

Tax Reforms 2013

Income Tax (Amendments to the Inland Revenue Act No 10 of 2006)

Exemptions/ Taxation at Concessionary Rates

Exemptions

Institutional

Profits and income (other than income from dividends and interest) of the following will be exempt from income tax:

- (a) College of General Practitioners of Sri Lanka established under Act No 26 of 1974.
- (b) Sri Lanka Social Security Board established under Sri Lanka Social Security Board Act No 17 of 1996.
- (c) Any Public Corporation to the extent of provision of services free of charges out of the funds voted by Parliament from the Consolidated Fund or out of any loan arranged through the Government.
- (d) Sri Lanka Savings Bank which is merged with National Development Trust Fund (NDTF).
(Section 7 of the Inland Revenue Act will be amended).

Source wise

- (a) The exemption of profits and income from any offshore business referred to in paragraph (b) of section 13 of the Inland Revenue Act will be extended to include situations where goods are procured from one Country and transported to another Country other than Sri Lanka (with effect from 1.4.2012).
- (b) Royalty, franchising fee or any payment for designing made to any foreign collaborator by a BOI registered company during the period of tax holiday under section 17A or Section 16D of Inland Revenue Act, where the foreign direct investment raised outside Sri Lanka exceeds US\$ 50Mn, if such services are :
 - Essential in carrying out activities in Sri Lanka; and
 - Not obtainable in Sri Lanka;As determined by the BOI on request made for that purpose.
- (c) Profits and income of any Government assisted private school which is not established under the Companies Act and registered with the Ministry of Education which is mandated to follow the Government curricula set by the Ministry of Education and the circulars issued by such Ministry.

(d) Interest income from investment made on or after 1.1.2013 in:

- Corporate Debt Securities, quoted in any Stock Exchange licensed by the Securities and Exchange Commission of Sri Lanka (including the deduction of WHT under section 135); or
- Municipal Bonds issued with the approval of the General Treasury (including the deduction of WHT under section 134).

(e) Profits and income (except income from dividends and interest) of Lanka Puthra Development Bank (Section 13 of the Inland Revenue Act will be amended).

(f) The income from emoluments arising in Sri Lanka of any individual who is an expert within the meaning of paragraph (dd) of subsection (1) of section 8 of the Inland Revenue Act, and who is not a citizen of Sri Lanka and brought to Sri Lanka by a BOI registered company , during the period of tax holiday under section 17A or section 16D of the Inland Revenue Act , where the total investment made is out of foreign direct investments exceeding US\$ 50Mn, if such services are essential to carry out the activities of the company, as determined by the BOI on request made for this purposes.

Provided that the number of experts in an undertaking to whom this provision is applicable shall not exceed five. (Section 8 of the Inland Revenue Act will be amended).

(g) The exemption on income from loans taken from persons outside Sri Lanka referred to in section 9(a) of the Inland Revenue Act will be amended to cover bonds as well effective from 1.4.2012. (Section 9(a) of the Inland Revenue Act will be amended).

(h) The profits and income of an undertaking from cultivation of renewable energy crops in agricultural lands.

(Section 16E will be introduced in the Inland Revenue Act)

Tax concessions to Sri Lankan citizens earning outside Sri Lanka

(a) The present rule in deciding residency of an individual based on his absence from Sri Lanka for an unbroken period of 365 days referred to in section 79(3) of the Inland Revenue Act, will be removed. Accordingly, only the 183 days rule will apply in deciding residency.

(Section 79 of the Inland Revenue Act will be amended)

(b) The profits and income derived from any source outside Sri Lanka by an individual who is a resident and citizen of Sri Lanka, will be exempt from income tax, if such income is remitted to Sri Lanka through a bank in Sri Lanka. (Section 13 of the Inland Revenue Act will be amended)

(c) The present exemption on profits and income derived from outside Sri Lanka applicable to dual citizens who arrive and stay in Sri Lanka referred to in section 15 of the Inland Revenue Act, will be extended to individuals who have obtained permanent resident status in any other country or any similar status in which such individual obtains the citizenship in Sri Lanka and any other country. (Section 15 of the Inland Revenue Act will be amended)

Concessionary Rates

- (a) The present rate of 28% will be reduced to 10% in relation to Unit Trust Management Companies.
- (b) The maximum rate of income tax applicable to pilots on the profits from employment referred to in Section 40A and the qualified employees referred to in Section 40B (where identified professional services are provided to persons out of Sri Lanka for payment in foreign currency) will be reduced to 16%.
- (c) The maximum rate of income tax applicable on employment income being compensation for loss of employment which is not uniformly applicable to all the employees [as referred to in sub section (2) of section 35] will be reduced to 16%.
- (d) The tax rate on profits from poultry farming will be reduced to 10%.
- (e) Any supply of goods manufactured in Sri Lanka or provision of services, to foreign ships for payments in foreign currency will be treated as deemed exports and the profit and income there from will be taxed subject to the concessionary rate of 12%.
- (f) The sale of any product manufactured in Sri Lanka for payment in foreign currency through foreign exchange earning account authorized by the Central Bank of Sri Lanka will be treated as deemed exports and the profits and income there from will be taxed at the concessionary rate of 12%.
- (g) The sale of goods manufactured in Sri Lanka by an export oriented BOI registered enterprise to :
- (h) Any BOI registered enterprise enjoying tax holiday under section 16C, 17A or 16D of the Inland Revenue Act or the Strategic Development Projects Act and which is , permitted to import project related goods or raw materials on duty free basis under the provisions of that BOI Agreement, during the project implementation period; or
- (i) Any person eligible to import specific goods on duty free basis under any Government Authority; will be treated as deemed exports of the manufacturer of such goods up to the quantity approved by the BOI as import replacement, for tax purposes.
- (j) “Organic tea in bulk” will be classified as nontraditional goods, for the application of the concessionary rate of 12%.
- (k) The annual turnover of Rs 300Mn referred to in section 59B will be revised to Rs 500Mn for the application of the concessionary rate of 10%.
- (l) Tax payable by any company listing its shares on or after 1.4.2013, and more than 20% of its shares are issued to the general public, will be reduced by 50% for the year of assessment in which such shares are listed and for the two years of assessment immediately succeeding that year of assessment.
- (m) The profits and income of any person or partnership from operating any mini hydro power project or other alternative energy source will be taxed at the concessionary rate of 12%. (Relevant Sections and the Rate Schedules will be amended).

Ascertainment of Profits and Income

Deductions (allowable under section 25 of the Act)

Allowance for Depreciation

The cost of acquisition of any plant, machinery or equipment acquired on or after April 1, 2013:

- (a) For technology upgrading purposes or introducing any new technology will be allowed for deduction at 50% per year;
- (b) For energy efficiency purposes, which provides more than 30% of the total requirement of the power generation out of alternative energy resources will be allowed for deduction in full;
- (c) for the establishment of Broker Back Office system to be compliant with the CSE requirements in relation to the Risk Management System will be allowed for deduction in full; and
- (d) For any export industry will be allowed for deduction at 50% per year.

Special Levies charged by the Government

Any sum paid by a Public Corporation or Government owned business undertaking as a special levy to the Government will be allowed as an expenditure deductible.

Research and Development expenses

The triple deduction allowed for expenditure on research and development carried out through government institutions will be extended to such expenditure incurred on research carried out through private institutions as well.

Advertisement expenses

The present restriction on the deduction of advertisement expenses (25%), will be removed for specific sponsorship of international sport events approved by the Minister of Sports [with effect from August 1, 2012] (Section 25 of the Inland Revenue Act will be amended)

Withholding Tax on Interest Income from Corporate Debt Security

The following Provisions will be made in relation to interest income on Corporate Debt Securities not exempt from income tax:

- (a) Deduction will be on the full interest for the respective period at the time of issue, or where the security is issued with floating rate of interest, at the time beginning of each reviewing period ; and
- (b) Where no deduction has been made up front , deduction will be at the time of payment of interest (payable on or after April 1, 2011) ; (Section 135 of the Inland revenue Act will be amended)

Transfer Pricing Legislation

- (a) Separate provisions will be made for the determination of arms length price of goods and services in local transactions of associated undertakings;
- (b) Provisions will be introduced for advance pricing arrangements. (Section 104 of the Inland Revenue will be amended)

Time Bar

The present time bar period of 2 years will be reduced to 18 months effective from the year of assessment commencing from April 1, 2013. (Section 163 of the Inland Revenue Act will be amended)

Taxation of BOI Registered Enterprises after the Expiry of Tax Holiday

Where the BOI enters into an agreement with any enterprise, which provides for income tax concessions, and:

- (a) The taxation under such agreement after the expiry of the tax exemption period provided there under is more burdensome, than the taxation under the Inland Revenue Act, then provisions of the Inland Revenue Act will apply; and
- (b) The income tax concessions provided under BOI agreement will not be extended through supplementary agreements. (The Inland Revenue Act will be amended to provide such provisions)

Any request for interpretation will be dealt with within six month.

Value Added Tax (VAT) [Amendments to VAT Act No 14 of 2002]

Exemptions

(a) The supplies made by the following Institutions will not be liable to VAT:

- (i)** Central Bank of Sri Lanka (including the VAT on Financial services)
- (ii)** Any Public Corporation to the extent of provision of services on behalf of the Government, free of charges out of the funds voted by Parliament from the Consolidated Fund or out of any loan arranged through the Government.
- (b)** The supply of services to a Unit Trust by the Unit Trust management company will be exempt from VAT.
- (c)** The supply of 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 sport will be exempt from VAT ;
- (d)** Locally manufactured products out of coconut waste (coco peat, coir fiber, grow pellets, grow bags, twist fiber, coconut husk) will be exempt from VAT.

(e) The import or supply of following items will be exempt from VAT:

- Bowsers under H. S. Code No 8704.23.10, 8704.23.20, 8704.32.10, 8704.32.20
- Bulldozers , graders, levelers, excavators under H.S. Code No 84.29
- Fire fighting vehicles under H. S. Code No 8705.30.10
- Road tractors for semi trailers under H. S. Code 8701.20.10 -
- Raw materials for the manufacture of energy saving bulbs under H.S. Code No 8543.90 (PART II of the First Schedule will be amended)

Imposition of VAT for whole sale and retail businesses

Any person or a partnership carrying on a business of wholesale or retail trade and making a quarterly turnover/ supplies (including exempt turnover/ supplies) not less than Rs 500 Million , will be liable to be registered for VAT. However, the VAT is chargeable on liable supplies only. (Section 3 of the VAT Act will be amended)

The VAT exemption applicable on services which result in the improvement of quality, character or value of any fabric or garment will be:

- Restricted to such services provided to non-exporters; and
- Extended to cover such services related to yarn.

(Item (xLiii) of paragraph (b) of PART II of the First Schedule will be amended)

SVAT Scheme

- (a) Relevant amendments will be incorporated to the VAT Act and the Guidelines issued (for SVAT), where necessary with the view to further simplification of the scheme.
- (b) The Guidelines will be regularized through Gazette notifications.
- (c) Provisions will be made for SVAT registration mandatory.
- (d) Penal provisions will be introduced for non compliance with the statutory requirements of the SVAT Scheme. (Relevant provisions of the VAT Act will be amended)

Filing of VAT Returns

The date of filing VAT return will be extended to 30th day of the month, while keeping the due date for payments as 20th. (Section 21 of the VAT Act will be amended)

Nation Building Tax (NBT) [Amendments to NBT Act No 9 of 2009]

Exemptions

- 1) Solar panel modules, accessories or solar home systems for the generation of solar power energy under H.S Code Nos 8501.31.10, 8541.40, 8513.10.10, 9405.10.10, 9405.10.20, 9405.20.10, 9405.20.20, 9405.40.30, 9405.40.40, 9032.89.10, and 8539.31.20.
- 2) Coal under H.S. Code Nos 2701.11, 2701.12 and 2701. 19.
- 3) The import of goods for any international sports event approved by the Minister of Finance.
- 4) Gems imported subject to Special Service Fee at the rate specified in the Gazette published under section 6A(a) of the Customs Ordinance,(Chapter 235) including any subsequent sales of such gems as processed gem. NBT on local sales of imported gems without any processing (imposed in lieu of Turnover Tax) remains taxable.
- 5) The turnover of the following Institutions will not be liable for NBT
 - (a) Central Bank of Sri Lanka.
 - (b) Any Public Corporation to the extent of provision of services on behalf of the Government, free of charges out of the funds voted by Parliament from the Consolidated Fund or out of any loan arranged through the Government.

(Schedule of excepted articles or services of the NBT Act will be amended.)

Sale of Manufactured Goods to Local Market by Export Oriented Companies

The export oriented enterprises engaged in manufacturing of garments or ceramic products will be permitted to increase their domestic sales up to 40% subject to VAT and NBT in lieu of all the indirect taxes payable on sale.

The present piece based tax of Rs 25/- per piece on sale applicable to garments will be removed.

Such enterprise will be treated as export enterprise for SVAT purposes. The income tax on the profits and income from sale (both export and the sales made to local market) will be at the concessionary rate of 12%.

Betting & Gaming Levy (B&G) [Amendments to B&G Levy Act No 40 of 1988]

The present tax structure of the business of Betting and Gaming will be revised as follows:

The annual levy payable will be revised as follows:

(a) The Business of Bookmakers:

- Betting business through Agents Rs 2,000,000 per year
- Where live telecast facilities are used Rs 500,000/- per year
- Where live telecast facilities are not used Rs 25000/- per year

(b) The business of Gaming:

- Gaming including rudjino Rs 100 Million per year

In lieu of all indirect taxes other than taxes referred to in paragraph (a) and (b) above a 5% all inclusive levy will be charged on gross collection (as Betting and Gaming Levy) on monthly basis. (The Betting & Gaming Levy Act will be amended)

The present income tax at the rate of 40% will remain unchanged. No operator is permitted to carry on a business of Betting or Gaming activities without a registration with the Department of Inland Revenue for tax purposes.

Telecommunication Levy [Amendment to Telecommunication Levy Act No 21 of 2011]

The present 20% rate of Telecommunication Levy will be reduced to 10% in respect of services provided through Internet /broad band, to facilitate IT and BPO sectors.

Amendments to Strategic Development Projects Act No 14 of 2008.

Provisions will be incorporated to exempt Cess on importation of raw materials, during the project implementation period, in cases where the required raw materials are not available in Sri Lanka for the required quantity.

Economic Service Charge (ESC) [Amendments to ESC Act No 13 of 2006]

- Funds voted by Parliament from the Consolidated Fund or from any loan arranged through the Government for the provision of services on behalf of the Government of Sri Lanka by any Public Corporation will not be treated as turnover for the purposes of ESC.
- Central Bank will be exempt from ESC.

Tax Appeals Commission Act No 23 of 2011

- (a) Extension of time to hear and conclude the appeals that were pending in the Board of Review as at 31.3.2011 and stand transferred to Tax Appeal Commission.
- (b) Making provisions to continue hearing the appeals that arose under Inland Revenue Act No 28 of 1979, 38 of 2000 or Finance Act No 11 of 2004.
- (c) Making provisions for stating cases for the opinion of the Courts of Appeal (by the Tax Appeals Commission) will be included in the Tax Appeals Commission Act itself.
- (d) Time for preferring an appeal to the Commission will be adjusted to be one month from the date of transmission of reasons for respective determination of the Commissioner General.
- (e) With regard to the deposit (25% of tax) to be made as a prerequisite for preferring appeal to the Commission , provisions will be made to refund any excess of such deposit and transfer the tax to the Commissioner General of Inland Revenue
- (f) With regard to the bank guarantee (in place of deposit), the beneficiary thereof and tenor thereof will be specified. (Tax Appeals Commission Act will be amended w.e.f.1/4/2011)

Note: Complete note on tax reforms are included in technical note of the Budget Speech 2013.