

CIRCULAR TO CLIENTS

The Bill to amend the Inland Revenue Act No.24 of 2017 was issued on 16th March 2023. The Bill would become law upon the certification of the Hon.Speaker.

According to the Bill, the significant changes to income tax are as follows,

01. New provision for single transaction**Section 10**

Where a person pays to another person, a sum of money amounting in the aggregate to Rs. 500,000 or more, on or after April 1, 2023, in a day, or in respect of a single transaction, or in respect of a series of single transactions relating to one event otherwise than by way of an account payee cheque or account payee bank draft or by the use of a credit card, debit card or electronic payment system through a bank account,

- (i) Any deduction shall not be allowed in respect of such payments in calculating the first-mentioned person's income; and
- (ii) The amounts paid shall not be considered as cost of an asset of the first mentioned person.

The above provisions shall not apply to,

- (i) Any payment by the Government of Sri Lanka or any Government institution;
- (ii) Any payment by a bank or financial institution;
- (iii) Such classes of persons or payments as may be prescribed by the Minister.

For the purpose of this subsection, "single transaction" means the purchase or procurement of any goods or services, on a single invoice, receipt or statement."

02 Cost of an Asset**Section 37**

This section is amended to include expenditure incurred by the person in altering, improving, maintaining or repairing the asset prior to April 1, 2021 and in improving the asset on or after April 1, 2021.

03. Source of Payment

Section 73

This section is amended to include the following;

Payments received in respect of employment to the extent derived from a company resident and conducting the business in Sri Lanka shall have a source in Sri Lanka.

04. Advance Income Tax

Section 84A

For the purpose of Section 84A (1A) A person including the government of Sri Lanka in the case of a payment made to a non-resident person other than a payment derived through a Sri Lankan permanent establishment.

Section 84A (1A) reads as follows;

A person shall deduct Advance Income Tax from the payment of dividend, interest, discount, charge, natural resource payment, rent, royalty or premium which has a source in Sri Lanka, at the rate provided in paragraph 10 of the First Schedule to this Act.

05. Withholding from service fees, contract payments and payments to non-residents

Section 85

For the purpose of Section 85 A person including the government of Sri Lanka in the case of a payment made to a non-resident person other than a payment derived through a Sri Lankan permanent establishment.

Section 85 reads as follows;

A person shall withhold tax at the rate of 14% of the payment, where such person pays a service fee or an insurance premium with a source in Sri Lanka to a non- resident person.

A person shall withhold tax at the rate of 5% of the payment, where such person pays a service fee with a source in Sri Lanka to a resident individual who is not an employee of the payer –

- (a) for teaching, lecturing, examining, invigilating or supervising an examination;
- (b) as a commission or brokerage to a resident insurance, sales or canvassing agent; or
- (c) for services provided by such individual in the capacity of independent service provider such as doctor, engineer, accountant, lawyer, software developer, researcher, academic or any individual service provider as may be prescribed by regulation:

Provided however, this subsection shall not apply to a service payment which does not exceed Rs.100,000 per month.

06. Statements and payments of tax withheld or treated as withheld

Section 86

The Commissioner-General may specify the procedure of withholding the tax from any payment made to a non-resident person under this Division. Every withholding agent and financial institution shall comply with such procedure.

07. Application of electronic tax filing system

Section 113

The Commissioner-General may authorize filling of any document under the IRD Act to be done either in writing or electronically through the use of a computer system or mobile electronic device.

Subject to the following with effect from the year of assessment commencing from April 1, 2023, a person shall file such person's tax returns electronically through the use of a computer system or mobile electronic device.

The Commissioner-General may authorize a person to file a tax return in writing, for a year of assessment, where the Commissioner-General considers that such authorization is just and equitable in the circumstances of the case.

08. Notice to obtain information

Section 123

Following persons or institutions shall provide information on a regular basis in an electronic format to be prescribed by CGIR.

(a) The Registrar-General of the Registrar-General' Department

(b) The Registrar-General of Companies

(c) The Commissioner-General of Motor Traffic

(d) An officer of any other Government institution in charge of granting contracts for the supply of goods, works, or consulting and non-consulting services

(e) A financial institution

(f) A stock exchange

(g) Any other person or a Government institution as may be prescribed by regulations

09. Amended or additional assessments

Section 135

Where the Assistant Commissioner has served a notice of an amended assessment on a tax payer, the Assistant Commissioner may further amend the original assessment to which the amended assessment relates, within-

- (a) Thirty months of:
 - (i) for a self-assessment, the date that the self-assessment taxpayer filed the self-assessment return to which the self-assessment relates; or
 - (ii) for any other assessment, the date on which the Assistant Commissioner served notice of the assessment on the taxpayer
- (b) a period of one year after the Assistant Commissioner served the notice of the amended assessment on the tax payer,

whichever occurs later.

10. Administrative Review

Section 139

In the case of a request for review made on or after the date of commencement of this (Amendment) Act, The Commissioner-General shall notify his decision and the reason for the decision within a period of two years from the date on which such request for review is received by the Commissioner General.

Where such decision is not notified within such period, the request for review shall be deemed to have been allowed, unless an appeal has been preferred to the Tax Appeals Commission.

11. Refundable amounts

Section 150

At the request of the tax payer 60% of the refundable amount could be set off against the subsequent income tax payable, prior to a tax audit on the refund claim.

Further mandatory obligation imposed on the CGIR to refund the amount within 03 months of the date of the refund claim made by such resident individual, prior to a tax audit if the refund value is less than Rs. 100,000/-.

The manner and the procedure relating to the payment of the refund amount to be specified by the CGIR.

12. Failure to maintain documents or provide facilities

Section 182

A financial institution that fails to comply with the procedure specified by the Commissioner General in terms of section 86 (7), shall be liable for a penalty of an amount not exceeding fifty thousand rupees. (please refer point 6 above)

13. Dividends

First Schedule

Where a person's taxable income includes gains and profits from dividends for the second six months of the year of assessment commencing on April 1, 2022, such gains and profits shall be taxed at the rate of 15%.

Third Schedule

On or after October 1, 2022, a dividend paid by a resident company to a member to the extent that such dividend payment is attributable to, or derived from, another dividend received by that resident company or another resident company such dividend is exempt from income tax.

Third Schedule

On or after October 1, 2022, a dividend paid by a resident company to a member who is a non-resident person where such dividend is paid prior to January 1, 2023 would be exempt from income tax.

14. Exemption for projects funded from foreign grants

Third Schedule

The amounts derived by a non-resident person from engaging in a project of the Government of Sri Lanka, if such project is approved by the Minister taking into consideration the economic benefits to the country, and is totally funded from foreign grants such amounts are considered as exempted with effect from 01st April 2023.

15. Restriction introduced for claiming exemptions

Item w (ii) of Third Schedule

Any business commenced on or after April 1, 2021, but prior to April 1, 2023, by an individual after successful completion of vocational education from any Vocational Education Institution which is standardized under Technical and Vocational Education and Training concept (TVET concept) and regulated by the Tertiary and Vocational Education Commission, for a period of five years.

Item w (v) of Third Schedule

An undertaking commenced on or after January 1, 2021, but prior to April 1, 2023, by any resident person who constructs and installs communication towers and related

appliances using local labour and local raw materials in Sri Lanka or provides required technical services for such construction or installation, for a period of five years.

Item w (vi) of Third Schedule

An undertaking for letting bonded warehouses or warehouses related to the offshore business in the Colombo and Hambanthota Ports, if such person has invested on such undertaking on or after April 1, 2021, but prior to April 1, 2023, for a period of two years of assessment.

16. Exemptions under Colombo Port City Economic Commission Act, No. 11 of 2021 Third Schedule

The gains and profits received or derived by an authorized person carrying on a Business of Strategic Importance as approved under the provisions of the Colombo Port City Economic Commission Act, No. 11 of 2021 and the employment income of an employee employed in terms of section 35 of that Act, up to the extent provided for in that Act for each year of assessment would be exempt from income tax with effect from 27.05.2021.

17. Relief from penalty or interest

Where a company has not paid the tax in accordance with the provisions of item (a) of subparagraph (4) of paragraph 4 of the First Schedule to the principal enactment as amended by the Inland Revenue (Amendment) Act, No.45 of 2022, for the period commencing on October 1, 2022 and ending on the date of the commencement of the said Inland Revenue (Amendment) Act, No. 45 of 2022, but pays the amount of tax payable by such company, on or before the thirtieth day of the succeeding month of the date of commencement of this Act, such company shall not be liable to any penalty or interest in terms of the provisions of the principal enactment.

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

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