

# *Choices. Priorities. Opportunities.*

Tax Updates 2018



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# ***Tax updates 2018***

Inland Revenue Act, No. 24 of 2017 – An Outline of Key Provisions .....	1
Withholding Taxes (WHT) .....	45
Economic Service Charge (ESC) .....	53
Value Added Tax (VAT).....	67
Nation Building Tax (NBT) .....	131
Ports and Airports Development Levy (PAL).....	149
Crop Insurance Levy .....	153
Stamp Duty .....	155



***Inland Revenue Act, No 24 of 2017******An Outline of Key Provisions***

<b><i>Contents</i></b>	<b><i>Page</i></b>
<b>1     <i>Chargeability to income tax</i> .....</b>	<b>5</b>
<b>2     <i>Income Tax Base</i> .....</b>	<b>5</b>
2.1     Taxable Income .....	5
2.2     Assessable Income .....	6
2.3     Employment Income .....	6
2.4     Business Income .....	7
2.5     Investment Income .....	8
2.6     Other Income .....	9
<b>3     <i>Source of Income</i> .....</b>	<b>9</b>
<b>4     <i>Residence</i> .....</b>	<b>10</b>
4.1     Individual .....	10
4.2     Partnership .....	11
4.3     Trust .....	11
4.4     Company .....	11
<b>5     <i>Ascertainment of Profits and Income</i> .....</b>	<b>11</b>
5.1     Deduction of expenses - General rule .....	11
5.2     Disallowable expenses – General.....	11
5.3     Allowable/Disallowable expenses – Specific.....	12
<b>6     <i>Depreciation Allowances</i> .....</b>	<b>18</b>
6.1     Standard Depreciation Allowances .....	18
6.2     Enhanced Depreciation Allowances .....	19
6.3     Temporary Concessions .....	19

6.4	Finance Lease .....	20
<b>7</b>	<b><i>Qualifying Payments and Reliefs.....</i></b>	<b>21</b>
7.1	Qualifying Payments .....	21
7.2	Qualifying Reliefs.....	22
<b>8</b>	<b><i>Exempt Amounts – Non Taxable Income .....</i></b>	<b>22</b>
<b>9</b>	<b><i>Taxation of Company.....</i></b>	<b>24</b>
9.1	Definition .....	24
9.2	General Rules .....	25
9.3	Corporate Tax Rate .....	25
<b>10</b>	<b><i>Taxation of Individual .....</i></b>	<b>27</b>
10.1	Computation of the Taxable Income – Resident Individual .....	27
10.2	Computation of the Taxable Income – Non Resident Individual .....	28
10.3	Tax Rates for Individuals .....	28
<b>11</b>	<b><i>Taxation of Partnership .....</i></b>	<b>29</b>
11.1	Definition .....	29
11.2	General Rules .....	29
11.3	Withholding Tax .....	30
<b>12</b>	<b><i>Taxation of Capital Gains.....</i></b>	<b>30</b>
12.1	Computation of Capital Gains /Capital losses.....	30
12.2	Determinants in Computing Capital Gains .....	31
12.3	Realisation of an Asset –realised amount –Specific Cases .....	32
12.4	Exemptions .....	33
<b>13</b>	<b><i>Tax Rates – Other Entities.....</i></b>	<b>36</b>
<b>14</b>	<b><i>Method of Accounting .....</i></b>	<b>37</b>

<b>15</b>	<b><i>Tax Payment Procedures</i></b> .....	<b>37</b>
15.1	Tax Payable by Withholding .....	37
15.2	Tax Payable by Instalment .....	38
15.3	Tax Payable on Assessment .....	39
15.4	Estimated Tax Payable .....	39
15.5	Penalty for Late Payment /Under Payments .....	40
<b>16</b>	<b><i>Tax Returns</i></b> .....	<b>40</b>
16.1	General Rule .....	40
16.2	Penalty for Late Filing .....	40
<b>17</b>	<b><i>Tax Payer Registration</i></b> .....	<b>40</b>
17.1	Registration .....	40
17.2	Taxpayer Identification Number (TIN) .....	40
<b>18</b>	<b><i>Assessments</i></b> .....	<b>41</b>
18.1	Self Assessments .....	41
18.2	Default Assessments .....	41
18.3	Advanced Assessments .....	41
18.4	Amended or Additional Assessments .....	42
18.5	Time Bar Assessments .....	42
18.6	Assessments to Counter Tax Avoidance Scheme .....	42
18.7	Finality of Assessment .....	43
<b>19</b>	<b><i>Review and Appeal Process</i></b> .....	<b>43</b>
19.1	Administrative Review .....	43
19.2	Appeal to the Tax Appeals Commission (TAC) .....	44
19.3	Appeal to the court of Appeal .....	44



## ***Inland Revenue Act, No. 24 of 2017***

### ***An Outline of Key Provisions***

An outline of the key provisions of the Inland Revenue Act, No 24 of 2017, which took effect for any year of assessment commencing on or after 1 April 2018, is given below.

#### **1. Chargeability to Income Tax**

Income tax will be payable for each year of assessment by -

- a) a person who has taxable income for that year, or
- b) a person who receives a final withholding payment during that year.

#### **Section 2**

The income tax payable by a person shall be calculated by,

- under (1.a) above,
- applying the relevant rates as given in the First Schedule to the Act to that person's taxable income; and
- deducting (a) any foreign tax credit, and (b) other tax credit granted or allowed under the Act; and
- under (1.b) above, applying the relevant rates set out in the First Schedule to the Act to each final withholding payment.

#### **Section 2**

- “*person*” means an individual or entity and includes a body of persons corporate or unincorporate, an executor, non-governmental organisation (NGO) and a charitable institution.

#### **Section 195**

- “*Year of assessment*” means the period of 12 months commencing on 1 April of any year and ending on 31 March of the succeeding year.

#### **Section 20**

#### **2. Income Tax Base**

##### **2.1 Taxable income**

- The taxable income of a person shall be equal to the total of the person's assessable income for the year from each employment, business, investment and other sources.
- The taxable income of each person and from each source shall be determined separately.
- In arriving at a taxable income, the aggregate qualifying payments and reliefs shall be deducted.

#### **Section 3**



## 2.2 Assessable income

The assessable income shall be equal to the income from employment, business, investment or other sources,

- in the case of a resident person, wherever the source arises, and
- in the case of a non-resident person, to the extent that the income arises in, or derived from, a source in Sri Lanka.

## Section 4

## 2.3 Employment income

- *Definition of employment*

Employment is defined to mean the position of-

- (i) an individual in the employment of another person ;
- (ii) manager of an entity ;
- (iii) an individual entitled to a fixed remuneration for services rendered;
- (iv) an individual holding public office;
- (v) an individual who receives any payment or any other benefit as an employee or in a similar capacity;
- (vi) director of a company or corporation;

Employment includes past, present or future employment.

## Section 193

- *Employment income*

An individual's income from an employment **includes** -

- a) payments of salary, wages, leave pay, overtime pay, fees, pensions, commissions, gratuities, bonuses and other similar payments;
- b) payments of personal allowance, including any cost of living, subsistence, rent, entertainment or travel allowance;
- c) payments providing discharge or reimbursement of expenses incurred by the individual or an associate of the individual;
- d) payments for the individual's agreement to conditions of employment;
- e) payments for redundancy or loss or termination of employment;
- f) retirement contributions made to a retirement fund on behalf of the employee and retirement payments received in respect of the employment;
- g) payments or transfers to another person for the benefit of the individual or an associate person of the individual;
- h) the fair market value of benefits received or derived by virtue of the employment by an individual or an associate person of the individual;
- i) other payments, including gifts received in respect of the employment; and
- j) the market value of shares at the time allotted under an employee share scheme including shares allotted as a result of the exercise of an option or right to acquire the shares, reduced by the employee's contribution for the shares; and

**excludes**

- a) exempt amounts and final withholding payments;

- b) a discharge or reimbursement of expenses incurred by the individual on behalf of the employer;
- c) a discharge or reimbursement of the person's dental, medical or health insurance expenses where the benefit is available to all full-time employees on equal terms;
- d) payments made to or benefits accruing to employees on a non-discriminatory basis that, by reason of their size, type and frequency, are unreasonable or administratively impracticable for the employer to account for or to allocate to the individual;
- e) the value of a right or option to acquire shares at the time granted to an employee under an employee share scheme (referred to in (j)) above; and
- f) subject to conditions as may be specified by the Commissioner-General, contributions made by an employer to an employee's account with a pension, provident or savings fund or savings society approved by the Commissioner General.

## Section 5

Note:

(Following exemptions in the previous Act have been removed:

- i. One vehicle provided by the employer for private use or an in-lieu cash allowance up to maximum LKR 50,000 per month.
- ii. Benefit accruing from concessionary interest rate loans given by the employer.)

- *Associated Persons:*

Two persons are associates or associated persons where the relationship between the two is-

- (a) that of an individual and a relative (child, spouse, uncle, niece or first cousin, including by way of marriage or adoption of the individual);
- (b) that of partners in the same partnership;
- (c) that of an entity and a person controlling the entity or benefiting from 50% or more of the voting power of the entity.

## Section 196

### 2.4 Business Income

- *"Business" is to defined to-*

a) include-

- (i) a trade, profession, vocation or isolated arrangement with a business character however short the duration of the arrangement; and
- (ii) a past, present or prospective business; but

b) excludes an employment.

- Business income of a person for a year of assessment shall be the person's gains and profits from conducting a business for the year.

- *Business income specifically includes -*
  - a) service fees;  
“Service fee” means a payment to the extent to which, based on market values, it is reasonably attributable to services rendered by a business of a person, but excludes interest, rent or a royalty;
  - b) consideration received in respect of trading stock;
  - c) gains from the realization of capital assets and liabilities of the business (capital gains);  
“Capital Asset” is defined as (i) land or buildings; (ii) a membership interest in a company, partnership or trust; (iii) a security or other financial asset; (iv) an option, right or other interest in an asset referred to in the foregoing paragraphs, but excludes trading stock or a depreciable asset;
  - d) amounts derived on the realisation of the person’s depreciable assets of the business;
  - e) amounts derived as consideration for accepting a restriction on the capacity to conduct the business;
  - f) gifts received by the person in respect of the business;
  - g) amounts derived that are effectively connected with the business and that would otherwise be included in calculating the person’s income from an investment; and
  - h) other amounts required to be included under the Act.

## Section 6

### 2.5 Investment income

A person’s income from an investment for a year of assessment shall be the person’s gains and profits from that investment for the year.

Included under the investment income are:-

- dividends, interest, discounts, charges, annuities, natural resource payments, rents, premiums and royalties.  
“Royalty” means a payment, including a payment of a premium or like amount, derived as consideration for –
  - a) the use of, or right to use, a copyright of literary, artistic or scientific work, including cinematograph films, software or video or audio recordings, whether the work is in electronic format or otherwise;
  - b) the use of, or right to use, a patent, trade mark, design or model, plan, or secret formula or process;
  - c) the use of, or right to use, any industrial, commercial or scientific equipment;
  - d) the use of, or right to use, information concerning industrial, commercial or scientific experience;
  - e) the rendering of or the undertaking to render assistance ancillary to a matter referred to in paragraph (a), (b), (c) or (d); or
  - f) a total or partial forbearance with respect to a matter referred to in paragraph (a), (b), (c), (d) or (e);
- gains from realisation of investment assets (capital gains);

- consideration received for accepting a restriction on the capacity to conduct the investment;
- gifts received by the person in respect of the investment;
- winnings from lotteries, betting or gambling; and
- other amounts required to be included under the Act.

**Section 7****2.6 Other income**

Income from other sources constitutes a person's gains and profits from any source whatsoever for the year of assessment, not including profits of a casual and non-recurring nature.

**Section 8****3. Sources of Income**

The following payments shall have a source in Sri Lanka;

- a) payments in respect of employment
  - derived in respect of employment in Sri Lanka, wherever paid, or
  - if paid by, or on behalf of, the Government of Sri Lanka, wherever the employment;
- b) dividends paid by a resident company;
- c) interest, charges, annuities, a royalty, technical service fee or similar payment if
  - paid by a resident person (other than as a business expense of a resident person of a business concluded through a permanent establishment (PE) outside Sri Lanka), or
  - paid by a non-resident person as an expense of the business conducted by such person through a PE in Sri Lanka.

(*“Technical service fee”* means a service fee for managerial, technical, or consultancy services, including a fee for the provision of services of technical or other personnel.)
- d) winnings from lottery, betting or gambling held in Sri Lanka;
- e) natural resource payments made in respect of natural resources taken from land or sea within Sri Lanka territorial waters;
- f) rent paid for use of, or right to, use or forbearance from using an asset situated in Sri Lanka;
- g) premiums for general insurance paid to, and proceeds from general insurance paid by, a person in respect of the insurance of any risk in Sri Lanka;
- h) payments made by a person conducting transport business in respect of
  - land, sea or air transport (as operator or charterer) carrying passengers, cargo, mail or other moveable tangible assets, and
  - rental of containers and related equipment which are supplementary or incidental to such carriage;

- i) payments received by a person conducting the business of transmitting messages by cable, radio, optical fibre or satellite or electronic communication in respect of transmission of messages by apparatus established in Sri Lanka, whether or not such messages originate in Sri Lanka;
- j) Payments, including services fees attributable to service rendered –
  - in Sri Lanka, irrespective of the place of payment; or
  - where paid by the Government of Sri Lanka, irrespective of the place of exercise or rendering;
- k) proceeds of life insurance and retirement, termination and pension payments if –
  - paid by a resident person (other than as an expense of a business carried on by the resident person through a P.E outside Sri Lanka),
  - paid by a non-resident person as an expense of a business carried on by a non-resident person through a P.E in Sri Lanka,
  - paid by, or on behalf of, the Sri Lanka Government;
- l) gifts and other ex-gratia payments to the extent received in respect of business or investment conducted with domestic assets;
- m) payments –
  - made in respect of the acquisition of a domestic asset, incurring of a domestic liability or realisation of such an asset or liability;
  - received in respect of activity conducted in Sri Lanka
    - except, in relation to a resident person, as attributable to a foreign P.E, and
    - in relation to a non-resident person as attributable to a P.E in Sri Lanka or any other activity (including sales in Sri Lanka of goods and merchandise) of the same or similar kind as that conducted by the non-resident person through a P.E in Sri Lanka, or
  - made to any foreign entertainer or artiste for activity relating to Sri Lanka.

**Section 73**

**4. Residence**

**4.1 Individual**

An individual shall be deemed a resident in Sri Lanka for a year of assessment if he –

- a) resides in Sri Lanka,
- b) is present in Sri Lanka for a period/periods aggregating to 183 days or more in any 12 month period,
- c) is an employee or official of the Sri Lanka Government, and his spouse is posted abroad during that year,
- d) is employed on a Sri Lanka ship, within the meaning of the Merchant Shipping Act.

#### 4.2 Partnership

A partnership shall be deemed resident in Sri Lanka if -

- a) it was formed in Sri Lanka, or
- b) the management or control of its affairs are exercised in Sri Lanka.

#### 4.3 Trust

A trust shall be deemed resident in Sri Lanka if-

- a) it was settled or established in Sri Lanka,
- b) at any time during the year, the trustee of the trust is resident in Sri Lanka, or
- c) at any time during the year, a person resident in Sri Lanka directs the senior managerial decisions of the trust.

#### 4.4 Company

A company shall be deemed resident in Sri Lanka if -

- a) it is incorporated or formed under the laws of Sri Lanka,
- b) it is registered or its principal office is in Sri Lanka, or
- c) the management and control of its affairs are exercised in Sri Lanka.

### Section 69

## 5. Ascertainment of Profits and Income

### 5.1 Deduction of expenses - General rule

In calculating a person's income from **business or investment** for a year of assessments, expenses to the extent

- they are incurred during the year by the person and
  - in the production of income from the business or investment
- shall be deducted

### Section 11

Note:

No deduction of expenses shall be made in calculating a person's income from employment

### Section 10

### 5.2 Disallowable expenses - General

No deduction shall be made in calculating a person's income in respect of the following;

- domestic expenses;
- tax payable under the Act;
- interest, penalties and fines for breach of any written law;
- expenditure incurred in deriving exempt income or final with holding payment;

- retirement contributions, other than those included in an employee's income or contribution by the employer to an **approved** pension , provident, or saving fund or a saving society;
- dividends of a company
- entertainment expenses;
- amounts transferred to a reserve or provision for expenditures or losses not yet incurred but expected to be incurred in a future year of assessment;
- amounts incurred on lotteries, betting or gambling (other than those incurred in the business of conducting lotteries, betting or gambling);or
- taxes and levies specified by Commissioner General.

Note:

- Where a deduction is allowed for a payment on which tax is required to be withheld, no deduction will be allowed until the tax withheld is duly paid to the Commissioner General
- Where more than one deduction applies, the most specific deduction shall be applied.

#### **Section 10**

### **5.3 Allowable/Disallowable expenses - Specific**

#### *Capital expense*

- Expense of a capital nature (ie, an expense that provides a benefit lasting more than 12 months) will be disallowed.

#### **Section 11**

#### *Interest expense*

Interest incurred during a year of assessment under a debt obligation of a person shall be deemed to be incurred in the production of income to the extent that,

- a) where money was borrowed, the money is,
  - used during the year, or
  - used to acquire an asset that is used during the year in the production of income; and
- b) in any other case, the debt obligation was incurred in the production of income.

#### **Section 12**

#### *Allowance for trading stock*

- An allowance shall be deducted in respect of trading stock of a business in a year of assessment, calculated as follows –

Opening value of trading stock,

**Plus**

Cost of trading stock during the year,

**Less**

Closing value of trading stock,

- The closing value of trading stock of a business for a year of assessment shall be the **lower** of
  - cost at the end of the year; or
  - market value at the end of the year.

#### **Section 13**

*Repairs and improvements*

- Expenses for repairs or improvements of
  - depreciable assets, and
  - incurred in the production of income of a business or investment of a person for any year of assessment
 shall be deducted, irrespective of whether of a capital nature or not,
  - subject to the following limitations with respect of a depreciable asset of a person-
    - (i) in case of repair to buildings structures, and similar works of a permanent nature – not exceeding 5% of the written down value (W.D.V) of the asset as at the end of the previous year;
    - (ii) in case all other assets-20% of the W.D.V of the asset at the end of the previous year;
 in the order in which the expenses are incurred.

Any excess amount resulting from the aforesaid limitation shall be added to the depreciation basis of the asset at the end of the year, and deprecation allowance can be claimed on the aggregate sum. (See paragraph 5 of Fourth Schedule).

**Section 14****Example 1**

Company A is in the business of printing and purchased a printing machine on 15 July 2018 for Rs 10,000,000

It incurred a repair cost of Rs 3,000,000 on November 2020 and claimed depreciation as follows

<b>Year of Assessment</b>	<b>Depreciation base Rs.</b>	<b>No.of years</b>	<b>Depreciation claimable Rs</b>	<b>written down value at the end of the year Rs.</b>
2018/2019	10,000,000	5	2,000,000	8,000,000
2019/2020	8,000,000	4	2,000,000	6,000,000
2020/2021	6,000,000	3	2,000,000	4,000,000
repair cost	3,000,000			
allowable	6,000,000 x 20%			
=	1,200,000			
excess not claimable	= 1,800,000			
2021/2022	= 4,000,000 + 1,800,000			
=	5,800,000	2	2,900,000	2,900,000
2022/2023	= 2,900,000	1	2,900,000	-



**Example 2**

Company B runs a hotel at Negombo. The cost incurred on the hotel building is Rs. 800,000,000. The Company has claimed depreciation allowance in respect of hotel building for each of the past 5 years of assessment. Due to continuous usage, repairs are required to be carried out on the building during the 6<sup>th</sup> year (current year). The cost of repair is Rs. 100,000,000.

	<b>Rs.</b>
Cost of the hotel building	= 800,000,000
1 <sup>st</sup> year depreciation allowance at 5%	= 40,000,000
2 <sup>nd</sup> year depreciation allowance at 5%	= 40,000,000
3 <sup>rd</sup> year depreciation allowance at 5%	= 40,000,000
4 <sup>th</sup> year depreciation allowance at 5%	= 40,000,000
5 <sup>th</sup> year depreciation allowance at 5%	= <u>40,000,000</u>
Written down value after 5 <sup>th</sup> year	= 600,000,000
6 <sup>th</sup> year repair cost	= 100,000,000
Restricted to 600,000,000 x 5%	= <u>30,000,000</u>
Excess not deductible	= 70,000,000
6 <sup>th</sup> year depreciation	= 40,000,000
Depreciable base at the end of 6 <sup>th</sup> year	= 560,000,000
Depreciable base at the beginning of 7 <sup>th</sup> Year	= 560,000,000 + 70,000,000
	= 630,000,000
7 <sup>th</sup> year depreciation allowance	= <u>630,000,000</u>
	14
	= 45,000,000

Depreciation allowance for balance 13 years will remain at the same value of Rs: 45,000,000.

*Research and development expenses and agricultural start-up expenses.*

Research and development expenses and agricultural start-up expenses incurred in the production of income may be deducted irrespective of whether they are of a capital nature or not.

Agricultural start-up expenses refer to

- a) opening up of any land for cultivation or for animal husbandry;
- b) cultivating lands with plants;
- c) purchase of livestock or poultry to be reared on the land;
- d) maintaining tanks or ponds for clearing inland water for rearing of fish, including purchase of fish for rearing in such tank, pond or inland water.

Research and development expenses mean expenses, otherwise not included in the cost of an asset, incurred by a person in carrying on

- a) any scientific industrial, agricultural or other research for
- upgrading the person's business through any **institution in Sri Lanka, or**
  - innovation or research relating to high value products by the person, or through or a research institution in Sri Lanka; or
- b) developing the person's business and improving business products or process.

**Section 15***Capital allowance*

- Capital allowances are granted in respect of the depreciable assets owned and used by a person in the production of income in his business.
- Capital allowances granted with respect to a given year of assessment shall be taken in the year and not deferred to a later year.
- Where a depreciable asset is partly used in the production of income, an apportionment shall be made according to the market value of that part of the used asset.
- Depreciation for a year of assessment for each depreciable asset shall be calculated on the straight line method using the following formula-  

$$\frac{A}{B}$$

A is the depreciation basis of the asset at year end, and  
 B is the number of years applicable to that depreciable asset.
- No capital allowance shall be granted in respect of a road vehicle, other than
  - a) a commercial vehicle (ie, a road vehicle designed to carry loads of more than half a ton or more than 13 passengers or a vehicle used in transportation or vehicle rental business) ;
  - b) a bus or mini bus;
  - c) a goods vehicle ; or
  - d) a heavy general purpose or specialised truck or trailer.

Note:

For rates and classifications applicable to depreciable assets, please see under Section 6-Depreciation allowances

**Section 16.**  
**Fourth Schedule**

*Balancing allowances*

- *Balancing allowances are granted in respect of depreciable assets,*
  - *realised during the year, and*
  - *in respect of which, capital allowance are granted in that year or previous year.*
- *Balancing allowance is calculated in accordance with the following formula:*

*B-A*

Where -

- A. is the consideration received by the person during the year of assessment :  
and
- B. is the written down value (WDV) at the time of realisation of the asset

*W.D.V means the expenses incurred in acquiring the asset less all capital allowances granted*

Note: Balancing allowance represents the loss on realisation of a depreciable asset.

**Section 16  
Fourth Schedule**

*Assessable charge*

- Assessable charge represents the profit derived on realisation of a depreciable asset
- Assessable charge is included in calculating the person's income for the year of assessment calculated as follows.

A-B

Where

- A. is the consideration received, and
- B. is the W.D.V

**Fourth Schedule**

*Losses on realisation of business assets and liabilities*

- The loss incurred on the realisation of capital assets used and on liabilities incurred in the production of income is a deductible in computing the person's business income.

The loss incurred on realisation of an asset or liability consists of the excess of-  
the cost of the asset or liability,  
over  
the consideration received for the asset.

**Sections 17 & 36**

The gain from the realisation of an asset consists of the excess of-  
consideration received for the asset or liability  
over  
cost of the asset or liability.

**Section 36**

*Deduction of Financial Cost (thin capitalization)*

The amount of the interest to be deducted in calculating an entity income will be restricted to the debt to equity (share capital and reserves excluding reserve from revaluation of an asset) ratio of-

3:1 for manufacturing companies, and

4:1 for other companies.

Above restriction will not applicable to financial institutions.

## Section 18

### Example

ABC (Private) Limited obtained a bank loan for manufacturing of biscuits and incurs an interest cost of Rs.10,000,000 during the year of assessment 2018/2019. Balance sheet of the Company as at 31<sup>st</sup> March 2019 shows the following:

Stated capital	=	Rs.25, 000,000
Retained earnings	=	Rs. 5,000,000
Loan balance	=	Rs. 100,000,000
Allowable interest	=	Rs. $\frac{10,000,000 \times 3 (25,000,000 + 5,000,000)}{100,000,000}$
	=	Rs 9,000,000
Disallowable interest	=	Rs (10,000,000 – 9,000,000)
	=	Rs 1,000,000 (may be carried forward)

### Business Losses

- Any unrelieved loss incurred by a person for a year of assessment from any other business income, and- any unrelieved loss of the person for any of the previous six years of assessment could be deducted from the business or any other business income.
- Unrelieved loss means the amount of a loss that has not been deducted in calculating a person's income.
- Commissioner General may allow the unrelieved loss to be carried back and treated as an unrelieved loss of an earlier year of assessment and limited to the profit, if any of that year.
- Restrictions applicable:
  - Any loss incurred in a business, which is taxed at a reduced rate, could be deducted from the profits of a business which is taxed at the same reduced rate.
  - Any business loss incurred in an exempt business could be deducted only from the business profit, which is exempt from tax.
  - Unrelieved losses from a business may be deducted in calculating income from an investment.
  - Unrelieved losses from an investment shall be deducted only in calculating income from an investment.

## Section 19

*Head office expenses*

The deduction for head office expenses incurred by a non-resident person carrying on business in Sri Lanka should not exceed 10% of that person's assessable income.

**Section 79****6. Depreciation Allowances****6.1 Standard depreciation allowances:**

Depreciable assets	Number of years	Rate
Computers and data handling equipment together with peripheral devices	5	20%
Buses and minibuses, goods vehicles; construction and earth moving equipment, heavy general purpose or specialized trucks, trailers and trailer mounted containers, plant and machinery used in manufacturing.	5	20%
Railroad cars, locomotives, and equipment, vessels, barges, tugs, and similar water transportation equipment, aircraft, specialized public utility plant, equipment, and machinery, office furniture, fixtures, and equipment, any depreciable asset not included in another class	5	20%
Buildings, structures and similar works of a permanent nature	20	5%
Intangible assets, excluding goodwill	The actual life or where the intangible asset has an indefinite useful life-20 years	

**Fourth Schedule**

## 6.2 Enhanced depreciation allowance

A person, who invests in Sri Lanka (other than in the expansion of an existing business) during a year of assessment, shall be granted enhanced depreciation allowances, computed in accordance with the schedule given below, in addition to the depreciation allowances computed on the expenses incurred during the year of assessment on the depreciable assets, other than intangibles assets.

Investment amount during the year of assessment	Place of investment	Rate of depreciation allowance
1. Exceeds USD 3 Mn but does not exceed USD 100 Mn	Any part of Sri Lanka other than Northern Province	100%
2. Exceeds USD 100 Mn	Any part of Sri Lanka other than Northern Province	150%
3. Exceed USD 250 Mn by a state owned company		150%
4. Exceeds USD 3 Mn	Northern Province	200%

## Second Schedule

## 6.3 Temporary Concessions

### *Additional capital allowances*

Any person who invests in Sri Lanka (other than in the expansion of an existing business) on depreciable assets, being buildings, structures and similar works of a permanent nature, and plant or machinery fixed to the business premises and computers and data handling equipment other than intangible assets, shall be granted enhanced capital allowances during the first three years of assessment, in addition to the normal capital allowances, claimable as follows:

Investment amount during a year of assessment	Place of investment	Rate of depreciation allowances
Up to USD 3 Mn	Any part of Sri Lanka other than Northern province	100%
Up to USD 3 Mn	Northern Province	200%

Such depreciation allowances shall be taken in that year and cannot be deferred to a later year of assessment.

### *Information Technology*

An amount equal to 135% of the taxable payments (salaries) made by a company to its employees (other than to its directors) is deductible, if such company-

- conducts predominately (80% or more) a business of providing information technology services,
- has, at least, 50 employees during the whole of the year, and
- reports those employees in the PAYE tax declaration form filed by the company.

Such company is not entitled for deduction of an enhanced capital allowance mentioned above. Further, when 135% salary cost deduction results in an unrelieved loss for the company, such loss shall not be deducted in any succeeding year of assessment.

#### *Research and Development*

An amount equal to 200% of the research and development expenditure incurred by any person could be deducted for the purpose of ascertaining the gains or profits of such person for 3 years of assessment, commencing from 1 April 2018.

### **Sixth Schedule**

#### **6.4 Finance Lease**

- Finance lease instalments paid by a lessee to lessor will be treated as interest and repayment capital under a loan made by the lessor. The interest and repayment of capital will be calculated as if the loan were a blended loan, which is a loan where the interest part is calculated on capital outstanding at the time of each payment.
- Leasing business would be subject to tax on profits derived from the lease interest income less expenses.
- Where an asset is leased under a finance lease, the lessor shall be treated as transferring the ownership of the asset to the lessee at the time of entering into the lease agreement. Hence, the depreciation allowance on the leasing stock shall not be allowed as a deduction to the lessor. However, as the ownership of the lease asset is deemed to be vested with the lessee, the lessee can claim the depreciation allowance on the market value of the asset. The market value of the asset should consist of capital portion of the lease loan and any payment made by the lessee to the lessor, other than the interest or any payment made to seller of the asset.

**Example**

A trading private company B purchased a commercial vehicle from a vehicle importer for Rs 8,000,000, paying Rs. 2,000,000 in cash and for the balance sum of Rs 6,000,000 arranging a leasing facility from a bank. The lease term is 4 years. During the 1<sup>st</sup> year the trading company B paid Rs. 1,200,000 as capital portion and Rs. 900,000 as interest to the bank.

The trading company B is entitled to deduct Rs. 900,000 as interest expense, and also the depreciation allowance on the commercial vehicle of Rs 8,000,000 x 20 /100 ie: Rs 1,600,000 during the 1<sup>st</sup> year.

**7. Qualifying Payments and Reliefs**

In arriving at the taxable income an **individual or entity**, the aggregate of the qualifying payments shall be deducted.

**Section 52****7.1 Qualifying payments**

- a) A donation made to an approved charitable institution established for the provision of institutionalized care for sick or the needy and declared by the Minister as an approved charitable institution, is deemed a qualifying payment.

Such deduction is subject to a maximum of -

- in the case of an individual, 1/3rd of the taxable income of the individual or LKR 75,000, whichever is less;
- in the case of an entity (company), 1/5th of the taxable income or LKR 500,000, whichever is less.

- b) A donation made by an individual or entity in money or otherwise to -

- i. Government of Sri Lanka;
- ii. Local authority;
- iii. Higher education institution established under Universities Act;
- iv. Buddhist and Pali University or Higher Education Institution established under the Buddhist and Pali University Act;
- v. A fund established by the Government of Sri Lanka;
- vi. A fund established by a local authority and approved by the Minister;
- vii. Sevana Fund established and administrated by the National Housing Development Authority;
- viii. Fund established by a Provincial Council and approved by the Minister;
- ix. Api Wenuwen Api fund;
- x. National Kidney Fund.

- c) Profit remitted to the President's Fund by a public corporation, as required by the applicable law.

**Fifth Schedule**



## 7.2 Reliefs

- i. LKR 500,000 for a resident individual or citizen of Sri Lanka, (tax free allowance) for a year of assessment, but this relief is not available to be deducted against gains from the realization of investment assets (as tax fee allowance).
- ii. LKR 700,000 for a resident employee up to the total of the employment income for the year. (A resident employee can deduct both above reliefs resulting a total relief LKR 1,200,000).
- iii. In the case of a resident individual, an amount equal to 25% of the total rental income, being a relief for the repair, maintenance and depreciation of a residence.
- iv. In the case of a Senior Citizen, deriving interest income LKR 1,500,000 for each year of assessment, up to the total of the interest income for the year.
- v. In the case of a resident individual or partner of a partnership with income earned in foreign currency in Sri Lanka from any service, rendered in or outside Sri Lanka to any person outside Sri Lanka to be utilized outside Sri Lanka, LKR. 15,000,000 for each year of assessment, up to the total of such income for the year.

**Note:**

Resident individuals only qualify for the above reliefs, except (1) above which is expended to Non-resident Sri Lanka citizens as well.

## Fifth Schedule

### 8. Exempt Amounts-Non Taxable Income

Income tax is not payable in respect of the following:

#### Institutions

- amounts derived by –
  - i. Government of Sri Lanka or a local authority, including any Government department;
  - ii. Central Bank of Sri Lanka, including the Monetary Board;
  - iii. any University established under the Universities Act, No 16 of 1976 or the Buddhist and Pali University of Sri Lanka;
  - iv. any government assisted private school registered with the Ministry of Education
  - v. any registered CO- operative Society;
  - vi. the Government of a foreign country to the extent specified under a Diplomatic Immunities Law or a similar law;
  - vii. an international organisation to the extent specified under a diplomatic immunities law or a similar law or an agreement between the organisation and the Government of Sri Lanka, provided that the exemption provided under the

agreement shall be broader than that provided under diplomatic immunities law or a similar law;

### **Individuals**

- capital sums paid to a person as compensation in relation to –
  - i. personal injuries suffered ; or
  - ii. death of another person;
- Income of an individual entitled to the privileges under-
  - i. Diplomatic Immunities Law or a similar law;
  - ii. Acts giving effect to Convention on (a) Privileges and Immunities of the United Nations and (b) Privileges, and Immunities of the Specialized Agencies of the United Nations;
  - iii. Regulations made under the Act relating to an International Organization

### **Employment**

- Pension paid by the Government or a government department;
- An amount paid to an employee at the time of retirement, from
  - i. a pension fund Employees Trust Fund as represents income derived from 1 April 1987 from investment made by it, and
  - ii. a provident fund approved by the Commissioner General.
- Benefits derived by a government employee from a road vehicle issued to him.

### **Business**

- Any amount derived by a person from the sale of gems on which tax has been deducted under section 84 (2) of the Act.

### **Investment**

#### *Capital gains*

- Capital gain made by a resident individual not exceeding LKR 50,000 on realization of an investment asset and not exceeding total gain of LKR 600,000 during the year of a assessment.
- Gains derived by a resident individual on the realization of his principal place of residence provided that
  - it has been owned by the individual continuously for a three year period prior to realization, and
  - lived by him for two of those three years.
- Gain made on sale / disposal of quoted shares.

*Interest / Annuity*

- Interest derived by charitable institution, being interest applied solely for providing care to children, elderly or disabled in a home maintained by such charitable institution.
- Interest or discount derived by any non-resident person or any licensed commercial bank in Sri Lanka on any foreign currency denominated Sovereign Bonds, issued by or on behalf of the Sri Lanka Government.
- Amount derived by a Senior Citizen from an annuity for life for a period not less than 10 years, purchased from a bank or an insurance company

*Dividend*

- Dividend paid by a resident company to a shareholder, which is attributable to
  - another dividend received by that resident company, or
  - another resident company that was subject to withholding tax under section 84 of the Act.
- Dividend from (and gains on) realisation of shares in a non-resident company with respect to substantial participation in the non-resident company

“Substantial participation” means

- i. holding 10% or more of the value of the shares in the company, excluding redeemable shares, together with
- ii. control, directly or indirectly, of 10% or more of the voting power in the company.

*Property, Income*

- Income from property donated by Royal or Grant before 1815 to a place of public worship administered by a charitable institution, provided such income is applied to the purposes for which such grant was made.

**Other Source**

- Any sum, received from, the President’s Fund or National Defence Fund
- Any prize received as an award by the President or Government of Sri Lanka in recognition of an invention created or any research undertaken by a person
- Any winnings from a lottery, not exceeding LKR 500,000.

**Third Schedule**

**9. Taxation of Companies**

**9.1 Definition**

Company means a corporation, unincorporated association or other body of person, and includes-

- (i) a friendly society, building society, pension fund, provident fund, retirement fund, superannuation fund or similar fund or society; and
- (ii) a government excluding Sri Lanka government, political sub-division of a government, or a public international organisation; but excludes a partnership or trust ; and the following shall be deemed to be a company

- (i) a partnership in which at least 20 partners have limited liability for the debt of the partnership; and
- (ii) a unit-trust or mutual fund that does not conduct an eligible investment business

## Section 195

### 9.2 General Rules

- A company shall be taxed separately from its shareholders.
- All business activities of the company shall be treated as conducted in the course of a single company business
- Arrangements between a company and its managers shall be recognised
- Dividends distributed by
- a resident company shall be taxed on the company shareholders; and
- a non-resident company, the dividend shall be included in calculating the income of the shareholders

## Sections 60 & 61

### 9.3 Corporate tax rate

Class of income	Resident company Rate	Non-resident company Rate
On taxable income		
<i>Standard rate</i>	28%	28%
<i>Concessionary rate</i>	14%*1	14%*1
<i>Higher rate</i>	40% 2	40% 2
On gains from realisation of investment assets	10%	10%
On dividends	14%	-
On remitted profits (Remittance tax)	-	14% 3

## First Schedule

1. Concessionary rate of 14% is applied in the case of following:
  - Small and Medium Enterprises (SME);
  - Company predominantly conducting a business of exporting goods and services; export includes **Specified undertaking**;
  - Company predominantly conducting an agricultural business;
  - Company predominantly providing educational services;
  - Company predominantly engaged in an undertaking for the promotion of tourism;
  - Company predominantly providing information technology.
- *Specified undertaking* means an undertaking which is engaged in –
  - (a) entrepot trade involving import, minor processing and re-export;

- (b) offshore business where goods can be procured from one country or manufactured in one country and shipped to another country without bringing the same into Sri Lanka;
- (c) providing front end services to clients abroad;
- (d) headquarters operations of leading buyers for management of financial supply chain and billing operations;
- (e) logistic services such as bonded warehouse or multi-country consolidation in Sri Lanka;
- (f) transshipment operations;
- (g) freight forwarding;
- (h) supply of services to any exporter of goods or services or to any foreign principal of such exporter directly, being services which could be treated as essentially related to the manufacture of such goods or provision of such services exported by such exporter either directly or through any export trading house, including any service provided by an agent of a ship operator to such agent's foreign principal, and the payment for such services are made by such exporter or foreign principal to such person in Sri Lanka in foreign currency;
- (i) production or manufacture, and supply to an exporter of non-traditional goods; and
- (j) the performance of any service of ship repair, ship breaking repair and refurbishment of marine cargo containers, provision of computer software, computer programmes, computer systems or recording computer data, or such other services as may be specified by the Minister by notice published in the Gazette, for payment on foreign currency;
- (k) sale for foreign currency, of any gem or jewellery, being a sale made in Sri Lanka by any person authorized by the Central Bank of Sri Lanka to accept payment for such sale in foreign currency.

*“non-traditional goods”* means goods other than black tea not in packet or package form and each packet or package weighing not more than one kilogram, crepe rubber, sheet rubber, scrap rubber, latex or fresh coconuts, or agricultural, horticultural or dairy produce, and includes organic tea in bulk.

- *SME* means a person who satisfies the following conditions -
  - a) the person conducts business solely in Sri Lanka other than an individual who is engaged in providing professional services individually or in partnership, being an individual who is professionally qualified;
  - b) the person does not have an associate that is an entity, and
  - c) the person's annual gross turnover is less than LKR 500,000,000.
- *“Predominantly”* means 80% or more, calculated based on gross income.
- *“Providing information technology”* means –

- a) software development services; or
- b) the provision of information technology services under a business process outsourcing arrangement or a knowledge process outsourcing arrangement;
- “*Undertaking for the promotion of tourism*” means an undertaking for the operation of-
  - a) any hotel or guest house approved by the Ceylon Tourist Board;
  - b) any restaurant graded by the Ceylon Tourist Board as being in “Class A” or “Class B”;
  - c) any business of travel agent who provides travel management services for domestic travel in Sri Lanka;
  - d) any business of transporting tourists only; or
  - e) any business approved by the Ceylon Tourist Board for providing facilities for recreation or sports.

### **Section 195 and First Schedule**

2. Higher rate of 40% applies to income from betting and gaming, liquor and tobacco
3. “*Remitted profit*” means amounts remitted or retained abroad out of profits and income of a non-resident subject to Sri Lanka income tax and includes-
  - any amount received outside Sri Lanka from conducting business in Sri Lanka; but
  - excludes -
  - dividends paid by a resident company to the non-resident person.

### **Section 62**

#### *Transitional rates*

Gains and profits for three year of assessment will be taxed at-

- 14% in respect of
  - an insurer conducting the business of life insurance,
  - any person who has entered into a power purchase agreement with the C.E.B to provide electricity using renewable energy, and
- zero percent in respect of an institution in an international network, relocating its headquarters or regional head office in Sri Lanka, as specified by Commissioner General by Gazette Notice.

### **Sixth Schedule**

## **10. Taxation of Individuals**

### **10.1 Computation of the taxable income – Resident Individual**

In computing the taxable income of a resident individual, there shall be deducted-

- (i) the aggregate of qualifying payments (refer item 7), and
- (ii) the aggregate reliefs – LKR 500,000 for a year of assessment \*

- \* In case of an employee an additional relief of LKR 700,000 up to the total of his employment income can be claimed.

**Section 52**

**10.2 Computation of taxable income –Non- resident individual**

- In case of a non-resident individual, his income from employment, business investment or other source to the extent that it is sourced in Sri Lanka will constitute his assessable income, subject to Sri Lanka income tax.

**Section 4**

- Non-resident individual will not be eligible to the relief of LKR 500,000 and LKR 700,000 However a non-resident individual who is a citizen of Sri Lanka is eligible for the relief pf LKR 500,000.

**Section 52**

**10.3 Tax rates for Individuals**

- a) For any year of assessment, commencing on or after April 1, 2018 -

- On the taxable income, other than
  - gain from the realization of investment assets which is taxed at 10%, and
  - income from a business consisting of betting and gaming, liquor and /or tobacco which is taxed at 40%,

On the first LKR 600,000	4%
On the next LKR 600.000	8%
On the next LKR 600.000	12%
On the next LKR 600.000	16%
On the next LKR 600.000	20%
On the balance	24%

- Rate for the deduction of tax from employee's terminal benefits:-

- Where the period of contribution is 20 years or less -

On the first LKR 2,000,000	Nil
On the next LKR 1,000,000	5%
On the balance	10%

- Where the period of contribution is more than 20 years -

On the first LKR 5,000,000	Nil
On the next LKR 1,000,000	5%
On the balance	10%

*Terminal benefits include -*

- amount received in commutation of a pension;
- amount received as a retiring gratuity;

- c) amount received as compensation for loss of office or employment under a scheme which the Commissioner General considers to be uniformly applicable to all individuals employed by the employer;
  - d) amount paid to a person at or after the time of retirement from employment, from a provident fund approved by the Commissioner General that does not represent the person's contributions to that provident fund;
  - e) amount paid to a person from a regulated provident fund that does not represent the contributions made by the employer to that provident fund before April 1, 1968, and the interest which has accrued on such contributions made by the employer, if tax has been paid by the employer at 15% on such contributions made and on the interest accruing thereon; and
  - f) amount paid to a person, at, or after, the time of retirement from employment, from the Employees' Trust Fund,
- subject to exemptions given in item 8

## First Schedule

### 11. Taxation of Partnerships

#### 11.1 Definition

*"Partnership"* means an association of two or more individuals or corporations carrying on business jointly for purposes of making profit, irrespective of whether the association is recorded in writing.

*"Precedent partner"* means an active partner resident in Sri Lanka, who is

- first named in the partnership agreement ;or
- if there is no such agreement, is specified by name or initial in the usual name of the partnership ; or
- first named in the statement under section 4 of the Business Names Act, No 1 of 1987.

#### 11.2 General rules

- A partnership shall not be liable to pay income tax on its taxable income, (nor be entitled to any credit with respect to that income),  
**other than on**  
gains from realisation of an investment asset (tax rate of 10%)
- Partnership income/loss shall be allocated to the partners, proportionately to each partner's share, based on each partner's percentage interest in the partnership income according to the partnership arrangement.



- A partner's income from a partnership for a year of assessment shall be included in calculating the income of the partner and is taxed in his hands.

## Sections 53, 54 & 55

### 11.3 Withholding tax

The precedent partner or in his absence an agent of the partnership is required to withhold tax at 8% on each partner's share of any partnership income, excluding that part of the share relating to gains from realisation of an investment assets, in respect of which tax at 10% is payable by the partnership.

Section 53  
First Schedule

Any tax paid withheld by the partnership shall be allocated proportionately to each partner and shall be treated as paid by each partner

## Section 55

## 12. Taxation of Capital gains

### 12.1 Computation of Capital Gain / Capital Loss

Capital gains constitute a source of income from investment and are taxed as follows:

- On change of ownership/realisation of a asset, where,

Capital gain = Consideration received or receivable  
Less  
Cost of the asset or liability ;and

Capital loss = Cost of the asset for liability  
Less  
Consideration received or receivable (realised value)  
at the time of realisation /change of ownership of the asset.

Note:

Capital gain or loss accrues over the whole period of ownership of the asset and is calculated at the time the gain or loss is, in fact, realized, i.e. the date of realisation. As the actual gain over the whole period of ownership is taxed as income of one year, relief is provided by way of a lower rate of 10%.

## Section 36

## 12.2 Determinants in computing capital gains

### a. *Consideration received /receivable*

Consideration received receivable for an asset shall be the amount,

- received or receivable for the asset, including any fair market value of any consideration received in kind;
- derived in respect of owning the asset, including the amount for alterations and repair: or
- decreasing the value of the asset and by way of any agreement to repair or otherwise, and
- any entitlement in the future in respect of realizing the asset, and
- grant of an option in relation to the asset, but

shall not be include

- an exempt amount;
- final withholding payment; or
- other than in the case of trading stock, any amount to be directly included in calculating a person's business income.

## Section 38

### b. *Cost of the asset*

The cost of the asset of a person is the sum of expenditure incurred

- in acquiring the asset including, where relevant, expenditure on construction, manufacture or production of the asset;
  - in altering, improving, maintaining or repairing the asset; and
- includes -
- incidental expenditure in acquiring and realising the asset (such as advertising, transfer taxes, duties and other expenditure of transfer, expenditure of establishing, preserving or defending ownership of the asset and remuneration for the services of an accountant, agent, auctioneer, broker, consultant legal advisor, surveyor or value) and
  - an income amount required to be directly included in calculating the person's income or that is an exempt amount or final withholding payment of the person, but
- excludes -
- consumption expenditure, excluded expenditure and expenditure to the extent to which it is deductible in calculating a person's business income or included in the cost of another asset.

**The cost of an investment asset held by a person as at 30 September 2017 is deemed equal to the market value of the asset at that time.**

## Section 37

*c. Time of realisation of an asset*

A person, who owns an asset, is treated as realizing the asset-

- a) when there is a change in ownership of the asset i.e when the asset is sold, exchanged, transferred, distributed, cancelled, redeemed, destroyed, lost, expired, expropriated or surrendered,
- b) in the case of an asset of a person who ceases to exist including by reason of the death of an individual, immediately before the person ceases to exist,
- c) in the case of an asset other than trading stock or depreciable asset, where the sum of consideration received from owning the asset exceeds the cost of the asset;
- d) in the case of an asset that is a debt claim owned by a person, when the debt is written off as bad;
- e) in utilizing any trading stock, depreciable asset, capital asset of a business or an investment asset immediately before the person begins to employ the asset in such a way that it ceases to be an asset of any of those types, and
- f) when a resident in Sri Lanka ceases to be resident in Sri Lanka, his assets prior to becoming a non-resident person other than domestic assets.

Where a person realizes an asset in any manner described in the above (c) to (f), the value of such asset is deemed to be the market value of the asset at the time of realization.

**Section 39***d. Time of realisation of liability*

A realisation of the liability arises -

- a) when the person ceases to own the liability, ie when the liability is transferred, satisfied, cancelled, realised or expired;
- b) in the case of the liability of a person who ceases to exist including by reason of the death of an individual, immediately before the person ceases to exist; and
- c) in the case of a person who ceases to be resident in Sri Lanka, his liability prior to becoming a non-resident.

**Section 40****12.3 Realisation of an asset - Realised amount - Specific cases**

<b>Time of realization</b>	<b>Amount realized on disposal</b>	<b>Allowable expenditure to person acquiring</b>
4. Transfer to spouse or former spouse (on death divorce settlement or separation )	Net cost of the asset before date of realization	Net cost
		<b>Section 44</b>
ii. Transfer on death to another person	Net cost at the time of realization	Net cost
		<b>Section 45</b>

iii. Transfer to an associate person or for no consideration on the interest in land or a building in Sri Lanka. (Associate person is a child, spouse, parent, grand parent, grand child, sibling, aunt, uncle, nephew, niece or first-cousin)	Greater of the market value or net cost before the realization	Net cost  <b>Section 46</b>
iv. Transfer to any other person by way of gift including transfer to charitable institution	Greater of the market value or net cost before the realization	Net cost  <b>Section 46</b>
v. Involuntary realization of an asset with replacement before or within one year after the realization	Net cost before realization and the excess over cost of acquisition of the replacement asset	Net cost <i>plus</i> excess of expenditure over amount realized.  <b>Section 47</b>
vi. Transfer by way of security	Person granting the security - treated as still owning the asset Other person - not treated as acquiring an asset (owning secured debt)	-  <b>Section 49</b>
vii. Transfer by way of finance lease or instalment sale (on a finance lease, lessor is treated as transferring ownership of the asset to lessee).	Lessor - market value of the asset before transfer,  Lessee - net cost in acquiring the asset	Net cost  <b>Section 49</b>

#### 12.4 Exemptions

- Capital gain derived by a resident individual not exceeding LKR 50,000 on realisation of an investment asset and not exceeding total gain of LKR 600,000 during the year of assessment.
- Capital gain derived by an individual on realisation of his principal place of residence provided,
  - it has been owned by the individual continuously for a 3 year period before realised, and
  - has lived in by him for two of those 3 years (calculated on daily basis).
- Capital gains on sale of quoted shares held as an investment asset.
- Gain on realisation of shares in a non-resident company derived by a resident company with respect to substantial participation in the non-resident company.

“*substantial participation*” means-

- (i) holding 10% or more of the value of shares in the company excluding redeemable shares; together with
- (ii) control, directly or indirectly, of 10% or more of the voting power of the company.

### Third Schedule

Note:

The realisation of trading stock, depreciable asset and investment assets of business do not fall within the source of capital gains.

#### Example -1

Mr Silva returned to Sri Lanka from Dubai with his employment earnings in October 2017. In the first year of residence in Sri Lanka, he bought a house in Battaramulla for LKR 35 Mn (stamp duty and notary fees paid - LKR 1.75 Mn), an apartment in Bambalapitiya for LKR 60 Mn (stamp duty and notary fees paid - LKR 3 Mn) and an apartment in Nawala for LKR 40 Mn (Stamp duty and notary fees paid LKR - 2.00 Mn). In the third year, Mr Silva passed away. As per his last will, houses were distributed as follows: -

- Battaramulla house to his wife,
- Bambalapitiya apartment to his son, and
- Nawala apartment to his daughter.

In the 4<sup>th</sup> year, the son sold the Bambalapitiya apartment to a foreigner for LKR 80 Mn.

The wife lives at Battaramulla house and the daughter shifted to Nawala apartment after her father's death (within 3<sup>rd</sup> year). In the 7<sup>th</sup> year, the daughter sold the Nawala property for LKR 55 Mn and shifted to her mother's house.

Computation of capital gains

a) For Mr Silva

Asset	Purchase price LKR	Expenses LKR	Market Value at the time of death LKR
Battaramulla	35 Mn	1.75 Mn	40 Mn
Bambalapitiya	60 Mn	3.0 Mn	65 Mn
Nawala	40 Mn	2.0 Mn	40 Mn

As per the section 45 of the Act, the cost of the asset is treated as the market value of such asset at the time of death. Accordingly -

Asset	Cost LKR	Value at the time of death LKR	Capital gain
Battaramulla	36.75 Mn	36.75 Mn	NIL
Bambalapitiya	63 Mn	63 Mn	NIL
Nawala	42 Mn	42 Mn	NIL

There is no capital gain consequence for Mr Silva.

b) For the Son

The son sold the Bambalapitiya apartment within a year after his father's death.

	LKR	LKR
Sale price		80Mn
Cost LKR Father paid	60 Mn	
Stamp duty and notary fees	3 Mn	
Son paid		
Stamp duty and notary fees	3.5 Mn	
Notary fees 3.5 MN		
Total	66.5Mn	(66.5Mn)
Capital gain		13.5Mn
		=====
Tax payable at 10%		1.35Mn
		=====

Son is required to file a capital gains tax return not later than one month after the realization of the asset.

c) For the daughter

Since the daughter has owned the Nawala property for more than 3 years and lived in for more than 2 years, any capital gain derived by her is exempt from tax.

### **Example -II**

#### **Sale of Shares**

- a) Capital gains tax will be applicable to gains on sale of shares in Sri Lanka, other than sale of quoted shares

Accordingly, capital gains may arise from the change of the ownership of the shares of any private company, as follows:-

Capital gain = Consideration received - Cost of the shares.

If the amount is negative figure, it is a capital loss.

Assume that the shares were purchased on 1 October 2017 for LKR 60 Mn and sold on 1 October 2019 for LKR 100 Mn.

Capital gain on sale of shares	= Consideration received LKR 100MN) - Cost (LKR 60Mn)
	= LKR 100 Mn - 60 Mn (including expenditure incurred)
	= LKR 40 Mn
Capital gains tax	= LKR 40 Mn * 10% Mn
	= LKR 4 Mn

### **13. Tax Rates –Other entities**

- |   |     |
|---|-----|
| • Trusts  | 24% |
| • Unit Trust and Mutual Funds                           | 28% |
| • Charitable institutions                               | 14% |
| • Non-Governmental Organisations                        | 28% |
| • ETF, Provident or Pension Funds and Termination Funds | 14% |

Note:

Where taxable income include gains from realisation of an investment asset, the rate of 10% applies.

**First Schedule**

## 14. Method of Accounting

- The timing of inclusion and deductions in computing a person's income shall be made according to generally accepted accounting principles.

In accounting for income tax purposes on

- |  |   |
|--|---|
| - employment or investment by an individual          | - cash basis;   |
| - business by an individual or entity                | - accrual basis;  |
| - investment and other sources of income by a person | - cash basis or accrual basis, whichever properly computes the persons income |

Cash basis - when payment is received and when an incurred expenses is paid

Accrual basis - when an amount is recoverable and when an incurred expense is payable.

### Sections 21&22

## 15. Tax Payment Procedure

Tax charged can be paid in 3 ways :-

- Tax payable by withholding;
- Tax payable by instalments;
- Tax payable on assessment;

### Section 82

### 15.1 Tax payable by withholding –

<i>Withholding tax on interest</i>	<i>Rate</i>
i. Interest or discount paid by banks and financial institutions -	
<ul style="list-style-type: none"> <li>to a resident person (other than to a senior citizen) (Relief of LKR 1,500,000 is available to a senior citizen; WHT is applicable in the manner prescribed in regulations.)</li> </ul>	5%
<ul style="list-style-type: none"> <li>all other cases including a non-resident person;</li> </ul>	14%
(Withholding tax will not apply to interest or discount paid to any person on Security or Treasury bond under the Registered Stocks and Securities Ordinance or Treasury bill under the local Treasury Bills Ordinance).	

Note:

Withholding tax deducted from interest paid to-

- a resident individual, or
  - a charitable institution
- is a final tax.

### ii. Dividends

- |   |     |
|---|-----|
| <ul style="list-style-type: none"> <li>paid by a resident company;</li> </ul>                   | 14% |
| <ul style="list-style-type: none"> <li>non-resident company on remittance of profits</li> </ul> |     |



(Remittance Tax);	14%
iii. <i>Rent</i>	
• paid to a resident person;	10%
• all other cases including a non-resident person;	14%
iv. <i>Service fee and contract payments on an amount exceeding LKR 50,000 per month to a resident individual; (No deduction if such payment is chargeable with the Economic Service Charge).</i>	5%
v. <i>Royalty, premium, charge, natural resource payment;</i>	14%
vi. <i>Winnings from a lottery, reward, betting and gambling;</i>	14%
vii. <i>Service fee or an insurance premium with a source in Sri Lanka to a non-resident person; (No deduction if such payment is chargeable with the Economic Service Charge).</i>	14%
viii. <i>Partner's share of any partnership income; (Withheld by the Precedent Partner)</i>	8%
ix. <i>Sum payable to a seller on sale of gems to the National Gem and Jewellery Authority.</i>	2.5 %
x. <i>Payments to non-resident persons for transport services in respect of the carriage of passengers, who embark or cargo, mail or other moveable tangible assets that are embarked in Sri Lanka other than as a result of transshipment or telecommunication services.</i>	2%

Note: An employer is required to withhold the monthly the amount of tax payable by the employees and remit the tax so with held on or before the 15<sup>th</sup> day of the following month to Inland Revenue Department.

### First Schedule

#### 15.2 Tax payable by instalment

A person, is required to pay income tax by quarterly instalments, and pay such instalments in the following manner:

Instalment	Due date
1 <sup>st</sup> Installment	On or before 15 August in that year of assessment
2 <sup>nd</sup> nstalment	On or before 15 November in that year of assessment
3 <sup>rd</sup> Installment	On or before 15 February in that year of assessment
4 <sup>th</sup> Installment	On or before 15 May of the next succeeding year of assessment

Instalment of tax payable is calculated using the following formula:-

$$\text{Instalment Payment} = \frac{\text{Current estimated tax payable for the year} - \text{Tax paid by previous instalments and any withholding tax deducted}}{\text{Remaining number of instalments including current instalment}}$$

**Example:-**

Estimated tax payable for the year of assessment 2018/2019 is LKR 10 Mn:

$$\begin{aligned} 1^{\text{st}} \text{ Instalment} &= \frac{\text{LKR } (10 - 1 \text{ WHT})}{4} = \text{LKR } 9/4 \text{ Mn} \\ &= \text{LKR } 2.25 \text{ Mn} \\ 2^{\text{nd}} \text{ Instalment} &= \frac{\text{LKR } 10 - (2.25 + 1.15 \text{ WHT})}{3} \text{ Mn} \\ &= \text{LKR } \frac{10 - 3.4}{3} \text{ Mn} \\ &= \text{LKR } \frac{6.6}{3} \text{ Mn} \\ &= \text{LKR } 2.2 \text{ Mn} \end{aligned}$$

Further, any ESC paid could be also deducted before making the instalment payments.

**Section 90****15.3 Tax payable on assessment**

- Tax on capital gains - the due date is the date on which the capital gains tax return has to be filed which is not later than one month after the realisation of an investment asset

**Sections 82 & 93**

Tax on notice of assessment - the due date for payment is the date stated in the notice.

**Section 82****15.4 Estimated tax payable**

Every person, who is an instalment payer should file a statement of estimated income tax payable for the year by the date for the first instalment (i.e 15 August of a calendar year)

The estimate should include:

-estimated assessable income for the year,

- taxable income for the year, and
- tax payable on that income.

Provision is made to file a revised estimate.

**Section 91**

### **15.5 Penalty for late payment /under payment**

- On failure to pay all or part of an instalment tax within 14 days of the due date 10% penalty of the tax due.
- On an amount of tax not paid by the due date – interest on such underpayment at 1.5% per month or part of a month compounded monthly.

**Sections 179 & 157**

## **16. Tax returns**

### **16.1 General Rule**

- Every person chargeable with income tax shall furnish a tax return, either in writing or electronic means, not later than 8 months after the end of each year ie on or before 30 November of each year.
- The taxpayer or his duly authorised agent should sign the return, attesting to its accuracy and completeness
- Where a return or part of a return was prepared for reward by some other person, including an approved accountant (other than a full-time employee), that other person should also sign the return.

**Sections 93 & 126**

### **16.2 Penalty for late filing**

A person who fails to file a return by the due date shall be liable to pay a penalty equal to the greater of -

- (a) the penalty of 5% of the amount of tax owing, plus 1% of the tax for each month or part of the month in which the failure to file continues; and
- (b) LkR 50,000 plus Rs.10,000 for each month the failure to file continues, subject to maximum of LKR.400,000

**Section 178**

## **17. Taxpayer Registration**

### **17.1 Registration**

Every person liable to furnish a return for a year of assessment should register with the Commissioner General not later than 30 days after the end of the basis period for that year.

**Section 102**

### **17.2 Taxpayer Identification Number (TIN)**

Commissioner General shall assign a TIN, which number shall be set out on returns and correspondence with the Commissioner General.

**Section 103**

## 18. Assessments

There are 4 types of assessments:

1. Self-assessments
2. Default assessments
3. Advance assessments
4. Amended or additional assessments.

### 18.1 Self-assessments

A self-assessed taxpayer who files a self-assessment return in the approved form, shall be treated as having made an assessment of the amount of tax payable (including a net amount for the related year of assessment).

**Section 132**

### 18.2 Default assessments

- Where a taxpayer has failed to file a tax return, the Assistant Commissioner may based on available evidence and to the best of his judgement, make a default assessment
- A default assessment shall contain -
  - amount of tax assessed;
  - penalty , if any, on the tax assessed;
  - late payment interest, if any ;
  - year of assessment applicable;
  - due date for payment of tax, penalty and interest, being a date that is not less than 30 days from the date of the service of the notice; and
  - manner of objection to the assessment.

A default assessment may be made at anytime

**Section 133**

### 18.3 Advance assessments

- Assistant Commissioner may, based on available evidence and to the best of his judgement, ,make an advance assessment of the tax payable by a taxpayer for a year of assessment-
  - when the taxpayer has not filed a tax return for the year of assessment, or
  - before the date on which the taxpayer's return for the given year of assessment is due.
- The tax and penalty on an advance assessment shall be payable immediately.
- A taxpayer will not be relieved from the requirement to file a tax return on account of the issue of an advance assessment.
- The tax return filed, after an advance assessment has been served, will not be considered a self-assessment return.

**Section 134**

#### 18.4 Amended or additional Assessment

Assistant Commissioner may amend the original assessment (self-assessment, default or advance assessment) to ensure that the taxpayer is assessed in respect of

- a) correct amount of the loss carried forwarded, or
- b) correct amount of the tax payable for the year of assessment to which the original assessment relates.

#### Section 135

#### 18.5 Time Bar assessment

No assessment of income tax payable could be raised on a taxpayer who has filed a return of income, after the expiry of a period of 30 months from the date the taxpayer filed the return or, from the date on which the Assistant Commissioner served notice of assessment in the absence of a return.

In the case of fraud or gross or willful neglect by the tax payer, Assistant Commissioner could issue an assessment of income tax at any time.

#### Section 135

#### 18.6 Assessments to counter Tax Avoidance Schemes

Where the Commissioner General is satisfied that a person has entered into a scheme for the sole and dominant purpose of, as appears from the substance of the scheme, obtaining a tax benefit, Commissioner General may-

- determine the tax liability of such person as if ,
  - the scheme has not been entered into or
  - a reasonable alternative to entering into to scheme would have been entered into :or
- make compensating adjustments to the tax liability of any other person on the ground that any transaction reducing the amount of tax payable by any person is artificial or fictitious; and

shall issue an assessment within 5 years from the last day of the relevant year of assessment giving effect to the determination or adjustment.

“*scheme*” includes any course of action, trust, grant, agreement arrangement, understanding, promise, plan , proposal or undertaking, whether, express or implied and whether, or not enforceable.

“*Tax benefit*” means

- a. reduction in tax liability, by way of a deduction, credit offset or rebate;
- b. postponement of a liability to pay tax, or
- c. any other advantage arising from a delay in the payment of a tax; or
- d. anything that causes.
  - i. an amount of gross revenue to be exempt income or otherwise not subject to tax; or
  - ii. an amount that would otherwise be subject to tax, not to be taxed.

#### Section 35

### **18.7 Finality of assessment**

An assessment shall be treated as final,

- subject to the right of the Assistant Commissioner to issue a new or revived assessment within the timeline specified; and
- if no request for review is made within 30 days of the notification of the assessment, and
- provided, however, where the taxpayer files an amended return and the tax reported on such amended return exceeds the tax assessed, the amended return has the effect of revising the assessment.

## **19. Review and Appeal Process**

The Review and appeal process consists of three stages:

- i. Administrative review by the Commissioner General;
- ii. Appeal against from the decision of the administrative review to the Tax Appeals Commission (TAC): and
- iii. Appeal against the decision of the TAC to the Court of Appeal.

### **19.1 Administrative Review**

- A taxpayer, dissatisfied with an assessment, may request for an administrative review
  - in writing to the Commissioner General,
  - within 30 days of the notification of the assessment and specify the grounds for such review, and
  - where the assessment has been made in the absence of a return, together with a duly completed return.
- The request for an administrative review received by the Commissioner General should
  - be acknowledged within 30 days of its receipt, and
  - the date of acknowledgement shall be deemed to be the date of receipt of such request.
- Notwithstanding a request for an administrative review, the tax payable on the assessment shall be due and payable unless the Commissioner General grants an extension of time.
- The burden of proof rests with the taxpayer to show the assessment is incorrect
- Commissioner General may delegate his authority to a tax official, other than the tax official who made the assessment, to consider the request made.
- Commissioner General may hear the evidence of the taxpayer or any other person in regard to the request and shall maintain a record of such evidence.
- Commissioner shall notify the taxpayer in writing of his decision
  - confirming the assessment, or
  - increasing the amount of the assessment, or
  - reducing the amount of the assessment.

**Section 139**

### **19.2 Appeal to the Tax Appeals Commission (TAC)**

- A person aggrieved by the decision of the administrative review may appeal against that decision to the TAC provided that
  - a decision on the administrative review has been received, or
  - 90 days have lapsed since the request for administrative review has been made, and
  - within 30 days from the date of the decision of the Commissioner Generalwith copy to the Commissioner General
- TAC may require the appellant to furnish security for payment of the tax in dispute.
- TAC may
  - reduce the amount of the assessment : or
  - increase the amount of the assessment ; or
  - Confirm or annul the assessment.

### **Section 140**

### **19.3 Appeal to the Court of Appeal**

- Commissioner General or the taxpayer dissatisfied with the decision of the TAC may, provided that
  - a decision on the appeal has been received from the TAC, or
  - no response has been received within 90 days of the appeal to the TAC,

Within one month after being notified of the decision of the TAC, file a notice of appeal with the Court of Appeal.

- The party so appealing should serve a copy of the Notice of the Appeal to the other party,
- An appeal from the decision of the TAC shall be made only on a question of Law.
- On an appeal from the decision, of the TAC to the Court of Appeal, TAC shall provide
  - a written statement of the decision,
  - a summary of the evidence,
  - their finding of the facts, and
  - their conclusion on the points of law involved.

### **Section 144**

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***Withholding Taxes under Inland Revenue Act No. 24 of 2017***

<b><i>Contents</i></b>	<b><i>Page</i></b>
<b><i>1 Withholding Tax (WHT) - General Approach.....</i></b>	<b><i>47</i></b>
<b><i>2 Exemptions from WHT.....</i></b>	<b><i>48</i></b>
<b><i>3 WHT Rates .....</i></b>	<b><i>49</i></b>
<b><i>4 Definitions .....</i></b>	<b><i>50</i></b>
4.1 Interest .....	50
4.2 Dividend .....	51
4.3 Rent .....	51
4.4 Royalty .....	52
4.5 Natural Resource Payment .....	52
4.6 Service Fee.....	52
<b><i>5 Final Withholding Payments .....</i></b>	<b><i>52</i></b>
<b><i>6 Duties of the Withholding Agent.....</i></b>	<b><i>52</i></b>
<b><i>7 Credit for non- Final WHT .....</i></b>	<b><i>52</i></b>





## ***Withholding Taxes under Inland Revenue Act, No. 24 of 2017***

### **1. Withholding Tax (WHT) - General Approach**

WHT shall be deducted at appropriate rates, at the time of payment in respect of the following:

- *On payments which have a source in Sri Lanka:*
  - (i) Where a person pays,
    - dividends,
    - interest,
    - discount,
    - charge,
    - natural resource payment,
    - rent,
    - royalty,
    - premium, or
    - retirement payment, or
    - amounts as winnings from a lottery, reward, betting or gambling, or
  - (ii) Where the **precedent partner**, or in the absence of such partner, the agent of the partnership in Sri Lanka pays each partners share of the partnership income;
- *On Sale of gems at an auction:*

Where the National Gem and Jewellery Authority (NGJA) pays any sum , being the sale price of any gem sold at an auction conducted by NGJA, to the seller of such gem;
- *On payment of a Service Fee with a source in Sri Lanka to a resident individual:*

Where a **person** pays a service fee to a resident individual (who is not employee)

  - (i) for teaching, lecturing, examining, invigilating or supervising an examination,
  - (ii) as a commission or brokerage to a resident insurance, sales or canvassing agent
  - (iii) as an endorsement fee,
  - (iv) in, relation to the supply of any article on a contract basis, on tender or quotation, or
  - (v) for services, as prescribed by regulations published in Gazette No. 2064/51, of 01 April 2018, being

- (a) any service provided in the capacity of independent service providers such as doctors, engineers, accountants, lawyers, software developers, researchers, academics, or any other similar service;
- (b) any service of construction work, security service, janitorial service, consultation work of any kind, organizing of events, catering, designers, dressmakers, tour guidance, entertainment, agency functions or any similar services or connected work where such services are provided under an agreement or otherwise;
- (c) any management service;
- (d) any type of vocational services provided as an independent service provider

- *On payment of a Service Fee or an Insurance Premium to a Non-Resident Person:*

Where a person pays a service fee or insurance premium with a source in Sri Lanka to a non-resident person.

“*Payments*” in this context, means the conferring of value or a benefit in any form by one on another person, and includes not only a transfer of money or an asset but also the transfer of a liability by one person to another person.

## **2. Exemptions from WHT**

Exemption from WHT applies to the following payments:

### *Overall application*

- Payments subject to PAYE tax;
- Payments made by individuals; unless made in conducting a business;
- Payments that are exempt amounts.

### *Interest*

- Interest payable to a financial institution on the ordinary loans and advance provided it;
- Interest payable to a charitable institution, where such interest is applied solely for the purpose of providing care to children, the elderly or the disabled in a home maintained by such charitable institution;
- Interest or discount payable on any Sovereign Bond denominated in foreign currency;
- Interest or discount paid to any person on Securities or Treasury Bond under the Registered Stocks and Securities Ordinance or Treasury Bill under the local Treasury Bills Ordinance.

Note :

- (i) Accordingly, WHT will not apply to interest or discount paid to any person on security or treasury bond or treasury bills issued by the Central Bank
- (ii) In the case of a senior citizen, LKR 1,500,000 up to the total of the interest income per annum is allowed as a relief. Such relief should be deducted in arriving at a taxable income, in addition to LKR 500,000

*“Senior citizen”* with respect to a year of assessment means an individual who is

- a) a citizen of Sri Lanka during the year of assessment;
- b) resident in Sri Lanka for the year of assessment ; and
- c) who is sixty years old or above at any time during the year of assessment

#### *Dividends*

- Dividends paid by a resident company to a shareholder, which is attributable to, or derived from, another dividend received by that resident company or another resident company that was subject to WHT.

#### *Winnings from a lottery*

- Any winnings from a lottery, the gross amount of which does not exceed LKR 500,000.

#### *Service fee (specified fee) paid to a Resident Individual*

- Amounts of LKR 50,000 or less per month
- Payments which are chargeable with Economic Service Charge (ESC)

### **3. WHT Rates**

#### *Withholding tax on interest*

#### *Rate*

#### xi. Interest or discount paid by banks and financial institutions -

- to a resident person (other than to a senior citizen)  
(Relief of LKR 1,500,000 is available to a senior citizen; WHT is applicable in the manner prescribed in regulations.) 5%
- all other cases including a non-resident person; 14%  
(Withholding tax will not apply to interest or discount paid to any person on Security or Treasury bond under the Registered Stocks and Securities Ordinance or Treasury bill under the local Treasury Bills Ordinance).

Note:

Withholding tax deducted from interest paid to-

- a resident individual, or
  - a charitable institution
- is a final tax.

*xii. Dividends*

- paid by a resident company; 14%
- non-resident company on remittance of profits (Remittance Tax); 14%

*xiii. Rent*

- paid to a resident person; 10%
- all other cases including a non-resident person; 14%

*xiv. Service fee and contract payments on an amount*

exceeding LKR 50,000 per month to a resident individual; 5%  
(No deduction if such payment is chargeable with the Economic Service Charge).

*xv. Royalty, premium, charge, natural resource payment; 14%*

*xvi. Winnings from a lottery, reward, betting and gambling; 14%*

*xvii. Service fee or an insurance premium with a source in Sri Lanka to a non-resident person; 14%*  
(No deduction if such payment is chargeable with the Economic Service Charge).

*xviii. Partner's share of any partnership income; 8%*  
(Withheld by the Precedent Partner)

*xix. Sum payable to a seller on sale of gems to the National Gem and Jewellery Authority. 2.5 %*

*xx. Payments to non-resident persons for transport services in respect of the carriage of passengers who embark, or cargo, mail or other moveable tangible assets that are embarked, in Sri Lanka other than as a result of transshipment or telecommunication services. 2%*

Note: An employer is required to withhold the monthly the amount of tax payable by the employees and remit the tax so withheld on or before the 15<sup>th</sup> day of the following month to Inland Revenue Department.

## 4. Definitions

### 4.1 Interest

*Interest includes*

- a) a payment , including a discount or premium, made under a debt obligation that is not a repayment of capital; and

- b) a swap or other payment functionally equivalent to interest;
- c) a commitment, guarantee or service fee paid in respect of a debt obligation or swap agreement; and
- d) a distribution by a building society.

Interest income is part of an investment income and constitutes income derived from loans, chargers on unpaid debts, surplus received on deposits in a bank or financial institution etc.

#### 4.2 Dividend

*Dividend* is a payment derived by a shareholder of a company

- whether received as a division of profits,
- in the course of a liquidation or reconstruction,
- in a reduction of capital or share buy – back or otherwise , and

**includes** a capitalisation of profits, by the way of a -

- i. a bonus share issue , increase in the amount paid up on shares ; and
- ii. Regardless of where such amounts is distributed or not; and

**excludes** a payment,

- i. made by shareholder to the company
- ii. debited to a capital, share premium or similar account; or'
- iii. otherwise constitutes a final WHT payments or
- iv. is included in calculating the income of the shareholder.

A dividend payment entails a broad meaning and covers all types of in-kind payments and constructive distribution.

#### 4.3 Rent

*Rent* means a payment, including premium or similar amount for the use of or the right to use, property of any kind, and

**includes-**

a payment for rendering assistance to a use or right to use a property, but

**excludes-**

a natural resource payment or a royalty

#### **4.4 Royalty**

*Royalty* is essentially a payment for use of intangible property and covers payments for provision of know-how, ancillary payments and forbearance payment

#### **4.5 Natural resource payment**

*Natural resource payment* means a payment for the right to take natural resources from land or sea, living resources such as trees, crops and fish and non- living resources such as minerals , soil, oil or water.

#### **4.6 Service fee**

Service fee means a payment to the extent to which, based on market values, it is reasonably attributable to services rendered by the business of a person

### **5. Final withholding payment**

WHT deducted shall be the final tax in respect of the following;

- a) dividends paid by a resident company to a resident person ;
- b) interest derived by a
  - resident individual, or
  - charitable institution;
- c) winnings , from a lottery, reward, betting or gambling , other than amounts received in conducting a business consisting of betting and gambling;
- d) payments made to non- resident persons other than payments derived through a permanent establishment in Sri Lanka

### **6. Duties of the Withholding Agent**

Every withholding agent should-

- a) pay the Commissioner General within 15 days after the end of each calendar month , any tax that has been withheld during the month, and
- b) prepare and serve on a withholder, a withholding certificate setting out the amount of payments made to the withholder and tax withheld by the withholding agent in the form specified

### **7. Credit for Non- final WHT**

The withholder shall be entitled to a tax credit in an amount equal to the tax withheld in respect of a payment that is not a final withholding payment.

## ***Economic Service Charge (ESC)***

### ***Contents***

	<b>Page</b>
<b>1 The Law .....</b>	<b>55</b>
<b>2 Chargeability .....</b>	<b>55</b>
<b>3 Definitions .....</b>	<b>56</b>
<b>4 Notice of Chargeability .....</b>	<b>58</b>
<b>5 Special Cases .....</b>	<b>59</b>
<b>6 ESC Rates .....</b>	<b>60</b>
<b>7 Set off from Income Tax .....</b>	<b>61</b>
7.1 ESC paid on the relevant turnover .....	61
7.2 Credit for ESC paid to Customs by importers .....	62
<b>8 Payment Dates .....</b>	<b>62</b>
<b>9 Filing of ESC Return .....</b>	<b>62</b>
<b>10 Calculation of ESC .....</b>	<b>63</b>
<b>11 Set off of ESC .....</b>	<b>63</b>
<b>12 Maintenance of Records .....</b>	<b>64</b>
<b>13 Administrative Provisions .....</b>	<b>64</b>
<b>14 Exemption of certain Small and Medium Enterprises from the payment of default taxes .....</b>	<b>65</b>
<b>15 Time Limitation for Assessments .....</b>	<b>65</b>





## ***Economic Service Charge (ESC)***

### ***1. The Law***

- Economic Service Charge Act, No. 13 of 2006
- Economic Service Charge (Amendment) Act, No 15 of 2007
- Economic Service Charge (Amendment) Act, No 11 of 2008
- Economic Service Charge (Amendment) Act, No 16 of 2009
- Economic Service Charge (Amendment) Act, No 11 of 2011
- Economic Service Charge (Amendment) Act, No 11 of 2012
- Economic Service Charge (Amendment) Act, No 6 of 2013
- Economic Service Charge (Amendment) Act, No 9 of 2014
- Economic Service Charge (Amendment) Act, No 13 of 2015
- Economic Service Charge (Amendment) Act, No 7 of 2017
- Economic Service Charge (Amendment) Act, No 33 of 2018
- Gazette Extraordinary Nos:
  - 1502/10 of 20 June 2007
  - 1506/06 of 18 July 2007
  - 1546/9 of 22 April 2008
  - 1857/9 of 9 April 2014
  - 2036/23 of 13 September 2017.

### ***2. Chargeability***

ESC is chargeable:

- a) from every person (definition of person is given under item 3 below) and partnership (which has the same meaning as in the Inland Revenue Act, No. 10 of 2006) for every quarter of every year of assessment -
  - i. in respect of every part of the relevant turnover (including the turnover from the business of any Islamic Financial Transaction) of every trade, business, profession or vocation of such person or partnership,
    - commencing on or after April 1, 2006,
    - if the relevant turnover is not less than
      - Rs 10 million for any relevant quarter commencing before 31 March 2007;
      - Rs 7.5 million for any relevant quarter commencing on or after 1 April 2007 but before 1 April 2011;
      - Rs 25 million for any relevant quarter commencing on or after 1 April 2011 but before 1 April 2012;
      - Rs 50 million for any relevant quarter commencing on or after 1 April 2012 but prior to 1 April 2017; and

- Rs 12.5 million for any relevant quarter commencing on or after 1 April 2017.
- ii. on the cost, insurance and freight (CIF) value certified by the Director General of Customs of such person or partnership in respect of every consignment of import of –
  - any article subject to Special Commodity Levy on or after 1 April 2016,
  - gold or other precious metal on or after 24 November 2016 or
  - motor vehicles on or after 10 April 2017 but prior to 4 October 2018.
  - on or after 4 October 2018, motor vehicle, which are not liable for excise duty imposed under the ( special Provision ) Act No 13 of 1989,
- iii. on or after 4 October 2018 on the amount of the excise duty imposed under the excise (Special Provisions) Act No 13 of 1989 in respect of every consignment of imports of motor vehicles, which are liable for excise duty.

Effective from the quarter commencing on or after 1 April 2012 and ending on or before 31 March 2016, any person carrying on any trade, business, profession or vocation will not be liable to ESC, if he has a taxable income from such trade, business, profession or vocation, which is assessed to income tax for the year of assessment immediately prior to the commencement of the year of assessment to which such quarter belongs. Effective from 1 April 2016, ESC is payable by every person or partnership on the turnover of any trade, business, profession or vocation, if the relevant turnover exceeds the threshold.

The maximum ESC to which any person or partnership is liable for any relevant quarter –

- ending on or before 31 March 2009 is Rs 15 million,
- commencing on or after 1 April 2009 but prior to 1 April 2016 is Rs 30 million, and
- effective from quarter commencing 1 April 2016, maximum ESC payable limit has been removed.

### **3. Definitions**

“Person” includes a company or body of persons, but does not include –

- a) any registered society, within the meaning of the Co-operative Societies Law, No. 5 of 1972 or under the respective Statute enacted by a Provincial Council providing for such registration;
- b) any person carrying on business as an owner or charterer of an aircraft or ship;
- c) any government institution or local authority as defined in the Inland Revenue Act, No. 10 of 2006;
- d) any distributor;
- e) any dealer in a lottery;
- f) any Unit Trust or Mutual Fund;

- g) the Central Bank of Sri Lanka prior to 31 March 2017;
- h) Lak Sathosa Limited registered under the Companies Act No 7 of 2007 (effective from 1 April 2011).

**“Turnover”** in relation to any trade, business, profession or vocation and to any relevant quarter means:

- total amount receivable, whether actually received or not, from every transaction entered into in that relevant quarter in the course of such trade, business, profession or vocation carried on or exercised by that person or partnership,

***less***

- any sum included in such total amount as representing VAT in respect of that transaction of the VAT registered person,
- proceeds from the disposal of capital assets,
- any bad debts incurred, being an amount included in the relevant turnover of any previous period of that trade, business, profession or vocation.
- proceeds of sale of any foreign currency denominated sovereign bond issued by the Government of Sri Lanka to any licensed commercial bank or to any non-resident person (effective from October 21, 2008);
- proceeds of sale –
  - i. of any Treasury Bill issued under the Local Treasury Bills Ordinance (Chapter 417); or
  - ii. of any Treasury Bond issued under the Registered Stocks and Securities Ordinance (Chapter 420),

purchased out of the funds drawn from any Treasury Bond Investment External Rupees Account (effective from June 1, 2008);

- proceeds from the sale of any clay roof tile or pottery product by any manufacturer of such product;
- funds voted by Parliament from the Consolidated Fund or any loan arranged by the Government of Sri Lanka, for the provision of any service, free of charge, by any public corporation on behalf of the Government;
- proceeds from the sale of any organic fertilizer by the manufacturer of such product.

***Plus***

- any bad debt received during the relevant quarter which has been previously written off or allowed.

The definition is extended –

- to include in the case of a bank, financial institution or pawn broker, all receipts of a bank, financial institution or pawn broker by way of interest, discounts,

dividends, exchange, service charges, commissions, brokerage and any other income derived in the course of its business, and

- to exclude in the case of insurance business, the insurance premia received or receivable in respect of –
  - i. life insurance; and
  - ii. insurance against damages or destruction by strike, riot, civil commotion, or acts of terrorism are paid into the consolidated fund.
- In the case of Central Bank of Sri Lanka, unrealized gain from price revaluation and foreign exchange revaluation, shall be deemed not to form part of the turnover of Central Bank of Sri Lanka.

“Financial institution” means any person corporate or unincorporated, whose business or part of whose business consists in the acceptance of money by way of deposit or loan in the form of debenture or bond or in any other form and the payment of interest thereon, whether such acceptance is on its own behalf or on behalf of any other person;

“**Relevant turnover**” in relation to any person or partnership and to any relevant quarter means the aggregate turnover for that relevant quarter of every trade, business, profession or vocation carried on or exercised by such person or partnership in Sri Lanka, whether directly or through one or more agents.

“**Quarter**” in relation to any year of assessment means the period of 3 months commencing on the first day respectively of April, July, October or January of that year of assessment.

“**BOI Enterprise**” means any enterprise in relation to which an exemption of its profits and income from income tax in terms of any agreement entered into by the Board of Investment of Sri Lanka (BOI) with such enterprise under Section 17 of the BOI Law No 4 of 1978, subsists during the whole or any part thereof of that relevant quarter.

“**Distributor**” in relation to any manufacturer or producer of any goods in Sri Lanka means any person or partnership appointed by such manufacturer or producer for the sale in the wholesale market, of such goods, at such price as may be determined by such manufacturer or producer from time to time.

#### ***4. Notice of Chargeability***

Chargeability to ESC commences for every person or partnership from every quarter commencing on or after April 1, 2006 in respect of every part of the relevant turnover of such person or partnership for that relevant quarter.

Every person or partnership chargeable with ESC should give notice in writing or by electronic communication to the Commissioner General of such chargeability before the 15<sup>th</sup> day of the last month of that relevant quarter, disclosing the income tax file number or Taxpayer Identification Number (TIN), as the case may be.

## 5. *Special Cases*

As per the Regulations published in Gazette No 2036/23 of 13 September 2017 referred to in paragraph 1, any person or partnership engaged in any trade or business of –

- a) freight forwarder,
- b) export of cut and polished gems or diamonds;
- c) export of garments,
- d) export of any article other than garments; or
- e) primary dealer

for any relevant quarter commencing on or after 1 April 2016 and

- export of any article could opt to ascertain the turnover either under normal definition referred to in paragraph 3 or compute the ESC on the turnover of trade or business of –
  - a freight forwarder reduced by the sum payable to any person on account of the carriage of cargo loaded into any ship or aircraft;
  - export of cut and polished gems or diamonds from rough gems or diamonds imported, on the excess of the FOB value of such exports over the CIF value of such raw gems or diamonds;
  - export of garments manufactured from materials imported on NFE basis, on the excess of the FOB value of such exports over the CIF value of such materials;
  - export of any article other than garments manufactured in Sri Lanka out of materials imported on NFE basis, on the excess of the FOB value of such exports over the CIF value of such materials;
  - a primary dealer, on the excess of proceeds of sale of securities held by such primary dealer over the aggregate of
    - i. sum invested in that quarter in the purchase of securities, and
    - ii. the interest paid or the discount allowed by such primary dealer in relation to any repurchase transaction entered into in that quarter.
- compute the ESC at 0.5% in respect of the turnover so ascertained.

In these Regulations –

- a) “freight forwarder” means a person or a partnership who or which is registered with the Central Bank of Sri Lanka under the Exchange Control Act, as a freight forwarder and who-
  - issues multi-modal documents of carriage covered by a Freight Forwarders ‘All Risk and Legal Liability Insurance Policy’ and
  - furnishes, together with the return of relevant turnover for any relevant quarter, copies of the statements, furnished to the controller of Exchange in respects of each month comprised in such relevant quarter of turnover prepared in the form specified in the Third Schedule, and net collections prepared in the form

- specified in the Fourth, Fifth and Sixth Schedules to the Notification issued by the Controller of Exchange under Section 29B of the Exchange Control Act.
- b) “person” includes any person who has entered into an agreement with the BOI under Section 17 of the BOI Law No. 4 of 1978.
- c) “primary dealer” has the same meaning as in Section 217 of the Inland Revenue “Act, No. 10 of 2006.
- d) “Security” means any -
- i. Security or Treasury Bond issued under the Registered Stocks and Securities Ordinance (Chapter 420);
  - ii. Treasury Bill issued under the Local Treasury Bills Ordinance (Chapter 417); or
  - iii. Central Bank Security issued under the Monetary Law Act (Chapter 422), under Section 134.

## 6. ESC Rates

- a) For the period, commencing on 1 April 2011 and ending on 31 March 2012:  
(Schedule II to the Act)

Part of The Liabie Turnover	ESC Rate Applicable
(i) Enterprises to which the Board of Investment of Sri Lanka Law, No.4 of 1978 is applicable (a) Apparel exporters; (b) Trading houses; (c) Manufacturers of textiles for exporters.	0.1 per centum
(ii) Persons granted Exemptions/Concessionary Rates/Others (a) who are exempt from income tax (including tax holiday companies); (b) who during certain periods are incurring losses; who are subject to tax under concessionary rates; (c) who are engaged in wholesale or retail trade other than products manufactured or produced by the seller (excepting distributors or dealers in motor vehicles or liquor); (d) who carry out primary conversion of any tea, rubber coconut plantation including desiccated coconut, coconut oil (e) or fibre, copra and sheet rubber, but excluding any conversion which produces any alcoholic beverage. (f) Advertising Agents.	0.25 per centum
(iii) any other businesses including those of which the turnover is defined by Notice published in the Gazette (including dealers in motor vehicles, liquor, tobacco	1.0 per centum

and petroleum)	
----------------	--

- b) For the period commencing on 1 April 2012 but prior to 1 April 2016 (Schedule III to the Act)  
on the liable turnover 0.25 per centum
- c) For the period commencing on 1 April 2016 (Schedule IV to the Act)

<i>Part of the Liable turnover</i>	<i>Rate of the ESC Applicable to that</i>
1. on the relevant turnover other than the relevant turnover of a person or a partnership from the wholesale or retail sale of petrol, diesel or kerosene	0.5 per centum
2. on 1/10 of the relevant turnover of a person or partnership from the wholesale or retail sale of petrol, diesel or kerosene	0.5 per centum

## 7. Set off from Income Tax

### 7.1 ESC paid on the relevant turnover

ESC paid by **any person** for any relevant quarter is deductible from the income tax payable by that person for the year of assessment, of which that relevant quarter is a quarter.

With respect to ESC paid by **any partnership** for any relevant quarter,

the amount paid is apportioned among the partners of such partnership in the ratio in which such partners share the profits or loss of such partnership for the year of assessment, of which that relevant quarter is a quarter.  
the amount of ESC so apportioned to any partner is deductible from the income tax payable by such partner for the year of assessment, of which the relevant quarter is a quarter, and

The balance ESC levied for any relevant quarter prior to 1 April 2016, if any, can be carried forward and set off against the income tax payable by such person or partner of such partnership for immediately succeeding 4 years of assessment.

The balance ESC levied for any relevant quarter commencing on or after 1 April 2016, if any, can be carried forward and set off against the income tax payable by such person or partner of such partnership for immediately succeeding 2 years of assessment.

Where an insurer engaged in carrying on both long term insurance business and general insurance business segregates such two businesses to be carried on by two separate companies as required by Section 53 of the Regulation of



Insurance Industry (Amendment) Act No 3 of 2011, the balance ESC, if any, as at the date of such segregation, could be deducted from income tax payable by the company that is carrying on the general insurance business.

Further, where any commercial bank or specialized bank, finance company or leasing company acquires or merges with the business of any other bank, finance company or leasing company under the Financial Sector Consolidation Process of the Central Bank of Sri Lanka, and there remains any balance of ESC paid by such banks, finance companies or leasing companies after the deduction from the income tax payable in that year of acquisition or merger and which is entitled to be carried forward and deducted from income tax payable by such banks, finance companies or leasing companies, then such balance shall be deductible from the income tax payable by such bank, finance company or leasing company that acquired the business or with which the other bank, finance company or leasing company merged, as if the same bank, finance company or leasing company were continuing to carry on the business.

## **7.2 Credit for ESC paid to Customs by importers**

Where an importer (any person or partnership) becomes liable to pay ESC in respect of every consignment of imports of any article subject to Special Commodity Levy, gold or other precious metal or motor vehicles, such importer/partner is entitled to tax credit in respect of the ESC so paid against the ESC liability of such importer/ partner for the same year of assessment. Any balance if any, could be credited against the income tax liability of such importer/partner for immediately succeeding 2 years of assessment.

## **8. Payment Dates**

ESC should be paid for each relevant quarter, on a self assessment basis on or before the 20<sup>th</sup> day of the month following the end of the relevant quarter, i.e.

<b><i>Quarter commencing</i></b>	<b><i>Payable on or before</i></b>
1 <sup>st</sup> April	20 July of the same year,
1 <sup>st</sup> July	20 October of the same year,
1 <sup>st</sup> October	20 January of the following year,
1 <sup>st</sup> January	20 April of the same year.

## **9. Filing of ESC Return**

- Every person or partnership, who or which is liable to pay ESC or registered for ESC, is required to furnish or submit electronically -
- for any relevant quarter ending on or before 31 March 2011, the quarterly ESC return on or before the 20th day of the month following the end of the relevant quarter, and

- for any relevant quarter commencing on or after 1 April 2011, the annual ESC return for the year of assessment ending on 31 March of that year, on or before the 20th day of April of each year.
- The basis of the calculation of the ESC should be given in the return.

### 10. Calculation of ESC

ESC should be calculated on the relevant turnover at the rates given in paragraph 6 of this Note. ESC is not payable for any relevant quarter if the liable turnover for that quarter is below Rs 12.5 million. The maximum ESC payable of Rs 30 million per quarter has been removed, effective from the quarter commencing 1 April 2016.

*Example:*

ABC Ltd is required to pay ESC for the year of assessment 2018/2019.

The following turnover for the quarter ended 30.06.2018 has been recorded by the ABC Ltd.

Export of tyres	=	Rs 6,300 million
Local sale of tyres	=	Rs 2,100 million
Liable Turnover	=	Rs 8,400 million

ESC payable for the quarter ended 30.06.2018 is

On the liable turnover	=Rs 8,400 x $\frac{0.5}{100}$ million
Total	=Rs 42 million
	=====

### 11. Set off of ESC

ESC is payable on the relevant turnover of the relevant quarter on or before the 20<sup>th</sup> day of the month following the end of that relevant quarter, and the ESC so paid is deductible from the income tax payable for the year of assessment of which that relevant quarter is a quarter.

In respect of the year of assessment 2018/2019, payments could be set off as follows:

<i>Quarter ended</i>	<i>ESC due date</i>	<i>Set off against income tax payable on</i>
30.06.2018	20.07.2018	15.08.2018
30.09.2018	20.10.2018	15.11.2018
31.12.2018	20.01.2019	15.02.2019
31.03.2019	20.04.2019	15.05.2019

In relation to companies which have obtained the approval from the Commissioner General to make up accounts to 31 December, the statutory income for the year ended 31 December 2018 would be applicable to the year of assessment 2018/2019. Hence the relevant turnover for the relevant quarter is as follows-

<b><i>Quarter Ended</i></b>	<b><i>Relevant Turnover</i></b>	<b><i>Due Date</i></b>
30.06.2018	Turnover for the quarter ended 31 March 2018	20.07.2018
30.09.2018	Turnover for the quarter ended 30 June 2018	20.10.2018
31.12.2018	Turnover for the quarter ended 30 September 2018	20.01.2019
31.03.2019	Turnover for the quarter ended 31 December 2018	20.04.2019

The amount of any ESC paid by any person for any relevant quarter could be deducted from the income tax, if any, payable by that person for the year of assessment of which that relevant quarter is a quarter.

The balance if any, could be carried forward to immediately succeeding two years of assessment to be deducted from the income tax payable, to the extent it can be so deducted, if such ESC is levied for any quarter commencing on or after 1 April 2016.

## ***12. Maintenance of Records***

Records of transactions of the trade, business, profession or vocation carried on or exercised are required to be maintained by every person or partnership chargeable with ESC in such manner as would facilitate the reconciliation of the return of relevant turnover filed.

## ***13. Administrative Provisions***

- Assessor is vested with the power to make assessments in respect of
  - any unpaid ESC, or
  - any short payment of ESC.
- Any ESC unpaid on the specified date shall be deemed to be in default and any individual, partner of a partnership, a director or other principal officer of a company or any other corporate body, any member or an officer of any unincorporated body, which is liable to pay the ESC which is in default, shall be deemed to be a defaulter for purposes of the ESC Act.
- All relevant provisions of the Inland Revenue Act, No. 10 of 2006 pertaining to finalising of assessments, penalty for delayed payment and for incorrect returns, appeals, recovery of ESC, repayments, penalties and offences, administration, general and miscellaneous matters will apply respectively to ESC.

#### **14. *Exemption of certain small and medium Enterprises from the payment of default taxes***

Under the provisions of the Economic Service Charge (Amendment) Act No 11 of 2011, any person or partnership carrying on an enterprise, having an annual turnover of a sum not exceeding Rs 100 million, who has defaulted in the payment of ESC in respect of any period ending on or before 31 December 2010 due to the existence generally of any conflict environment or due to financial constraints of such person or partnership shall be exempt from the payment of such default ESC and the Commissioner General of Inland Revenue (CGIR) shall issue a certificate of exemption in respect of the sum in default.

In order to obtain such certificate of exemption, the defaulter should apply to the CGIR giving the reasons of his inability to pay the default taxes. Further, such defaulter should forward to the CGIR a written assurance for the payment of ESC payable by him in respect of any future periods commencing on or after 1 January 2011.

#### **15. *Time Limitation for Assessments***

Where the return of income has been filed under Section 106 of the Inland Revenue Act No 10 of 2006 on or before the due date (30th November) and the ESC return for any relevant quarter in any year of assessment has been filed on or before the dates referred to in paragraph 9 above, no assessment or additional assessment could be issued after the expiry of 18 months –

- from the end of the year of assessment within which such relevant quarter falls, if such quarter is any relevant quarter ending on or before 31 March 2014, or
- from the 30<sup>th</sup> day of November of the year of assessment immediately succeeding the year of assessment within which such relevant quarter falls, if such quarter is any relevant quarter commencing on or after 1 April 2014.

Where the return of income and the ESC return have not been filed on or before such date as referred to above, no assessment or additional assessment could be issued after the expiry of 4 years from the 30<sup>th</sup> day of November of the year of assessment immediately succeeding the year of assessment within which such relevant quarter falls.



**Value Added Tax (VAT)****Basic Rules & Procedures**

(Updated including amendments made by the  
Value Added Tax (Amendment) Act No. 25 of 2018)

<b>Contents</b>	<b>Page</b>
<b>1 VAT Law .....</b>	<b>69</b>
<b>2 What is VAT? .....</b>	<b>69</b>
<b>3 How VAT works .....</b>	<b>69</b>
<b>4 Self-assessment of VAT .....</b>	<b>70</b>
<b>5 Implementation Date of VAT .....</b>	<b>70</b>
<b>6 Chargeability of VAT .....</b>	<b>70</b>
<b>7 VAT on Imports .....</b>	<b>71</b>
<b>8 Deferment of VAT .....</b>	<b>71</b>
<b>9 Chargeability of VAT on Wholesale or Retail Trade .....</b>	<b>75</b>
<b>10 Deemed Taxable Supplies in a Wholesale and Retail Business of a VAT registered person .....</b>	<b>75</b>
<b>11 Taxable Supply .....</b>	<b>76</b>
<b>12 Taxable Activity .....</b>	<b>76</b>
<b>13 Taxable Period .....</b>	<b>76</b>
<b>14 Time of Supply .....</b>	<b>77</b>
<b>15 Place of Supply .....</b>	<b>78</b>
<b>16 Registration for VAT .....</b>	<b>78</b>
<b>17 Invoices for VAT .....</b>	<b>79</b>
<b>18 VAT Rates .....</b>	<b>80</b>
<b>19 VAT Exemptions .....</b>	<b>81</b>
<b>20 VAT Base .....</b>	<b>81</b>
<b>21 Calculation of VAT .....</b>	<b>83</b>
<b>22 Accounting for VAT .....</b>	<b>87</b>
<b>23 VAT Returns .....</b>	<b>87</b>
<b>24 VAT Payments .....</b>	<b>88</b>
<b>25 VAT Refunds .....</b>	<b>89</b>
<b>25 A Refund of VAT to tourists .....</b>	<b>89</b>
<b>26 VAT Assessments .....</b>	<b>89</b>

<b>27</b>	<b><i>Appeal Process</i></b> .....	90
<b>28</b>	<b><i>VAT Penalty Regime</i></b> .....	90
<b>29</b>	<b><i>VAT on Financial Services</i></b> .....	91
29.1	Nature of the Tax .....	91
29.2	Definition of Financial Services .....	91
29.3	Taxable Persons .....	92
29.4	Calculation of VAT – Value Addition Attributable Method .....	93
29.5	Tax Rate.....	95
29.6	Threshold for Tax Payments .....	95
29.7	Threshold for Registration .....	95
29.8	Taxable Period .....	96
<b>30</b>	<b><i>Islamic Financial Transactions</i></b> .....	96
<b>31</b>	<b><i>Exemption of certain small and medium enterprises from the Payment of default taxes</i></b> .....	97
<b>32</b>	<b><i>Use of Electronic Communications or Electronic records</i></b> .....	97
	<b>Annex 1 – Guidelines on the operation of simplified Value Added Tax (SVAT) Scheme</b> .....	98
	<b>Annex 2 – Supplies Eligible for Zero Rating</b> .....	112
	<b>Annex 3 – Exempt Supplies</b> .....	113
	<b>Annex 4 – Restriction on Allowability of Input Tax – Illustration</b> .....	127
	<b>Annex 5 – Guidelines to Licensed Commercial Banks and Licensed Specialized Banks on the Operations of the Investment Fund Account</b> .....	128

## ***Value Added Tax (VAT)***

### **Basic rules & procedures**

#### **1. VAT Law**

Principal Act : Value Added Tax Act, No. 14 of 2002

Amending Acts : No. 7 of 2003  
 No. 13 of 2004  
 No. 6 of 2005  
 No. 8 of 2006  
 No. 49 of 2006  
 No. 14 of 2007  
 No. 15 of 2008  
 No. 15 of 2009  
 No. 9 of 2011  
 No. 7 of 2012  
 No. 17 of 2013  
 No. 7 of 2014  
 No. 11 of 2015  
 No. 20 of 2016  
 No. 25 of 2018

Gazette Notifications: No. 1267 of 17/12/2002  
 No. 1310 of 14/10/2003  
 No. 1404/5 of 2/8/2005  
 No. 1500/20 of 6/6/2007  
 No. 1530/14 of 1/1/2008  
 No. 1582/35 of 1/1/2009  
 No. 1606/30 of 19/6/2009  
 No. 1868/10 of 23/6/2014  
 No. 1910/2 of 16/4/2015  
 No. 1986/9 of 27/09/2016  
 No. 1991/17 of 1/11/2016  
 No. 2012/2 of 27/3/2017  
 No. 2042/21 of 26/10/2017  
 No. 2078/6 of 2/07/2018  
 No. 2088/2 of 10/9/2018  
 No. 2088/25 of 11/9/2018  
 No. 2089/13 of 17/9/2018  
 No. 2095/19 of 1/11/2018

#### **2. What is VAT?**

VAT is essentially a multi-stage tax on the value added to goods and services at each stage in the production and distribution chain. In effect, it is a tax on the increase in the sales price of the goods and services as they pass through that chain. Ultimately, the VAT will be borne by the final consumer and, therefore, VAT will operate basically as a tax on the domestic consumption of goods or services.

#### **3. How VAT works**

VAT is chargeable on the supply of goods or services in Sri Lanka and on the importation of goods to Sri Lanka. It is broadly intended to be neutral on businesses (being ultimately borne by the final consumer) and, therefore,



contains a credit mechanism within the chain of supply. Applying the tax in its simplest form, a business will charge VAT (output tax) on its sales (supplies); will deduct from the total of the output tax the VAT paid on its purchases (input tax), and will pay the net balance to the Department of Inland Revenue. Pursuant to a special provision introduced to the VAT Act, effective from 1

January 2007, a restriction is placed on the amount of input tax credit allowable. Please see paragraph 20.

#### **4. Self-assessment of VAT**

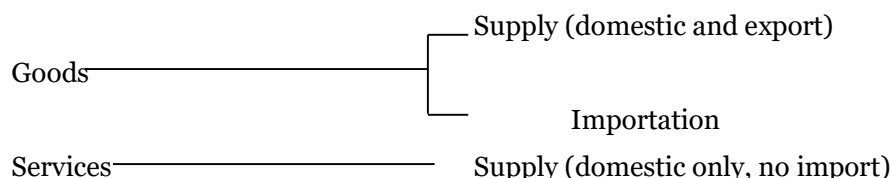
VAT is a self-assessed tax and liable persons are, therefore, responsible for determining the liability to VAT on any supply they make. It is, accordingly, important that anyone doing business considers in advance whether he is liable to account for VAT on the transaction concerned.

#### **5. Implementation Date of VAT**

VAT came into force from 1 August 2002 replacing the GST.

#### **6. Chargeability of VAT**

VAT is levied on every taxable supply under one of the following headings:



VAT will not be collected by Commissioner General of Inland Revenue (CGIR) where the tax is –

- recovered at –
  - Rs 75 for each garment prior to 16 august 2018
  - Rs 75 for each garment other than panties, socks, briefs and boxer shorts for any period commencing on or after 16 August 2018
  - Rs 75 for six pieces of panties ,socks, brief and boxer shorts for any period commencing on or after 16 August 2018
  - Rs 75 per kilogram of linen or curtains;
  - Rs 75 per each towel;
  - Rs 75 per bag made out of fabric;
  - Rs 75 per kilogram of excess fabric as cut pieces; not more than 2 metres in length;
  - Rs 75 per kilogram of any other fabric sold locally as provided in the proviso to Section 22 of the VAT Act.
- deferred by –
  - CGIR
  - Director General of Customs (DGC).

No tax shall also be charged on –

- any goods which entered into a Customs bonded area or a free port referred to in Part iv of the Finance Act No 12 of 2012,
- any fabric imported by a BOI garment manufacturer for production of garments for export or transfer of such fabric, with BOI or Customs' approval, to another person for manufacture of garments for export,
- any fabric imported by a BOI approved Trading House for manufacture of garments for export through other garment manufacturers and transfer of such fabric for such manufacturing purposes,
- any fibre, yarn, grey cloth, finished cloth, chemicals and dyes used for manufacture of fabric imported by a BOI approved fabric manufacturer for purposes of such manufacture,
- any fabric or accessories imported by any person for the purpose of manufacture of garments for export, who has registered under the Simplified Value Added tax scheme administered by the Commissioner General, with the approval of the Commissioner General.

## **7. VAT on Imports**

VAT will be chargeable on the importation of goods into the country by any person other than on import of personal items and business samples worth less than Rs 10,000 through parcel post or courier. VAT payable on imported goods will be collected as it were a customs duty, applying the provisions of the Customs Ordinance.

## **8. Deferment of VAT**

The VAT law provides for deferment of the collection of VAT –

*by the Commissioner General of Inland Revenue (CGIR)*

- in respect of the supply of taxable goods or services by a VAT registered person to any other person
  - who has entered into an agreement as a contractor to supply any goods and services to any government department,
  - utilising funds provided by any foreign government or donor agency, approved by the Minister, and
  - where the value of the goods exceeds Rs 20,000,

for a period of 3 months from the end of the month in which such goods or services were purchased by such contractor (registered person). The registered person, to whom the deferment is granted, need not account for relevant output tax to the appropriate supplier until recovery of the tax due on such supplies within 3 months,

- on the supply of -
  - any goods manufactured in Sri Lanka with the approval of the Textile Quota Board (TQB) if such supply has been utilised for the purpose of manufacture of garments for export either by garment manufacturers who are registered with the TQB or through export trading houses registered with the BOI, or

- finished garments manufactured in Sri Lanka with the approval of the TQB if such supply has been exported through export trading houses registered with the BOI, or
- garments by a manufacturer approved by the TQB, being the garments manufactured from fabric supplied by an exporter directly or through an export trading house which has entered into an agreement with the BOI, or
- any service by any supplier approved by the TQB, being the service to improve the quality, character or value of any garment manufactured by any manufacturer of garments for export either directly or through any export trading house which has entered into an agreement with the BOI,
- until such time as the activities of such garment manufacturer or service provider are carried out in the manner stipulated by the CGIR in the guidelines issued for this purpose, on the submission of the reconciliation relating to –
  - the disposal of such goods, stating that such finished goods have in fact been exported by the recipient of the supplies, or
  - the supply of value added services, stating that such services have in fact been used for the manufacture of garments which have been exported,
  - provided that, with effect from April 1, 2011, deferment of tax under this paragraph shall be administrated by the CGIR,
- on the supply, with the approval of the Export Development Board (EDB) with the concurrence of the Ministry of Finance,
  - of any goods manufactured in Sri Lanka by such suppliers and supply by such supplier to any manufacturer to be utilized for the purpose of manufacture of goods (other than the goods referred to immediately above) by such manufacturers who are registered with the EDB as exporters; or
  - of any service by such suppliers provided to any manufacturer which results in the improvement of the quality, character or value of any goods manufactured by such manufacturer of goods for export who is registered with EDB as an exporter, being a service provided by such suppliers approved by the EDB as a supply of services identified for this purpose,

until such time as the activities of such manufacturer of goods or service provider are carried out in the manner stipulated by the CGIR in the guidelines issued for this purpose, on the submission of the reconciliation relating to –

- the disposal of such goods, stating that such finished goods have in fact been exported by the recipient of the supplies, or
- the supply of value added services, stating that such services have in fact been used for the manufacture of goods which have been exported,

provided that, with effect from April 1, 2011, deferment of tax under this paragraph shall be administrated by the CGIR.

- on the supply of goods or services by any registered person, who is registered under the Simplified Value Added Tax (SVAT) Scheme administered by the Commissioner-General, to:-

- i) any exporter or provider of zero rated services specified in terms of section 7;
- ii) any registered person who supplies goods or services to any Strategic Development Project as is referred to in sub-paragraph (i) of paragraph (f) of Part II of the First Schedule, during the project implementation period insofar as such supplies are project related supplies;
- iii) any registered person engaged in any specific project referred to in sub-paragraph (ii) of paragraph (f) of Part II of the First Schedule (effective from April 1, 2011);
- iv) any manufacturer who supplies goods manufactured in Sri Lanka to any exporter;
- v) any supplier who provides value added services to an exporter which results in the improvement of the quality, character or value of any goods manufactured for export;
- vi) any person registered under the provisions of section 22(7) of the Act, during the project implementation period insofar as such supplies are project related supplies;
- vii) any registered person who supplies any goods or services, to any registered person referred to in sub-paragraphs (i), (ii), (iii), (iv), (v) or (vi) above, provided that the Commissioner-General is, on the information available, satisfied that the value of such supplies exceeds 50% of the total supplies of such registered person who supplies such goods or services,

until such time as the activities of such registered person are carried out to the satisfaction of the Commissioner-General in the manner stipulated by the Commissioner-General in the guidelines issued for such purpose and which are specified in the Order published in the Gazette.

For the Guidelines issued by the CGIR, please see Annex 1.

*by the Director General of Customs (DGC)*

- **for period of 60 days** or such other period not exceeding 90 days as may be determined by the Minister by Gazette Notification, on:
  - i) any goods imported, including goods received from a customs bonded area or a free port referred to in Part iv of the Finance Act No 12 of 2012, for purposes of manufacture and export of goods so manufactured,
  - ii) any project related goods imported by a new business or project during the project implementation period,
  - iii) any plant or machinery for foreign government or agency (including UN and its affiliates) funded infrastructure project, during the project implementation period,
  - iv) any purchase of fabric from a BOI approved fabric manufacturer by a BOI approved garment manufacturer who utilizes such fabric for manufacture of garments for export.,
  - v) any plant or machinery imported or received from a customs bonded area by a registered person who imports or receives from a customs bonded area, such plant or machinery for the usage by such person for the manufacture of goods to be exported by such person,

- vi) any goods imported or received from a customs bonded area by a supplier, who has registered under the Simplified VAT Scheme administered by the Commissioner-General, and imports or receives such goods for the manufacture of goods or the provision of services to a manufacturer of garments for export,
- vii) any goods imported, including any goods received from customs bonded area by a person registered with the Simplified VAT Scheme administered by the Commissioner-General, who imports or receives such goods for the manufacture of goods or the provision of services to a manufacturer of goods for export,
- viii) any plant or machinery imported, including any plant or machinery received from a customs bonded area by a person registered under the Simplified VAT Scheme administered by the Commissioner-General who imports or receives such plant or machinery for the usage by such person for the manufacture of goods or provision of services for the manufacture of goods to be exported.

- **for such period until Completion of Project, Exhibition or Demonstration**

in respect of temporary import of –

- high value plant, machinery or equipment for use in any project, or
- any goods to be used as exhibition material or as materials in any technical demonstration,

on the approval of the Minister and to be re-exported after the completion of such project, exhibition or demonstration, as the case may be.

*Deferment of the payment of tax shall be subject to a furnishing of;-*

- a bank guarantee in a case where the tax deferred is less than Rs 10,000; or
- a Treasury Bill as a guarantee in a case where the tax deferred is not less than Rs 10,000; or
- a corporate guarantee which covers the amount of tax due subject to the conditions specified in the agreement in which the deferment is considered,

*on the goods imported, received or purchased;*

*Provided that, in the case of such deferment under paragraph (b) no guarantee shall be required where such goods have been imported by a Government institution to be re-exported within one month from the date of importation.*

- **for such period during the project implementation period, subject to the fulfilment of the conditions specified in the BOI agreement**

in respect of plant, machinery or equipment imported by any enterprise qualified for a tax exemption under section 16D and 17A of the Inland Revenue Act, No.10 of 2006, for the use by such enterprise for the purposes specified in the agreement entered into with the BOI where such agreement provides that tax is exempted under item (xxxiv) of paragraph (c) of PART II of the First Schedule.

## **9. Chargeability of VAT on Wholesale or Retail Trade**

- The supply of goods in a wholesale or retail trade activity, other than by (a) any manufacturer or importer of such goods or (b) a supplier who is unable to satisfy the CGIR as to the source from which the goods supplied by him were acquired, or (c) any person who supplies, under any tender agreement, such goods or (d) by any person or partnership having total supplies for any consecutive period of 3 months in any calendar year of not less than Rs 12.5 million including the supplies under (a), (b) or (c) above and any supplies exempted under Part II of the 1<sup>st</sup> Schedule to the Act, is an **excluded supply** and not subject to VAT.
- For the purposes of the threshold of Rs 12.5 million, the “total supplies” means, the aggregate value of supplies of –
  - i) any person or partnership engaged in the wholesale or retail business, while carrying on other business of similar nature in one place or different places under one or more registrations for the purposes of the Act; and
  - ii) with regard to any subsidiary or associated company of a Group of Companies engaged in the wholesale or retail business, the aggregate value of supplies of each company of the Group, other than any company not engaged in the wholesale or retail business.
- The supply of goods in a wholesale or retail activity wherein value of such supply (including exempt supply) in any consecutive period of 3 months is Rs 12.5 million or more is subject to VAT.

## **10. Deemed Taxable Supplies in a Wholesale or Retail Business of a VAT registered person**

For any period ending prior to 1 January 2016, in the case of a VAT registered person engaged in a wholesale or retail business, the value of the supply of goods exempted under the VAT Act had been restricted to a maximum of 25% of the total supplies of such registered person, other than –

- zero rated supplies, locally produced fresh milk and with effect from 1 November 2015, locally grown fruits and vegetables or locally produced rice, and
- supply of goods subjected to Special Commodity Levy made by the importer himself.

The excess of exempt supplies over the 25% of the total supplies was deemed as liable supplies of such registered person and chargeable to tax using the tax fraction of 11/111.

However, for any period ending prior to 1 January 2016, this restriction was not applicable to a person who –

- supplied pharmaceuticals, if the value of such supplies exceeded 75% of the total value of supplies,
- supplied software dedicated products including computers and computer accessories, if the value of such supplies exceeded 75% of the total value of supplies.

**Illustration (for any period ending prior to 1 January 2016)**

Taxable period = 1 January 2015 to 31 March 2015  
Rs in millions

<i>Output</i>	<i>Value before the adjustment</i>	<i>Value after the adjustment</i>	<i>Tax</i>
Taxable supplies	600	600	66
Exempt supplies	400	(25% of 1000)=250	-
Deemed taxable supplies	-	$(150^* \times \frac{100}{111}) = 135.14$	14.87
Total	1,000	-	80.87

\* Deemed supplies - 400 – 250 = 150

No tax invoice was issued on the deemed taxable supplies.

**11. Taxable Supply**

Taxable supply is a supply of goods or services made or deemed to be made in Sri Lanka which is chargeable with VAT **including** a *zero rated supply* but **not including** an *exempt supply* and an *excluded supply*.

**12. Taxable Activity**

Only supplies made in the course of carrying on or carrying out a taxable activity attract VAT. Accordingly, a person should register for VAT only if he carries on or carries out a taxable activity and the total value of his taxable supplies exceed the registration limits (given in paragraph 15).

A taxable activity means –

- any activity carried on as a trade, business, profession, vocation or every adventure in the nature of trade and anything done in connection with the commencement or cessation of such activity;
- provision of facilities to its members or others by a club, association or organisation (for a subscription or other consideration) and anything done in connection with the commencement or cessation of such provision;
- hiring or leasing movable property or renting or leasing any immovable property or administration of any property;
- exploitation of any intangible property such as patent, copyright or other similar asset, where such asset is **registered** in Sri Lanka or the owner of such asset is domiciled in Sri Lanka.

**13. Taxable Period**

Taxable period means a period of one month –

- where any person registered with the Simplified Value Added (SVAT) scheme and accorded Registered Identified Purchaser (RIP) status as specified in the Guidelines issued and published in the Gazette. (Annex 1);

- where any person has commenced a business or started a project and undertakes to comply with the requirements of Section 22(7) of the Value Added Tax Act No 14 of 2002; and

a period of three months commencing on the first day of January, April, July and October for all others or who has opted to submit quarterly returns on the approval by the Commissioner General.

#### **14. Time of Supply**

The time at which a supply of goods or services is treated as taking place and hence the date on which the VAT on the supply becomes chargeable is called the **tax point**. The supply must be accounted for in the **taxable period** in which the tax point occurs.

The time of supply is the **Basic Tax Point**.

##### ***Basic Tax Point Goods***

The time of the occurrence of any one of the following, whichever occurs earlier:

- Issue of an invoice by the supplier;
- A payment for the goods including any advance received by the supplier;
- A payment for the goods due to the supplier;
- Delivery of goods to customer or customer removes the goods.

##### ***Services***

The time of the occurrence of any one of the following, whichever occurs earlier:

- The service was performed (i.e. when all work is completed other than invoicing);
- A payment is received for the services rendered or for future services;
- A payment is due for the services rendered or for future services;
- An invoice is issued in respect of the services rendered.

##### ***Actual Tax Point***

Where an invoice is issued within 10 days from the date of delivery of the goods or date of performance of the service, as the case may be, the time of supply is deemed to be the time at which the invoice was issued.

*If a tax invoice is issued 10 days after the date of delivery of the goods or the date of performance of the service, as the case may be, VAT has to be accounted for at the time at which the delivery of the goods has been effected or at the date of performance of the service.*



**Special rules apply to supplies made for**

Agreement for periodic payments:	When payment is due or when payment is made, whichever is earlier
Hire purchase agreements:	When the agreement is entered into

Notes:

- Where the Payment Basis (Cash Basis) of accounting is adopted (subject to approval by CGIR) - time of supply is the date of receipt of payment.
- Where a deposit (non-refundable) is made on goods or services to be supplied, a tax point is created.

**15. Place of Supply**

Place of Supply of goods or services is considered to be in Sri Lanka when the supplier carries on a taxable activity in Sri Lanka and the goods are in Sri Lanka at the time of supply, or when the supplier or his agent has performed any services in Sri Lanka.

**16. Registration for VAT**

Every person (individual, company, partnership, joint venture, club association, government institution, local government institution, provincial council etc.) must register for VAT if the value of total taxable supplies from his/its taxable activities -

- exceeds Rs 3 million for any taxable period (one month or quarter), or
- exceeds Rs 12 million for any twelve-month period, or
- is likely to exceed Rs 3 million in the succeeding one month or 3 month taxable period or Rs 12 million in the succeeding 12 month taxable period.

However, the value of supply should be excluded in respect of any supply of –

- goods relating to a private transaction (e.g. domestic or household articles),
- exempted goods or services,
- goods purchased locally without any process in a wholesale or retail activity unless the value of total supplies for a period of 3 months in one calendar year including the supplies excluded under section 2 or exempted under Part II of the 1st schedule to the Act is not less than Rs 12.5 million.

Unregistered persons cannot charge VAT on supplies made and are unable to recover VAT paid on imports and local purchases.

**Wholesale and Retail Business**

The threshold with respect to the “value of supplies” applicable to any consecutive period of three months in any calendar year of any person or partnership carrying on a business of wholesale or retail trade, for the registration to VAT, is Rs 12.5 million commencing on or after 1 November 2016. With regard to any subsidiary or associate company of a Group of Companies,

the “value of supplies” means aggregate value of supplies of each company of the Group other than any company not engaged in the wholesale or retail business.

### ***Importers***

Importers, who do not have permanent VAT registration numbers, are required to apply and obtain temporary VAT registration numbers, if the value of the respective supplies is below the VAT registration threshold, or if the import is a private and occasional one.

A temporary importer’s registration does not allow a person to charge VAT on his sale. If his sales exceed the VAT registration threshold, he should apply for permanent VAT registration.

### ***De-registration***

A registered person may apply to cancel his registration after the lapse of 12 months following his date of registration (under VAT or GST) provided –

- he has ceased to carry on his taxable activity, or
- the total value of his taxable supplies in any taxable period does not exceed the registration threshold.

Upon cancellation of the registration or upon such registration been listed as an inactive registration, he should return the certificate of registration to CGIR and should not issue any tax invoice.

Where the CGIR cancels any registration, he shall cause a list of names and the registration numbers of such registered persons to be published in three daily newspapers in Sinhala, Tamil and English languages having a wide circulation or where CGIR decides such registration as inactive, he shall publish the names and registration numbers of the persons whose registration has been decided as inactive in the official Web Site of the Department and the list so published shall be updated on monthly basis.

## **17. Invoices for VAT**

There are two types of Invoices:

- ***Tax Invoice***

A tax invoice should be issued only to the recipient of the supply who is a VAT registered person and who makes a written request, within 14 days from the time of supply, for a tax invoice, or has stated that he is VAT registered or is deemed to be a VAT registered person and requires a tax invoice. (After the receipt of the first supply, he is not required to make such request for

subsequent supplies). **A tax invoice should be issued not later than 28 days after the time of supply.**

The tax invoice should set out the following specific details to be a **valid tax invoice**.

- i) Date of invoice and serial number of the invoice which does not exceed 40 characters without any space;
- ii) Supplier’s name, address and his VAT registration number;

- iii) Customer's name, address and the VAT registration number;
- iv) Date of supply, quantity and description of goods or services supplied;
- v) Value of the supply;
- vi) Amount of VAT charged and the total consideration;
- vii) Words "Tax Invoice" at a prominent place in the invoice.

**Any tax invoice not issued within the specified period and not conforming to the specified requirements will not be a valid tax invoice.**

- *Invoice*

An invoice (a bill) - which is not a tax invoice – should be issued to recipients of supplies who have not made a request for a tax invoice or have not indicated they are VAT registered. This invoice should show the name, address and registration number of the supplier, date and serial number of the invoice, date of supply, quantity and description of the goods or services.

**This Invoice should indicate the VAT inclusive consideration for the supply. The VAT charged should not be indicated separately in this Invoice.**

*Notes:*

- **Tax fraction 11/111 for 11% rate** should be applied in calculating VAT on a tax inclusive invoice.
- Tax invoice should be issued not later than 28 days after the time of supply.
- CUSDEC or authenticated document issued by DGC, will be treated as a tax invoice.

**Suspended Tax Invoice** wherein the VAT component is shown as "Suspended VAT" can be issued by a registered person who makes taxable supplies, referred to in Section 8 (bullet points 2, 3 and 4 in order) of this note. Where the VAT component is so suspended, an invoice so issued is not considered as a valid tax invoice to claim input tax.

## **18. VAT Rates**

VAT consists of 03 rate bands (inclusive of zero rate).

- **Zero rate** – Applies to export of goods, services connected with the international transportation, any service provided to a person outside Sri Lanka to be consumed outside Sri Lanka, provided the payment for such service is received from outside Sri Lanka through a bank in Sri Lanka and also services provided to overseas buyers by garment buying houses registered with the TQB and for which payment is received in foreign currency. (See Annex 2). *(A zero rated supply is a taxable supply and is subject to VAT but the rate applied is zero per cent)*
- **Standard rate of 15% (Tax Fraction 3/23)** for any taxable period commencing on 2 May 2016 and ending on 11 July 2016 and for any period commencing on 1 November 2016 – Applies to the import or supply of all

goods and supply of services (other than zero rated/exempt/excluded supplies).

Prior to 2 May 2016 and from 12 July 2016 but ending on or before 1 November 2016, the standard rate was 11% (Tax Fraction 11/111).

- **Lower rate of 5%** applies on the supply or import of wood sawn or chipped lengthwise, sliced or peeled (HS code 4407) and sheets for veneering (including those obtained by slicing laminated wood) for plywood or for similar laminated wood and other wood (HS code 4408) for any period commencing on 1 November 2018 as per the extraordinary gazette notification No 2095/19 of 1 November 2018.

Further, any input tax paid which is attributable to such supply on which VAT is charged at 5% shall not be allowed.

## 19. VAT Exemptions

**Exemption** will apply to a limited range of supplies of goods or services and importation of specified goods – see Annex 3.

*Exempt supplies are those which are not taxable, unless zero rated.*

A person (other than an exporter) supplying exempt goods or services is not eligible to register for VAT and must not charge his customers any output VAT. As such person is out of the VAT system, he is unable to recover VAT charged on inputs used by him to make exempt supplies.

If any VAT registered person makes exempt supplies, he is required to display a list of such exempt supplies of each business.

## 20. VAT Base

The value of supply is the tax base on which VAT is calculated. It is normally the **total consideration** received from the purchaser and/or third party, **net of any discount and less any VAT chargeable**. (i.e. the amount of money, excluding VAT itself which the customer has to pay in order to obtain the goods or services).

The value (tax base) on which VAT is charged:

- Imports - (Value for Customs Duty x 110%) + Customs Duty + Surcharge + Cess + Excise (Special Provisions) Duty + Ports and Airports Development Levy
- Supply - Total Consideration chargeable (including Excise (Special Provisions) Duty **less** VAT charged.)

VAT will normally be charged on the invoice value of goods or services. This value should not be less than the open market value of such supply.

*Special valuation rules are set forth for specific circumstances.*

- The amount of VAT corresponding to any bad debt written off (not a provision for bad debts) can be deducted in the period it is written off. Where later whole or part of the debt is recovered, it will form part of the

taxable supplies at the time of recovery. (Where any amount of VAT corresponding to a bad debt has been deducted by any person, the amount so deducted will be an output tax for the respective period of a registered person in respect of whom the bad debt was incurred).

- If the supply is for a consideration other than money, open market value is to be used.
- Where goods which are held for business purposes are applied to a non-business use, a supply is deemed to be made for a value equal to the open market value.
- Prior to 25 October 2014, where any goods supplied under a lease agreement are subsequently transferred to the lessee at the termination of such agreement for a consideration not exceeding ten per centum of the total consideration of the lease agreement, such consideration shall be deemed to be a lease rental recovered under such agreement, and where such consideration is more than ten per centum of the total consideration of the lease agreement, such supply shall be deemed to be a separate supply.
- On or after 25 October 2014, where any goods supplied under a lease agreement are subsequently transferred to the lessee at the termination of such agreement for a consideration, the total consideration of the lease agreement shall be treated as a lease consideration. Such consideration shall be treated as a lease rental obtained under such lease agreement.

#### *Health Care Service*

As per the Gazette No 1991/17 of 1 November 2016, the tax base for the health care service is the cost of the fees paid to medical practitioners, medical consultation fees, channelling fees and hospital room charges.

Effective from 1 November 2016

Above tax base is further amended by the gazette No 2078/6 of 2 July 2018, to include only hospital room charges

Effective from 2 July 2018

#### **Tax on garments and fabrics:-**

On garments sold by a garment manufacturer under agreement with BOI or under customs supervision to the local market within permit limits.

- recovered at –
  - Rs 75 for each garment prior to 16 August 2018
  - Rs 75 for each garment other than panties, socks, briefs and boxer shorts for any period commencing on or after 16 August 2018
  - Rs 75 for six pieces of panties, socks, brief and boxer shorts for any period commencing on or after 16 August 2018
  - Rs 75 per kilogram of linen or curtains;
  - Rs 75 per each towel;
  - Rs 75 per bag made out of fabric;
  - Rs 75 per kilogram of excess fabric as cut pieces; not more than 2 metres in length;
  - Rs 75 per kilogram of any other fabric sold locally as provided in the proviso to Section 22 of the VAT Act.

**21. Calculation of VAT**

Basic formula:

*Tax payable or refundable = Output tax – Input tax*

The amount of VAT payable should be calculated by deducting the allowable input tax from the output tax that a supplier has charged on the goods and services so supplied. If the input tax exceeds the output tax, the excess should be carried forward.

**Input tax** is the VAT that a VAT registered person has paid (including VAT deferred) on inputs (whether imports or purchases, capital or revenue) used or to be used in his business of making taxable supplies.

**Restriction on Input Tax Credit**

- Input tax credit allowable for any taxable period should be restricted to:
  - 100% of the output tax declared for that taxable period, or
  - actual input tax credit otherwise allowable for that taxable period,
 whichever is lower.
- The balance, if any, of any allowable input tax limited to 100% could be deemed to be part of the input tax allowable in the subsequent taxable period, subject to the same restriction.
- The 100% Cap will not apply to the input tax attributable to –
  - zero rated supplies,
  - supplies of goods or services which are deferred, being supplies made to exporters registered under the Simplified VAT Scheme administered by the Commissioner-General,
  - project related goods and services during the project implementation period, incurred by a person registered under Section 22(7) of the VAT Act,
  - supply of goods or services to any specific project referred to in paragraph (f)(ii) of Part II of the first schedule of the VAT Act.
- For an illustration, please see Annex 4.

**Output tax** is the VAT that a VAT registered person charges on his outputs i.e. on his taxable supplies of goods or services.

VAT does not observe the accounting convention of matching costs against the corresponding output. Hence, all input tax charged for any taxable period could be deducted from all output tax generated for the same period, subject to the 100% restriction on input tax credit.

**Adjustments**

Adjustments to output tax and input tax may arise on account of the following:

- Taxable fringe benefits to employees;
- Bad debt recoveries;
- Compensation received in relation to taxable items;
- Non-taxable use of goods/services;

- Other disallowable inputs e.g. input tax on motor cars or jeeps used for travelling;
- Tax credit notes issued/received;
- Tax debit notes received/issued.

### Recovery of Input Tax

- If all the supplies are taxable, all the input tax is deductible, other than disallowable.
- If some but not all supplies are taxable, the common input tax must be apportioned so that only so much as is attributable to the taxable supplies is deductible. This would apply to businesses making mixed supplies (i.e. both tax-exempt or excluded and taxable items.)

The amount of common input tax deductible is normally calculated on a pro rata basis applying the following fraction to the residual input tax charged to the business in each taxable period.

$$\frac{\text{Taxable supplies (including zero rated items)}}{\text{Total supplies (i.e. taxable plus exempt/excluded supplies)}} \times \text{Residual Input Tax}$$

Note:

Non-deductible inputs (e.g. inputs on motor cars) are excluded from the calculation.

Input tax is not deductible

- **unless supported by –**
  - **a valid tax invoice** and claimed against the Output tax for any taxable period within 12 months from the date of such tax invoice, or
  - a Customs declaration and claimed against the Output tax for any taxable period within 24 months from the date of such Customs declaration,
- on expenditure attributable to exempt or excluded supplies,
- on the purchase and maintenance of, and lease rentals on, any motor vehicle used for business travelling,

### Exception to the Rule of Ineligibility to Input Tax Credit on Exempt Supplies

On exempt supplies or excluded supplies (being non-taxable supplies), no input tax credit could be claimed. The supply of goods or services to any strategic development project or any specified project as referred to in paragraph (f)(ii) of Part II of the Exemption Schedule is exempt from VAT.

However, any registered person who supplies goods or services to such strategic development project or to such specified project, where the payment is borne by the Government, may be allowed input tax credit on the purchases of goods or services connected to supplies of goods or services to such projects as per the guidelines issued and published in the Gazette Notification by the Commissioner General.

For purposes of allowing input tax credit, the value of supply of goods or services to such projects shall be deemed to be a taxable supply, on which

output tax is computed. The restriction of input tax credit to 100% of output tax will apply in ascertaining input tax credit allowable.

Further, the VAT paid by the employer on the payments borne by him on the outsourcing of the supply of meals and transport, even though such benefits of supply of meals and transport are exempt supplies, may be allowed as the input credit to such employer.

Ready reckoner for claiming input VAT in relation to the respective Output VAT rates is set out below:

Category	Rate	Items	Input Tax Credit Allowable to Supplier
Zero Rate	0%	Exports, specified international services, services provided to overseas buyers by garment buying houses registered under the SVAT Scheme administered by the Commissioner-General	Credit Notes under SVAT Scheme
Standard Rate	15%	<i>Deemed exports to export companies registered under the SVAT Scheme administered by the Commissioner-General</i> Items other than exempt or excluded supplies	Full but restricted to 100% of the Output VAT

#### **Set off of unabsorbed VAT as at 31.12.2010 against subsequent VAT liability**

Where a registered person, including an importer who imports goods for re-sale without processing, has unabsorbed input VAT credit as at 31 December 2010, such unabsorbed residue, if any, as at 31 December 2010 can be carried forward and may be claimed.

- for any taxable period commencing on or after 1 January 2011 but prior to 1 January 2012 subject to –
  - 10% of the total unabsorbed input tax credit as at 31 December 2010 for each month, or
  - 5% of the net VAT payable, if any, for that taxable period after deducting allowable input tax credit from the output VAT
 whichever is lower.
- for any taxable period commencing on or after 1 January 2012 subject to –
  - 10% of the total unabsorbed input tax credit as at 31 December 2010 for each month but not exceeding the net tax payable for that taxable period after deducting allowable input tax credit from the output tax of such person.

#### **Set off of unabsorbed VAT as at 31.12.2010 against other Taxes and Levies**



In the case of a registered person who has unabsorbed input tax credit as at 31 December 2010 and has **no taxable supplies liable to VAT** on or after 1 January 2011, such person may set off such unabsorbed input tax credit as follows:

- i) Where such set off is applicable to any taxable period from 1 January 2011 but prior to 1 January 2012
  - a) in the case of a registered person who is an operator of a telecommunication service licensed under the Sri Lanka Telecommunication Act, the set off may be made against the sum payable as Telecommunication Levy;
  - b) in the case of a registered person who is liable to pay income tax, the set off may be made against the income tax payable by such person after 1 January 2011;
  - c) in the case of a person other than a person referred to a) and b) above, the set off may be made against the sum payable after 1 January 2011 by such person as tax (e.g. ESC) under any law administered by the CGIR.
  - d) in case of a person, other than a person referred in a), b) and c) above, the set-off may be considered, against the tax payable at the point of import after 31 July 2011, by DGC with the approval of CGIR.

Such set off is subject to

- 10% of the total unabsorbed input tax credit as at 31 December 2010 for each month, or
- 5% of the relevant tax liability for that particular month  
whichever is lower.

- ii) Where such set off is applicable to any taxable period commencing on or after 1 January 2012:

- a) in the case of a registered person who is an operator of a telecommunication service licensed under the Sri Lanka Telecommunication Act, the set off may be made against the sum payable as Telecommunication Levy;
- b) in the case of a registered person who is liable to pay any tax under any law administered by CGIR, the set off may be made against the sum payable after 1 January 2012 as tax under any such law;
- c) in the case of a registered person to whom the above two provisions do not apply, the set off may be considered, against the tax payable at the point of import, by the DGC after 1 January 2012 with the approval of CGIR.

Such set off is subject to –

- 10% of the total unabsorbed input tax credit as at 31 December 2010, or
- the net unabsorbed balance as at 31 December 2011 after setting off the tax payable during the period of 12 months from the total unabsorbed balance as at 31 December 2010,

whichever is lower.

## **Insurance Business**

Where the insurance business is segregated to two separate companies (one for the long term insurance business and the other for the general insurance business) as required by the Section 53 of the Regulation of Insurance Industry (Amendment) Act, the unabsorbed input credit relating to the business of general insurance as at the date of such segregation (if any) could be treated as an unabsorbed input credit by the company carrying on the general business after such segregation.

### ***Banking or finance business***

Any unabsorbed input credit of any bank or financial company, relating to the liable business as at the date of acquisition or merger of such bank, or finance company, is allowed to be claimed in accordance with the Guidelines issued by the Central Bank for this purpose.

## **22. Accounting for VAT**

There are two ways in which VAT can be accounted for:

- Invoice basis
- Payment basis (cash basis).

### ***Invoice Basis***

*Under the invoice basis, VAT is accounted for on the sales (supplies) in the earliest taxable period in which the supplies are deemed to be made.*

All registered persons should account for VAT on an invoice basis.

Under the invoice basis, a registered person could claim for VAT incurred on purchases before making payment, but may have to account for output VAT before actually receiving payment.

### ***Payment Basis***

*Payment basis (cash basis) requires a registered person to account for VAT when payments are made or received.*

The payment basis can be followed upon a written application made by a registered person and such application is approved by CGIR.

Under the payment basis, a registered person may claim for VAT incurred on purchases or expenses only after making payment to the supplier and receiving a tax invoice.

## **23. VAT Returns**

VAT registrants must file a prescribed return, either in writing or by electronic means, for each taxable period.

There are 2 taxable periods:

*Monthly*  
*Quarterly*

**Monthly** returns should be filed by registered person who is –

- (i) registered with the Simplified Value Added Tax Scheme and accorded Registered Identified Purchaser status as specified in the guidelines issued and published in the Gazette by the Commissioner-General for that purpose referred to in paragraph (e) of subsection (2) of section 2;
- (ii) has commenced a business or started a project and undertakes to comply with the requirements of subsection (7) of section 22 of the Value Added Tax Act, No. 14 of 2002 or subsection (6) of section 22 of the Goods and Services Tax Act, No. 34 of 1996.

All other registered persons need to submit only **quarterly** returns. Returns should be filed not later than the last day of the month following the end of each taxable period (month or quarter).

## 24. VAT Payments

VAT is payable on a self assessment basis

The tax in respect of any taxable period, commencing on or after 1 January 2013, is payable as follows:

### a) Registered Manufacturer

Period	Due Date
Tax payable for the first month of the quarter	not later than the 20 <sup>th</sup> day of the 2 <sup>nd</sup> month of that quarter.
Tax payable for the 2 <sup>nd</sup> month of the quarter	not later than the 20 <sup>th</sup> day of the 3 <sup>rd</sup> month of that quarter.
Tax payable for the quarter after making deductions for the amount paid for the 1 <sup>st</sup> month and the 2 <sup>nd</sup> month of that quarter	not later than the 20 <sup>th</sup> day of the month following the end of the taxable period.

### b) Other (registered importer, service provider and registered wholesale and retail trader)

Period	Due Date
Tax payable from the 1 <sup>st</sup> day to the 15 <sup>th</sup> of the month	on or before the end of that month.
Tax payable from the 16 <sup>th</sup> day to the end of the month	on or before the 15 <sup>th</sup> day of the subsequent month.
Any balance, subject to the making of any adjustments	with the submission of the return. Due on the last day of the month after the expiry of each taxable period.

## **25. VAT Refunds**

Pursuant to the implementation of the SVAT Scheme, refunds will not be made other than any refunds arising on any input relating to invoices received up to 31 March 2011, upfront payment made after 1 April 2011 to the Director General of Customs and any excess of input claimed by a person, registered under simplified VAT scheme where such person is unable to obtain simplified VAT credit vouchers. This is as per Guidelines issued by CGIR under SVAT Scheme.

The input tax set off against the output tax is now subject to the 100% restriction. Therefore, refunds may not arise to registered persons other than under the special cases referred to above.

CGIR will credit the amount refundable only to the bank account assigned to a registered person for such purpose.

### **25.A Refund of VAT to tourists**

Where a tourist has purchased any specified goods from an authorised retailer and paid VAT on such purchases as per the tax invoice issued by such authorised retailer, such tourist can claim such VAT amount as a refund in writing in the specified form, from the Commissioner General or any person authorized by him at the point of departure, if such goods are being removed from Sri Lanka. Once the Commissioner General or the authorised person may on being satisfied with the facts given in, refund such amount of VAT to such tourist

“ authorised retailer means any registered person who has been issued with a certificate of registration as an authorised retailer by the Commissioner General on the application made to him or any person authorised by the Commissioner General.

## **26. VAT Assessments**

VAT operates as a self assessed tax. However, the Assistant Commissioner is empowered to issue an assessment of the tax payable if –

- a registered person chargeable with tax fails to file a return;
- a registered person files the return for a taxable period without payment or part payment;
- a person who files a return requests, in writing or by electronic means, that the return be altered;
- a person who has failed to file a return for any taxable period has paid for any taxable period tax which, in the opinion of the Assistant Commissioner is less than the amount payable by that person for that period;
- a person chargeable with tax has, for any taxable period, paid as tax an amount, which appears to the Assistant Commissioner, to be less than the amount payable by him for that taxable period.

The Assistant Commissioner is required to communicate to such person by registered letter, when making an assessment or an additional assessment upon rejecting a return, why the return filed is not accepted.

Where a registered person has filed a return or has been assessed for tax in respect of any taxable period, an assessment or additional assessment can be made only within 3 years of the end of that taxable period. If the Assistant Commissioner is of opinion that the person has wilfully or fraudulently failed to disclose material facts necessary to determine liability for any taxable period, an assessment may be issued at any time.

## **27. Appeal Process**

A three-stage appeal process is provided:

- The first level of appeal is to CGIR.
- The determination of CGIR can be appealed to the Appeal Commission.
- Final stage is the appeal to the Court of Appeal/Supreme Court.

An appeal from the determination of the CGIR must be made within 30 days of the decision.

An appeal, in writing or by electronic means, will be admitted only if the appellant has:

- stated precisely the grounds of appeal,
- filed the return,
- paid the full amount of tax shown in his return together with any penalty thereon accrued up to the date of such notice of assessment, and a receipt in proof of such payment is attached to the petition of appeal, and
- filed the appeal within 30 days after the service of the notice of assessment.

On an appeal lodged against the assessment, CGIR may defer the due date for payment of the tax assessed, if the appellant can prove that the tax due on the alleged supplies on which the assessment has been made has not been charged by him.

Every appeal should be settled by the Assessor other than the Assessor who made such assessment, or determined by the CGIR within 2 years from the date on which such appeal is received, unless the agreement or determination of such appeal depends on the furnishing of any documents or the taking of any action by any person other than the appellant or Assessor or CGIR. Where the appeal is not agreed or determined within such 2 year period, the appeal shall be deemed to be allowed and the tax charged should, accordingly, be amended.

If an appeal is disallowed or partly allowed by the CGIR, the appellant can further appeal against the determination of the CGIR to the Board of Review or the Appeal Commission. CGIR may also refer any valid appeal made to him to the Board of Review or the Appeal Commission.

## **28. VAT Penalty Regime**

Every person must comply with numerous requirements imposed under VAT Law. Failure to do so will result in the imposition of a range of penalties including the following:

### Fines Imposed by a Magistrate on Conviction after Summary Trial

#### Failure to apply for registration

##### Failure to file VAT return:

##### Failure to issue an invoice/ tax invoice:

##### Issue of more than one invoice for each taxable supply

##### Incorrect Returns

A fine not exceeding Rs. 25,000 and/or term of imprisonment not exceeding 6 months.

Twice the amount of tax deficiency plus Rs. 25,000, and/or term of imprisonment not exceeding 6 months.

#### *Penalties imposed by CGIR*

- Failure to file VAT return:
- Failure to pay tax on due dates:

Penalty not exceeding Rs 50,000  
10% of unpaid tax plus 2% for each succeeding month subject to 100% of unpaid tax.

## **29. VAT on Financial Services**

### **29.1 Nature of the Tax**

Financial institutions do produce an added value to the services supplied by them and, therefore, the supply of financial services has been brought within the scope of VAT. In relation to normal VAT, the exemption of financial services continues. However, most financial services other than life insurance, crop and livestock insurance and agra-hara insurance have been brought within the scope of the new Chapter 111A of the Act duly amended.

Since the application of the general VAT formula to finance institutions is subject to constraints, an alternative method of taxing the value addition of financial services has been formulated. This method, instead of calculating the value added on the difference between outputs (sales) and inputs (expenses), determines the VAT base by aggregating the net profit of, and the expenditure incurred on employee remuneration by, financial institutions (subject to an adjustment for economic depreciation) and imposes a tax on that base. The financial institutions are, at most, entitled to deduct current business losses from the amount of employee remuneration, thereby reducing the tax base. However, any excess of current losses over employee remuneration does not entitle the financial institution to any refund; it could only be carried forward for set-off.

### **29.2 Definition of Financial Services**

The VAT Act, in defining the term “financial services” in Section 25F of Chapter 111A, specifies a range of activities as constituting supplies of financial services. These activities are the following:

- (a) the operation of any current, deposit or savings account;
- (b) the exchange of currency;

- (c) the issue, payment, collection or transfer of ownership of any note, order for payment, cheque or letter of credit;
- (d) the issue, allotment, transfer of ownership, drawing, acceptance or endorsement of any debt security, being any interest in or right to be paid money owing by any person other than the transfer of non-performing loans of a licensed commercial bank to any other person in terms of a restructuring scheme of such bank as approved by Central Bank of Sri Lanka, with the concurrence of the Minister;
- (e) the issue, allotment, transfer of ownership of any equity security or a participatory security;
- (f) underwriting or sub-underwriting the issue of any equity security, debt security or participatory security;
- (g) the provision of any loan, advance or credit;
- (h) the provision of –
  - the facility of instalment credit finance in a hire purchase conditional sale or credit sale agreement for which facility a separate charge is made and disclosed to the person to whom the supply is made;
  - goods under any hire purchase agreement or conditional sale agreement which have been used in Sri Lanka for a period of not less than twelve months as at the date of such agreement.
  - leasing facilities under any finance lease agreement or operating leasing agreement on any asset, other than any land or building, if such agreement is entered into on or after October 25, 2014 and not being an agreement for re-scheduling of any agreement entered into prior to October 25, 2014.

### **29.3 Taxable Persons**

The liability to tax applies –

- prior to 1 January 2008 to any person, and
- on or after 1 January 2008 to any person other than Co-operative Society,
- on or after 1 January 2009 to any person, other than Co-operative Society, Lady Lochore Loan Fund, or the Central Bank of Sri Lanka (with effect from 1 July 2003) or
- the Sri Lanka deposit Insurance Scheme established by regulation made under the said Act, (with effect from 10 April 2018)

carrying on the business of supplying financial services including the following specified institutions –

- (i) a licensed commercial bank within the meaning of the Banking Act, No. 30 of 1988;
- (ii) a finance company registered under the Finance Companies Act, No. 78 of 1988;
- (iii) a licensed specialized bank within the meaning of the Banking Act, No. 30 of 1988.

Effective from 1 January 2012, a Unit Trust or Mutual Fund is not liable to pay VAT on financial services.

## 29.4 Calculation of VAT – Value Addition Attributable Method

**Commencing from 1 January 2014, the VAT on the supply of financial services is to be calculated using only the Value Addition Attributable Method. The tax credit method cannot be used on or after 1 January 2014.**

The base on which the tax will be charged is the Total Value Addition of an entity, which shall be the following:

### **Aggregate of –**

- Net Profit/Loss before tax, (book profit),
- Total Employee Remuneration,
- Book Depreciation charged to Profit and Loss Account

### **Less**

- Economic Depreciation
- Accordingly, Total Value Addition = Book Profit + Total Employee Remuneration + Book Depreciation – Economic Depreciation.*

**Net Profit/Loss** constitutes the net profit or loss, as the case may be, before payment of income tax on such profit computed in accordance with the accepted accounting standards (prevailing for that taxable period), subject to adjustments for economic depreciation, emoluments payable to all the employees and adjustments for VAT on supply of financial services payable as per Chapter IIIA of the VAT Act and Nation Building Tax (NBT) as per proviso to paragraph (iii) of section 3(2) of the NBT Act.

(With effect from 01.01.2012, any specified institution or any person who is required to adopt Sri Lanka Financial Reporting Standards (SLFRS) for the preparation of financial statements should take into account the operating profit prepared as per SLFRS for the above purpose).

### **Total employee remuneration**

“Emoluments payable” means gross remuneration payable to all the employees.

“Gross remuneration” means the aggregate of benefits in money and benefits not in money payable to the employees and includes any payment, contribution or provision in relating to terminal benefits, which is charged to the income statement in arriving at the operating profit.

**Economic depreciation** rates prescribed by Gazette Order No 1606/30 of 19.06.2009 are as follows:

<b>Asset</b>	<b>Rate (%)</b>
Data processing equipment & their accessories, or computer software	25
Motor Vehicles	20
Other Machinery, Plant, Equipment, Furniture or Fixtures	12 1/2
Any intangible asset (other than goodwill)	10
Buildings	6 2/3



- These depreciation rates should be applied on the cost, using the straight line method.
- The provisions in the Inland Revenue Act restricting deduction of depreciation on motor vehicles, buildings constructed etc. will not apply in computing economic depreciation.
- No deduction for depreciation or depletion can be claimed other than the above-mentioned amounts.
- Economic depreciation should not be applied in relation to any asset of any person registered under the Finance Leasing Act No 56 of 2000, being an asset which is leased under the provisions of the said Leasing Act.

Taxable persons should follow the guidelines specified by the CGIR under the Extraordinary Gazette No 1868/10 of 23 June 2014 for the purpose of the uniform application in the calculation of the tax.

***Total Value Addition:***

Net Profit or Loss (before income tax related expenses)	XXX	
Add: VAT and NBT on supply of financial services charged to the Income Statement	XX	
Depreciation charged to the Income Statement	XX	
Emoluments Payable	<u>XX</u>	<u>XXX</u> XXX
Less: Economic Depreciation	<u>(XX)</u>	
Total value addition prior to tax	XXX	
Less: VAT payable as per Chapter IIIA of the Act	(XX)	
NBT payable as per proviso to paragraph (iii) of section 3(2) of the NBT Act.	<u>(XX)</u>	
Total Value Addition	XXX	

[Tax payable at 11% prior to 2 May 2016 and at 15% on or after 2 May 2016 (VAT on supply of financial services) and 2% (NBT on supply of financial services)]

***Accounting Rules***

- If any registered person prepares and maintains separate accounts for supply of financial services and, financial services provided out of Sri Lanka or activities mentioned under Section 25C(5), (hereinafter refers to as non-financial services), and such accounts are certified by an approved accountant under the Section 107(3) of the Inland Revenue Act, then the value addition of such activities shall be calculated separately.
- If any registered person who is liable to pay VAT on Supply of Financial Services under Chapter IIIA does not keep separate accounts for non financial services, such person is required to calculate the value addition on the proportionate basis. For such purpose, the value addition attributable to the non-financial services is to be taken as the sum which bears to the total value

addition, as the same proportion of the turnover of the non-financial services for the month bears to the total turnover of the same month, if there is no material difference in the recognition of receipts for the calculation of the profits and for the purpose of calculation of the turnover.

The computation of Value Addition attributable to Supply of Financial Services shall be as follows:

$$\text{Value Addition attributable to the financial services} = \text{Total Value Addition} - \left\{ \frac{\text{Total Value Addition} \times \text{Turnover for Non-Financial services}}{\text{Total Turnover as per Income Statement}} \right\}$$

Where the attributable method is followed, **no credit can be claimed** for any tax paid under any other provision of the VAT Act.

### 29.5 Tax Rate

Tax is payable at -

- 10% for any taxable period commencing from 1 January 2003 but prior to 1 January 2004,
- 15% for any taxable period commencing from 1 January 2004 but prior to 1 January 2005,
- 20% for any taxable period commencing from 1 January 2005 but prior to 1 January 2011,
- 12% for any taxable period commencing from 1 January 2011 to 31 December 2014,
- 11% for any taxable period commencing from 1 January 2015 but prior to 2 May 2016, and commencing from 12 July 2016 but prior to 1 November 2016
- 15% for any taxable period commencing from 2 May 2016 but prior to 12 July 2016 and commencing from 1 November 2016.

on the value addition as computed as per sub-paragraph 29.4 above.

Further, 8% of the value addition should be invested in an Investment Fund Account established as per the guidelines issued by the Central Bank of Sri Lanka for a period of 3 years commencing from 1 January 2011 to 31 December 2013 and the investment shall be made on a monthly basis on or before the 20<sup>th</sup> day of the following month. (Please see Annex 5 for the Guidelines.)

### 29.6 Threshold for Tax Payments

Liability to tax will arise only if the value addition on the supply of financial services in respect of any month exceeds or equals to Rs 75,000.

### 29.7 Threshold for Registration

Any person carrying on the business of supplying any financial service must register for VAT if the value of such supplies exceeds –

- a. prior to 1 January 2013:
  - Rs 500,000 for any quarter, or
  - Rs 1.8 million for any period of 12 months.
- b. on or after 1 January 2013 but prior to 1 January 2015:

- Rs 3 million for any quarter, or
- Rs 12 million for any period of 12 months.
- c. on or after 1 January 2015 but prior to 2 May 2016:
  - Rs 3,750,000 for any quarter, or
  - Rs 15 million for any period of 12 months.
- d. on or after 2 May 2016:
  - Rs 3 million for any period of 3 months, or
  - Rs 12 million for any period of 12 months.

### **29.8 Taxable Period**

Taxable period of every person engaged in the supply of financial services is –

- one month for any taxable period prior to 1 January 2011,
- 6 months for any taxable period commencing on or after 1 January 2011 but ending prior to 1 April 2017, and
- 12 months for any taxable period commencing on or after 1 January 2017 where the accounts are made up by a specified institution or any person for a period of 12 months ending on the 31st day of March, such period of 12 months may be commenced on the 1st day of April.

The return should be filed on or before –

the last day of the following month for any taxable period commencing prior to 1 January 2017 and

- six months immediately succeeding the end of the taxable period for any taxable period commencing on or after 1 January 2017.

Further, an interim estimate of the profits in the specified form in respect of each 6 months period of the taxable period should be filed before the 20th day of the succeeding month of the each such 6 months period.

The tax should be paid monthly on or before the 20<sup>th</sup> day of the following month.

### **30. Islamic Financial Transactions**

The value of supplies from any Islamic Financial Transactions will be chargeable to VAT.

CGIR shall, in order to determine the extent of liability to tax of any particular Islamic Financial Transaction, issue such rules and guidelines as may be required for the purpose of–

- (a) identifying the circumstances which would amount to an Islamic Financial Transaction; and
- (b) ascertaining the value of supplies arising out of any Islamic Financial Transaction.

**31. *Exemption of certain small and medium enterprises from the payment of default taxes***

Under the provisions of the Value Added Tax (Amendment) Act, No. 9 of 2011, any person or partnership supplying any goods or services, having an annual turnover of a sum not exceeding Rs 100 million, who has defaulted in the payment of VAT in respect of any period ending on or before 31 December 2010 due to the existence generally of any conflict environment or due to financial constraints of such person or partnership, shall be exempt from the payment of such default VAT and the Commissioner General of Inland Revenue (CGIR) shall issue a certificate of exemption in respect of the sum in default.

In order to obtain such certificate of exemption, the defaulter should apply to the CGIR giving the reasons of his inability to pay the default taxes. Further, such defaulter should forward to the CGIR a written assurance for the payment of VAT payable by him in respect of any future periods commencing on or after 1 January 2011.

**32. *Use of Electronic Communications or Electronic Records***

On the recommendation of CGIR, the Minister of Finance may make regulations for the purpose of authorising or facilitating the use of electronic communication or electronic records in respect of matters as specified in Section 8 of the Electronic Transaction Act No 19 of 2006.

## Annex 1

### Government Notifications

*As last amended by the Gazette No 1986/9 dated 27<sup>th</sup> September 2017*

#### **Value Added Tax Act, No. 14 Of 2002**

By virtue of the powers vested in me under paragraph (e) of sub-section (2) of section 2 of the Value Added Tax Act, No. 14 of 2002 as last amended by the Value Added Tax

(Amendment) Act, No. 11 of 2015, I, Kalyani Dahanayake, Commissioner General of Inland Revenue, do by this notification, specify the guidelines to operates Simplified Value Added Tax Scheme effective from 01.01.2016, as set out in the Schedule hereto.

The guidelines already issued under *Gazette* Notification No. 1910/2 dated April 16, 2015 are rescinded effective from 01.01.2016

KALYANI DAHANAYAKE,  
Commissioner General of Inland Revenue.  
Department of Inland Revenue,  
Colombo 02,

23rd September 2016.

### **Schedule**

#### THE OPERATION OF SIMPLIFIED VALUE ADDED TAX (SVAT) SCHEME

##### **1. Persons eligible to be registered under SVAT**

- a) The following VAT Registered Persons and **the suppliers** of any goods or services to such registered persons are entitled to be registered under the SVAT Scheme.
  - (i) any registered person who supplies goods or services to any Strategic Development Project (herein after referred to as “SDP”) established in terms of sub-section (4) of section 3 of the Strategic Development Projects Act, No. 14 of 2008, as is referred to in sub-paragraph (i) of paragraph (f) of Part II of the First Schedule to the Value Added Tax Act, No. 14 of 2002 (herein after referred to as the “VAT Act”), and who is entitled to claim input tax under the proviso of sub-section (6) of section 22 of the VAT Act during the project implementation period so far as such supplies are project related supplies which exceeds 50% of the total supplies;
  - (ii) any person registered under the provisions of subsection (7) of section 22 of the VAT Act including SDP, and who is entitled to claim input tax under the VAT Act during the project implementation period so far as such purchases are project related Purchases;
  - (iii) any registered person engaged in any specified project referred to in sub-paragraph (ii) of paragraph (f) of PART II of the First Schedule to the VAT Act;

- (iv) any exporter or provider of zero rated services specified in section 7 of the VAT Act, having zero rated supplies exceeding fifty per-centum of his total supplies;
  - (v) any manufacturer who supplies goods (liable to VAT) manufactured by himself in Sri Lanka, to exporters to be utilized for manufacture of goods for export, where the value of such supplies and zero rated supplies exceed fifty per-centum of his total supplies;
  - (vi) any provider of value added services to exporters which results in the improvement of the quality, character or value of any goods manufactured for export where such supply of services exceed fifty per-centum of his total supplies;
  - (vii) any registered person who supplies any goods or services, to any registered person referred to in items (i), (ii), (iii), (iv), (v) or (vi) above, provided that the Commissioner General is, on the information available, satisfied that the value of such supplies exceed fifty *per-centum* of the total supplies of such registered person who supplies such goods or services.
- b) Any SDP referred to in item (ii) above is required to be registered under the SVAT Scheme irrespective of the fact that such SDP is not chargeable to VAT.

## **2. Procedure for Registration under SVAT Scheme**

Application and the information about the documents to be submitted for registration under SVAT, are available at the Taxpayer Service Unit of the Inland Revenue Department. Applications could also be downloaded from the official Website of the Inland Revenue Department (herein after referred to as “IRD”). [www.ird.gov.lk](http://www.ird.gov.lk).

For registration under SVAT Scheme, the applicant should be an authorized individual. In the case of a company, the applicant should be an authorized representative who has been approved by the Board of Directors of the Company. A copy of such approval should be submitted. In the case of a partnership, the applicant should be a partner. In the case of a proprietorship, applicant should be the proprietor. Further, the applicant himself is required to be present for obtaining the registration. However, in the case of a company, the applicant or an authorized representative of the company is required to be present for the purpose of SVAT registration. In the case of foreign companies, applicant could be an audit firm or lawyers' firm.

e-registration is not applicable for the registration under the Simplified VAT Scheme.

### **Note :**

- a) Persons who are otherwise eligible for refunds are advised to request their suppliers those who have not registered under SVAT Scheme, to register under SVAT Scheme.
- b) The back dated registration is considered only in respect of suppliers and only for a period not more than 14 days.

- c) Any registered person referred to in item (i) to (vii) of sub paragraph (a) of paragraph 1 of this Schedule is named as Registered Identified Purchaser (herein after referred to as “RIP”), and his purchase is known as suspended purchase. All above eligible persons shall obtain the Registered Identified Purchaser status under the above SVAT Scheme.
- d) In granting RIP status to any registered person referred to in item (i) of sub paragraph (a) of paragraph 1 of this Schedule, the Commissioner General of Inland Revenue (herein after referred to as “CGIR”) should be satisfied that the supplies made to the SDP is more than 50% of his total supplies. Further, for such purpose, the place of business is visited for getting confirmation, as required.
- e) In granting RIP status to a registered person referred to in item (iv), (v), (vi) and (vii) of sub paragraph (a) of paragraph 1 of this Schedule, a verification is made from the computer system of the IRD as to whether the supplies of such person referred to in aforesaid item (iv), (v), (vi), or (vii) is more than 50% of his total supplies. Further, for such purpose, the place of business is visited for getting confirmation, as required.
- f) Any VAT registered person registered under SVAT Scheme as a supplier is referred to as Registered Identified Supplier (herein after referred to as “RIS”). The supply made to any RIP is known as suspended supply, and the invoice raised on such supply is known as suspended tax invoice.
- g) Any supply of a person who is engaged with specified projects and made such supply to relevant Government authority is an exempt supply under the Part II of the First Schedule of the VAT Act, but treated as deemed taxable supplies in terms of section 22 (10) of the VAT Act.
- h) Any supply of goods or services by a registered person to any SDP is an exempt supply under the Part II of the First Schedule of the VAT Act, but treated as deemed taxable supplies in terms of section 22 (10) of the VAT Act. However, if such supply is made by any person registered under SVAT Scheme, such supply is treated as deemed suspended supply.
- i) When an application is submitted by a person who is eligible to be a RIP, the names and the National Identity Card (NIC) numbers of two persons (a valid Passport No. in case of a non citizen), should be mentioned giving authority to obtain SVAT credit vouchers from the CGIR. This authorization cannot be altered unless a written request is made to the CGIR by the person who has signed the application. If such person is no longer employed with the registered person, another authorized person can sign the request, but such person’s eligibility should be proved giving documentary evidence.
- j) RIP is eligible to purchase goods or obtain services, for carrying on any respective activity which is mentioned in item (i), (ii), (iii), (iv), (v), (vi) or (vii) of sub paragraph (a) of paragraph 1 of this schedule suspending VAT component. Such purchases are treated as purchases for specified purposes. RIP is also eligible to make standard rate supplies, but the total zero rated supplies, suspended supplies and deemed taxable supplies of any such RIP for a calendar month should not be less than 50% of his total supplies. In such a situation, such registered person is eligible to purchase goods or obtain services under suspended terms which are used for its taxable

supplies, and such purchase is treated as a purchase used for deemed specified purpose. In case where the zero rated supplies, suspended supplies and deemed taxable supplies relating to SDP are less than 50% of the total supplies of a RIP, he is required to get changed the status from RIP to RIS.

- k) List of the registered persons who are authorized to purchase under suspended terms is published in the official Web site of the IRD. Any RIS may refer to this information to ensure whether the purchaser is a RIP. The list is updated at the end of each month providing information on new registrations, cancellations, made inactive, changes in the status and the registered persons who are black listed under SVAT Scheme. Therefore, RIS is required to refer to above information in the Web-site of the Inland Revenue Department.
- l) In the case of foreign companies, if applicant or signatory or credit voucher collector is an audit firm or lawyers' firm, proprietor or partners of such firm is responsible and is legally bound for tax matters specified in this regulation.

### **3. Specific Regulations to Registered Identified Suppliers**

#### **3.1 Suspended Tax Invoice and submission of Form SVAT 04**

- i) Supplies to RIP can be made on a **Suspended Tax Invoice** (SVAT 02) showing the VAT componed as "Suspended Value Added Tax". Such suspended invoice should be issued without any delay. Before making supplies under suspended terms to a registered person, RIS is required to made sure that the person is a RIP. The lists of RIPs and RISs have been published in the official Web site of the Inland Revenue Department.
- ii) A tax invoice should not be issued to any RIP under any circumstances unless the input is disallowable under the provisions of the VAT Act.
- iii) The goods exempt from VAT except any supply which is treated as deemed taxable supplies made to SDP during the project implementation period, or to any specified project cannot be supplied under SVAT Scheme. Any such deemed taxable supply made by any person registered under SVAT Scheme to any SDP which is a RIP, is considered as deemed suspended supply as per Note (h) of paragraph 2 of this Schedule, and therefore, such person is required to follow the regulations applicable to RIS.
- iv) Supplies should be considered on accrual basis unless the approval is obtained under section 23 of the VAT Act for accounting on cash basis, if it is on cash basis, the time of supply is the time in which the payment is received by the supplier. However, under cash basis or accrual basis, any advance payment received should be declared in the taxable period in which such payment is received.
- v) RIS should follow provisions relating to the time of supply as stipulated in the VAT Act, Therefore, the suspended supplies as well should be declared on that basis.
- vi) RIS is required to key data to the goods/services declaration Form SVAT 04, by using e-Service within 15 days from the end of the relevant month in which the supplies are made in order to get the approval of respective RIP to get confirmed on the suspended supply and credit voucher numbers. In



this regard, the RIS is required to download the quick guide on SVAT from the Web portal of the Commissioner General.

- vii) If there is no suspended supplies made during the any month, RIS is required to tick no suspended supplies check box and update the Form SVAT 04 unless a value to be entered as value of debit notes or credit notes.
- viii) If the given information in Form SVAT 04 is rejected by respective RIP with reasons, RIS is required to resubmit Form SVAT 04 for the approval of RIP by using electronic filing facility.
- ix) In any case where RIS has not updated Form SVAT 04 within the given time frame, he is required to visit IRD with Form SVAT 04 which has been signed by the authorized RIP and with the relevant credit vouchers.
- x) When there is any amendment or deletion to be made to the record which has already been updated by the RIS and approved by RIP, RIS is required to visit IRD and get it done from the IRD officer if e-filing facility is not available.
- xi) Separate records should be maintained to ascertain supplies on which VAT is suspended.
- xii) RIS should e-mail Schedule SVAT 05 (Invoice breakdown) to RIP before updating the Form SVAT 04, if RIP request to do so.

### ***3.2 Credit Voucher and submission of Schedule SVAT 05 (if any SVAT 05a, SVAT 05b) and SVAT 07***

- i) RIS is provided a SIMPLIFIED VAT CREDIT VOUCHER (SVCV) by the RIP based on the Form SVAT 04 submitted by the RIS through the e-Service. RIS is required to collect such credit voucher irrespective of the fact that approval is granted electronically, and keep such credit voucher with him for five years.
- ii) All credit vouchers received by any RIS in respect of any taxable period are required to be submitted to the IRD to prove the suspended supplies if he is requested to do so.
- iii) RIS is required to download the Schedule templates of SVAT 05, SVAT 05a, SVAT 05b and SVAT 07, and the verifier tool from the official Website of the Commissioner General of Inland Revenue. RIS should ensure that the latest schedule templates are used for preparation of schedules.
- iv) SVAT quick guide available in the official Web site of the Inland Revenue Department which is updated on regular basis has to be followed with the e-Service procedure.
- v) Schedule SVAT 05 (and if applicable SVAT 05a and SVAT 05b) which have been prepared on the given template in respect of all suspended suppliers are required to be uploaded only by using e-Service by RIS himself or by using internet with the assistance of the IRD Officer on or before the end of following month.

- vi) Schedule SVAT 07 should be uploaded by using e-Service by RIS himself when more than 20 records are to be entered. When less than 20 records are to be entered, schedule may be uploaded or updated by using e-Service or by using intranet with the assistance of the IRD officer on or before end of the following month.
- vii) If the value of supplies is to be reduced due to the return of supply or on any other reason relating to any month where credit note is issued/received, the information should be disclosed in Schedule SVAT 05b giving the value of the supplies which is disclosed in the above schedule SVAT 05 with the credit voucher number received for that particular month. The original value of invoices and the value of credit notes should be stated in Schedule SVAT 07. However, credit voucher is issued by the RIP on the net value.
- viii) If the value of supplies has to be reduced during the month in respect of previously declared supplies, that information should also be disclosed in Schedule SVAT 05b of the current month with the credit voucher number previously obtained. It should also be disclosed with the current period credit voucher number in respect of net supplies, and the value of credit notes. However, credit voucher is issued by the RIP on the net value. Original value of supplies and the value of credit notes should be disclosed in Schedule SVAT 07.
- ix) If there are no suspended supplies made during the month, but there are returned supplies which are related to previously declared supplies, it should also be disclosed in Schedule SVAT 05b with the previously obtained credit voucher number for such supplies together with the current credit voucher number received on a negative value. The value of credit notes should be disclosed in Schedule SVAT 07.
- x) If the value of supplies have to be increased on any reason relating to any month where debit note is issued/received, that information should be disclosed in Schedule SVAT 05a giving the value of the supplies which is disclosed in the above Schedule SVAT 05 with the credit voucher number received for that particular month and relevant credit voucher relating to the supplies for which the increase of value of supply is to be made.
- xi) If schedules SVAT 05, 05a, 05b or 07 have not been submitted in time or if there is any amendment or deletion is to be made to the record which has already been uploaded, RIS is required to visit IRD and get it done from the IRD officer.

### **3.3 VAT Return**

- i) RIS should disclose VAT suspended taxable supplies in Cage C of the VAT return considering the time of supply irrespective of the fact that a credit voucher is received or not, in respect of such suspended supply. Respective suspended VAT amount on suspended supply should be declared in cage 2A. Any RIS who requests for settlement of his VAT payments on suspended supplies through a credit voucher for any calender month should make such request in cage R2 in the VAT return in which the supply and relevant output tax are declared. The value in R2 should be equal to the values approved by RIPs. Where there is a discrepancy between the amount entered in cage 2A and in cage R2 of the VAT return exists, such discrepancy shall be treated as a standard rated

supply chargeable to VAT unless the relevant approval is obtained from RIP in any subsequent month after the submission of Form SVAT 04 to the satisfaction of the CGIR.

- ii) The value for suspended supply in the VAT return should be the excess of the value of supply over the difference between the value of credit notes and debit notes declared in Schedule SVAT 07 based on SVAT 05a and 05b.
- iii) RIS who has any exempt supply of goods or services made to any SDP should not disclose the value of such supply in cage A2 with deemed tax in cage 1A, and deemed tax credit in cage R1, but such supply should be disclosed as suspended supply in cage C and respective tax in cage 2A and credit in cage R2 since it is considered as deemed suspended supply as per Note (h) of paragraph 2 of this Schedule.

### **3.4 Refunds**

RIS is not entitled to any refund on any Value Added Tax paid. However, where RIS claims a refund of any input tax paid by him on any import on which upfront payment has been made to the Director General of Customs or on any local purchase made from any VAT registered person so far such purchases are connected to zero rated supply or to suspended supply made to Registered Identified Purchasers by whom suspended credit voucher has been issued on such supply, such refund will be released after six months from the end of the taxable period if the Commissioner General is satisfied after carrying out a special audit on the value addition of the business of such RIS, and if such amount is relating to the period commencing on or after January 1, 2016.

### **4. Specific Instructions to Registered Identified Suppliers - NFE Suppliers**

- i) If RIS supply goods or services to RIP on Non Foreign Exchange (NFE) basis or non-cash basis on behalf of the foreign buyer, such RIS is named as NFE Supplier. Such RIS shall issue a NFE Suspended VAT Invoice on non-cash supply of goods or service (as specified in Form SVAT 02(a)) without any delay to RIP for such supply of goods or services, provided that :
  - a) RIS shall have a delivery request from RIP to deliver such supply of goods or services. Such delivery request should essentially contain description of purchased items, quantity and names and addresses of foreign buyers to whom the final product is intended to be exported.
  - b) RIS shall have a purchase order from foreign purchaser with the instruction to deliver the goods/ services to RIP. Name and address of the issuer of such purchase order, description and quantity should essentially be identical to details mentioned in the delivery request in (a) above ; and
  - c) RIS shall receive foreign remittance as settlement of such supplies directly from foreign purchaser and not from any other source (eg. not allowed to set off any third party liability of RIS with the consent of foreign purchaser).

- ii) If RIS is a NFE supplier, he should receive a “NFE Credit Voucher” provided by the CGIR and issued by the RIP who is a NFE Manufacturer in respect of such NFE supply. RIS is required to key data to Form SVAT 04, by using e-Service within 15 days from the end of the relevant month in which the supplies are made in order to get the approval of respective RIP to get confirmed of the suspended supply and credit voucher numbers.
- iii) RIS (NFE Supplier) shall have all supporting documents for information which contents in the said forms.
- iv) All other instructions and procedures are applied in the same manner as applicable to normal Suspended VAT Invoice, suspended supply and Credit Voucher.

## **5. Specific Regulations to Registered Identified Purchasers**

### **5.1 Suspended Purchases**

- i) All purchases of raw materials, capital goods and other services from RIS used for specified purpose or for deemed specified purpose are referred to as suspended purchases. RIPs are not permitted to purchase under normal tax invoice from another SVAT registered person unless such purchases are identifiable as purchase on which no input tax is allowed under section 22 of the VAT Act.
- ii) Suspended purchase should necessarily be for specified purposes or deemed specified purposes. If such suspended purchases have been used for any exempt supply (other than exempt supply which is treated as deemed suspended supply as per Note (h) of paragraph 2 of this Schedule) or any VAT input credit is disallowed under the VAT Act (if suspended purchases were made as disallowable part which was not identifiable at the time of purchase), an adjustment should be made as specified under section 22 of the VAT Act by disallowing the benefit received through the suspension. If no adjustment has been made by the registered person, an assessment under section 31 of the VAT Act could be issued by the Assistant Commissioner considering such suspended VAT as disallowable input credit (decision has been taken not to waive any penalty on such assessment). If suspended purchase have been used for taxable supplies, no adjustment is due (as above) since relevant output tax is payable in full to the CGIR without any input tax being deducted. However, if it is proved that any suspended purchases have not been used for specified purposes or for any deemed specified purposes, the value of such suspended purchase and the gross profit margin thereon is treated as a taxable supply, and an assessment is issued under section 31 of the VAT Act by the IRD. Any penalty thereon is not waived off.
- iii) The copies of VAT suspended invoices issued by the suppliers should be preserved at least for a period of five years as a source documents to prove the purchases and the suspended VAT component, when such details are required.

## **5.2 Approval of Form SVAT 04 by RIP**

- i) When RIP logs into the list page under the e-Service, he is shown Form SVAT 04 submitted by RIS. Thereby, he is required to approve it giving the credit voucher number allocated to the respective RIS on or before 20 days from the end of the relevant month for which purchases were made.
- ii) If there is any amendment or deletion to be made to the record which has already been approved by RIP, RIP is required to visit IRD and get it done from the IRD officer.
- iii) If there is no suspended purchases made during any month, RIP is required to tick no suspended purchases check box in RIP template.

## **5.3 Credit vouchers and submission of Schedule SVAT 06**

- i) The RIP is provided with **SIMPLIFIED VAT CREDIT VOUCHERS (SVCV)** on a request made by only by using the e-Service. It is issued in triplicate in a serial order by the IRD. A book of SVCV contains 50 credit vouchers. In issuing credit vouchers to respective suppliers, such SVCV should be signed by two authorized persons (signatories). Therefore, names of five signatories with their designations, specimen signatures and copies of NICs (copies of passport in case of non-citizens) should be provided to the IRD at the time of collection of such SVCV, Any change of such signatories subsequently should be informed in advance. This information is to be made available to the CGIR by the person who has signed the application. If such person is no longer employed with the registered person, another person can sign the notification, but such person's eligibility to sign as authorized person should be proved giving documentary evidence.
- ii) Request for subsequent collection of credit vouchers is also made using the e-Service, When visiting IRD for collection of credit vouchers, authorized collector should visit IRD with the original SVAT certificate and relevant document for his identification. When requesting new series of credit vouchers, the copies of used credit vouchers should be produced to the IRD.
- iii) RIP is required to issue a Credit Voucher on suspended purchases to the RIS not later than 20 days from the end of any calendar month in which such purchases are made. However, in respect of supplies made to RIPs on irregular basis, credit vouchers may be issued at the time of the transaction. RIP is required to issue one credit voucher covering the aggregate purchases made from one supplier during any calendar month. RIP is required to keep copies of all vouchers issued.
- iv) In the case of bank transactions, RIP is bound to produce SVAT credit voucher at the point of transaction or within 07 days from the end of a month in which the transaction is carried out provided that the bank submits Form SVAT 04 using the e-Service within 07 days from the end of the relevant calendar month in which the supplies are made. No credit vouchers is entertained by a bank after 07 days from the end of the following month in which the transaction is made.

- v) Where any credit voucher is cancelled due to a mistake, original of the cancelled credit voucher should be attached to the credit voucher book.
- vi) CGIR may refuse issuing credit vouchers to any RIP at any time if it appears that required percentage of credit vouchers have not been released or required approval for Form SVAT 04 have not been granted on time.
- vii) RIP is required to submit summary of suspended purchases - Schedule SVAT 06
- viii) RIP is required to download the Schedule templates of such Schedule SVAT 06 and the verifier tool from the official Website of the Commissioner General of Inland Revenue. RIP should ensure that latest schedule templates are used for the preparation of Schedule SVAT 06.
- ix) SVAT quick guide available in the official Website of the IRD which is updated on regular basis has to be followed to learn the e-Service procedure.
- x) Schedule SVAT 06 should be uploaded by using e-Service by RIP when more than 20 records are to be entered. When less than 20 records are to be entered, schedule may be uploaded or updated by using e-Service or by using intranet with the assistance of the IRD officer on or before the end of the following month.
- xi) If Schedule SVAT 06 has not been submitted in time or if there is any amendment or deletion is to be made to the record which has already been uploaded, RIP required to visit IRD and get it done from the IRD officer.
- xii) If purchases have been returned or due to any other reason for which credit note is issued/received, to any supplier during the same month in which such purchases were made, it should be disclosed in Schedule SVAT 06 with such supplier's details and credit voucher number issued during the month and the original value of purchaser and value of credit notes.
- xiii) If purchases have been returned or due to any reason for which credit note is issued/received, to any supplier in respect of previously declared purchase, that information should be disclosed in Schedule SVAT 06 with the credit voucher number with the original value of purchase. If value of returned purchase is more than the purchase of the current period from such supplier, negative value credit voucher is to be written.
- xiv) If there is no purchase in the current month, but there are credit notes issued/received during the month which is related to previously declared purchases, it should also be disclosed in Schedule SVAT 06 together with the current credit voucher number which is issued on a negative value.
- xv) The credit voucher is to be written on the net value of supplies based on the value given in Form SVAT 04 for any situation mentioned in item (xii), (xiii) or (xiv) above.
- xvi) If the value of purchases have to be increased on any reason relating to any month where debit note is issued/received, that information should be disclosed in Schedule SVAT 06 giving the value of the purchases which is disclosed in the above Schedule SVAT 06 with the credit voucher

number issued for that particular month and relevant credit voucher relating to the purchases for which the increase of value of purchase is to be made.

- xvii) Any RIP should, on request, prepare a statement of reconciliation to facilitate the officials of the Department to check whether the imports and locally purchased goods and services have been used for any specified purpose or deemed specified purpose as defined in Note (j) of paragraph 2 of this Schedule.
- xviii) RIP is required to submit, on request, a schedule of purchases made under suspended terms giving all invoice numbers under three sub headings (i. e. raw materials, capital goods and other goods and services obtained/consumed).
- xix) If any RIP has made suspended supplies, such RIP is required to comply with the requirements specified in paragraph 3 or 4 as the case may be, of this Schedule. During any period if RIP has not made suspended supplies, he is required to tick to suspended supply check box in RIS template.
- xx) RIP should not purchase goods or services which are exempted under PART II of the First Schedule of the VAT Act under suspended terms. If any case SVAT credit voucher has been issued on such purchases, it should be disallowed and enter such value in cage 8A of the VAT return.

## 5.4 VAT Return

### 5.4.1 Value of Purchase

- a) The value of purchases should be declared under the suspended purchases in cage "J" of the VAT Return for the month in which the suspended tax invoice is received. In any case where such purchase has not been declared for that particular month, it can be disclosed in a subsequent three months period within the same year of assessment for which accounts are made up for the purpose of section 28 of the Inland Revenue Act, No. 10 of 2006. The amount of suspended VAT should be entered in cage "K". Under no circumstances VAT on suspended purchases shall be an input tax, and therefore, it could not be deductible from output tax. As such, suspended VAT is not refundable. In case where any input tax on purchases made under **suspended terms** is disallowable under the provisions of the VAT Act as mentioned in item (ii) of paragraph 5.1, it should be disclosed in cage 8A of the VAT return.
- b) The value of suspended purchases in the VAT return should be the excess of the value of purchase over the difference between the value of credit notes and debit notes declared in Schedule SVAT 06.

## 5.5 Refunds

- i) The RIP is requested to make purchases from RIS. Refunds are not made under any circumstances other than any upfront payment made to the Director General of Customs and VAT paid in any situation mentioned in item (iii) below.

- ii) RIP is not authorized to accept a normal tax invoice on purchases unless such purchases are identifiable as purchase on which the input relating to such purchases are disallowable for VAT purpose or the VAT component is claimable as referred to in item (iii) below. Instead of normal tax invoice which could be considered for claiming of input tax RIP shall request the supplier to issue a suspended tax invoice by requesting him to get registered under SVAT Scheme as RIS, as far as possible in the case of situations mentioned in item (iii) below.
- iii) RIP is entitled to claim input tax credit or get excess input (if any) where goods or services obtained from any other VAT registered person who is not a RIS.
- iv) If it appears that the purchase has been made from any RIP or RIS who has been black listed, no refund is made on tax invoices received by RIP from such persons

## **6. Specific Regulations to Registered Identified Purchasers - NFE Manufacturers (Consignees)**

- i) If RIP is a direct exporters who received materials on Non Foreign Exchange (NFE) or non- cash basis from local suppliers (RIS) on behalf of the foreign buyer to whom the final product is exported, such RIP is named as NFE Manufacturer (Consignee) and is issued a “NFE Suspended Tax Invoice” by the RIS on non-cash basis supply, Thereafter, the NFE Manufacturer shall issue a “NFE Credit Voucher” obtained from the CGIR to such supplier (RIS), provided that such supplies are utilized only for the purpose of manufacture and export of goods to the foreign buyer. RIP shall have supporting documents for verification of the IRD officer.
- ii) The value of NFE purchases should be declared under Non Foreign Exchange Purchases in cage “J1” of the VAT Return. The amount of suspended VAT should be entered in cage “K1”
- iii) All other instructions and procedures shall be applied in the same manner as applicable to normal Suspended VAT Invoice, suspended purchase and Credit Voucher as applicable to RIP.

## **7. Documents**

The goods/services declaration form SVAT 04 and supplementary Schedule SVAT 05, 05a and 05b issued by suppliers should be mutually agreed with the RIP if such Supplier does not use e-Service. The documents duly signed by RIP should be returned to the RIS for enable him to submit to the CGIR in order to get keyed data from the IRD Officer via intranet.

## **8. General Instructions to Registered Identified Purchasers and Registered Identified Suppliers**

- i) RIP should submit VAT return monthly.
- ii) All RIS should submit his VAT Return on quarterly basis.
- iii) RIP who made suspended supplies should follow the instructions applicable for RIS.
- iv) Value should be to the nearest rupee (do not enter cents).



- v) Any of those forms should not contain information from more than one calendar month.
- vi) Request for change of address of a person registered for SVAT Scheme should be made to the Taxpayer Services Unit.
- vii) Loss of credit voucher books or credit vouchers should be informed immediately to the IRD with an affidavit and police report to cancel such credit voucher books or vouchers.
- viii) Cancellation of SVAT registration should be made after the cancellation of VAT registration and after receiving a request in that regard with the original certificate. Cancellation is done after receiving all due Form SVAT 04 and respective Schedules under SVAT Scheme. Further, once the cancellation is done, name of such persons are published in the Website of the Commissioner General of Inland Revenue. Further, cancellation could be made by CGIR on his discretion based on the information which shows that the registered person has not complied with the regulation issued by him.
- ix) RIS status can be changed to RIP status on a request made with the original certificate and after satisfying in the requirements mentioned in Note (d) or (e) of paragraph 2 of this Schedule.
- x) RIP status could be changed to RIS on a request made with original certificate and credit voucher books obtained, if any.
- xi) RIP status could be changed to RIS, based on the information available with the CGIR where the required percentage has not been met for three consecutive taxable periods.
- xii) Confirmation of suspended purchase or supplies will be made if both the persons have made available schedules in the given schedule templates and uploaded, updated or submitted correctly.

## **9. Penal Provisions**

### **i) Registered Identified Purchasers**

As the ultimate beneficiaries of the SVAT Scheme, the RIPs should strictly be adhered to the SVAT compliance, obligations while supporting RISs to be compliant with statutory obligations.

- a) Not issuing due credit vouchers by RIP, or not submitting necessary forms by any RIP to the CGIR in time, which in any manner affects the other party in the process, shall be strictly dealt with under the statutory provisions of VAT Act.
- b) After hearing the complaints from suppliers with regard to non-submission of credit vouchers in time, if it is proved to the satisfaction of the CGIR that the negligence of such act has affected to the supplier, an assessment could be made on the respective RIP, or such RIP would be black listed.
- c) Not approving of respective Form SVAT 04 and not submitting Schedule SVAT 06 to the CGIR by the RIP on time, which in any manner affects the other party in the process will be strictly dealt with under the statutory provisions of VAT Act relating to non-furnishing of returns.
- d) If any goods or services exempted under PART II of the First Schedule of the VAT Act has been purchased by any RIP under suspended terms, statutory provisions of the VAT Act will be strictly applied.

ii) Registered Identified Suppliers

- a) If suspended tax invoice has been issued in respect of goods or services which are exempted under PART II of the First Schedule of the VAT Act, statutory provisions of the VAT Act will be strictly applied.
- b) The negligence of suppliers in issuing suspended tax invoice, updating Form SVAT 04 and Schedule SVAT 05, SVAT 05a, SVAT 05b and SVAT 07 to the CGIR on time and which in any manner affects the other party in the process will be strictly dealt with the statutory provisions of VAT Act relating to non-furnishing of returns.

**10. The forms and Schedules specified for the purposes of this scheme are as follows :**

- i) The Registration Form
- ii) Suspended VAT Invoice used for supplies without charging VAT - (SVAT 02).
- iii) NFE Suspended Tax Invoice - [SVAT 02 (a)].
- iv) Form SVAT 04 which is to be updated by RIS
- v) Simplified VAT Credit Voucher which is to be obtained from the IRD and utilized by the RIP for set off the liability of VAT on purchases from the RIS - (SVCV).
- vi) Monthly supplementary declaration - Schedule SVAT 05
- vii) Suspended Debit Notes declaration - Schedule SVAT 05a
- viii) Suspended Credit Notes declaration - Schedule SVAT 05b
- ix) Summary of the suspended normal and NFE supplies including suspended Debit Notes issued/received and Credit Notes issued/received - Schedule SVAT 07
- x) Summary of the suspended normal and NFE purchases including suspended Debit Notes issued/received and Credit Notes issued/received including - Schedule SVAT 06

**11. This set of regulations is subjected to amendment from time to time.**

The guideline issued by the CGIR under Circular No. SEC 2012/03 of 30.07.2012 and Gazette Notification No. 1910/2 dated April 16, 2015 is prevail for the period prior to this Gazette.

**Annex 2**

***VAT – Supplies Eligible for Zero Rating (Section 7)***

- A supply of goods where the person supplying the goods has exported such goods.
- A supply of services, where such supply of services is directly connected with
  - any movable or immovable property outside Sri Lanka;
  - the repair of any foreign ship, aircraft or any merchant ship registered in Sri Lanka or refurbishment of marine cargo containers;
  - any goods imported into Sri Lanka for re-export under entrepot trade;
  - a copyright, patent, licence, trade mark or similar intellectual property right, to the extent that such right is for use outside Sri Lanka;
  - the international transportation (including transshipment) of goods or passengers as are specified by Commissioner General of Inland Revenue by notification published in the Gazette; (Gazette No.1267/5 of December 17, 2002)
  - computer software development, in respect of software developed by the developer for use wholly outside Sri Lanka, and for which payment is received in foreign currency through a bank if, and only if, documentary evidence is produced to the satisfaction of Commissioner General of Inland Revenue of the supply of such services;
  - client support services provided, on or after April 1, 2001 over the internet or the telephone by an enterprise set up exclusively for the provision of such services to one or more identified clients outside Sri Lanka, for which payment is received in foreign currency, through a bank.
  - Provision of services to overseas buyers by a garment buying office registered with the Textile Quota Board established under the Textile Quota Board Act, No.33 of 1996 or the SVAT Scheme, as the case may be, where payment for such service is received in foreign currency, through a Bank in Sri Lanka insofar as such services are identified by CGIR as being services essential for facilitating the export of garments to such overseas buyers.
  - Any other service not referred above provided by any person in Sri Lanka to another person outside Sri Lanka to be consumed or utilised outside Sri Lanka provided that the payment for such service in full is received in foreign currency from outside Sri Lanka through a bank in Sri Lanka.

Since the tax rate is zero, no VAT should be charged in respect of the above taxable supplies.

**Annex 3****VAT-Exempt Supplies  
First Schedule - Part II****a. The supply or import of:**

- i) Wheat, wheat flour or infant milk powder with effect from November 1 2016";
- ii) pharmaceutical products and drugs (other than cosmetics) including such products and drugs certified by Cosmetics, Devices and Drugs Authority established by the Cosmetics, Devices and Drugs Act, No.27 of 1980, and raw materials for the production or manufacture of such products or drugs;
- iii) ayurvedic preparations which belong to the Ayurveda pharmacopoeia or Ayurvedic preparations (other than cosmetic preparations) or unani, siddha or homeopathic preparations (other than cosmetic preparations identified under the Harmonized Commodity Description and Coding System Numbers for custom purposes) and raw materials for such preparations with the recommendation of the Commissioner of Ayurveda;
- iv) aircrafts, or helicopters, (prior to 16 August 2018) pearls, diamonds, natural or synthetic, precious or semi-precious stones, diamond powder, precious metal, metal clad with precious metals, gold coins (effective from 17.7.2007);
- v) books (other than cheque books, periodicals, magazines, newspapers, diaries, ledger books and exercise books), for any period prior to November 11,2016; books, magazines, journals or periodicals (other than newspapers) for any period on or after November 11, 2016 identified under the Harmonized Commodity Description and coding System Numbers for custom purposes; and  
Unused postage and revenue stamps of the Government of the Democratic socialist Republic of Sri Lanka or of a Provincial Council;
- vi) crude petroleum oil, kerosene, liquid petroleum gas and aviation fuel (effective from August 5, 2005), diesel (effective from 1.8.2005) and oil for ships; or fuel oil specified under the Harmonized of Commodity Description Number 2710-19.60.
- vii) artificial limbs, crutches, wheel chairs, hearing aids, accessories for such aids or appliances which are worn or carried or implanted in the human body to compensate for a defect or disability, white canes for the blind, Braille typewriters and parts, Braille writing papers and Braille writing boards, and any other articles which are used by disabled persons which are approved by Minister taking into consideration the degree or relief requested by such persons on an application made for that purpose;
- viii) agricultural tractors or road tractors for semi-trailers;
- ix) cellular mobile phones;
- x) agricultural machinery, mammothies and forks (HS Code Nos. 8201.30.10, 8201.10), fertilizer (effective from 01.07.2004), artemia eggs and peat moss (HS Code Nos. 0511.91.20, 2703.00);
- xi) agricultural seeds, agricultural plants, shrimp feed inclusive of prawn feed and animal feed but excluding poultry feed;
- xii) machinery used for construction industry, milk processing machinery, computers including computer accessories, machinery, yarn used for the textile industry and dyes used for handloom industry as identified under the

HS Code Nos. for Customs purposes and effective from 1.1.2007 and machinery used for rice milling industry (effective from 23.12.2005) which are identified by the CGIR under Harmonized Commodity Description and Coding System Numbers for Customs purposes;

- xiii) plant and machinery by a company, for the use in a new undertaking by such company in any district other than Colombo and Gampaha as having a capital investment of not less than Rupees thirty million and the other criteria specified in Section 20 of the Inland Revenue Act for the purposes of the tax holiday;
- xiv) media equipment or motor bicycles recommended by the Secretary to the Ministry of the Minister in charge of the subject of Media and approved by the Minister, for use by media personnel;
- xv) Prawns;
- xvi) solar panel modules, accessories or solar home system for the generation of solar power energy identified under the specified Harmonized Commodity Description Nos. for Custom purposes (effective from 01.01.2009);
- xvii) high tech medical equipment or any machinery used for the manufacture of ticket issuing machinery identified under the specified Harmonized of Commodity Description Numbers for Customs purposes.
- xviii) Petrol, Coal (if supplied prior to 1 November 2016) or Bitumen specified under Harmonized Commodity Description and Coding System Numbers for Custom purposes with effect from November 26, 2010;
- xix)
  - a) machinery and equipment for manufacture of grain mixed bakery products with effect from November 29, 2010;
  - b) machinery and equipment for the use of leather or footwear industry or bags, motor homes, taxi meters, agricultural machinery and parts, electronic equipment or articles use manufacture of fashion jewellery with effect from January 1, 2011;
  - c) light weight electrical and electronic items with effect from June 1, 2010 but prior to 1 November 2016;
  - d) fruit seeds with effect from August 16, 2010;
  - e) telecommunication equipment with effect from January 1, 2011 but prior to 2 May 2016 and for the period commencing from July 11, 2016 but ending on or before November 1, 2016;as specified under Harmonized Commodity Description and Coding System Numbers for Custom purposes;
- xx) any machinery or high-tech equipment for the telecom industry, having identified that such machinery or equipment is imported or purchased exclusively for the use in the telecom industry and imported or purchased by any operator of telecommunication services, with effect from January 1, 2011 but prior to May 2, 2016 and for the period commencing from July 11, 2016 but ending on or before November 1, 2016.;
- xxi) spare parts and accessories for exclusive use by Sri Lanka Railways prior to November 1, 2016;

xxii)

- a) lorries and trucks (HS Code Nos. 8704.10, 8704.21.11, 8704.21.20, 8704.22.10, 8704.23.10, 8704.23.30), buses (HS Code No. 8702.10.59), sports equipment (HS Heading 95.06), machinery used for the production of rubber or plastic products (HS Heading 84.77), sunglasses (prior to 16 August 2018) (HS Code Nos. 9004.10, 9004.90), perfumes (if supplied prior to November 1, 2016) (HS Code No. 3303.00.10), moulding (steel, glass, mineral material, rubber or plastic - HS Heading 84.80), photo sensitive semi conductor devices;
- b) raw materials for the manufacture of spectacles and spectacle frames;
- c) items and spares for the poultry industry (HS Code Nos. 3926.90.30, 3926.90.50, 8418.61.30, 8418.61.40, 8418.69.30);
- d) wood (sawn) (Prior to 16 August 2018) – HS Heading Nos. 44.07, 44.08, 44.09));
- e) fabric for domestic consumption subject to a cess at a specific rate in lieu of chargeability of any other tax payable on importation at the point of entry into the country, as specified in a Gazette Notification issued under the Sri Lanka Export Development Act;(prior to 16 August 2018 and from 17, September 2018)

as per the gazette notification No 2089/13 dated 17.09.2018, VAT rate has been reduced to 5% on importation of fabric with effect from 17.09.2018

- f) bowzers, bulldozers, graders, levellers, excavators, fire fighting vehicles, gully bowzers, semi-trailers for road tractors, machinery, equipment used for garbage disposal activities or garbage trucks;
- g) energy saving bulbs, for any period with effect from January 1, 2017 and raw material for the manufacture of energy saving bulbs;”
- h) ties and bows, or designer pens;
- xxiii) goods for any international event approved by the Minister of Finance taking into consideration the economic benefit to the country, by conducting such event in Sri Lanka;
- xxiv) frozen bait, fish hooks/roads/reels, fishing tackle and marine propulsion engines identified under the HS Code Nos. for Customs purposes;
- xxv) copper cables for telecom industry –
  - imported prior to May 2, 2016 where such copper cables are not available in Sri Lanka; or
  - purchased from a local manufacturer prior to May 2, 2016 and for the period commencing from July 11, 2016 but ending on or before November 1, 2016.
- xxvi) ethyl alcohol imported or manufactured and supply as a by-product which is liable to Customs duty and Cess on importation or excise duty under the Excise Duty Ordinance on manufacturing of such products.
- xxvii) plants, machinery or accessories for renewable energy generation identified under the Harmonized Commodity Description and Coding System Numbers for Custom Purposes with effect from November 11, 2016;
- xxviii) electrical goods identified under the Harmonized Commodity Description and Coding System Numbers for Custom Purposes with effect from November 1, 2016;

- xxix) medical machinery or medical equipment identified under the Harmonized Commodity Description and Coding System Numbers for Custom Purposes with effect from November 11, 2016;
- xxx) hot air balloons identified under the Harmonized Commodity Description and Coding System Numbers for Custom Purposes with effect from January 1, 2017.”.

b. The supply of:

- i) (a) (1) educational services provided by an educational establishment (effective from January 1, 2006 and ending on December 31, 2010); and
- (2) educational services provided by any person or partnership with effect from January 1, 2011); or  
government schools or schools funded by the government or schools registered with the Ministry of Education that followed the government curricula other than any service not within the context of educational services or any part of such educational services not within the government curricula, and
- (a) public library services by the government, a Provincial Council or a local authority;
- ii) (a) public passenger transport services (other than air transport, water transport, or transport of tourists, excursion tours, and taxi services) or
- (b) the provision of leasing facilities for –
  - such motor coaches with a seating capacity not less than twenty eight passenger seats and used for such public passenger transport services, if such lease agreement has been entered into prior to January 1, 2004 and ending on December 31, 2010;
  - lorries, tractors or motor coaches with a seating capacity of not less than twenty eight passenger seats, in respect of any rental falling due for payment on or after April 1, 2012, if such lease agreement has been entered into on or before 24 October 2014;
  - bowsers, bulldozers, graders, levellers, excavators, fire fighting vehicles or road tractors for semi-trailers as exempted for Custom purposes under HS Code Nos. in respect of any rental falling due for payment on or after January 1, 2013, if such lease agreement has been entered into on or before 24 October 2014.
  - three wheelers on any lease rental payable on the leasing facility for three wheelers on or after 1 January 2005, if such lease agreement has been entered into on or before 24 October 2014, and the provision of leasing facility for any bus by the holder of any valid passenger service permit issued by the National Transport Commission or any Provincial Road Passenger Transport Authority for the replacement of a bus which is being used for the transport of passengers and which has been so used for not less than five years at the time of such import;

- iii) electricity including distribution;
- iv) free or subsidised meals by an employer to his employees at their places of work and transport free or at a subsidised rate by an employer to his employees using a motor coach between the place of residence and work place of such employees;
- v) services in relation to burials and cremations by any institution or person;
- vi) services by a person in Sri Lanka to another person outside Sri Lanka to be consumed or utilised by such other person outside Sri Lanka for which the payment is made in Sri Lanka rupees;
- vii) services at a restaurant situated beyond the immigration counter at the Bandaranaike International Air Port;
- viii) goods and services to the mission of any state or any organisation to which the provisions of the Diplomatic Privileges Act, No.9 of 1996 applies or to any diplomatic personnel of such mission or organisation who is entitled to such benefits provided that reciprocal benefits are available to their counterparts from Sri Lanka and identified as such by the Commissioner General;
- (viii) goods and services funded directly by foreign organizations for the relief of sudden distress caused by natural or human disasters or to any activity having regard to the interest of the national economy, as approved by the Minister;
- (x) the following financial services:
  - (a) the operation of any current, deposit or savings account;
  - (b) the exchange of currency;
  - (c) the issue, payment, collection or transfer of ownership of any note, order for payment, cheque or letter of credit;
  - (d) the issue, allotment, transfer of ownership, drawing, acceptance or endorsement of any debt security, being any interest in or right to be paid money owing by any person;
  - (e) the issue, allotment or transfer of ownership of any equity security, debt security or participatory security;
  - (f) the underwriting or sub-underwriting the issue of any equity security, debt security or participatory security;
  - (g) the provisions of any loan, advance or credit;
  - (h) the provision of -
    - the facility of instalment credit finance in a hire purchase conditional sale or credit sale agreement for which facility a separate charge is made and disclosed to the person to whom the supply is made;
    - goods under any hire purchase agreement or conditional sale agreement, which have been used in Sri Lanka for a period not less than twelve months as at the date of such agreement;
    - leasing facilities under any finance lease agreement or operating leasing agreement on any asset, other than any land or building, if such agreement has been entered into on or after October 25, 2014 and not being an agreement for re-scheduling of any agreement entered into prior to October 25, 2014.



- (i) the life insurance, "Agrahara" insurance and crop and livestock insurance
- (j) the transfer of non-performing loans of licensed commercial bank by way of transfer of such loans to any other person in items of a re-structuring scheme or other scheme of such bank as approved by the Central Bank of Sri Lanka with the concurrence of the Minister;
- (xi) services being the supply, lease or rent of residential accommodation -
  - (a) if such supply has taken place prior to November 1, 2016, other than the supply, lease or rent of residential accommodation by a person, being an enterprise which has entered into an agreement with the Board of investment of Sri Lanka, under Section 17 of the Board of Investment of Sri Lanka Law, No.4 of 1978, on or after April 1, 2001 and the total cost of the projects which such agreement relates is not less than ten million United States Dollars or its equivalent in any other currency and the project relates exclusively to the aforesaid supply, lease or rental.
  - (b) on or after November 1, 2016 but prior to 16 August 2018 by any person, other than any lease or rent of residential accommodation.
  - (c) If such supply has taken place on or after April 1, 2019, other than any lease or rent by any person, and where such supply-
    - (i) Is not relating to a sale of any condominium housing unit; or
    - (ii) Is a supply of a condominium housing unit of a condominium housing project and the maximum price of the market value (whichever is higher) of any single unit of that project does not exceed rupees fifteen million."
- (xii) (a) all healthcare services provided by medical institutions or professionally qualified persons providing such care, prior to May 2, 2016 and for the period commencing from July 11, 2016, but ending on or before November 1, 2016;
- (b) on or after, 16<sup>th</sup> August 2018 all healthcare services provided by medical institutions or professionally qualified persons providing such care other than hospital room charges.";

Effective from 25 July 2018, as per the gazette No 2018/6 of 2 July 2018 exemption is available to cost of any healthcare services other the hospital room charges,

- (xiii) imported unprocessed timber logs, ships, rattans or any article liable to the Special Commodity Levy, subject to the condition that such goods are sold without any processing except adaptation for sale;
- (xiv) food products made out of grains cultivated in Sri Lanka, as identified by the CGIR as high protein and high energy agro foods provided that procurements of such grains with backward integration from out growers is undertaken;
- (xv) services by Tower Hall Theatre Foundation established by the Tower Hall Theatre Foundation Act No. 10 of 1978 or Central Cultural Fund established under Central Cultural Fund Act, No 57 of 1980;
- (xvi) sea sand;
- (xvii) any film for distribution or exhibition;

- (xviii) laboratory facilities for production of any film;
- (xix) locally manufactured handloom textiles;
- (xx) locally manufactured coconut oil or coco peat, coir fibre, grow pellets, grow bags, twist fibre or coconut husk made out of coconut waste.
- (xxi) services being chartering of any vessel;
- (xxii) clay roof tiles (effective from 01.07.2007) or chemical naptha (effective from 17.7.2007), to the extent that such clay roof tiles or chemical naptha are manufactured in Sri Lanka;
- (xxiii) unprocessed agricultural, horticultural or fishing products produced in Sri Lanka, including the local supply of unprocessed agricultural, horticultural or fishing products where value added tax has not been collected or paid to the Department of Inland Revenue on or after 01.07.2007;
- (xxiv) unprocessed prawns produced in Sri Lanka, including the local supply of unprocessed prawns, where value added tax has not been collected or paid to the Department of Inland Revenue on or after January 1, 2004 (effective from 01.01.2008);
- (xxv) imported rattans (effective from 01.07.2007);
- (xxvi) locally produced dairy products other than powdered milk containing added sugar or other sweetening matter, out of locally produced fresh milk in so far as such milk is produced in Sri Lanka and locally produced rice products containing rice produced in Sri Lanka;
- (xxvii) locally manufactured sugar (effective from 01.01.2008);
- (xxviii) locally manufactured machinery used for tea industry and identified by Sri Lanka Tea Board established by the Sri Lanka Tea Board Law No. 14 of 1975 as a tea machinery (effective from 01.10.2008);
- (xxix) locally manufactured surgical gauze used for surgery (effective from 01.01.2009); and
- (xxx) locally manufactured jewellery prior to November 1, 2016 and for any period from November 22, 2016.”
- (xxxi) telecommunication services subject to the telecommunication levy under the Telecommunication Levy Act, No. 21 of 2011, and the services specifically excluded from such liability in the definition of the expression “telecommunication services” in that Act prior to May 2, 2016 and for the period commencing from July 11, 2016, but ending on or before November 1, 2016;
- (xxxii) locally manufactured briquettes and pallets using bio mass wastes (with effect from January 1, 2011);
- (xxxiii) locally developed software with effect from January 1, 2011;
- (xxxiv) services being receipts from re-insurance by any local insurance company by way of commission or compensation in an insurance business (with effect from January 1, 2011);
- (xxxv) services being the issue of licenses to local telecom operators by Telecommunication Regulatory Commission, established by the Sri Lanka Telecommunications Act, No. 25 of 1991, prior to May 2, 2016 and for the period commencing from July 11, 2016, but ending on or before November 1, 2016;

- (xxxvi) locally manufactured –
  - (a) hydropower or wind power machinery and equipment;
  - (b) turbines ;
  - (c) canned fish or clay pottery products using locally produced raw materials;
  - (d) products using locally procured raw materials for the required specification of tourist hotels or airlines;
  - (e) specified products to identified state institutions replacing imports by the manufacturer in so far as such products are locally value added products, as per the conditions specified in the guidelines issued for this purpose;
- (xxxvii)
  - (a) locally manufactured fabric by any domestic manufacturer who does not enjoy BOI concessions;
  - (b) (ii) fabric which are subject to a cess at a specific rate in lieu of chargeability of any other tax on importation by DGC as specified in a Gazette Notification issued under the Sri Lanka Export Development Act;
- (xxxviii) research and development services provided by the supplier of such services as referred to in Section 25 of the Inland Revenue Act, No.10 of 2006;
- (xxxix) painting, at the point of sale, by the artist thereof;
- (xl) services by the Department of Commerce, with effect from January 1, 2012, services by the Board of Investment of Sri Lanka or the Sri Lanka Ports Authority, with effect from April 1, 2012, in so far as such services are provided to any person referred to in item (i) to (vii) of paragraph (e) of Section 2(2) or to providers of services which are zero rated services;
- (xli) export development rebate paid out of the Export Development Fund, with effect from October 8, 2009;
- (xlii) specific services for any international event approved by the Minister of Finance having taken into consideration the economic benefit to the country by conducting such an event in Sri Lanka;
- (xliii) services which result in the improvement of quality, character or value of any yarn, fabric or garment insofar as such services are provided to persons other than exporters of such products;
- (xliv) locally manufactured palm oil;
- (xlv) services by a Unit Trust Management company insofar as such services are provided to any unit trust;
- (xlvi) services being hotel accommodation to any sportsman, organizer of any sport event or sponsor arriving in Sri Lanka for participating in any sport event or activity connected with sports, as may be approved by the Minister of Sports;
- (xlvii) desiccated coconut, rubber, latex, tea including green leaf, rice, rice flour, bread, eggs, liquid milk, provided such products are manufactured locally;

- (xlvi) machinery or equipment for tea or rubber industry or agricultural tractors or road tractors for semi-trailers, provided such products are manufactured locally;
- (xlix) services by any headquarters or regional head offices of institutions in the international network relocated in Sri Lanka as exempted for income tax purposes under Section 7 of the Inland Revenue Act, No. 10 of 2006, provided payments for such services are received in foreign currency;
- (l) locally manufactured ayurvedic preparations which belong to the Ayurveda Pharmacopoeia or Ayurveda preparations (other than cosmetic preparations) or unani, siddha or homeopathic preparations (other than cosmetic preparations);
- (li) Locally manufactured coconut milk ( with effect from November 1,2015)
- (lii) Geriatric services or child care services:
- (liii) International telecommunication services provided by “External Gateway Operations” to local telecommunication operators.’

c. The import of:

- i) goods by the mission of any state or any organisation to which the provisions of the Diplomatic Privileges Act, No.9 of 1996 applies, or by any diplomatic personnel of such mission or organisation, including the import under a temporary admission carnet for re-export;
- ii) any article entitled to duty-free clearance under the Passenger's Baggage (Exemptions) Regulations made under section 107 of the Customs Ordinance, or any article cleared duty-free;
- iii) goods by any organisation approved by the Minister, where he is satisfied that such goods are gifts from persons or organisations abroad, or are out of funds received from such organizations, for the relief of sudden distress caused by natural; or
- iv) goods by any person who has entered into agreement -
  - prior to 16 May 1996; or
  - prior to 1 April 1998 in respect of a project, the total cost of which is not less than Rs. 500 million.

with the BOI under section 17 of the BOI Law No.4 of 1978, which goods are prescribed as a project related article, to be utilised in the project specified in the agreement, during -

  - the project implementation period of such project as specified in such agreement; or
  - up to the date of completion of such project, which date shall not be later than 36 months from the date of the last agreement entered into prior to the 19 November 2003.

whichever is earlier, other than any article in the negative list published by the Secretary to the Treasury for the purpose of this paragraph.

- (v) goods by any person who has entered into an agreement with the BOI under section 17 of the BOI Law No.4 of 1978, which is prescribed as a project related article, to be utilised in the project specified in the agreement, which project once completed will be solely in the business of making exempt supplies:
  - for a period of two years from August 1, 2002; or

- until the completion of the project as determine by the Board of Investment of Sri Lanka;

whichever is earlier, other than any article in the negative list published by the Secretary to the Treasury for the purpose of this paragraph;

- (vi) personal items and business samples of less than Rs. 10,000 through parcel post or courier;
- (vii) a motor vehicle by a disabled person specially designed for use by disabled persons approved by the Minister, on his being satisfied that such vehicle is for use specifically by such persons;
- (viii) any capital items required for the purposes of providing training by any institution providing vocational training or practical training approved by the Minister in charge of the subject of Tertiary Education and Training in consultation with the Minister where the Government has provided funds or other assistance to such institution and the surplus funds of such institution are re-invested for the maintenance or improvement of such institution;
- (ix) project related goods to any project approved by CGIR and having an investment of not less than Rs 100 million (other than goods on the negative list published by Secretary to Treasury – cement, wire and cable, Tor Steel, granite, wall tiles and floor tiles, paints, PVC products and goods chargeable for VAT at 20%) during the project implementation of 3 years from commencement of the project, provided such project makes taxable supplies upon completion of the project;
- (x) sample of garments for business purposes by garment buying office in Sri Lanka registered with the TQB so long as the item is not sold;
- (xi) any ship;
- (xii) unprocessed timber logs;
- (xiii) any machinery or equipment by the Ceylon Electricity Board or an Institution which has entered into an agreement with the Ceylon Electricity Board to supply electricity required for the purpose of generating electricity identified under specified HS Codes for Customs purposes, approved by the Minister;
- (xiv) any film which is produced in Sri Lanka and sent abroad for further processing or printing with the approval of the Chairman of the National Film Corporation;
- (xv) any bus by the holder of any valid passenger service permit issued by the National Transport Commission or any Provincial Road Passenger Transport Authority for the replacement of a bus which is being used for the transport of passengers and which has been so used for not less than five years at the time of such import;
- (xvi) machinery identified under the specified HS Code Nos. for Customs purpose, for modernization of factories by the factory owner with the approval of the Commissioner General of Inland Revenue prior to 1 January 2014;
- (xvii) poultry keeping machinery, poultry incubators and brooders, the import of cattle, buffaloes, poultry, pigs, goats, sheep for breeding purposes and the seimen and embryos of such animals for breeding purposes, under specified Harmonized of Commodity Description Number for the Customs purpose, with the approval of the Commissioner General of Inland Revenue;

- (xviii) finished leather to be used for the shoe manufacturing industry, on the recommendations of the Secretary to the Ministry of Industrial Development subject to approval by the Minister in charge of the subject of Finance;
- (xix)
  - plant, machinery or equipment of high value to be used for any project; or
  - goods to be used as exhibition material or as materials in any technical demonstration and which are re-exported after the completion of such project, exhibition or demonstration, as the case may be, and in respect of which tax is deferred in terms of paragraph (b) of the second proviso to section 2(3) (effective from 17.07.2007);
- (xx) aircraft engines or aircraft spare parts identified under specified Harmonized Commodity Description and Coding System Numbers for Customs purposes (effective from 17.07.2007 but prior to 16 August 2018 )
- (xxi) rattans under HS Code No. 1401.20 (effective from 01.07.2007);
- (xxii) plant and machinery by an undertaking qualified for a tax holiday under section 24c of the Inland Revenue Act, No. 10 of 2006, for use by such undertaking for the purpose of manufacturing or for the provision of services (effective from 01.01.2008);
- (xxiii) goods for a strategic development project under the provisions of the Strategic Development Projects Act, No.14 of 2008, during the project implementation period or any special project referred to in paragraph (f) with the approval of the Minister of Finance;
- (xxiv) any bus with the approval of National Transport Commission or any Provincial Road Passenger Transport Authority by the owner of such bus to replace any bus destroyed due to terrorist activities (effective from 9. 7. 2008); (Manufacturers who are registered with the National Craft Council are entitled to import aforesaid items through that organization.);
- (xxv) brass sheets, brass ingots, thread, dyes, paraffin wax or shellac for manufacture of brassware by the National Craft Council with the approval of Ministry of Rural Industries and Self Employment Promotion (effective from 01.01.2009);
- (xxvi) chemical naptha by the Ceylon Petroleum Corporation to be supplied to Ceylon Electricity Board for the generation of electricity (effective from 01.01.2009);
- (xxvii) packing materials exclusively for the use of packing of pharmaceuticals or ayurvedic medicines manufactured in Sri Lanka and which are imported by the manufacturer of such pharmaceuticals or ayurvedic medicines, insofar as such packing materials are not manufactured in Sri Lanka, as approved by the Secretary to the Ministry of Health or the Commissioner of the Department of Ayurveda, as the case may be;
- (xxviii) Cine Films, cinematographic films exposed or developed, magnetic cine sound recorders, cinematographic cameras and projector parts and accessories, Prior to 16 August 2018 apparatus and equipment for cinematographic laboratories, electric filament or discharge lamps and arc lamp carbon, speakers, amplifiers, digital stereo processors and accessories, cinema media players and digital readers (HS Code Nos. 8518.29, 8518.40, 8519.81, 8519.89), with the approval of the Chairman, National Film Corporation;

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- (xxix) aircraft stimulators and parts specified under Harmonized Commodity Description and Coding System Numbers for Custom purposes with effect from January 1, 2011 but prior to 16 August 2018
  - (xxx) samples in relation to a business worth not more than rupees –
    - twenty five thousand, on such imports made prior to January 1, 2015, and
    - fifty thousand on such imports for any period on or after January 1, 2015,
 subject to such terms and conditions as specified by the Director-General of Customs;
  - (xxxi) pharmaceutical machinery and spare parts for the pharmaceutical machinery which are not manufactured in Sri Lanka (HS Code Nos. 8479.89.90, 8424.80, 8413.81, 8481.80), imported by pharmaceutical manufacturers on the recommendation of the Secretary to the Ministry of Health, including pharmaceutical machinery or parts imported after June 1, 2011 under the same conditions on which VAT has been deferred;
  - (xxxii) machinery for the manufacture of bio mass briquettes and pallets so far as such machinery is imported by the manufacturer of such products (HS Code No. 8479.30), including such machinery imported after June 1, 2011 under the same conditions on which VAT has been deferred;
  - (xxxiii) green houses, poly tunnels and materials for the construction of green houses, by any grower of agricultural products or plants of any type prior to 16 August 2018 subject to the condition that such items are not manufactured in Sri Lanka, and approved by the Director-General, Department of Fiscal Policy on the recommendation of the Secretary to the Ministry of Agriculture;
  - (xxxiv) plant, machinery or equipment by any enterprise qualified for a tax exemption under Section 16D and 17A of the Inland Revenue Act, for the use by such enterprise for the purposes specified in the BOI agreement on which tax is deferred during the project implementation period, subject to the fulfilment of the conditions specified in the agreement, during the project implementation period;
  - (xxxv) any goods, (other than motor vehicles and goods for personal use) required for international transportation, consigned to Sri Lankan Airlines Limited, Mihin Lanka (Pvt) Ltd. or Air Lanka Catering Services Ltd.;
  - (xxxvi) fabric, specified under HS Code Nos. for Custom purposes, prior to 16 August 2018 for the sale in the domestic market without any value addition, subject to the chargeability of a Cess at a specific rate classified under the HS Code Nos. for Custom purposes, in lieu of chargeability of any other tax on importation at the point of entry into the country, by the Director-General of Customs as specified in a Gazette Notification issued under the Sri Lanka Export Development Act, No.40 of 1979;  
 as per the gazette notification No 2089/13 dated 17.09.2018, VAT rate has been reduced to 5% on importation of fabric with effect with effect from 17.09.2018.
  - (xxxvii) gully bowsers, semi-trailers for road tractors, any machinery or equipment used for garbage disposal activities carried out by any local authority, for the purpose of provision of such services to the public, as approved by the Secretary to the relevant Ministry;

- (xxxviii) machinery, equipment or spare parts imported by Sri Lanka Ports Authority to be used exclusively within the ports of Sri Lanka Ports Authority.
- d. The import and supply of goods at duty free shops for payment in foreign currency.
  - e. The supply of locally manufactured goods to duty free shops for payment in foreign currency.
  - f. The supply of –
    - (i) goods or services to any project identified as a Strategic Development Project, in terms of the Strategic Development Projects Act, No. 14 of 2008 (effective from 01.01.2008); or
    - (ii)
      - goods or services to any specified project identified by the Minister in charge of the subject of Finance, taking into consideration the economic benefit to the country, on which project the tax is borne by the Government (with effect from January 1, 2008); or
      - goods or services to any infrastructure development project funded through foreign loans or donations directly to the Government Ministries (with effect from January 1, 2011);

and every such project shall be approved by the Minister of Finance, and Notification of such approval shall be published in the *Gazette*;

    - any goods or services provided prior to November 1, 2016 by any society registered under the Co-operative Societies Law, No. 5 of 1972, or under the respective Statutes enacted by the Provincial Councils providing for such registration, or Lak Sathosa registered under the Companies Act, No. 7 of 2007.
- g. Supply of services, being construction services for Gama Naguma, Maga Naguma, Samurdhi Projects or for community irrigation projects, carried out through the participation of the community and approved by Secretary to the Ministry of the Minister in charge of the subject of Nation Building and State Infrastructure Development (effective from 01.01.2009).
  - h. Goods or services by an institution set up by the Ministry of Defence for the rehabilitation of disabled soldiers, in so far as the activities are carried out by the participation of such soldiers (with effect from January 1, 2011).
  - i. Supply of goods or services by the Central Bank of Sri Lanka.
  - j. Supply of any services by any public corporation to the extent of provision of such services on behalf of the Government of Sri Lanka, free of charge out of the funds voted by Parliament from the Consolidated Fund or out of any loan arranged through the Government.
  - k. Supply of goods or services by any individual who is a citizen of Sri Lanka and who carries on any business of manufacturing of any article, other than any liquor or tobacco product, or supply of any services after returning from a foreign employment, for a period of five years reckoned from the beginning of the year in which such business commences if such individual-
    - (i) returns from such foreign employment on or after January 1, 2013; and
    - (ii) invests his earnings from such foreign employment to commence such business.
  - l. with effect from October 25, 2014, the import or supply of -



- (a) (i) any motor vehicle identified under the H.S Code Nos. for Custom purposes and liable to the Excise (Special Provisions) Duty on the importation of such vehicle or any motor vehicle liable to the same duty on the manufacture of any such vehicle;
- (ii) any motor vehicle which remains unsold as at October 25, 2014, which would otherwise have been liable to the same duty on the importation or manufacture of the same, if imported or manufactured after October 25, 2014, other than any vehicle supplied under a financial leasing agreement entered into prior to October 25, 2014, which is disposed after the repossession of same by the lessor, on which input tax had been claimed;
- (b) cigarettes identified under the H.S Code Nos. for Custom purposes and liable to the Excise (Special Provisions) Duty and Cess on the importation or manufacture of the same including cigarettes in the stocks remaining unsold as at October 25, 2014, which would have been liable to the same duty on the importation or manufacture of the same, if imported or manufactured after October 25, 2014 but prior to November 1, 2016; or
- (c) liquor prior to November 1, 2016 identified under the H.S Code Nos. for Custom purposes and subject to the Customs Duty and Cess on the importation or Excise (Ordinance) Duty on manufacture of the same including liquor imported or manufactured prior to October 25, 2014 remaining unsold as at October 25, 2014, which would have been liable to the same duty and Cess on importation or Excise (Ordinance) Duty on manufacture of the same, if imported or manufactured after October 25, 2014.

**Annex 4*****Restriction on Allowability of Input Tax - Illustration*****Illustration**

A VAT registered exporter has claimed a VAT refund for the month of January 2018 giving the following details.

Output Tax	Rs		Rs
Local sales	8,000,000	@ 15% output VAT	1,200,000
Zero rated (exports)	2,000,000	@ 0%	
Total turnover	10,000,000		

**Input Tax**

Total allowable input tax  
1,600,000

Allowable input tax attributable to

- Zero rated supplies =  $\frac{2,000,000}{10,000,000} \times 1,600,000 = \text{Rs } 320,000$
  - Local sales =  $\frac{8,000,000}{10,000,000} \times 1,600,000$
- = Rs 1,280,000

But restricted to 100% of 1,200,000 = Rs 1,200,000 = Rs 1,200,000  
Input tax claimable Rs 1,520,000

Carried forward input tax Rs 80,000

VAT Refund for the month Rs 320,000

## **Annex 5**

### ***Guidelines to Licensed Commercial Banks and Licensed Specialised Banks on the Operations of the Investment Fund Account***

#### **1. Establishment of an Investment Fund Account (IFA)**

As proposed in Budget 2011, every person or partnership who is in the business of banking or financial services, is required to establish and operate an IFA.

#### **2. Initial Credits to IFA**

As and when taxes are paid after 1 January 2011, licensed banks shall transfer the following funds to the IFA and build a permanent fund in the bank:

- i) 8 per cent of the profits calculated for the payment of Value Added Tax (VAT) on financial services on dates as specified in the VAT Act for payment of VAT.
- ii) 5 per cent of the profits before tax calculated for payment of income tax purposes on dates specified in Section 113 of the Inland Revenue Act for the self assessment payments of tax.

#### **3. Utilization of Funds**

##### ***3.1 Banks shall commence utilization of funds in the IFA in the following manner within three months from the date of transfer to the IFA:***

- i) Invest in long-term Government securities and/or bonds with maturities not less than seven years.
- ii) Lend on maturities not less than five years at interest rates not exceeding 5 year Treasury bond rates plus 2 per cent.
- iii) Lend only for the following purposes:
  - a. Long-term loans for cultivation of plantation crops/agriculture crops including fruits, vegetables, cocoa and spices and for livestock and fisheries
  - b. Factory/mills modernization/establishment/expansion
  - c. Small and medium enterprises:
    - loans up to Rs 30 mn or
    - loans over Rs 10 mn to enterprises with annual turnover less than Rs 300 mn and employees less than 400
  - d. Information Technology related activities and Business Process Outsourcing
  - e. Infrastructure development
  - f. Education – vocational training and tertiary education
  - g. Restructuring of loans extended for the above purposes.

##### ***3.2 Lending may be in Sri Lanka Rupees and/or foreign currency loans granted within the country.***

##### ***3.3 Banks shall invest funds in short-term Government securities until the commencement of utilization of funds as stated in 3.1 above.***

## **4. Conditions**

### **4.1 Applicability of Prudential Requirements**

- i) Subject to paragraph (ii) below, transactions of the IFA shall be subject to all Regulations, Directions, Determinations and Circulars issued by the Central Bank of Sri Lanka as applicable.
- ii) Lending to the Agriculture sector in the case of licensed banks shall be in addition to the requirement on lending to agriculture by banks of 10 per cent of total loans and advances of the bank in terms of the budget proposal 2006.

### **4.2 Accounting for Transactions**

- i) Transfers to the IFA shall be treated as appropriations of profit after tax.
- ii) The IFA shall be maintained as a separate item under general and other reserves and constitutes a part of shareholder funds.
- iii) Cost of operations of IFA and income from investments and lending operations shall be accounted for in the financial statements of the bank.
- iv) Banks shall maintain separate accounts with necessary details on all operations of the IFA.
- v) IFA shall not be impaired or reduced without the approval of the Central Bank of Sri Lanka.

### **4.3 Disclosures and Reporting to Central Bank of Sri Lanka**

- The following disclosures shall be made in the “Notes to the financial statements”:
  - i) Number of loans granted and total amount outstanding for each purpose stated in paragraph 3.1(iii), interest rates and tenure of loans.
  - ii) Total investments in Government securities, interest rates and maturity.
  - iii) Information on the operations of the IFA shall be made available as and when required by the Central Bank of Sri Lanka and Ministry of Finance.

### **4.4 Tax Treatment**

The tax liability in relation to the operations of IFA shall be computed in accordance with applicable tax laws. However, the following shall be noted:

- i) Interest income on investments, stated in paragraphs 3.1(i) and 3.3 is liable to income tax.
- ii) Interest income on loans granted utilizing the IFA will be exempt from income tax.
- iii) Specific provisions on loan losses will be subject to normal adjustments applicable to bad debts.
- iv) Any over-funding or under-funding shall be in accordance with the relevant tax laws/regulations/guidelines.



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***Nation Building Tax (NBT)***

	<b>Page</b>
<b><i>Contents</i></b>	
1 The Law .....	133
2 Effective Date .....	133
3 Chargeable Persons.....	133
4 Tax Rate .....	133
5 Chargeability.....	134
6 Definitions.....	134
7 Threshold.....	136
8 Exemptions.....	138
9 Credit for NBT paid.....	138
10 Notice of Chargeability.....	138
11 Payment Dates.....	139
12 Collection of NBT on Imports .....	140
13 Filing of NBT Return .....	140
14 Administration Provisions .....	140
15 Exemption of certain small and medium enterprises from the payment of default taxes .....	141
Annex – Excepted Articles & Services .....	142



## ***Nation Building Tax (NBT)***

### ***1. The Law***

- Nation Building Tax Act, No. 9 of 2009
- Nation Building Tax (Amendment) Act, No. 32 of 2009
- Nation Building Tax (Amendment) Act, No. 10 of 2011
- Nation Building Tax (Amendment) Act, No. 9 of 2012
- Nation Building Tax (Amendment) Act, No.11 of 2013
- Nation Building Tax (Amendment) Act, No.10 of 2014
- Nation Building Tax (Amendment) Act, No.12 of 2015
- Nation Building Tax (Amendment) Act, No.22 of 2016
- Nation Building Tax (Amendment) Act, No.13 of 2017
- Nation Building Tax (Amendment) Act, No. 20 of 2018

### ***2. Effective Date***

1 February 2009

### ***3. Chargeable Persons***

NBT is chargeable from every person (person includes any company, body of persons or any partnership) who –

- a) imports any article, other than any article comprised in the personal baggage of the passenger, into Sri Lanka,
- b) carries on the business of manufacture of any article,
- c) carries on the business of providing a service of any description, or
- d) carries on the business of wholesale or retail sale of any article other than such sale by the manufacturer of that article, being a manufacturer to whom the provisions of paragraph (b) above applies.

### ***4. Tax Rate***

From 1 January 2011 onwards -

- a) 2% on the liable turnover (other than any turnover from the wholesale or retail sale);
- b) on the liable turnover from wholesale or retail sale of any article –
  - 0% (Nil) on the 3/4<sup>th</sup> of the liable turnover of any distributor,
  - 0% (Nil) on the 1/2 of the liable turnover of any article (other than any turnover of a distributor),
  - 2% on the balance liable turnover.



## **5. Chargeability**

NBT is chargeable in relation to -

- a) import of any article, on the liable turnover of the importer arising from such importation;
- b) business of manufacture of any article, provision of any service or wholesale or retail sale of any article, on the liable turnover of the relevant quarter.

## **6. Definitions**

***Liable turnover*** in relation to –

- a) imports means the value of any article, ascertained for the purpose of Value Added Tax under Section 6 of the Value Added Tax Act No. 14 of 2002, arising from the import of that article by any person, but does not include the value of any excepted article referred to in the Annex;
- b) manufacture means the sum receivable, whether received or not, from the sale in Sri Lanka in any relevant quarter of every article manufactured by any manufacturer other than any excepted article referred to in the Annex,
- c) provision of any service (other than financial service) means the sum receivable, whether received or not, from the provision in Sri Lanka of any service other than any excepted service, referred to in the Annex, by any person during any relevant quarter,
- d) supply of any financial service in Sri Lanka by any person carrying on the business of providing financial services means –
  - i. for any quarter ending on or before 30 September 2014 and the period commencing on 1 October 2014 and ending on 24 October 2014, the value addition attributable to such financial service calculated for the purpose of applying the attributable method referred to in Section 25C(4) of the Value Added Tax Act, and
  - ii. for the period commencing from 25 October 2014 and ending on 31 December 2014 and for any quarter commencing on or after 1 January 2015, the value of supply referred to in Section 25A of the Value Added Tax Act.

However, the value addition attributable to such financial services should be computed by applying the attributable method referred to in Section 25C(4) of the Value Added Tax Act No 14 of 2002.

- e) In calculating the value addition attributable to such financial service, where the amount of profits for each relevant quarter cannot be accurately ascertained, such amount may be estimated on the basis of available information. The estimated amount should be adjusted to reflect the actual amount with the audited statement of accounts on yearly basis and such adjustment should be submitted within 6 months after the closing date of the relevant accounting period, and
- f) business of real estate and improvement thereon means the value of that service ascertained for the purpose of Value Added Tax Act under Section 5(7) of the Value Added Tax Act, but does not include the value of any excepted service referred to in Part II of the First Schedule.
- g) wholesale or retail sale means the sum receivable, whether received or not, from the sale in that quarter of any article other than –

- i) pharmaceuticals;
- ii)
  - a. sugar, dhal, potatoes, onions, dried fish, milk powder or chillies subject to the provisions of the Special Commodity Levy Act, where such article is sold on or before December 31, 2013, by the importer of such article; or
  - b. any article which is subject to the Special Commodity Levy, where such article is sold on or after January 1, 2014, by the importer of such article without any processing except for adaption for sale;
- iii) gems or jewellery, sold for the payment in foreign currency with the authorization of the Central Bank of Sri Lanka;
- iv) any printed book (with effect from July 1, 2011);
- v) any article exported;
- vi) any article sold to any exporter for export;
- vii) fresh milk, green leaf, cinnamon or rubber (latex, crepe or sheet rubber) purchased from any manufacturer or producer thereof;
- viii) petrol, diesel or kerosene sold in a filling station;
- ix) retail sale of any article at duty free shops for payment in foreign currency;
- x) LP Gas;
- xi) any motor vehicle identified under H.S Code Nos. for Custom purposes and liable to Excise (Special Provisions) Duty on the importation, including such motor vehicles in the stock remaining unsold as at October 25, 2014 which would have been otherwise liable to such Excise (Special Provisions) duty on the importation, if they were imported after October 25, 2014, insofar as such vehicles are sold by the importer himself;
- xii) cigarettes identified under H.s Code Nos. for Custom purposes and liable to Excise (Special Provisions) Duty and Cess on the importation, including cigarettes in the stocks remaining unsold as at October 25, 2014 which would have been otherwise liable to such Excise (Special Provisions) Duty and Cess on the importation if they were imported after October 25, 2014 insofar as such cigarettes are sold by the importer himself; and
- xiii) Liquor identified under H.S Code Nos. for Custom purposes and liable to Custom duty and Cess on the importation, including liquor imported prior to October 25, 2014 and the stock remaining unsold as at October 25, 2014 which would have been otherwise liable to such Custom Duty and Cess on the importation, if they were imported after 25th October, 2014 insofar as such liquor is sold by the importer himself prior to 1 April 2018.

In relation to manufacture, provision of any service and wholesale and retail trade, liable turnover will arise after making the following adjustments:-

**Less**

- a) any bad debt incurred in the relevant quarter,
- b) any Value Added Tax under the Value Added Tax Act No. 14 of 2002 paid in the relevant quarter,

- c) any Excise Duty under the Excise Duty (Special Provisions) Act No. 13 of 1989, paid in the relevant quarter, other than such excise duty paid on the importation with effect from 1 February 2009,
- d) rebate paid under the Export Development Rebate Scheme in relation to any international event, as approved by the Minister of Finance, and
- e) any turnover from the supply of any goods or services in relation to any international event, as approved by the Minister of Finance.

**Plus**

- a) any bad debt recovered in the relevant quarter.

**Manufacture** means any process for –

- a) making an article;
- b) assembling or joining any article, whether by chemical process or otherwise;
- c) adapting for sale any article;
- d) packaging, bottling, putting into boxes, cutting into pieces, cleaning, polishing, wrapping, labelling or in any other way whatsoever preparing for sale any article otherwise than in a retail store for the purpose of sale in such store exclusively and directly to the consumer.

**“Person”** includes any company, body of person or any partnership.

**Quarter** means the period of three months commencing on the first day of January, April, July or October of any year.

**Service** includes any business of real estate and improvement thereon.

**Year** means a calendar year.

## **7. Threshold**

- a) For any relevant quarter commencing on or after 1 January 2011 but prior to 1 January 2013.
  - (i) any person referred to in (b), (c) and (d) of the paragraph 3 above, other than any person referred to in item (ii) below, will not be liable to NBT for that quarter if the turnover for that quarter does not exceed Rs 500,000;
  - (ii) any person who –
    - a. operates a hotel, guest house, restaurant or other similar business;
    - b. processes any locally procured agricultural produce in the preparation for sale;
    - c. provides educational services by establishing any local institution for that purpose, or
    - d. supplies labour (manpower)

will not be liable to NBT for that quarter if the turnover for that quarter does not exceed Rs 25 million.

- b) For any relevant quarter commencing on or after 1 January 2013 but prior to 1 January 2015
  - (i) any person referred to in (b), (c) and (d) above, other than any person referred to in item (ii) below, will not be liable to NBT for that quarter, if the turnover for that quarter does not exceed Rs 3 million;
  - (ii) any person who –
    - a. operates a hotel, guest house, restaurant or other similar business;
    - b. processes any locally procured agricultural produce in the preparation for sale;
    - c. provides educational services by establishing any local institution for that purpose, or
    - d. supplies labour (manpower)

will not be liable to NBT for that quarter if the turnover for that quarter does not exceed Rs 25 million.
- c) For any relevant quarter commencing on or after 1 January 2015 but prior to April 1, 2016.
  - (i) any person referred to in (b), (c), and (d) above, other than any person referred to in item (ii) below, will not be liable to NBT for that quarter if the turnover for that quarter does not exceed Rs 3,750,000;
  - (ii) any person who -
    - a. operates a hotel, guest house, restaurant or other similar business;
    - b. processes any locally procured agricultural produce in the preparation for sale;
    - c. provides educational services by establishing any local institution for that purpose, or
    - d. supplies labour (manpower)

will not be liable to NBT for that quarter if the turnover for that quarter does not exceed Rs 25 million.
- d) For any relevant quarter commencing on or after April 1, 2016.
 

The sum of rupees 3 million.

  - any new business of manufacture of any article, other than liquor or tobacco, or the provision of any service by any individual who is a citizen of Sri Lanka will not be liable to NBT for a period of 5 years reckoned from the beginning of the year of assessment in which the commercial operation commences, if such individual –

- return from foreign employment on or after 1 January 2013, and
- invests his foreign earnings to commence such business.

### **8. Exemptions**

Turnover (other than the turnover from wholesale or retail sale) of excepted articles and the turnover of excepted services will not be subject to NBT. The list is given in the Annex.

### **9. Credit for NBT paid**

Where a manufacturer registered for NBT utilizes wholly or partly any goods purchased from another registered manufacturer, or imported by himself, in the manufacture of goods liable to NBT, such manufacturer is entitled to tax credit in respect of NBT paid on such goods in proportion to the value of goods manufactured by such manufacturer which are liable to NBT.

However, if such credit for any relevant quarter exceeds the tax so payable for that quarter, the excess shall be deemed to be an advance payment of tax paid for the quarter immediately succeeding that relevant quarter.

For the purpose of claiming credit for the NBT paid, the NBT registration number is required to be entered in the invoice issued by the manufacturer.

Further, in no circumstance, shall the excess be deemed to be an advance payment of the tax paid monthly under self assessment basis by any person other than such manufacturer, and the set off shall not extend the liability to tax on the turnover from the business of manufacturing of any article.

### **10. Notice of Chargeability**

Every liable person (manufacturer, service provider or wholesale or retail sale trader) whose liable turnover for any quarter exceeds the threshold referred to in paragraph 7 above, should give notice in writing to the Commissioner General of Inland Revenue (CGIR) of such chargeability for that quarter not later than 15<sup>th</sup> day of the last month of that relevant quarter.

The notification should disclose the name, the postal address, the taxpayer identification number (TIN), if any, or the income tax file number, if any, and such other information as the CGIR may specify by Order published in the Gazette.

Those who have already registered for VAT, would be automatically registered for NBT, and such registrants would be duly informed. However, if there is no NBT liability, such persons should inform CGIR accordingly.

## 11. Payment Dates

NBT is payable by every liable person on a self assessment basis in three instalments for any relevant quarter as follows:

<b>Instalment</b>	<b>Amount payable</b>	<b>Payable on or before</b>
1 <sup>st</sup> instalment	NBT payable for the 1 <sup>st</sup> month of that quarter	20 <sup>th</sup> day of the 2 <sup>nd</sup> month of that quarter.
2 <sup>nd</sup> instalment	NBT payable for the 2 <sup>nd</sup> month of that quarter	20 <sup>th</sup> day of the 3 <sup>rd</sup> month of that quarter
3 <sup>rd</sup> instalment	Balance amount payable for that quarter after deducting 1 <sup>st</sup> and 2 <sup>nd</sup> instalments from the NBT payable for that quarter	20 <sup>th</sup> day of the month immediately succeeding the end of the relevant quarter.

### Illustration

*Quarter ended 30-6-2017*

A NBT registered footwear manufacturer has liable turnover for the quarter ended 30-6-2017 as follows:

For the month of April 2017	=	Rs 2,200,000
For the month of May 2017	=	Rs 2,500,000
For the month of June 2017	=	Rs 2,100,000
<b>Total</b>	<b>=</b>	<b>Rs 6,800,000</b>
1 <sup>st</sup> instalment (month of April )		
NBT payable at 2% on or before 20 May 2017.	=	Rs 2,200,000 $\times \frac{2}{100}$ = 44,000
2 <sup>nd</sup> instalment (month of May)	=	Rs 2,500,000 $\times \frac{2}{100}$ = 50,000
NBT payable at 2% on or before 20 June 2017.		
3 <sup>rd</sup> instalment		
Total liable turnover for the quarter ended 30-6-2017	=	Rs 6,800,000
NBT payable for the quarter	=	Rs 6,800,000 $\times \frac{2}{100}$
	=	Rs 136,000
Balance payable on or before 20 July 2017	=	Rs 136,100 – 44,000 – 50,000
	=	Rs 42,000

**12. Collection of NBT on Imports**

The tax chargeable in respect of every article imported by any person shall be collected by Director General of Customs (DGC) at the time such article is imported as if it were Customs duty chargeable under the Customs Ordinance. DCG would specify the amount of NBT collected on the import invoice relating to the import of the relevant article.

**13. Filing of NBT Return**

A quarterly return of turnover, in such form and containing such particulars as may be specified by CGIR, is required to be filed on or before 20<sup>th</sup> day of the month following the end of that quarter.

**14. Administration Provisions**

All relevant provisions of the Inland Revenue Act No 10 of 2006 pertaining to returns, assessments, appeals, finality of assessments and penalty for incorrect returns, recovery of tax, miscellaneous, penalties and offences, administration and general matters will apply respectively to NBT.

*Time bar provisions on issuing assessments*

No assessment or additional assessment should be made under the provisions of the Section 08 of the NBT Act in respect of any person –

- a) who has furnished a NBT return for the relevant quarter in the year of assessment on or before the due date, after the expiry of 18 months from the 30<sup>th</sup> day of November of that year of assessment immediately succeeding the year of assessment in which such relevant quarter falls if his return of income has been filed on or before the due date.
- b) who has failed to file the return on or before due date after the expiry of 4 years from the 30<sup>th</sup> day of November of that year of assessment immediately succeeding the year of assessment in which such relevant quarter falls.

*Example:*

NBT return for the quarter ended 30-06-2016 has been filed on 19-07-2016 (before the due date) and the income tax return for the Y/A 2016/2017 has been filed on 25-11-2017 (before the due date).

No NBT assessment for the quarter ended 30-06-2016 could be issued after 31-05-2019.

If the above return has been filed on 25-07-2016 (after the due date) assessment could be issued on or before 30-11-2021.

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**15. *Exemption of certain small and medium enterprises from the payment of default taxes***

Under the provisions of the Nation Building Tax (Amendment) Act No 10 of 2011, any person or partnership carrying on an enterprise, having an annual turnover of a sum not exceeding Rs 100 million, who has defaulted in the payment of NBT in respect of any period ending on or before 31 December 2010 due to the existence generally of any conflict environment or due to financial constraints of such person or partnership, shall be exempt from the payment of such default NBT and the Commissioner General of Inland Revenue (CGIR) shall issue a certificate of exemption in respect of the sum in default.

In order to obtain such certificate of exemption, the defaulter should apply to the CGIR giving the reasons of his inability to pay the default taxes. Further, such defaulter should forward to the CGIR a written assurance for the payment of NBT payable by him in respect of any future periods commencing on or after 1 January 2011.



**Annex**

***Excepted Articles and Services***

***Excepted Articles***

- i) any article exported by the manufacturer of such article;
- ii) any article not being plant, machinery or fixtures imported by any person exclusively for use in, or for, the manufacture by such person of any article for export;
- iii) any article sold by any person, to whom NBT Act applies, to any exporter, if the CGIR is satisfied, on the production of any documentary evidence, that –
  - a) such article; or
  - b) any other article manufactured of which such article is a constituent part, has in fact been exported from Sri Lanka by such exporter directly or through a trading house established for export purposes.
- iv) any article which is imported, if proved to the satisfaction of CGIR, that such article is imported to Sri Lanka for –
  - a) display at an exhibition,
  - b) the temporary use in Sri Lanka in any project approved by the Minister,
  - c) the purposes of repairs to that article to be carried out in Sri Lanka, or
  - d) any other similar purpose,and is to be re-shipped within a period of one year from the date of importation of such article to Sri Lanka or within a period of ninety days after the completion of such project;
- v) any article imported, if proved to the satisfaction of DGC, that such article was, prior to its importation, taken out of Sri Lanka for repairs;
- vi) any cinematographic film or teledrama produced in Sri Lanka and sent out of Sri Lanka for further processing or printing with the approval of the National Film Corporation.
- vii) any spare part imported by any airline or shipping company, if proved to the satisfaction of CGIR, that such spare part is to be used for the maintenance of any aircraft or ship, used in international traffic and owned or chartered by such airline or shipping company;
- viii) any article sold to the United Nations Organization or to any specialized agency of such organization or to the diplomatic mission of any foreign Government or to any member of the diplomatic staff of such mission or to any other person approved by the Minister on the recommendation of the Minister of Foreign Affairs as being of the status of a diplomatic mission.
- ix) any article imported if such article is subject to the Special Commodity Tax charged under the Special Commodity Tax Act No 48 of 2007;
- x) Fertilizer;

- xi)
  - a) petroleum and petroleum products for any period prior to May 2, 2016 and for the period commencing from July 11, 2016, and ending on or before November 1, 2016; or
  - b) petroleum and petroleum products other than lubricants classified under Harmonized Commodity Description and coding numbers for customs purposes, for the period commencing from May 2, 2016 and ending on July 11, 2016 and for the period commencing on November 1, 2016;
- xii) L P Gas ;
- xiii) Pharmaceuticals identified under H.S Code Nos. for Custom purposes;
- xiv) tea supplied by the manufacturer being a manufacturer registered with the Sri Lanka Tea Board Law No 14 of 1975 to any registered broker for sale at the Colombo Tea Auction;
- xv) any article for the use in any project approved by the relevant Minister and by the Minister in charge of the subject of Finance taking into consideration the economic benefit to the country, and where the tax in respect of such project is borne by the Government;
- xvi) any goods imported or supplied to a specified project, other than any housing project, as approved by the Minister prior to May 2, 2016, and for the period commencing from July 11, 2016, and ending on or before the date on which this Act comes into operation, considering economic benefit to the country and carried on, out of foreign funds or donations received by the Government.
- (xviA) any goods (other than motor vehicles and goods for personal use) required for the purpose of providing of services connected to international transportation, being goods consigned to Sri Lankan Air Lines Ltd., Mihin Lanka (Pvt) Ltd. or Air Lanka Catering Services Ltd for any period prior to 1 August 2017;
- xvii) bitumen classified under HS code No. 2714;
- xviii) any article imported or sold prior to 1 August 2017 by any society registered under Co-operative Societies Act, No. 5 of 1972 or under the respective statutes enacted by the Provincial Councils providing for such registration, or Lak Sathosa Limited registered under the Companies Act, No. 7 of 2007;
- xix) locally manufactured tractors at the point of sale;
- xx) raw materials or packing materials imported for the manufacture of pharmaceuticals, subject to the approval of the relevant authority;
- xxi) gold imported (effective from March 1, 2010);
- xxii) plant, machinery or equipment imported on temporary basis for the use of large scale infrastructure development projects approved by the Minister in charge of the subject of Finance as being of beneficial for the economic development of Sri Lanka, on condition that goods will be re-exported after the completion of work (effective from July 1, 2010);
- xxiii) foreign currency notes imported, being notes classified under HS codes 4907.00.90 (effective from June 1, 2010);
- xxiv) raw materials or packing materials imported for the manufacture of ayurvedic preparations which belong to the ayurveda Pharmacopoeia or ayurveda preparation subject to the approval of the relevant authority;

- xxv) pure-bred breeding animals under HS 0102.10 or HS 0104.20.10, milking machines under HS 8434.10, dairy machinery under HS 8434.20 and spare parts under HS 8434.90, at the point of importation (effective from 18.01.2011);
- xxvi) samples imported in relation to a business worth not more than –
  - a) rupees twenty-five thousand where such samples were imported prior to January 1, 2015, and
  - b) rupees fifty thousand where such samples are imported on or after January 1, 2015, subject to such terms and conditions as may be set out by the Director-General of Customs;
- xxvii) aircraft or ships classified under HS Code Nos. 8802.11, 8802.12, 8802.20, 802.40, 89.01, 89.02, 89.05, 89.06, 89.07 and 89.08 at the point of importation (with effect from August 1, 2009);
- xxviii) timber logs classified under HS Heading No. 44.03, at the point of importation;
- xxix) yarn classified under HS Code Nos. 50.01, 50.02, 50.03, 50.04, 50.06, 51.01, 51.02, 51.03, 51.04, 51.05, 51.06, 51.07, 51.08, 51.09, 51.10, 52.01, 52.02, 52.03, 52.05, 52.06, 53.01, 53.02, 53.03, 53.06, 53.07, 54.02, 54.03, 54.04, 54.06, 55.01, 55.02, 55.03, 55.04, 55.06, 55.07, 55.09, 55.10, 55.11, 56.04, 56.05 and 56.06, at the point of importation;
- xxx) white canes for the blind, classified under HS Code No. 6602.00.10, at the point of importation (effective from December 1, 2011);
- xxxi) Braille typewriters classified under HS Code No. 8469.00.10, at the point of importation (effective from December 1, 2011);
- xxxii) parts of Braille typewriters classified under HS Code No. 8473.10.10, at the point of importation (effective from December 1, 2011);
- xxxiii) braille writing papers and boards under HS Codes for Customs purposes at the point of importation;
- xxxiv) carriages for disabled persons, whether or not motorized or otherwise mechanically propelled, classified under HS Heading No. 87.13, at the point of importation (effective from December 1, 2011);
- xxxv) orthopaedic appliances (including crutches, surgical belts and trusses splints and other fracture appliances, artificial parts of the body, hearing aids and other appliances which are worn or carried or implanted in the body, to compensate for a defect or disability), classified under HS Heading No. 90.21, at the point of importation (effective from December 1, 2011);
- xxxvi) fabric on which Cess at the rate specified in a Gazette Notification issued under the Sri Lanka Export Development Act No 40 of 1979 has been paid at the point of importation;
- xxxvii) locally manufactured clay roof tiles and pottery products, at the point of sale, by the manufacturer;
- xxxviii) paintings, at the point of sale, by the artist thereof;
- xxxix) solar panel modules, accessories or solar home systems for the generation of solar power energy classified under H.S Code Nos. for Custom purposes at the point of importation;
- xl) coal;
- xli) articles imported for any international event approved by the Minister of Finance;

- xlii) gems imported subject to special service fee at the rate specified under paragraph (a) of section 6A of the Customs Ordinance (Chapter 235), and any subsequent sale of such gems as processed gem;
- xliii) any gully bowser, machinery or equipment imported for the use of garbage disposal activities carried out by any local authority, for the purpose of provision of such services to the public as approved by the Secretary to the relevant line Ministry;
- xliv) any article manufactured by a company identified as a Strategic Development Project in terms of the Strategic Development Project Act sold to another Strategic Development Project or to a specialized project approved by the Minister of Finance or to a company registered with the BOI insofar as such articles are considered as import replacement and supplied during the project implementation period;
- xl v) any machinery or equipment imported or purchased locally for the purpose of generating electricity by the Ceylon Electricity Board or any institution which has entered into an agreement with the Ceylon Electricity Board to supply electricity, being machinery or equipment classified under H.S Code Nos. for Customs purposes and approved by the Minister of Finance;
- xlvi) (a) locally manufactured coconut oil at the point of sale by the manufacturer, for a period of three years commencing from January 1, 2014;
- (b) locally manufactured coconut milk, coconut oil, poonac, pairing, coconut shells or coconut water at the point of sale by the manufacturer, for a period of three years commencing from April 1, 2018;”;
- xl vii) any machinery, equipment or spare parts imported by Sri Lanka Ports Authority to be used exclusively within its ports;
- xl viii) any motor vehicle identified under H.S Code Nos. for Custom purposes and liable to Excise (Special Provisions) duty on the importation or any motor vehicle liable to the same Duty on manufacture of any such vehicle, including such manufactured motor vehicles remaining unsold in the stock which would have otherwise been liable to the same Duty if the same manufactured after October 25, 2014;
- xl ix) cigarettes identified under H.S Code Nos. for Custom purposes and liable to Excise (Special Provisions) and Cess on the importation or on the manufacture of the same, as the case may be, including such manufactured cigarettes in stock remaining unsold as at October 25, 2014 which would have otherwise been liable to the same Duty on manufacture, if the same is manufactured after October 25, 2014; and
- l) for any period commencing prior to 30 July 2018, liquor identified under the Harmonized Commodity Description and Coding Numbers for customs purposes and liable to Custom Duty under the Revenue Protection Act, No. 19 of 1962 and Cess under Sri Lanka Export Development Act, No. 40 of 1979 on the importation, or Excise Duty under the Excise Ordinance (Chapter 52) on the manufacture, as the case may be, including such manufactured liquor in the stock that remains unsold as at October 25, 2014, which would have been otherwise liable to the same Duty, if manufactured after October 25, 2014.”;
- li) printed books, magazines, journals or periodicals other than newspapers, identified under Harmonized Commodity Description and Coding Numbers.

- lii) importation of non-motorised equipment and accessories for water sports including Kayaks, Canoes, Kite surfing and diving;
- liii) non-powered equipment and accessories for aero sports including hang gliding, ballooning, dirigibles, parachuting and para-gliding, classified under Harmonized Commodity Description and Coding Numbers for customs purposes at the point of importation;
- liv) importation of gem stones for the purpose of re-export upon being cut and polished; and
- lv) importation of equipment for greenhouses and polytunnels and materials for the construction of greenhouses by any grower of agricultural products or plants of any type, subject to the condition that such items are not manufactured in Sri Lanka, and are approved by the Director-General, Department of Fiscal Policy on the recommendation of the Secretary to the Ministry of the Minister assigned the subject of Agriculture.”;

### **Excepted Services**

- i) business of banking or finance for any period ended on or before 31 December 2013;
- ii) (a) for any period ended prior to May 2, 2016 and for the period commencing from July 11, 2016, but prior to 1 November 2016 supply of electricity;
- (b) on or after April 1, 2017 generation of electricity and supply of electricity other than the supply of electricity by Ceylon Electricity Board established under the Ceylon Electricity Board Act, No. 17 of 1969;
- iii) medical services;
- iv) supply of water;
- v) transport of goods or passengers;
- vi) the provision of finance leasing facilities in respect of any movable properties on any finance leasing agreement entered into prior to 25 October 2015;
- vii) services –
  - a. prior to 1 January 2011 of a construction contractor, not being a sub-contractor or
  - b. on or after 1 January 2011, but prior to August 1, 2017, of a construction contractor or sub-contractor or
  - c. on or after August 1, 2017, of a construction sub-contractor or if such service is provided under a contract agreement executed prior to August 1, 2017, a construction contractor or a sub-contractor”;

insofar as such services are in respect of constructing any building, road, bridge, water supply, drainage or sewerage system, harbour, airport or any infrastructure project in telecommunication or electricity;
- viii) services provided to any exporter of any article, being services directly related to improving the quality and character of such article;
- ix) the services of sewing garments provided to any exporter of such garments;
- x) services of a freight forwarder, shipping agent licensed under the Licensing of Shipping Agents Act No. 10 of 1972 or courier insofar as such services are in respect of the export of any article from Sri Lanka;

- 
- xi) services provided by a public corporation, insofar as such services are in respect of the export of any article from Sri Lanka;
  - xii) for any period ended prior to 1 January 2011, operating a hotel, guest house, restaurant or other similar business, if, such hotel, guest house, restaurant or other similar business registered with the Ceylon Tourist Board;
  - xiii) the services of an auctioneer, broker, insurance agent or commission agent of any local produce to the extent of the brokerage receivable by such auctioneer or broker or commission receivable by such insurance agent or commission agent, as the case may be;
  - xiv) the services of a travel agent in respect of inbound tours operated –
    - (a) prior to August 1, 2017,
    - (b) on or after August 1, 2017, where the payment for such services is received in foreign currency through a bank,
 if such agent is registered with the Ceylon Tourist Board;
  - xv) services of a computer software developer in respect of software developed by such person for use wholly outside Sri Lanka and for which payment is received in foreign currency through a bank;
  - xvi) services provided over the Internet, using custom-built software, by an enterprise, exclusively for the provision of such services being services enabling or facilitating the sale of goods, or for the provision of services, by a person in Sri Lanka to persons outside Sri Lanka, for payment in foreign currency;
  - xvii) client support services provided over the internet or telephone, by an enterprise, exclusively for the provision of such services, to one or more identified clients outside Sri Lanka, for payment in foreign currency;
  - xviii) the business of life insurance;
  - xix) distribution or production and supply, of any cinematographic films primarily for exhibition in cinemas;
  - xx) exhibiting films in a cinema;
  - xxi) any service provided to the United Nations Organization or to any specialized agency of such organization or to the diplomatic mission of any foreign Government or to any member of the diplomatic staff of such mission or to any other person approved by the Minister of the recommendation of the Minister of Foreign Affairs as being of the status of a diplomatic mission;
  - xxii) any service rendered in or outside Sri Lanka to any person or partnership outside Sri Lanka for the utilization out of Sri Lanka for payment in foreign currency, if such foreign currency is remitted to Sri Lanka through a bank;
  - xxiii) the services of any “general sales agent” registered under the Civil Aviation Authority of Sri Lanka Act, No. 34 of 2002;
  - xxiv) the services provided by foreign consultancies for the large scale infrastructure development projects being projects which have been approved by the Minister of Finance, as beneficial for the economic development of Sri Lanka (effective from July 1, 2010);

- xxv) services provided to any specific project carried on, out of foreign funds or donations received by the Government, as approved by the Minister considering the economic benefit to the country;
- xxvi) services provided to or within any port or airport in relation to international transportation;
- xxvii) services provided in relation to ship building for the international market for payments made in foreign currency;
- xxviii) for any period ended prior to May 2, 2016, and for the period commencing from July 11, 2016, and ending on or before the date on which this Act comes into operation, telecommunication services liable to the telecommunication levy under the Telecommunication Levy Act, No.21 of 2011, and the services specially excluded from such liability in defining the telecommunication services in that Act;
- xxix) supply of locally developed software;
- xxx) services provided by any Government Department, Ministry or any undertaking fully owned by the Government;
- xxxi) services provided by Sri Lankan Airlines Ltd.;
- xxxii) services provided by Mihin Air (Pvt) Ltd.;
- xxxiii) services provided by Air Lanka Catering Services Ltd.;
- xxxiv) services provided prior to 1 August 2017 by any society registered under the Co-operative Societies Law No. 5 of 1972 or under any Statute enacted by a Provincial Council, or Lak Sathosa Limited, registered under the Companies Act, No. 7 of 2007;
- xxxv) any service provided by the Central Bank of Sri Lanka established under the Monetary Law Act (Chapter 422);
- xxxvi) any service provided free of charge by any public corporation out of the funds voted by Parliament from the Consolidated Fund or out of any loan arranged through the Government, on behalf of the Government;
- xxxvii) the services provided by any relocated international headquarters or regional head office of any institution in the international network, prescribed for the purpose of Inland Revenue Act, for payment in foreign currency;
- xxxviii) for any period ended prior to 1 August 2017, the business of real estate and improvement thereon, being construction and sale of residential accommodation, insofar as the value of the construction project relating to the supply of such residential accommodation is less than ten million United States dollars or its equivalent in any other currency; and
- xxxix) international telecommunication services provided to local operators by External Gateway Operators.
- xl) with effect from April 1, 2018, any service provided by Sri Lanka Deposit Insurance Scheme established by regulations made under the Monetary Law Act, (Chapter 422).”.

## ***Ports and Airports Development Levy (PAL)***

- Law** :
- Ports and Airports Development Levy Act, No. 18 of 2011.
  - Ports and Airports Development Levy (Amendment) Act, No. 10 of 2012.
  - Ports and Airports Development Levy (Amendment) Act, No.5 of 2013.
  - Ports and Airports Development Levy (Amendment) Act, No.21 of 2016.
  - Gazette Order No. 1546/6 of April 22, 2008.
  - Gazette Order No. 1582/15 of December 31, 2008.
  - Gazette Order No. 1681/33 of November 24, 2010.
  - Gazette Order No. 1703/1 of April 25, 2011.
  - Gazette Order No. 1733/17 of November 22, 2011.
  - Gazette Order No. 1757/3 of May 09, 2012.
  - Gazette Order No. 1783/34 of November 9, 2012.
  - Gazette Order No. 1837/46 of November 22, 2013.
  - Gazette Order No. 2049/16 of December 13, 2017.
  - Gazette Order No. 2065/14 of April 6, 2018.

**Levy** : PAL is charged and levied on the CIF value of every article originating from outside Sri Lanka and imported into Sri Lanka.

### ***Section 2***

- Rate of Levy** :
- Commencing from 1 January 2011 and ending on 31 December 2015, the rate of the levy was 5% of the CIF value of every article imported.
  - Commencing from 1 January 2016, the rate of the levy is 7.5% of the CIF value of every article imported.

### ***Section 3(1)***

**Concessionary Rate:** Concessionary rate of 2% is granted in respect of petroleum oil, raw materials used for manufacturing pharmaceutical specified medicaments, taxable and knitting, sewing machines etc. See Gazette Nos. 1582/15 of 31/12/2008 and 1757/3 of 9/5/2012.

- Exemptions** :
- Any article imported into Sri Lanka –
    - (a) for the purpose of processing and re-export;
    - (b) to be used as a raw material for the manufacture of goods for export; or
    - (c) for storage, fabrication, repairing, servicing or exportation as the case may be, being equipment, tools, materials, consumables in or



from a bonded facility to be used in the petroleum operations conducted within or outside Sri Lanka.

For the purposes of paragraph (c), the expression “petroleum operations” shall have the meaning assigned to it under the Petroleum Resources Act, No. 26 of 2003.

- Foreign currency notes as specified under the relevant H.S Code Nos. for purposes of the Customs Ordinance.
- Goods for the use of international events conducted in Sri Lanka, on donations from abroad, as approved by the Minister of Finance.
- Goods for any infrastructure development project out of donations directly to the Government Ministries, as approved by the Minister of Finance.
- Goods for any specified project funded through foreign loans and on which the tax is borne by the Government, as approved by the Minister of Finance.
- Any article imported into Sri Lanka in respect of the provision of any service by a mission of any state or any organization whom the provisions of the Diplomatic Privileges Act, No 9 of 1996 apply.

***Sections 3(2), 4(1) & (7)***

*Definition of “Article”* : “Article” means any goods, materials, foreign currency notes, any agricultural or horticultural product or merchandise **but does not** include diamonds, gems, gold, jewellery and electronic items imported for the purpose of processing and re-export.

***Section 10***

*Other Exemptions/ Concessionary Rates* : Minister of Finance may, having regard to the interest of the national economy, by Gazette Order exempt from the operation of the levy, any article as specified in the Gazette Order.

***Section 3***

Exemption from PAL has been granted on the importation of certain articles in terms of –

Gazette No. 1546/6 of April 22, 2008  
 “ “ 1582/15 of December 31, 2008  
 “ “ 1681/33 of November 24, 2010  
 “ “ 1703/1 of April 25, 2011  
 “ “ 1733/17 of November 22, 2011  
 “ “ 1757/3 of May 09, 2012  
 “ “ 1783/3 of November 9, 2012  
 “ “ 1837/46 of November 22, 2013  
 “ “ 2049/16 of December 13, 2017

*Deferment Facility* : The Director General of Customs (DGC) shall defer the collection of the levy on the importation of any article –

- i. for the use of any specified project identified by the Finance Minister having regard to the interest of the national economy on which the tax is borne by the Government, with effect from July 1, 2009, until such time the article is re-exported after the completion of such project, subject to the furnishing of a corporate guarantee which covers the amount of the tax due on the article so imported; or
- ii. being plant, machinery or equipment by any undertaking qualified for a tax exemption under section 16D or 17A of the Inland Revenue Act, No. 10 of 2006, as the case may be, during the project implementation period, for the use by such undertaking for the purposes specified in the agreement entered into with the BOI on which tax is exempted subject to the fulfilment of the conditions specified in the agreement entered into, and to the furnishing of a bank guarantee which covers the amount of the tax due on the article so imported.

**Section 4(2)**

*Payment of PAL* : The payment of PAL on an article imported into Sri Lanka shall be made by the person importing such article to DGC. Upon payment of PAL, DGC shall cause an endorsement specifying the amount of levy recovered to be made on the import invoice relating to that article.

**Section 4(2)**

*Purchase of certain articles deemed to be imported* : When any article imported into Sri Lanka is sold -

- (a) by DGC for recovery of any customs duty or other levy payable or deemed payable under the Customs Ordinance or for any contravention of the Customs Ordinance;
- (b) by the Sri Lanka Ports Authority for recovery of any dues; or
- (c) by the Commissioner General of Inland Revenue for any taxes administered by him

the purchaser of that article shall be deemed to be the importer of that article and the provisions of this Act shall apply to such purchaser

**Section 6**

*Recovery of PAL* : For recovery of the Levy, such levy shall be deemed to be a customs duty payable under the Customs Ordinance and, accordingly, the provisions of the Customs Ordinance shall apply to the recovery of such levy.

**Section 8**

*Applicability of Gazettes:* Every Order made under section 2 of the Part I of the

under Finance Act No.11  
of 2002

Finance Act, No. 11 of 2002 and published in the Gazette  
prior to January 1, 2011 –

(a) exempting specified articles from the payment of PAL; and

(b) specifying a concessionary rate to be charged and levied.

shall be deemed to have been made under section 3 of the PAL  
Act, No. 18 of 2011 and shall continue to be in force.

***Section 16***

## ***Crop Insurance Levy***

Pursuant to Gazette No 1824/23 of August 23, 2013, a Crop Insurance Levy is charged in terms of the Finance Act No 12 of 2013.

The Crop Insurance Levy shall be 1% of the profit after tax, being the percentum payable by every institution under the purview of the:

- Banking Act, No. 30 of 1988;
- Finance Companies Act, No. 78 of 1988; or
- Regulation of Insurance Industry Act, No. 43 of 2000,

to the National Insurance Trust Fund Board, effective from 1 April 2013, as per Schedule given below:

- (1) Such levy shall be calculated based on the estimated profit after tax, in each quarter (period of three months commencing from April, July, October of any year and January in the immediately succeeding year) in a year of assessment (Y/A) and in case of any additional liability arising subsequent to the reconciliation at the end of relevant Y/A, it should be paid on or before the 30<sup>th</sup> September in the Y/A immediately succeeding the Y/A concerned and in case of any excess of payment, it can be set off against the levy payable in any subsequent Y/A.
- (2) Every institution shall pay such levy to the account opened for this purpose by the National Insurance Trust Fund Board within 30 days from the end of each quarter. Where such levy or part thereof is not paid on or before the due dates, in addition to the levy payable, a penalty equivalent to 10% of such levy in default shall be charged in respect of first 30 days in which the payment was in default and further 2% of the levy for each further period of 30 days or part thereof (not exceeding 50% levy) shall be charged in addition to the levy payable.

Provided that, the penalty shall not be charged, if at least  $\frac{1}{4}$  of the relevant levy calculated based on the after tax profit of the immediately preceding Y/A has been paid for each quarter on or before the specified dates and the balance if any, has been paid after ascertaining the actual liability on or before 30<sup>th</sup> September of the Y/A succeeding the said Y/A.

Provided further, the penalty shall not be charged for the levy payable for the quarter ended 30<sup>th</sup> June 2013, which is due on or before 31<sup>st</sup> July 2013, if such levy is paid on or before 31<sup>st</sup> October 2013 along with the levy payable for the quarter ended 30<sup>th</sup> September 2013.



## ***Stamp Duty***

<b><i>Contents</i></b>	<b><i>Page</i></b>
1 Stamp Duty Law .....	157
2 Chargeability of Stamp Duty .....	157
3 Specified Instruments and Applicable Rates .....	158
4 Who is liable to Stamp Duty .....	159
5 Exemptions .....	160
6 Compounding of Stamp Duty .....	163
7 Time and Mode of Stamping .....	164
8 Valuation for Stamp Duty .....	165
9 Instruments Insufficiently Stamped .....	165
10 Issue of Receipt .....	165
11 Administrative Provisions .....	165
12 Stamp Duty Payable to a Provincial Council .....	165
<b><i>Annexes</i></b>	
1 Registration Form for Compounding Authorities.....	166
2 Schedule of Specified Instruments – Rates and Exemptions.....	167



## ***Stamp Duty***

### **1. Stamp Duty Law**

- Stamp Duty (Special Provisions) Act, No. 12 of 2006 (effective from 4 April 2006).
- Stamp Duty (Special Provisions) (Amendment) Act, No. 10 of 2008.

Stamp duty was first imposed in Sri Lanka by the Stamp Duty Ordinance of 1909. It was replaced by the Stamp Duty Act No 43 of 1982. The imposition of stamp duty was abolished, effective from 1 May 2002 in terms of Part III of the Finance Act No 11 of 2002. Part III of the Finance Act No 11 of 2002 has now been repealed. Consequently, the provisions of the Stamp Duty Act No 43 of 1982, insofar as they are not inconsistent with the provisions of the Stamp Duty (Special Provisions) Act No 12 of 2006 will apply.

The Rates and Exemptions under the provisions of the Act No 12 of 2006 are specified in the following:

Gazette Notifications:

Rates:	Gazette No. 1439/1 of 3 April 2006
	” ” 1439/3 of 3 April 2006
	” ” 1441/17 of 20 April 2006
	” ” 1465/19 of 5 October 2006
	” ” 1530/13 of 1 January 2008
	“ “ 1789/9 of 17 December 2012
	“ “ 1809/19 of 10 May 2013
	“ “ 1864/2 of 26 May 2014
	“ “ 1947/45 of 1 January 2016
	” ” 2104/5 of 31 December 2018
Exemptions:	Gazette No. 1439/2 of 3 April 2006
	” ” 1441/18 of 20 April 2006
	” ” 1465/20 of 5 October 2006
	” ” 1478/7 of 1 January 2007
	” ” 1546/7 of 22 April 2008
	“ “ 1752/17 of 4 April 2012
	“ “ 1757/4 of 9 May 2012
	“ “ 1778/32 of 4 October 2012
	“ “ 1789/15 of 18 December 2012*
	“ “ 1878/3 of 1 September 2014
	“ “ 1889/48 of 21 November 2014
	“ “ 1947/46 of 1 January 2016
	“ “ 2007/24 of 21 February 2017

(\*Includes item 7A to the List of Exemptions)

### **2. Chargeability of Stamp Duty**

Stamp duty is chargeable on every “specified instrument” –

- executed, drawn or presented in Sri Lanka; or
- executed outside Sri Lanka being an instrument which relates to property in Sri Lanka, at the time of such instrument presented in Sri Lanka,



at rates prescribed in the Gazette in respect of different classes or categories of instruments.

### 3. Specified Instruments and Applicable Rates

Instrument	Rate Rs
Affidavit	50.00
Policy of insurance for every Rs 1,000 or part thereof	1.00
Warrant to act as a notary public	2,000.00
A licence issued authorising the holder to carry on any trade, business, profession or vocation other than any trade or business for the sale of liquor for any period specified in such licence	2,000.00 or 10% of the licence fee whichever is lower
Prior to 1 January 2019 any licence issued authorising the holder to carry on any trade or business for sale of liquor for any period specified in such licence	20,000.00
On or after 1 January 2019	
(i) Any license issued authorising the holder to carry on any trade or business for sale of liquor for any period (as specified in such license) other than arrack licenses AFL 1, AFL2, AFL 3, AFL 4, which are issued together with foreign liquor (FL) license and license for the sale of bottled toddy.	Rs. 20,000.00
(ii) Arrack licenses AFL 1, AFL2, AFL 3, AFL 4 which are issued together with foreign AFL 1, AFL2, AFL 3, AFL 4, liquor (FL)license and licenses for the sale of bottled toddy.	Rs. 2,000.00 or 10% of license fee whichever is higher per each license"
Any claim, demand, or request presented for the payment of any sum of money, not including any finance or service charge, due in respect of every credit card transaction entered into during any period commencing on or after January 1, 2016, where the merchant country (the country in which the purchase of goods or service or the withdrawals of money taken place) thereof is a country other than Sri Lanka, irrespective of whether it was a card present or not present transaction in any currency for every Rs. 1000 or part of thereof of such sum of money.	25.00
Share certificate issued consequent to the issue of transfer or assignment of any number of shares of any company. for every Rs 1,000 or part thereof of the aggregate value of such shares, being the value which in the opinion of the Assessor/Assistant Commissioner/Deputy Commissioner/Senior Deputy Commissioner/Commissioner that such shares would have fetched in the open market on the date of such issue, transfer or assignment	Prior to 1 January 2016 5.00 On or after 1 January 2016 exempt
Mortgage for any definite and certain sum of money affecting any property for every Rs 1,000 or part thereof	1.00
Promissory Note for every Rs 1,000 or part thereof	1.00

Lease or hire of any property for every Rs 1,000 or part thereof of the aggregate lease or hire payable for the whole term comprised in the lease or hire agreement including any premium.  Provided that where the term of the lease or hire exceeds 20 years, the aggregate lease or hire payable for the whole term comprised in the lease or hire agreement should be deemed to be the aggregate of the lease or hire payable for the first 20 years of such term.	10.00
Hire Purchase Agreement for every Rs 1,000 or part thereof of the aggregate amount payable under a hire purchase agreement entered into	10.00
Receipt or discharge given for any money or property up to and including Rs 25,000 Above Rs 25,000	Nil 25.00
Receipt or discharge given for payment to any employee of a gross remuneration Rs. 25,000 or less Above Rs 25,000	Nil 25.00
Any other instrument, which the Minister may, in the interest of economic progress of Sri Lanka, specify by Order published in the Gazette	-

#### 4. Who is liable to Stamp Duty

<b><i>Instrument</i></b>	<b><i>Payer</i></b>
Affidavit	Person making or executing the affidavit
Policy of Insurance	Policy holder
Transfer/Assignment of shares	Transferee or assignee prior to 1 January 2016
Warrant to act as a notary public	Notary public
Promissory Note	Person signing the Promissory Note
Lease	Lessee
Hire Purchase Agreement	Hirer
Claim, demand or request by service provider from holder of credit card	Credit card holder
Licence	Licensee
Other instruments	Drawer, maker or executor
Receipt or discharge given for payment of gross remuneration	Employee

**5. Exemptions**

1. Any Affidavit made on the request of any public officer or in compliance with any requirement imposed by any written law;
2. Any bond or mortgage given by any public officer or his sureties for due execution of his office;
3. Any instrument executed by, or on behalf of, or in favour of the Government of any country; being a country in respect of which an Order under Section 67(3) of Act, No 43 of 1982 in force;
4. Any deed for the mortgage of food crops or jewellery;
5. Any share certificate issued in lieu of share certificate lost or destroyed, or new share certificate for a greater or less number of shares in lieu of existing share certificates but not exceeding in value of the existing share certificates;
6. Share certificate issued, consequent to the sale by one person and purchase by another, of any share, being a sale or purchase in relation to which Share Transaction Levy under Part II of the Finance Act, No 5 of 2005, has been charged;
7. Any share certificate issued in pursuance of the issue, transfer or assignment of any share in the Credit Information Bureau of Sri Lanka established by Act No 18 of 1990;
- 7A Any instrument of transfer of stocks by any person to a margin trading account (slash account) or vice versa;
8. Any instrument executed in pursuance of the provisions of the Farmers Pension and Social Security Benefit Scheme Act No 12 of 1987;
9. Any instrument executed by, or on behalf of, or in favour of, a registered co-operative society within the meaning of the Co-operative Societies Law, No 5 of 1972;
10. Any instrument executed by a member of a registered co-operative society within the meaning of the Co-operative Societies Law, No. 5 of 1972 in favour of and relating to the business of such registered society;
11. Any instrument in respect of supply of any good or service to a Diplomatic Mission of any State or any organization to which the provisions of the Diplomatic Privileges Act No 9 of 1996, apply provided that reciprocal benefits are available to their counterparts from Sri Lanka;<sup>12</sup>
12. (A) Any Policy of life or medical insurance; or  
(B) Any Policy of insurance on
  - plant, machinery or equipment used in the civil construction industry or agriculture; or
  - any motor vehicle other than any car or dual purpose motor vehicle of Class B of classification of driving licences for motor vehicles within the meaning of

the Section 122 of the Motor Traffic Act, No. 14 of 1951 as amended by the Motor Traffic (Amendment) Act, No. 8 of 2009.

13. Any deed of Mortgage or lease affecting any aircraft registered under the Air Navigation Act (Chapter 365) or any ship registered under the Merchant Shipping Act No.52 of 1971.
14. Any deed of Mortgage executed in respect of any loan for Rs 3,000,000 or less taken for the –
  - construction of a house or
  - purchase of a house or site for the construction of a house,
 where the mortgagee is any bank registered under the Banking Act, No 30 of 1988 or any finance company registered under the Finance Company Act, No 78 of 1988, any institution registered under the Co-operative Societies Law No 5 of 1972, any public corporation, any Provident Fund approved by the Commissioner General of Inland Revenue for the purposes of the Inland Revenue Act, No 10 of 2006. or any other institution approved by the Minister in charge of the subject of housing.
15. Any instruments relating to any finance lease executed in respect of any property other than any such finance lease in respect of car or dual purpose motor vehicle of Class B of classification of driving licences for motor vehicles within the meaning of the Section 122 of the Motor Traffic Act, No. 14 of 1951 as amended by the Motor Traffic (Amendment) Act, No. 8 of 2009;
16. Any hire purchase agreement entered into under the Consumer Credit Act No.29 of 1982 in respect of any moveable property other than any car or dual purpose motor vehicle of Class B of classification of driving licences for motor vehicles within the meaning of the Section 122 of the Motor Traffic Act, No. 14 of 1951 as amended by the Motor Traffic (Amendment) Act, No. 8 of 2009.
17. Any instrument relating to the lease or rent in respect of a building where such lease or rent payment does not exceed Rs 5,000 per month;
18. Receipt or discharge given for any money or other property amounting to not more than Rs 1,000, or for remuneration amounting to not more than Rs 25,000 payable by any employer to any employee;
19. Any receipt given for any sum deposited with or withdrawn from, any finance company registered under the Finance Company Act, No. 78 of 1988, commercial or specialised bank registered under Banking act, No.30 of 1988 or any institution registered under the Co-operative Societies Law No.5 of 1972.
20. Any instrument executed by or on behalf of, or in favour of, the Government in any case where, but for this exemption, the Government would be liable to pay the duty chargeable in respect of such instrument;
21. Any receipt given by any person receiving payment, for any goods sold or services provided, immediately upon such sale or such provision;

22. Any receipt given by any person receiving any capital sum by way of death gratuity or as compensation for death or injury.
23. Any receipt given for acknowledging the receipt of any pension;
24. Any commercial paper of debenture;
25. Any deed of conveyance or transfer by the Government or by any person, for or on behalf of the Government, where no consideration was received;
26. The following documents filed in legal proceedings:
  - a. documents filed in any court, by public officers suing, or being sued or intervening, *virtue officii*, in any proceedings instituted in such court;
  - b. documents filed in any court, by a person duly admitted to sue, defend or intervene, as a pauper in any proceedings instituted in such court;
  - c. documents filed in any court, by a person applying to be declared an insolvent by such court;
  - d. all documents filed in any court for the purposes of an application for an order in the nature of a writ of habeas corpus;
  - e. all documents filed by or on behalf of any person, who is certified by a prescribed officer as suing, defending or intervening with legal aid provided under the Legal Aid Law, No 27 of 1978;
  - f. all documents filed in any court by, or on behalf of any person claiming damages arising from death or damage caused by a motor vehicle
  - g. motions filed in any court;
  - h. warrant issued by any court, whether on application or on its own motion;
27. Any unit trust certificate issued in pursuance of the issue, transfer or assignment of any unit in the unit trust or mutual fund;
28. Any instrument required or authorized to be made or executed by any Bank established under the Regional Development Banks Act No. 06 of 1997 or any instrument made or executed in connection with the business of such Bank by the Bank, and any instrument made or executed by any other person in favour of such Bank in respect of any security for a loan;
29. Share Certificate on the initial issue of any share by:  
a company to another company where both companies are owned by the Government of Sri Lanka, or a company which has entered into an agreement with the Board of Investment of Sri Lanka under the Strategic Development Project Act, No. 14 of 2008 to a company owned by the Government of Sri Lanka;
30. Share Certificate on the transfer or assignment of any share belongs to the Government of Sri Lanka;
31. Share Certificate on the initial issue of any share by:  
a company to another company where both companies are owned by the Government of Sri Lanka, or

a company which has entered into an agreement with the Board of Investment of Sri Lanka under the Strategic Development Project Act, No.14 of 2008 to a company owned by the Government of Sri Lanka;

32. Any share certificate issued by an insurance company in complying with and/or connection with the segregation of the long term insurance business and the general insurance business into two separate companies, as required by Section 53 of the Regulation of Insurance Industry (Amendment) Act, No. 3 of 2011;
33. Any share certificate issued consequent to the consolidation of any bank licensed under the Banking Act, No.30 of 1988, any finance company licensed under the Finance Business Act, No.42 of 2011 or any leasing company registered under the Finance Leasing Act, No.56 of 2000, by way of merger, acquisition or absorption, as approved by the Monetary Board under the Financial Sector Consolidation Process;
34. Any claim, demand, or request presented for the payment of any sum of money due in respect of every credit card transaction entered into during any period commencing on or after January 1, 2016, where the merchant country thereof is Sri Lanka (in which the purchase of goods or services or the withdrawals of money taken place), irrespective of whether it was a card present or not present transaction in any currency.
35. Any share certificate issued consequent to the issue, transfer or assignment of any number of shares of any company.

## 6. **Compounding of Stamp Duty**

Section 7 of the Stamp Duty (Special Provisions) Act provides for compounding of Stamp Duty. For this purpose, registration with Inland Revenue Department (IRD) should be made by the following persons:

- a) any person issuing insurance policies;
- b) any authority issuing licences;
- c) any service provider, on the presentation of a claim, demand or request for the payment of any money on the use of a credit card;
- d) an employer employing more than 100 employees accepting receipts for payment made to the employees; and
- e) any other person issuing any other instrument of a category having regard to an impracticability or inexpediency of stamping instruments of such category, at the time and in the manner prescribed.

### *Procedure for Registration*

The procedure set out in the press notice by CGIR in the Daily News of 27 March 2006 needs to be followed. A copy of the application form for registration is given in the **Annex 1**.

### *Issue of Certificate*

Where any Stamp Duty which has been compounded, is paid, the person authorised to compound such duty should issue to the person liable to pay stamp duty a Certificate substantially in the form set out below:

“It is hereby certified that a sum of Rs ..... payable as stamp duty in respect of (specify type of instrument) ..... has been collected and remitted in terms of Section 7 of the Stamp Duty (Special Provisions) Act, No 12 of 2006.”

#### *Remittance of Stamp Duty*

When the stamp duty is being compounded, the amount of stamp duty deducted should be remitted quarterly to IRD as follows:

<b>Quarter ending</b>	<b>Payment on or before</b>
31 March	15 April
30 June	15 July
30 September	15 October
31 December	15 January (of subsequent year)

Penalties will be imposed for late payments.

### **7. *Time and Mode of Stamping***

Stamp Duty should be paid prior to or at the time of execution of an instrument, by one of the following means:

- Affixing adhesive stamps to the required value;
- Stamp duty, payable on any instrument relating to mortgage or lease of any immovable property, may be paid to a prescribed bank (any branch of the Bank of Ceylon A/c No 7041555) and affixing the receipt, certified by the Bank, of such payment to the instrument.
- Where the stamp duty cannot be paid prior to or at the time of execution of the instrument, for reasons beyond the control of the person liable to pay the stamp duty, stamp duty should be paid within 7 days from the date of such execution to the prescribed bank.
- Crediting of the Stamp Duty payable to the bank account of CGIR (Stamp Duty). This is in respect of stamp duty compounded.

Share transfers executed in Sri Lanka should be stamped within one month of execution of the same.

All adhesive stamps on instruments should be cancelled by writing or marking in ink on or across each stamp, the name or initials of the executor. However, if the value of each stamp is Rs 50 or more, such stamp should be cancelled by perforating same by cutting or pricking with a suitable instrument.

**8. Valuation for Stamp Duty**

Valuation of unquoted shares for purposes of charging stamp duty on issue, transfer or assignment of such shares will be on the market value, as determined by CGIR, on the date of such issue, transfer or assignment. Market value would generally be the price of a share that it would have fetched in the open market as at the relevant date.

**9. Instruments Insufficiently Stamped**

Where an Assessor of IRD is of the opinion that an instrument liable to stamp duty has not been duly stamped, he could assess the value of stamp duty in respect of such instrument on the person liable to such duty.

**10. Issue of Receipt**

*Obligation to give receipts*

A receipt stamped with appropriate stamp should be given by every person who receives a payment of Rs 1,000 or over, **other than in this case of selling goods or services where the payment is received immediately.**

*What is a receipt?*

It includes any note or writing by which, if any,

- money, cheque or bill of exchange is acknowledged, or
- movable property, a debt or a demand is acknowledged whether the same is signed or not signed with the name of any person.

**11. Administrative Provisions**

Provisions of Inland Revenue Act relating to Assessments, Appeals, Determination of Appeals and Finality of Assessments, Recovery or Refund of income tax shall apply mutatis mutandis in relation to stamp duty.

**12. Stamp Duty Payable to a Provincial Council**

All stamp duty payable to a Provincial Council in respect of an instrument or a document should continue to be paid to such Provincial Council within whose limits the respective instrument was executed. Where, however, a Provincial Council is dissolved, the stamp duty chargeable thereon should be paid to a Bank prescribed by the CGIR until such time the Provincial Council is established in such Province. CGIR will endorse on the instrument the amount of the stamp duty and the date of payment.

(A Schedule of specified instruments with applicable rates, exemptions etc, updated as 1 January 2016 is given in Annex 2.)



***Stamp Duty (Special Provisions) Act***

Registration Form for Compounding Authorities

Name of Institution or paying office seeking authority to compound \_\_\_\_\_

Name of Officer requesting registration \_\_\_\_\_

National Identity Card Number \_\_\_\_\_

Designation \_\_\_\_\_

Telephone Number \_\_\_\_\_

TIN (if available) of Compounding Authority \_\_\_\_\_

Assessment Number \_\_\_\_\_

Building Name \_\_\_\_\_

Street Name \_\_\_\_\_

Address \_\_\_\_\_

Village \_\_\_\_\_

Postal Town \_\_\_\_\_

Postal Code \_\_\_\_\_

If Compounding Authority is not the Principal Institution, the name of the Principal Institution \_\_\_\_\_

TIN of the Principal Institution \_\_\_\_\_

\_\_\_\_\_  
Signature and date



**Annex 2*****Schedule of Specified Instruments - Rates, Exemptions etc***

	<b>Instrument</b>	<b>Rate</b>	<b>Rs</b>	<b>Exemptions</b>	<b>Payable By</b>	<b>Compounding Authority</b>	<b>Time of Stamping</b>
1.	Affidavit		50.00	Affidavit made on the request of any public officer or in compliance with any written law	Person making or executing	-	Before or at the time of signing
2.	Policy of insurance	For every Rs 1,000 or part thereof	1.00	<ul style="list-style-type: none"> <li>• Life or medical insurance</li> <li>• Insurance on – <ul style="list-style-type: none"> <li>- plant, machinery or equipment used in the construction industry or agriculture; or</li> <li>- any motor vehicle other than any motor vehicle used for private travelling (cars, jeeps etc)</li> </ul> </li> </ul>	Policy holder	Insurance Company	Before or at the time of issuing the policy
3.	Warrant to act as a notary public		2,000.00		Notary Public	Court (if affixing stamp is impractical)	Before or at the time of signing the warrant
4.	A licence issued authorizing the holder to carry on  a) any trade, business, profession or vocation, other than any trade or business for sale of liquor  b) any trade or business for sale of liquor		2,000.00 or 10% of licence fee, whichever is lower  20,000.00		Licensee	Licensing Authority	Before or at the time of issuing the licence

	<b>Instrument</b>	<b>Rate</b>	<b>Rs</b>	<b>Exemptions</b>	<b>Payable By</b>	<b>Compounding Authority</b>	<b>Time of Stamping</b>
5.	A claim, demand or request presented for the payment of any sum of money, not including any finance or service charge, due in respect of every credit card transaction entered into during any period commencing on or after January 1, 2016, where the merchant country (the country in which the purchase of goods or service or the withdrawals of money taken place) thereof is a country other than Sri Lanka, irrespective of whether it was a card present or not present transaction in any currency	For every Rs 1,000 or part thereof	25.00		Credit card holder	Service provider (Credit card Provider)	Before or at the time of claim demand or request presented
6.	On the issue, transfer or assignment of any shares of a company on the aggregate value of such shares being the value, which in the opinion of the Assessor/Assistant Commissioner/Deputy Commissioner/Senior Deputy Commissioner, that such shares would	For every Rs 1,000 or part thereof  Prior to 1 January 2016  On or after 1 January 2016	5.00   Exempt	<ul style="list-style-type: none"> <li>Share certificate issued consequent to the sale by one person and purchase by another of any share being a sale or purchase in relation to which share transaction levy has been charged.</li> <li>Share certificate issued in lieu of share certificate lost or destroyed or new share certificate for a greater or less number of shares in lieu of existing share certificates but not exceeding in value of the existing share certificates.</li> </ul>	Transferee or Assignee	Issuer	Share transfer executed in Sri Lanka -within one month of such execution

	Instrument	Rate	Rs	Exemptions	Payable By	Compounding Authority	Time of Stamping
	have fetched in the open market on the date of such issue, transfer or assignment.			<ul style="list-style-type: none"> <li>• Issue of any share in the credit Information Bureau of Sri Lanka established act No 18 of 1990.</li> <li>• Unit Trust Certificate issued by Unit Trust or Mutual Fund.</li> <li>• Share certificate on the issue of any shares to the government of Sri Lanka.</li> <li>• Share certificate on the transfer or assignment of any share belongs to the government of Sri Lanka.</li> <li>• Share certificate on the initial issue of any share by:               <ul style="list-style-type: none"> <li>- a company to another company where both companies are owned by the Government of Sri Lanka; or</li> <li>- a company which has entered into an agreement with the Board of Investment of Sri Lanka under the Strategic Development Projects Act, No.14 of 2008 to a company owned by the Government of Sri Lanka.</li> </ul> </li> <li>• Any instrument of transfer of stocks by any person to a margin trading account (slash account) or vice versa.</li> </ul> <p>Any share certificate issued by an insurance company in complying with and/or connection with the segregation of the long term insurance business and the general insurance business into two separate companies, as required by Section 53 of the Regulation of Insurance Industry (Amendment) Act, No.3 of 2011.</p> <ul style="list-style-type: none"> <li>• Any share certificate issued consequent to the consolidation of any bank licensed under the Banking Act,</li> </ul>			

	Instrument	Rate	Rs	Exemptions	Payable By	Compounding Authority	Time of Stamping
				<p>No.30 of 1988, any finance company licensed under the Finance Business Act, No.42 of 2011 or any leasing company registered under the Finance Leasing Act, No.56 of 2000, by way of merger, acquisition or absorption, as approved by the Monetary Board under the Financial Sector Consolidation process.</p> <ul style="list-style-type: none"> <li>Any claim, demand, or request presented for the payment of any sum of money due in respect of every credit card transaction entered into during any period commencing on or after January 1, 2016, where the merchant country thereof is Sri Lanka (in which the purchase of goods or services or the withdrawals of money taken place), irrespective of whether it was a card present or not present transaction in any currency.</li> <li>Any share certificate issued consequent to the issue, transfer or assignment of any number of shares of any company.</li> </ul>			
7.	Mortgage for any definite and certain sum of money affecting any property	For every Rs 1,000 or part thereof	1.00	<ul style="list-style-type: none"> <li>By any public officer or his sureties for the due execution of his office.</li> <li>Food crops or jewellery</li> <li>Aircraft registered under the Air Navigation Act (Chapter 365), or ship registered under Merchant Shipping Act.</li> <li>Any loan for Rs 3 million or less relating to               <ul style="list-style-type: none"> <li>construction of a house or</li> </ul> </li> </ul>	Mortgagee		Before or at the time of signing the mortgage

Tax Updates 2018

	Instrument	Rate	Rs	Exemptions	Payable By	Compounding Authority	Time of Stamping
				<ul style="list-style-type: none"> <li>- purchase of a house or site for the construction of a house</li> </ul> <p>where mortgagee is any bank, Finance Company, any institution registered under the Co-operate Societies Law, any public corporation, any provident fund approved by the CGIR or any other institution approved by Minister of Housing.</p>			
8.	Promissory Note	For every Rs 1,000 or part thereof	1.00		Person signing the promissory note		Before or at the time of signing the promissory note
9.	<p>a) Lease or hire of any property Value – aggregate rent/hire for the whole term including premium.</p> <p>b) Hire purchase agreement - Value – aggregate amount payable under hire purchase agreement</p>	<p>For every Rs 1,000 or part thereof</p> <p>For every Rs 1,000 or part thereof</p>	<p>10.00</p> <p>10.00</p>	<ul style="list-style-type: none"> <li>• Finance lease other than motor vehicles used for traveling</li> <li>• Lease or rental not more than Rs 5,000 per month on buildings</li> <li>• Hire purchase agreement in respect of moveable property other than any motor vehicle used for traveling</li> </ul>	<p>Lessee</p> <p>Hirer</p>	<p>Lessor (to be regularized)</p> <p>Supplier</p>	<p>Before or at the time of signing the lease or hire assignment</p> <p>Before or at the time of signing the hire purchase agreement</p>
10.	a) Receipt or discharge given for payments for any money or property	Rs 25,000 or less Above Rs 25,000	Nil 25.00	<ul style="list-style-type: none"> <li>• Amounting to not more than Rs 1,000</li> <li>• Any receipt given for any sum deposited with or withdrawn from any finance company or commercial or specialized bank.</li> <li>• Any receipt given by any person receiving payment for any goods sold</li> </ul>	Issuer of receipt	Issuer (with approval)	Before or at the time of receipt or discharge given

	<b>Instrument</b>	<b>Rate</b>	<b>Rs</b>	<b>Exemptions</b>	<b>Payable By</b>	<b>Compounding Authority</b>	<b>Time of Stamping</b>
	b) Receipt or discharge given for payment to any employee at a gross remuneration	Rs 25,000 or less Above Rs 25,000	Nil 25.00	or services provided immediately upon such sale or such provision <ul style="list-style-type: none"> <li>Any receipt given on receiving any death gratuity or compensation for death or injury.</li> <li>Any receipt acknowledging the receipt of pension</li> <li>Any commercial paper of debenture</li> </ul> Gross remuneration up to and including Rs 25,000	Employee	Employer	Before or at the time of receipt or discharge given

Following would also be exempt –

- Any specific instrument in respect of supply of any goods and services to Diplomatic Mission of any State or any organization to which the provision of the Diplomatic Privileges Act No. 9 of 1996 apply, provided that reciprocal benefits are available to their counter parts from Sri Lanka.
- Instrument executed by or on behalf of or in favour of the Government of any country; or any deed of conveyance or transfer by Government, where no consideration received
- Instrument executed in pursuance of the provisions of the Farmers Pension and Social Security Benefit Scheme Act No.12 of 1987.
- Instrument executed by a member of the registered co-operative society within the meaning of the co-operative Societies Law No.5 of 1972.
- Documents (specified) filed in legal proceedings in court.
- Any instrument required or authorized to be made or executed by any Regional Development Bank.



## ***Let's Talk***

### ***Charmaine Tillekeratne***

Director - Tax Services

T: +94 11 771 9700 ext. 4201

M: +94 77 0 208 016

E: [charmaine.tillekeratne@pwc.com](mailto:charmaine.tillekeratne@pwc.com)

### ***Rishini Manatunga***

Associate Director - Tax Services

T: +94 11 771 9700 ext. 4701

M: +94 77 5 306 730

E: [rishini.manatunga@pwc.com](mailto:rishini.manatunga@pwc.com)

### ***Tharanga Amarasena***

Associate Director - Tax Services

T: +94 11 771 9700 ext. 4401

M: +94 77 2 890 634

E: [tharanga.amarasena@pwc.com](mailto:tharanga.amarasena@pwc.com)

