

## EEZ Customs Duty Deferment Guidelines

### Introduction

The EEZ Customs Duty Deferment is relevant to business and property owners in an Economic Empowerment Zone (“EEZ”).

This document is a practical guide for the owners of property or businesses in an EEZ seeking to obtain a deferral on the payment of customs duty, as provided by the Economic Development Act 1968 (“the Act”), and in no way supersedes the relevant statutory provisions.

This document describes who is eligible, what goods qualify for the deferral of duty payment, and sets out the application and approval process.

### **What is the relevant law?**

In general, the laws pertaining to the importation and exportation of goods are the Revenue Act 1898 and the Customs Tariff Act 1970. Additionally, the Minister of Finance may direct that the payment of customs duty be deferred under the provisions of section 4 of the Act.

You may also gain access to the above legislation and other Bermuda laws by visiting the Bermuda Laws Online website at: [www.bermudalaws.bm](http://www.bermudalaws.bm).

### Economic Empowerment Zones (“EEZ”) and Approved Schemes

#### **What is an EEZ?**

An EEZ is an area of land that the Minister of Finance has designated to benefit from economic empowerment under section 2A of the Act. Economic empowerment is achieved by allowing duty concessions on certain goods to be used in the development of properties situated within the EEZ.

An approved scheme is then made by the Minister of Finance to enable the duty concessions allowed under the Act to apply within the EEZ.

There are currently 3 Economic Empowerment Zones in Bermuda as follows:

- 1) The North East Hamilton EEZ - established by the Economic Development (Designation of Economic Empowerment Zone) (North East Hamilton) Order 2007 on June 18<sup>th</sup>, 2007.
- 2) The Somerset EEZ - established by the Economic Development (Designation of Economic Empowerment Zone) (Somerset) Order 2011 on March 29<sup>th</sup>, 2011.
- 3) The St. George's EEZ - established by the Economic Development (Designation of Economic Empowerment Zone) (St. George's) Order 2011 on March 29<sup>th</sup>, 2011.

### **What qualifies as an approved scheme?**

Under the provisions of section 2 of the Act, an approved scheme is defined as a "scheme" for the economic development of any part of Bermuda either approved in principle by both Houses of the Legislature or in the case of an Economic Empowerment Zone, in writing by the Minister.

### **Customs Duty Deferment**

#### **What is a deferment?**

A deferment, or deferral, of customs duty means that the payment of the duty is made at some point in the future and not at the time of importation. This is not an exemption of customs duty – the full duty is still charged and payable against the imported goods; but the full payment is simply delayed.

The duty deferment offered under the Act applies to customs import duty only. It does not apply to any other charges or fees that may be levied on imported goods, e.g. wharfage fees. Any other charges or fees must be paid at the appropriate time.

#### **Who can apply?**

The customs duty deferment is only available to the owners of property or businesses located within an EEZ. Further, the business is to be registered with the Bermuda Economic Development Corporation ("BEDC"), under section 4(1)(c) of the Bermuda Economic Development Corporation Act 1980.

For the purpose of this initiative, an owner is defined as a freeholder or a leaseholder who holds a lease for at least five years.

#### **What can the customs duty deferment be applied to?**

The customs duty deferment can be applied to all imported goods, materials, merchandise and construction and other equipment used in the construction or development of a project that meets the intent of the approved scheme. Imported items for use in implementing a capital improvement projects or capitalized items should have a warranty.

The deferment will NOT apply to—

- goods considered inventory for resale;
- goods for reuse on another project or property outside of the EEZ; or,
- normal operating supplies (e.g. replacement light bulbs, cleaning supplies, office supplies, stationery etc.).

## **Approval Process**

### **How do I apply and get approved?**

There is a formal process that the BEDC has put in place to authorize those persons seeking to benefit from the concessions available within the EEZ, as follows:

- If you are a property/business owner and are considering applying for a customs duty deferment, you are encouraged to contact the BEDC at the earliest opportunity to discuss the eligibility of your application and the requirements for approval.
- If your development project will require permission from the Department of Planning and issuance of a building permit, such permissions should be obtained prior to applying for the duty deferral.
- You will need to complete in its entirety the “Bermuda Economic Development Corporation (BEDC) Economic Empowerment Zone (EEZ) Customs Duty Deferment Application Form”. You will be required to enclose details of your proposal, a description of the scope of work, the types and quantities of items to be imported, and how the imported items are linked to the project.
- Should the details of your application be found acceptable, meets the intent and purpose of the approved scheme, and provided that all the necessary permissions have been obtained, the BEDC will draw up a “Customs Duty Deferment Approval Letter” (“the Approval Letter”). This letter will identify those items that are eligible for duty deferment under section 4(4) of the Act and set out the conditions of repayment of duty deferred.
- You will be asked to sign an undertaking agreeing to pay all of the deferred duty in accordance with the terms and conditions of the direction given by the BEDC in relation to the approved scheme. The BEDC can now issue to you your Approval Letter.
- You may now make contact with Customs concerning the deferment of your duty payment for your eligible goods. The Approval Letter must accompany any documentation being submitted to Customs in regard to your duty deferment, e.g. import declaration / claim for reimbursement.

### **What if there is a delay in receiving an approval letter?**

If for some reason the production of the declaration or approval letter will take an inordinate amount of time, then a decision would be made on a case-by-case basis as to whether or not to allow a Deposit entry to be placed. However, should a Deposit be authorized it would still entail a declaration to be submitted.

### **What are the conditions of the duty deferment?**

The BEDC and Customs have taken a standardized approach to the conditions and administration of the duty deferments under the approved scheme for the EEZ, as follows:

- Approved property and business owners will be given a five-year deferral for each defined project.

- The total customs duty pertaining to all of the goods imported for each defined project must be paid in full within 5 years from the date of the first importation of goods for the specified project.
- Property and business owners will have the option of paying in installments. An installment plan will be agreed with the BEDC and included in the Approval Letter to be given to Customs.
- In the event of the bankruptcy or death of the deferrer; the property or business being placed into probate; the abandonment of the property or goods; or, the refusal to re-pay the deferred amount, the Collector of Customs will move to recover any outstanding duty and, if necessary, institute debt collection proceedings or sue for the debt.
- The duty deferral will only be given to items that are being imported directly by or on behalf of the owner and not to items purchased locally.
- Should a question arise as to your eligibility for duty deferment under the Act, you must be prepared to disclose the following information to Customs and the BEDC:
  - full particulars of the capital project and the purpose of the imported items;
  - a map showing the existing or proposed location of the business or property with confirmation of ownership;
  - project plans and drawings if required relating to the business or property; and,
  - such other information regarding the project that may be required.

### **Claiming Duty Deferment**

#### **How do I claim my duty deferment?**

Duty deferment may be claimed at the time of importation of the eligible goods.

You may claim duty deferment by completing a Bermuda Customs Declaration (“BCD”) and specifying Customs Procedure Code (“CPC”) 4535 in box 16 of the BCD (refer to Public Notice No.17 - Guidelines for the Completion of the Bermuda Customs Declaration (BCD)).

Upon importation you must lodge with Customs an entry package in respect of the goods, i.e. your completed BCD, your Approval Letter, shipping documents, invoices and any other documents required by the Collector of Customs.

#### **Can I claim duty deferment if I bring items back with me from travelling when returning to the Island?**

Yes. There are 2 options that you take advantage of as follows:

1. You should obtain your approval letter prior to departing Bermuda. Upon return to the Island, the imported goods will be bonded, and you will simply submit your declaration with all pertinent



documents. Once the declaration is processed you can return to Customs to collect your goods. Depending on the time of day this can usually be accomplished immediately after arrival at the LF Wade International Airport Longroom; or

2. Upon arrival into the Island if you have not obtained your approval letter, the goods will be bonded, and you will then need to go through the application approval process with BEDC. Once the approval letter is issued you submit your declaration with all pertinent documents. Once the declaration is processed you can return to Customs to collect your goods.

### **Can I claim duty deferment if I already paid duty?**

Yes.

This Customs Duty Deferment policy came into effect on June 1<sup>st</sup>, 2008. If you imported items and paid duty after June 1<sup>st</sup>, 2008 for the NEHEEZ (and after March 29<sup>th</sup>, 2011 for the SEEZ and SGEEZ), you can apply for a reimbursement to Customs providing the following conditions are met:

- You follow the above application process and are issued an Approval Letter by the BEDC;
- The amount being reimbursed must be re-paid to Customs within 5 years of the date of the items first imported for your project, i.e. it would be as if the deferment had been put in place at the time of the first importation. The deferment period does not commence from the date the reimbursement is approved;
- You must provide Customs with an application in writing seeking a reimbursement and provide supporting documentary proof of when the goods in question were imported and proof of duty payment; and
- The payment being requested to be reimbursed must have been paid to Customs within 6 months of the application being made. e.g. if duty was paid on June 1<sup>st</sup>, 2008 the application for reimbursement must be made no later than December 1<sup>st</sup>, 2008. Any application for reimbursement of duties paid outside this 6-month window will not be honoured.
- The Minister of Finance reserves the right to make further determinations.

### **Do I need to keep all my paperwork?**

Yes.

You are required to retain all documents related to a custom duty deferral for a period of not less than six years or until the duty deferral is fully acquitted and you must keep them in Bermuda. The documents may be audited by Customs and must be readily available when requested for review by a Customs Officer.

