



**PARLIAMENT OF THE DEMOCRATIC
SOCIALIST REPUBLIC OF
SRI LANKA**

**VALUE ADDED TAX (AMENDMENT)
ACT, No. 14 OF 2007**

[Certified on 12th April, 2007]

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*Value Added Tax (Amendment)
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AN ACT TO AMEND THE VALUE ADDED TAX ACT, NO. 14 OF 2002

BE it enacted by the Parliament of the Democratic Socialist Republic of Sri Lanka as follows :—

1. This Act may be cited as the Value Added Tax (Amendment) Act, No. 14 of 2007, and shall be deemed to have come into effect on January 1, 2007. Short title.

2. Section 5 of the Value Added Tax Act, No. 14 of 2002 (hereinafter referred to as the “principal enactment”) is hereby amended in subsection (4) of that section, by the substitution for the words “of like nature as the case may be.” of the words

“of like nature as the case may be :

Provided however, in the case of a supply of services made under any lottery , any commission including the Value Added Tax charged on such commission, paid to any agent on the sale of a lottery, if any, shall be deducted in addition to the deductions referred to in this subsection.”.

3. Section 21 of the principal enactment is hereby amended in subsection (1) of that section by the substitution for the words “after the expiry of each taxable period a return of his supplies” of the words “after the expiry of each taxable period, a return either in writing or by electronic means, of his supplies”. Amendment of section 21 of the principal enactment.

4. Section 22 of the principal enactment is hereby amended as follows :— Amendment of section 22 of the principal enactment.

(1) in the second proviso to subsection (1) of that section, by the substitution for the words “the Customs Ordinance shall be charged” of the words and figures “the Customs Ordinance (Chapter 235) or access under subsection (1) of section 14 of Sri Lanka Export Development Act, No. 40 of 1979, shall be charged”;

- (2) in subsection (3) of that section, by the substitution in the fourth proviso thereto, for the words “the purchase of goods or services specified in the Fourth Schedule (Luxury Rate) by any person which is allowable under this Act shall be restricted to fifteen *per centum*.” of the words “the purchase or importation of goods or the purchase of services specified in the Fourth Schedule (Luxury Rate) which is allowable by any person under this Act shall be restricted to fifteen *per centum* other than in relation to the input tax paid on any goods imported including any goods received from a bonded area, by a registered person who imports or receives such goods, being raw-material to be used by such person for the purpose of manufacture and export of goods so manufactured”;
- (3) in subsection (5) of that section, by the substitution for the words “the input tax allowable under this Act exceeds the amount of the output tax” of the words and figures “subject to subsection (10), the input tax allowable under this Act exceeds the amount of the output tax”;
- (4) in subsection (6) of that section—
 - (a) in paragraph (ii), by the substitution for the words “not connected with a taxable activity” of the words “not connected with a taxable activity or not included in the value of taxable supply”;
 - (b) in the second proviso, by the substitution for the words and figures “such input tax for any taxable period commencing on or after January 1, 2003” of the words and figures “such input tax for any taxable period commencing on or after January 1, 2003 but prior to January 1, 2007.”.

- (5) by the addition immediately after subsection (9) of that section, of the following new subsection :—

“(10) The amount of input tax allowable under the preceding provisions of this section for any taxable period, shall be further restricted to a lesser amount of eighty five *per centum* of the output tax declared for that taxable period or the input tax allowable under the provisions of this Act. The residue, if any, of allowable input tax including the excess input tax as at December 31, 2006, in the case of a registered person who imports goods for re-sale without processing referred to in the third proviso to subsection (5) of section 22 restricted to eighty-five *per centum*, shall be deemed to be a part of the input tax allowable in the subsequent taxable period or periods, subject however to the same restriction:

Provided however, the above restriction shall not apply in relation to input tax attributable to—

- (i) supplies which are zero rated;
- (ii) supplies on which the tax is differed under this Act, being supplies; made to exporters registered with Textile Quota Board established under the Textile Quota Board Act, No. 33 of 1996 or with the Export Development Board established under the Export Development Act, No. 40 of 1979, by a registered person with the Textile Quota Board or the Export Development Board as the case may be, referred to in paragraph (c) of subsection (2) of section 2; and
- (iii) project related goods or services during the project implementation period, incurred by a person who is registered under subsection (7) of section 22.”.

Amendment of section 25 of the principal enactment.

5. Section 25 of the principal enactment is hereby amended in subsection (1) of that section by the substitution for the words “so undercharged or overcharged.” of the words,

“so undercharged or over charged :

Provided however, the adjustment in respect of input tax under claimed on an original tax invoice shall be made in respect of a tax debit note or a tax credit note issued not later than six months after the issue of the original tax invoice, to which the tax debit note or the tax credit note relates.”.

Insertion of new Chapter IIIB in the principal enactment.

6. The following new Chapter is hereby inserted immediately after Chapter IIIA of the principal enactment and shall have effect as Chapter IIIB (sections 25H and 25I) of that enactment :—

“CHAPTER IIIB

Imposition of optional value added tax.

25H. (1) A tax (hereinafter referred to as “optional value added tax”) shall be charged on the aggregate turnover from each taxable activity carried on, or carried out, in Sri Lanka by a person or a partnership, if such person or partnership is registered under this Chapter in accordance with the provisions of this Chapter for every quarter commencing on or after January 1, 2007, at the rate of five *per centum*.

(2) For the purposes of this Chapter “turnover” in relation to any taxable activity means the total amount received or receivable from transactions entered into in respect of the taxable activities carried on, or carried out, in Sri Lanka, other than any supply specified in the First Schedule, or zero rated supplies referred to under section 7, or supplies referred to in section 3 of the Act or to the sale of any capital assets.

(3) In this subsection —

“capital assets” shall have the same meaning as is given to it in section 25 of the Inland Revenue Act, No. 10 of 2006.

“quarter” means the period of three months commencing on the first day of January, the first day of April, the first day of July and the first day of October of each year.

Registration. 25I. (1) A person or a partnership referred to in subsection (2), may apply for registration under this Chapter and—

(a) the Commissioner General shall, if he is satisfied that the conditions specified in subparagraphs (i) and (ii) of paragraph (a) of subsection (2) are complied with, register such person or partnership on a request made for registration and shall forthwith assign a registration number to such person or partnership ;

(b) such registration shall be valid for a period of three years from the date of commencement of the quarter in which the registration is obtained or up to the end of the quarter in which the aggregate turnover of such person or partnership exceeds rupees two million and five hundred thousand per year, whichever occurs first.

(2) (a) the provisions of subsection (1) shall apply to any person or partnership—

(i) whose aggregate turnover from every taxable activity carried on or carried out, does not exceed rupees two million and five hundred thousand per year or six hundred and twenty five thousand per quarter; and

*Value Added Tax (Amendment)
Act, No. 14 of 2007*

- (ii) who or which is not registered under Chapter II.

(b) Any person or partnership registered under this Chapter may apply to the Commissioner-General to cancel such registration and further request the Commissioner-General to register him under Chapter II, at any time during the period in which registration under this Chapter subsists.

(c) The provisions of Chapters I, II, III or IIIA shall not apply to a person or partnership whose registration during the period is subsisting under this Chapter.”.

Insertion of new section 26A in the principal enactment.

7. The following new section is hereby inserted immediately after section 26 of the principal enactment and shall have effect as section 26A of that enactment :—

“Deduction of tax from payments.

26A. (1) Every Government Agency which makes payment in pursuance of a contract to which such Agency is a party or on behalf of any other person who is a party to a contract shall, deduct from such payment one- third of the tax included in such payment, and the amount of tax so deducted shall be a debt due from such Government Agency to the Republic and shall be recoverable forthwith or may be assessed and charged upon such Government Agency in addition to any tax, if any, otherwise payable by such Government Agency under this Act :

Provided that no such deduction shall be made —

- (i) where the total consideration for the performance of such contract does not exceed five hundred thousand rupees excluding the Value Added Tax; or

- (ii) where the payment made is an immediate settlement for the goods supplied on contract ; or
- (iii) where the Commissioner-General is of the opinion that deduction is impracticable or inexpedient having regard to all the circumstances of the case.

(2) Any Government Agency who deducts tax in accordance with the provisions of subsection (1) shall —

- (a) issue to the person from whose payment the deduction is made, a Certificate showing —
 - (i) the gross amount of payment ;
 - (ii) the total tax and the amount of one-third of the tax so deducted ;
and
 - (iii) the net amount actually paid; and
- (b) remit the tax so deducted in any calendar month on or before the end of the first week of the subsequent month to the Commissioner-General together with the statement showing—
 - (i) the name and address of the person to whom the payment was made and the registration number of such person ;
 - (ii) the gross amount of such payment ;

*Value Added Tax (Amendment)
Act, No. 14 of 2007*

- (iii) the total tax, one-third of the tax deducted and the amount actually paid ;
- (iv) the name and address of the Government Agency who made the payment and the registration number, if any ; and
- (v) details of remittances, the cheque numbers and the date of payment.

(3) Where the taxable supplies of a person includes a sum from which tax has been deducted and remitted in accordance with subsection (1) and (2), he shall be entitled on production of the Certificate relating to such sum issued in accordance with subsection (2), to set off against the tax payable by him the amount shown in the Certificate as the amount of tax deducted.

(4) For the purposes of this section “contract” means —

- (i) any contract in respect of construction work or services of whatever nature not being a contract of employment ;
- (ii) any contract for the supply of goods or services in respect of any contract specified in sub-paragraph (i) ;
- (iii) any sub contract in respect of any contract specified in sub-paragraphs (i) or (ii) ; or
- (iv) any contract for the provision of services including a contract for the

provision of services as an entertainer or artist other than a contract of employment.

(5) For the purposes of this section “Government Agency” means any Ministry, Department, Government Owned Business Undertaking, public corporation, Provincial Council, local authority, University, State bank, project funded by any Government institution for which funds are provided from the Consolidated Fund and the Board of Investment.

(6) Where any person fails to deduct tax in terms of subsection (1) or fails to remit under sub section (2) any tax payable to the Commissioner General, such tax shall be deemed to be in default and the provision of this Act relating to the recovery of tax shall accordingly apply on any such default tax.

(7) Any person who has made any deduction under subsection (1) or any remittance in pursuance of subsection (2) shall be deemed to have acted under the authority of the person by whom the tax was payable and of all other persons concerned, and is hereby indemnified in respect of such deduction or remittances as the case may be, against all proceedings, civil or criminal, notwithstanding the provision of any written law, contract or agreement.

8. Section 76 of the principal enactment is hereby amended, in the third proviso to subsection (1) of that section by the substitution for the words “ if such supply subsequently becomes an exempt supply except in the case of providing leasing facilities for three wheelers” of the words and figures “if such supply becomes an exempt supply on or before December 31, 2006.”.

Amendment of section 76 of the principal enactment.

10 *Value Added Tax (Amendment)*
Act, No. 14 of 2007

Amendment of
the First
Schedule to the
principal
enactment.

9. The First Schedule to the principal enactment is hereby amended in PART II as follows :—

(1) in paragraph (a) of that Schedule —

(a) in item (vi) by the substitution for the words “aviation fuel and oil for ships ;” of the words and figures “aviation fuel, oil for ships or fuel oil specified under Harmonized of Commodity Description Number 2710. 19. 60.”;

(b) in item (vii) by the substitution for the words “and Braille writing boards” of the words “Braille writing boards and any other articles which are used by disabled persons which are approved by Minister, taking into consideration the degree of relief requested by such persons, on an application made for that purpose.”;

(c) by the addition immediately after item (xiv) of the following :—

“(xv) prawns.” ;

(2) in paragraph (b) thereof:—

(a) by the addition, immediately after item (xvi) of the following :—

“(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 ;
 - (xxi) services being chartering of any vessel;”;
- (b) by the substitution in item (i) (a) for words “that followed the Government curricula ; and” of the words “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
- (c) by the repeal of item (ii) and substitution therefor of the following :—
- “(ii) (a) public passengers 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 —
 - A. 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 is entered into prior to January 1, 2004;
 - B. three wheelers in respect of rental falling due for payment on or after January 1, 2005 ;
 - C. any bus referred to in item (xv) of paragraph (c).”;

- (d) by the repeal of item (iii) and the substitution therefor of the following :—
- (iii) electricity including distribution.”.
- (3) in paragraph (c) thereof, by the addition, immediately after item (xii) of the following :—
- (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 Harmonized Commodity of Description Numbers for custom 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 Harmonised of Commodity Description Numbers for Custom purposes, for modernization of factories by the factory owner with the approval of the Commissioner-General of Inland Revenue ;

- (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 the specified Harmonised of Commodity Description Numbers for the Custom purposes, with the approval of the Commissioner-General of Inland Revenue ;
- (xviii) finished leather to be used for the shoe manufacturing industry, on the recommendation of the Secretary to the Ministry of Industrial Development subject to approval by the Minister in charge of the subject of Finance.”.

10. Third Schedule to the principal enactment is hereby amended as follows :—

Amendment
of the Third
Schedule to
the principal
enactment.

- (1) by the substitution for the words “the supply or import of-” of the words and figures “(1) The supply or import of-”;
- (2) by the deletion of item (vi), and the renumbering of item (vii) as item (vi);
- (3) by the insertion immediately after item (vi) of the following new items :—
 - “(vii) high-tec medical equipment or any machinery used for the manufacture of ticket issuing machinery identified, by the Commissioner-General of Inland Revenue under the specified Harmonized of Commodity Description Numbers for Custom purposes ;
 - (viii) jewellery;”;

14 *Value Added Tax (Amendment)*
Act, No. 14 of 2007

(4) by the addition immediately after item (viii) of the following :—

“(2) The import of cine films, cinematographic films exposed and developed, magnetic cine sound recorders, cinematographic cameras and projector, parts and accessories, apparatus and equipments for cinematographic laboratories, identified by the Commissioner General of Inland Revenue under the specified Harmonized of Commodity Description Numbers for Custom purposes, with the approval of the Chairman, National Film Corporation.”.

Retrospective effect.

11. (1) The amendments made to the principal enactment by the provisions of this Act, except the incorporation of the exemption by item (xx) to paragraph (b) of the First Schedule, shall be deemed for all purposes to have come into effect on January 1, 2007.

(2) The exemption incorporated in item (xx) to paragraph (b) shall be deemed for all purposes to have come into effect on July 1, 2006.

Indemnity.

12. Any person who collects the value added tax as provided for in this Act, during the period commencing January 1, 2007 and ending on the date of the coming into operation of this Act, shall be deemed to have acted with due authority and such collection shall be deemed for all purposes to have been, and to be, validly made and such person is hereby indemnified against all actions civil or criminal in respect of such collection.

Sinhala text to prevail in case of inconsistency.

13. In the event of any inconsistency between the Sinhala and Tamil texts of this Act, the Sinhala text shall prevail.

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