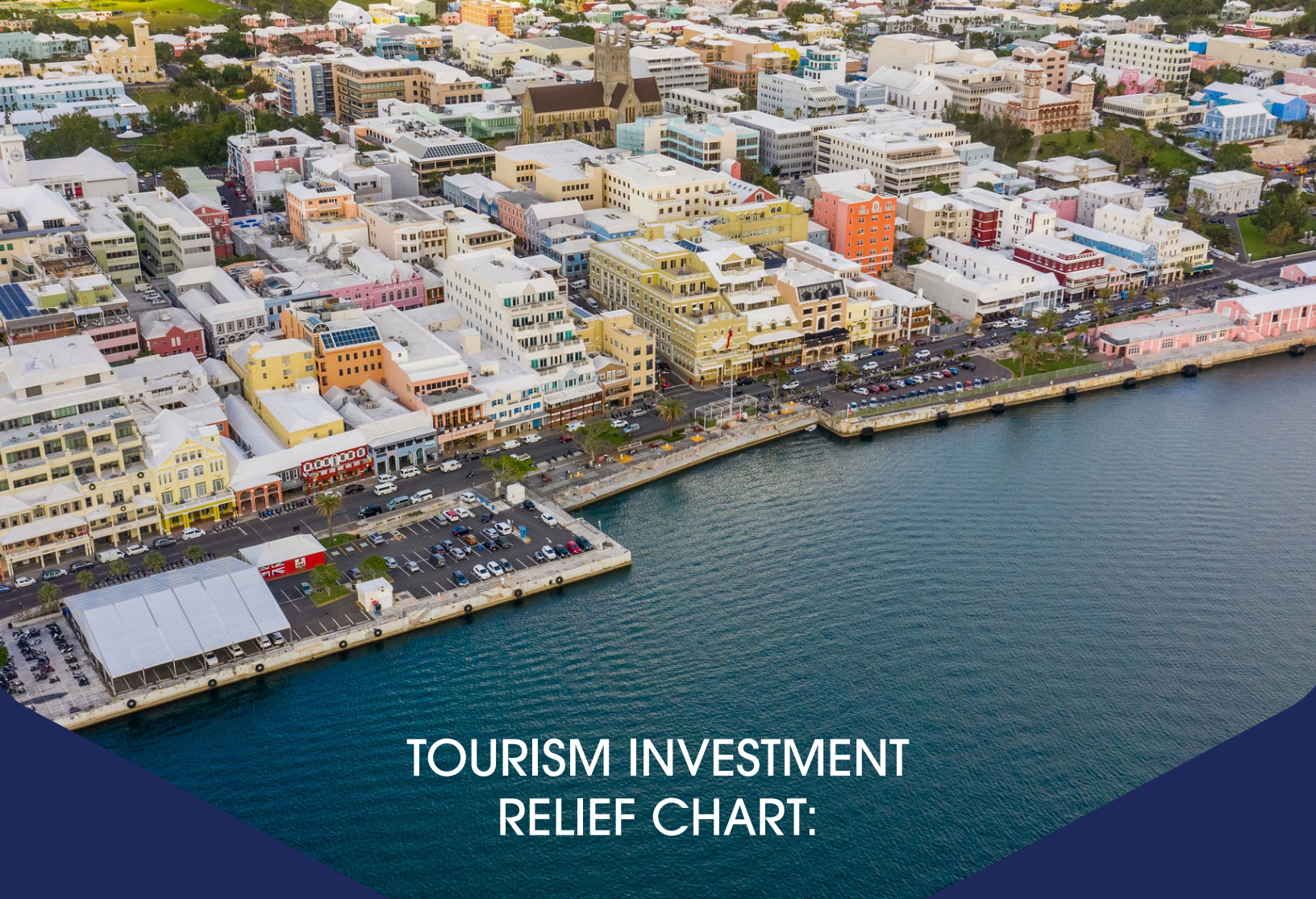
LEGAL AUTHORITY:

Government of Bermuda – www.bermudalaws.bm

The Minister of Tourism will review applications for Tourism Investment Orders 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.





TOURISM INVESTMENT RELIEF CHART:

	NEW HOTEL	REFURBISHED HOTEL
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
Number of Years Relief	Not exceeding 10 (Land Tax year 6 - year 10)	Not exceeding 5
Customs Duty	100%	100%
Hotel Occupancy Tax	100%	100%
Land Tax	100% Commencing six years after the hotel's opening date, subject to 70% of the hotel's staff being Bermudian	N/A
Land Holding Charges	100%	100%
Payroll Tax	100% Full exemption from an employer's share of payroll tax, conditional upon verification that a management training programme for Bermudians is in operation.	100% Full exemption from an employer's share of payroll tax, conditional upon verification that a management training programme for Bermudians is in operation.

TIA Guide to Relevant Legislation Links:

[Hotels \(Licensing and Control\) Act 1969](#)

[Hotels \(Licensing and Control\) Regulations 1976](#)

[Hotels Concession Act 2000](#)

Latest version with 2017 amendments

[Fire Safety Act 2014](#)

[Public Health Act 1949](#)

Note that there have been various amendments to the act

[Development & Planning Act 1974](#)

[Bermuda Tourism Authority Act 2013](#)

Latest version with 2020 amendments

[Bermuda Monetary Authority Act 1969](#)

[The Companies Act 1981](#)

Note that there have been various amendments to the act

[Limited Liability Company Act 2016](#)

Latest version with 2020 amendments

[Revenue Act 1898](#)

[Bermuda Immigration And Protection Act 1956](#)

[Bermuda Immigration And Protection \[Landing- holding charges\] Regulations 2007](#)

Latest version with 2019 amendments

[Bermuda Immigration And Protection \[Tourist Accommodation and Hotel Residences\] Regulations 2010](#)

[Restaurant Act 1961](#)

[Building Act 1988](#)

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;

“condo”

(a) “hotel/condo (residential)” allows all year residential use of a dwelling unit within a tourism development where the owner has access to the main hotel/tourism facilities.

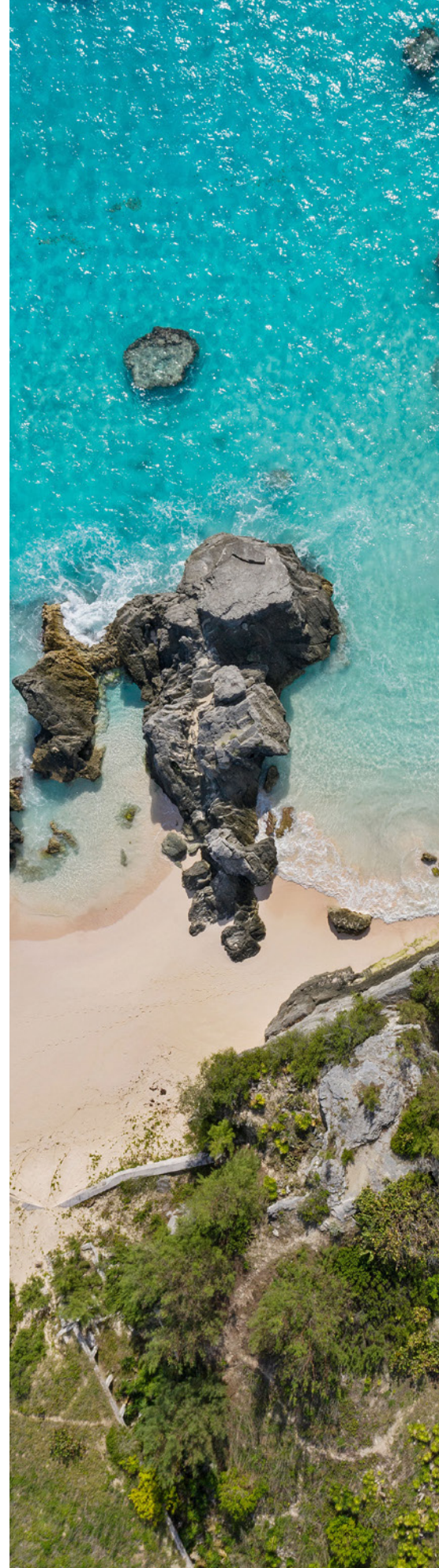
(b) “hotel/condo (tourism)” hotel room or condo “key” within a hotel inventory. (no individual unit assessment number #, no car)

(c) “hotel/condo (fractional)” condo within a tourism development with multiple ownership periods through the year where the owners have access to the main hotel/tourism facilities. (No individual unit assessment number #, no car)

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, the requirements of the Health, Fire, Planning and Hotel Licensing agencies. 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. Being relieved of the employer's share of payroll tax 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 which 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. Relief from Hotel Occupancy Tax is conditional upon the Developer submitting monthly reports as per the Office of the Tax Commissioner's requirements; if not, a penalty will be applied.
5. In order to qualify for a Tourism Investment Order, 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/Condo (Residential)', a Hotel/Condo (Fractional) or a 'Hotel/Condo' (Tourism) unit with-in a hotel complex or tourist accommodation. This measure is to secure tourism zoned land for the future of Bermuda and ensure relief is applied only to a tourism product. Hotels which do not meet this condition may forfeit their Tourism Investment Relief and/or the Order may be revoked by the Minister responsible for Tourism. This will be verified by the General Manager of the hotel upon submission of the concession application letter and will be required to submit the monthly room rate per hotel/condo for the concession year.
6. New hotels qualify for full exemption from land tax commencing in year six after the Opening Date and ending in year ten. This tax relief is subject to the hotel verifying in writing to the Minister that 70% of the hotel's staff is Bermudian, in each year of the reporting period between years six and ten.
 - Department of Immigration to confirm the status of the 70% Bermudian staff; providing names, passport numbers and date of birth. This can be confirmed by using the following link on the Government website: <https://www.doiapps.gov.bm/statuscheck/>
 - Confirmation is provided to OTC simultaneously
 - Confirm the proposed reporting requirement with the Office of the Tax Commissioner





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 and copied to the Business Development Manager for Infrastructure at the Bermuda Business Development Agency.
2. Application is vetted by the Bermuda Business Development Agency and Government technical officers. Recommendations are made to the Minister responsible for tourism.
3. Minister responsible for tourism shares the application and the recommendation(s) with the Cabinet Committee for Economic Development, including any stakeholder feedback if applicable.
4. Decision is conveyed to the applicant.

Timeline: 1 to 4 weeks – depending on the scope and value of the project

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 authorisation to issue drafting instructions to the Attorney-General’s Chambers to create a Tourism Investment Order

Timeline: 1 to 4 weeks

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 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 Minister and is published in the Gazette

Timeline: 4 to 8 weeks

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 Developer’s account.

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

TOURISM INVESTMENT RELIEF PROCESS

Upon Order Becoming Law:

STEP 1

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

The Developer should also apply by email to Customs Commercial Operations for a unique customs procedure code (CPC) to be assigned to their Tourism Investment Order at customs@gov.bm. The Developer should provide their new CPC and CAPS ID Number to their customs clearing agent. In order to claim duty relief under a Tourism Investment Order, the declarant should specify the CPC and CAPS ID Number in the Bermuda Customs Declaration (BCD) in accordance with published BCD completion instructions at <https://www.gov.bm/bermuda-customs-declaration-bcd>.

STEP 2

The Developer should send a signed letter of confirmation to the Minister of Tourism once the construction of the Tourism Project is complete as committed in the application process. The Developer should confirm in the letter 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 additional supporting documentation. The purpose is to confirm the following:

- (a) New Hotel – minimum of 50% of the appraised market value was invested.
- (b) Refurbished Hotel – minimum of 25% of the appraised market value was invested.

STEP 3

The Developer should invite the Compliance Officer 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 the 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 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 ten providing the conditions set-out in the Tourism Investment Order and the Office of the Tax Commissioner guidelines are met. Should they not be met, penalties for non-compliance will be issued.



APPLICATION GUIDELINES:

The Tourism Investment Relief is based on qualifying criteria. For detailed guidance on applying for a Tourism Investment Order and to learn more about the qualifying criteria, [click here](#).

FOR MORE INFORMATION, PLEASE CONTACT:

Bermuda Business Development Agency (BDA)

info@bda.bm | 1-877-697-6228



BUSINESS DEVELOPMENT AGENCY
BERMUDA

Maxwell Roberts Building, Sixth Floor, 1 Church Street, Hamilton HM 11, Bermuda

www.bda.bm

FOLLOW US



@investbermuda