

Ref. IT/05/2021

## **Circular to Clients**

### **Finance Act, No. 18 Of 2021**

Finance Act, No. 18 of 2021 as certified by the Speaker on 15<sup>th</sup> September 2021.

Significant topics are as below;

01. Imposing tax on voluntary disclosure
02. Provisions to write off tax arrears

### **PART I - IMPOSING TAX ON VOLUNTARY DISCLOSURE**

In terms of the provisions of the Finance Act, No. 18 of 2021, any person may make a declaration to the Commissioner General of Inland Revenue in respect of his undisclosed taxable supply, income or asset which was required to be disclosed under the provisions of the Value Added Tax Act No. 14 of 2002 (VAT Act), or any of the Inland Revenue Acts (the Act No. 24 of 2017, Act No. 10 of 2006, Act No. 38 of 2000 or Act No, 28 of 1979) for any period or year of assessment ended on or prior to March 31, 2020.

#### **01.01 Persons to Whom this Part Applies**

This provision applies to any person who has not disclosed any amount of taxable supply, income or asset which was required to be disclosed in a Value Added Tax Return for any taxable period ended on or prior to March 31, 2020 or in a return of income for any year of assessment ended on or prior to March 31, 2020 under the provisions of following Acts;

- Inland Revenue Act, No. 28 of 1979
- Inland Revenue Act, No. 38 of 2000
- Inland Revenue Act, No. 10 of 2006
- Inland Revenue Act, No. 24 of 2017
- Value Added Tax Act, No. 14 of 2002

However, the provisions of this Part shall not apply to;

- (a) any person in relation to whom investigations or legal proceedings under the provisions of following laws are pending, in relation to any undisclosed taxable supply, income or asset;

- Prevention of Money Laundering Act, No. 5 of 2006
- Convention on the Suppression of Terrorist Financing Act, No. 25 of 2005
- Bribery Act (Chapter 26)
- Conventions Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances Act, No. 1 of 2008

(b) any person who has been convicted of an offence under the provisions of laws specified in above (a) in relation to any undisclosed taxable supply, income or asset;

(c) any amount of undisclosed taxable supply, income or asset held by any person, in respect of which an assessment under the provisions of following laws has been made;

- Inland Revenue Act, No. 28 of 1979
- Inland Revenue Act, No. 38 of 2000
- Inland Revenue Act, No. 10 of 2006
- Inland Revenue Act, No. 24 of 2017
- Value Added Tax Act, No. 14 of 2002
- Betting and Gaming Levy Act, No. 40 of 1988
- Finance Act, No. 11 of 2002
- Stamp Duty Act, No. 43 of 1982
- Stamp Duty (Special Provisions) Act, No. 12 of 2006

Provided however, the provisions of paragraph (c) shall not apply to any amount of undisclosed taxable supply, income or asset which has not been taken into account in making an assessment referred to in above Acts.

#### **01.02 Undisclosed Taxable Supplies, Income or Assets to be Invested or Deposited**

A person to whom this Part applies, shall invest or deposit an amount equivalent to the undisclosed taxable supply, income or asset, subject to the following provisions.

If a person intends to invest an amount equivalent to the undisclosed taxable supply, income or asset, he shall –

- (a) where he is able to immediately invest such amount to purchase the following on or after September 15, 2021 but prior to March 31, 2022;
  - (i) shares issued by a resident company;
  - (ii) treasury bills or treasury bonds issued by the Central Bank on behalf of the Government of Sri Lanka;
  - (iii) any quoted debt securities issued by a resident company in Sri Lanka; or
  - (iv) any movable or immovable property in Sri Lanka,;or

- (b) where he is unable to immediately invest such amount available in cash whether in Sri Lankan rupees or in foreign currency, he shall deposit such amount in a bank account, on or after September 15, 2021 but prior to March 31, 2022.

Further, this part also applies if the person has utilized an amount equivalent to the undisclosed taxable supply, income or asset to purchase items under (a) and (b) above, prior to September 15, 2021.

### **01.03 Tax on Voluntary Disclosure**

A person to whom this Act applies shall be liable to pay a tax to be called as the “Tax on Voluntary Disclosure” to the Commissioner-General prior to making the declaration.

- any undisclosed taxable supply, income or asset other than immovable or movable properties : Tax on Voluntary Disclosure at the rate of one per centum (1%) of such amount or income, or on the cost of such asset invested or deposited.
- any immovable or movable property : Tax on Voluntary Disclosure at the rate of one per centum (1%) on the market value of such property on the date of the declaration.

Any amount of the Tax on Voluntary Disclosure paid by a person to whom this Part applies shall not be deemed to be a tax credit or an expenditure within the meaning of the Inland Revenue Act, No. 24 of 2017 and shall not be refundable.

### **01.04 Disclosure of Undisclosed Taxable Supply, Income or Asset**

Any person to whom this Part applies and has paid the Tax on Voluntary Disclosure on or prior to March 31, 2022, shall submit to the Commissioner-General a declaration in relation to any undisclosed taxable supply, income or asset in the relevant form specified under this Act.

Where the declaration is in accordance with this Act, the Commissioner-General shall accept the declaration in writing and inform of such acceptance to the declarant within thirty days of the date of receipt of the declaration.

If the declaration is not in accordance with the provisions of this Act, the Commissioner-General shall reject the declaration and inform the declarant in writing the reasons for his rejection within thirty days of the date of receipt of such declaration.

If the Commissioner-General fails to inform the declarant acceptance or rejection within thirty days the declaration shall be deemed to have been accepted.

Any declarant whose declaration is rejected, shall be entitled to submit a fresh declaration remedying any defects specified in the Commissioner-General's decision within thirty days of the receipt of the Commissioner General's decision.

#### **01.05 Immunity Granted to Declarants**

Any person whose declaration has been accepted or is deemed to have been accepted by the CGIR shall be entitled to enjoy the full immunity from liability to pay any tax, penalty or interest or from any investigation or prosecution;

- in relation to any year of assessment ended on or prior to March 31, 2020 and in relation to the income or asset disclosed in the declaration under the provisions of Inland Revenue Acts;
- in relation to any period ending on or prior to March 31, 2020 and in relation to the amount of taxable supplies disclosed in the declaration under the provisions of the VAT Act. However, if the declarant has collected VAT on the undisclosed taxable supplies or part thereof, immunity is not granted in relation such undisclosed taxable supply.

In any case where the CGIR finds that the declarant has provided false or incorrect information in the declaration made, the immunity granted as above shall be withdrawn, even though the declaration has been acknowledged or is deemed to have been acknowledged by the CGIR. The provision of the relevant laws shall be applicable in such cases.

Immunity shall not be granted for any year of assessment or period commencing on or after April 1st 2020.

#### **01.06 Payment of Tax**

A declarant, who already has a Taxpayer Identification Number (TIN) issued by the Inland Revenue Department (IRD), can use the same TIN for payment of Tax on Voluntary Disclosure. A declarant who has not previously obtained a TIN shall obtain a TIN from the IRD to make the payment of Tax on Voluntary Disclosure.

Declarants are advised to pay the Tax on Voluntary Disclosure in the following manner;

- The declarant can use the formal tax paying-in-slip of the IRD to pay the tax.
- For the payment of tax, the payment slip shall be filled as follows:-
  - Tax type code - 28
  - Payment period code - 22000
  - Payment category - S
  - Payment voucher code - not required to fill

- Fill other details of the paying in slip
- Pay the tax to the Bank of Ceylon Branch located at IRD Head Office or to any other branch available island wide.
- When paying the Tax for amounts to be declared in a currency other than Sri Lankan Rupees, the Tax shall be paid at the rate of one per centum of the equivalent amount in Sri Lankan Rupees calculated according to the exchange rate on the date of the payment of Tax.

### **01.07 Filing of Declaration**

The Declaration shall be made in the relevant specified form which could be downloaded from the IRD web portal via: Downloads/Forms and Returns/Tax on Voluntary Disclosure (TVD).

Declarants are required to attach following documents to the duly filled Declaration form.

- Photo copy of the paying-in slip
- Certified copy of the National Identity Card/Passport

Duly filled Declaration with attachments shall be addressed to the Commissioner General and forwarded to the Commissioner, Tax Policy and Legislation Unit, 14th Floor, Inland Revenue Department, Sir Chittampalam A Gardiner Mawatha, Colombo02 as reachable on or before March 31, 2022, by registered post or delivery by hand in a sealed envelope.

## **PART II - WRITTEN OFF TAX ARREARS**

### **02.01 Person to Whom this Part Applies**

The provisions of this Part shall apply to any person who is liable to pay any tax arrears and penalties imposed under the provisions of specified laws for any year of assessment commencing prior to April 1, 2020 or for any period commencing prior to December 31, 2020.

### **02.02 Tax Arrears to be Written Off in Respect of Certain Taxes**

The Commissioner-General shall write off, any tax arrears under the following laws in respect of any period ending on or prior to December 31, 2020 in relation to a taxpayer.

- Wealth Tax and Gifts Tax imposed under Inland Revenue Act, No. 28 of 1979
- Turnover Tax Act, No. 69 of 1981
- Surcharge on Wealth Tax Act, No. 25 of 1982
- Surcharge on Wealth Tax Act, No. 8 of 1989
- Surcharge on Income Tax Act, No. 26 of 1982
- Surcharge on Income Tax Act, No. 12 of 1984

- Surcharge on Income Tax Act, No. 7 of 1989
- National Security Levy Act, No. 52 of 1991
- Save the Nation Contribution Act, No. 5 of 1996
- Goods and Services Tax Act, No. 34 of 1996
- Surcharge on Income Tax Act, No. 6 of 2001
- Debits Tax Act, No. 16 of 2002
- Social Responsibility Levy imposed under Finance Act, No. 5 of 2005
- Economic Service Charge Act, No. 13 of 2006
- Nation Building Tax Act, No. 9 of 2009
- Economic Service Charge imposed under Finance Act, No. 11 of 2004
- Optional Value Added Tax imposed under section 25H of the Value Added Tax Act, No.14 of 2002
- VAT Advance Payment deducted under section 26A of the Value Added Tax Act, No.14 of 2002

### **02.03 Tax Arrears to be Written Off in Respect of Certain Individuals**

The Commissioner-General shall write off, any tax arrears payable as at December 31, 2020, by any individual whose assessable income, calculated in terms of the provisions of the Inland Revenue Act, No. 24 of 2017, for the year of assessment ending on March 31, 2020, does not exceed rupees three million.

However, the provisions of this section shall not apply to any such individual, under the following circumstances: -

- (a) where the assessable income of the relevant individual exceeds rupees three million without deducting any loss including an unrelieved loss, in terms of the provisions of the Inland Revenue Act, No. 24 of 2017.
- (b) where the assessable income of the relevant individual exceeds rupees three million in aggregate with the income from final withholding payments, gains and profits exempted from income tax in terms of the provisions of the Inland Revenue Act, No. 24 of 2017.
- (c) where the annual gross turnover for the year of assessment ending on March 31, 2020, of a business or partnership of which the relevant individual is a partner, is not less than Rupees five hundred million;
- (d) where the assessable income of the relevant individual includes an income earned from conducting a business of betting and gaming or any business of liquor excluding such income which is merely incidental to another business.

#### **02.04 Penalty on Tax in Default to be Written Off**

The Commissioner-General shall write off any penalty or interest, calculated in terms of the provisions of following laws in relation to a taxpayer, in respect of which the payment due date was December 31, 2020 or a date prior to that date, if the taxpayer pays the full amount of the tax outstanding, under the provisions of said laws, on or prior to March 31, 2022.

- Inland Revenue Act, No. 28 of 1979
- Inland Revenue Act, No. 38 of 2000
- Inland Revenue Act, No. 10 of 2006
- Inland Revenue Act, No. 24 of 2017
- Value Added Tax Act, No. 14 of 2002
- Betting and Gaming Levy Act, No. 40 of 1988
- Finance Act, No. 11 of 2002
- Stamp Duty Act, No. 43 of 1982
- Stamp Duty (Special Provisions) Act, No. 12 of 200

#### **02.05 Tax Arrears in Dispute Not to be Written Off**

Where there is any dispute in relation to any tax arrears, in respect of which a decision is pending before or has been made by the Tax Appeals Commission or any court of law, before the commencement of this Act, under the provisions of the following laws, on an assessment made in relation to a taxpayer, shall not be written off.

- Inland Revenue Act, No. 28 of 1979
- Inland Revenue Act, No. 38 of 2000
- Inland Revenue Act, No. 10 of 2006
- Inland Revenue Act, No. 24 of 2017
- Value Added Tax Act, No. 14 of 2002
- Wealth Tax and Gifts Tax imposed under Inland Revenue Act, No. 28 of 1979
- Turnover Tax Act, No. 69 of 1981
- Surcharge on Wealth Tax Act, No. 25 of 1982
- Surcharge on Wealth Tax Act, No. 8 of 1989
- Surcharge on Income Tax Act, No. 26 of 1982
- Surcharge on Income Tax Act, No. 12 of 1984
- Surcharge on Income Tax Act, No. 7 of 1989
- National Security Levy Act, No. 52 of 1991
- Save the Nation Contribution Act, No. 5 of 1996
- Goods and Services Tax Act, No. 34 of 1996
- Surcharge on Income Tax Act, No. 6 of 2001
- Debits Tax Act, No. 16 of 2002
- Social Responsibility Levy imposed under Finance Act, No. 5 of 2005

- Economic Service Charge Act, No. 13 of 2006
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- Optional Value Added Tax imposed under section 25H of the Value Added Tax Act, No.14 of 2002
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#### **02.06 Tax Refunds to be Set Off Against the Tax Arrears Written Off**

Any tax refund pending payment on the date of commencement of this Act duly claimed by a taxpayer, under the provisions of laws specified, for any period ending prior to December 31, 2020 shall be set off against any tax arrears written off.

If you require any further clarifications on the matters discussed therein, please do not hesitate to Contact,

Mr. Devinda Mendis (Senior Partner) : +9411 2512514 / +94776108307

Ms. Iroma Rajika (Partner – Tax) : +9411 2512514 / +94713435276

Ms. Tharushi Salgado (Director - Tax) : +9411 2512514 / +94718730600

Ms. Nuwanthika Ekanayaka (Director – Tax) : +9411 2512514 / +94717120920

Ms. Shahida Nazeel (Manager – Tax) : +9411 2512514 / [+94772227262](tel:+94772227262)

*Sgd.*

**Jayasinghe & Co.**

**Chartered Accountants**

Colombo

07<sup>th</sup> October 2021