



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

**NATION BUILDING TAX (AMENDMENT)
ACT, No. 10 OF 2011**

[Certified on 31st March, 2011]

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L. D.—O. 15/2011.

AN ACT TO AMEND THE NATION BUILDING TAX ACT NO. 9 OF 2009

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

1. This Act may be cited as the Nation Building Tax (Amendment) Act, No. 10 of 2011 and shall be deemed to have come into operation from January 1, 2011.

Short title.
2. Section 2 of the Nation Building Tax Act, No. 9 of 2009 (hereinafter referred to as the “principal enactment”) is hereby amended in subsection (1) of that section, by the substitution in subsection (c) thereof, for the words “a service of any description.”, of the following :—

“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) applies.”.

Amendment of the section 2 of the Act No. 9 of 2009.
3. Section 3 of the principal enactment is hereby amended as follows:—

Amendment of the section 3 of the principal enactment.

 - (1) in subsection (1) of that section—

 - (a) by the substitution for all the words and figures from “every person to whom this Act applies, calculated” to “in the following manner:-”, of the words “every person to whom this Act applies, calculated at the appropriate rate specified in the Second Schedule to this Act, in the following manner:—”
 - (b) in paragraph (ii) thereof, by the substitution for the words and figures “paragraph (b) or (c) of subsection (1)”, of the words “paragraphs (b), (c) or (d) of subsection (1)”

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(2) in subsection (2) of that section—

- (a) by the substitution in paragraph (i) thereof, for the words and figures “under section 6 of the Value Added Tax Act, No. 14 of 2002;” of the words and figures “under section 6 of the Value Added Tax Act, No. 14 of 2002, but does not include the value of any excepted article referred to in the First Schedule to this Act;”;
- (b) by the substitution in paragraph (ii) thereof, for the words “of every article manufactured by such person;” of the words “of any article manufactured by such person, other than any excepted article referred to in the First Schedule to this Act;”;
- (c) by the substitution in paragraph (iii), for the words “any service referred to in that paragraph.”, of the following:—

“any service referred to in that paragraph, other than any excepted service referred to in the First Schedule to this Act;

- (iv) with reference to any person referred to in paragraph (d) of subsection (1) of section 2 and to any relevant quarter means the sum receivable whether received or not from the sale in that quarter, of any article, other than—
 - (1) pharmaceuticals;
 - (2) any article subject to the Special Commodity Levy under the Special Commodity Levy Act, No. 48 of 2007, where such article is subsequently sold by the importer of such article; and

(3) gems or jewellery, if sold on the payment of foreign currency by any person authorized by the Central Bank of Sri Lanka to accept payment in foreign currency.”.

(3) in subsection (3) of that section—

(a) by the substitution, for the words and figures “in paragraph (ii) or (iii) of that section” of the words and figures “in paragraph (ii), (iii) or (iv) of that section”;

(b) by the addition immediately after paragraph (iii) thereof, of the following paragraphs:—

“(iv) rebate paid under the Export Development Rebate in relation to any international event as be approved by the Minister of Finance;

(v) any turnover from the supply of any goods or services in relation to any international events as approved by the Minister of Finance (with effect from May 12, 2010).”.

(4) in subsection (4) thereof,

(a) by the substitution for the words and figures “paragraph (b) or paragraph (c) of subsection (1) of section 2”, of the words and figures “paragraph (b), paragraph (c) or paragraph (d) of subsection (1) of section 2”;

(b) in paragraph (i), by the substitution for the words “liable turnover of such person for that relevant quarter does not exceeds” of the

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words and figures “such quarter is a relevant quarter which commenced prior to January 1, 2011 and the liable turnover of such person for that relevant quarter does not exceed;”;

(c) in paragraph (ii) thereof—

(i) by the substitution for the words “that relevant quarter optional Value Added Tax” of the words and figures “that relevant quarter which commenced prior to January 1, 2011, Optional Value Added Tax”;

(ii) by the substitution for the words and figures “Value Added Tax Act, No. 14 of 2002.” of the following:—

“Value Added Tax Act, No. 14 of 2002;

(d) by the addition immediately after paragraph (ii) of the following new paragraphs :—

(iii) such relevant quarter is any quarter commencing on or after January 1, 2011 and the liable turnover of such person from the supply of any goods or services other than services referred to in paragraph (iv) and paragraph (v), does not exceed the sum of five hundred thousand rupees; and

(iv) such quarter is a quarter commencing on or after January 1, 2011 and the liable turnover of such person from —

(a) operating a hotel, guest house, restaurant or other similar business;

(b) the processing of any locally procured agricultural produce in the preparation for sale;

(c) providing educational services by any institution established locally for that purpose; or

(d) supply of labour (manpower),

and which do not exceed the sum of twenty five million rupees.”.

4. Section 4 of the principal enactment is hereby repealed and the following section substituted therefor:—

Replacement of the section 4 of the principal enactment.

“Payment of the tax

4. Every person referred to in paragraph (b), paragraph (c) or paragraph (d) of subsection (1) of section 2 to whom this Act applies, shall, notwithstanding that no assessment has been made on such person for any relevant quarter, pay—

- (i) the tax payable for the first month of that quarter on or before the twentieth day of the second month of that quarter;
- (ii) the tax payable for the second month of that quarter on or before the twentieth day of the third month of that quarter;
- (iii) the balance tax payable for that quarter on or before the twentieth day of the month immediately succeeding the end of the relevant quarter, calculated by deducting the tax paid under paragraphs (i) and (ii) from the tax payable for that quarter,

to the Commissioner-General, in such manner as may be specified by him in that behalf.”.

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Replacement of section 6 of the principal enactment.

5. Section 6 of the principal enactment is hereby repealed and the following section substituted therefor:—

“Tax Credits. 6. Where any person to whom this Act applies, utilizes wholly or partly any goods purchased from a manufacturer registered for payment of tax under this Act or imported by himself, in the manufacture of goods liable to tax under this Act, such manufacturer shall be entitled to tax credit in respect of such tax paid on such goods in proportion to the value of goods manufactured by such person which are liable to tax under this Act.”.

Insertion of new section 6A in the principal enactment.

6. The following new section is hereby inserted immediately after section 6 of the principal enactment and shall have effect as section 6A of that enactment :—

“Turnover from Islamic Financial Transactions to be chargeable to tax. 6A. (1) The turnover from the business of any Islamic Financial Transaction shall be chargeable to tax in terms of the provisions of this Act.

(2) The Commissioner - General of Inland Revenue shall in order to determine the extent of liability to tax of any particular Islamic Financial Transaction, issue from time to time, 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 profits and income arising out of any Islamic Financial Transaction.”.

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7. Section 10 of the principal enactment is hereby amended as follows: Amendment of the section 10 of the principal enactment.

- (1) in the definition of the expression “article”, by the substitution for the words “any agricultural or horticultural produce, but does not include any excepted article”, of the words “any agricultural or horticultural produce, but for any period ended prior to January 1, 2011 does not include any excepted article”;
- (2) in the definition of the expression “service”, by the substitution for the words “does not include any excepted service”, of the words “for any period ended prior to January 1, 2011 does not include any excepted service”,
- (3) in the definition of the expression “person”, by the substitution for the words “any company, body of persons or any partnership”, of the words “any company, body of persons or any partnership”.

8. The Schedule to of the principal enactment is hereby amended as follows:— Amendment of the Schedule to the principal enactment.

- (1) by the renaming of the “SCHEDULE” hereto as the “FIRST SCHEDULE”;
- (2) in Part I of such Schedule—
 - (a) in item (xiii), by the substitution for the words “pharmaceuticals; and”, of the words “pharmaceuticals;”
 - (b) in item (xv), by the substitution for the words “borne by the Government” of the words “borne by the Government ;”

(c) by the addition immediately after item (xv) thereof of the following items:—

“(xvi) any goods imported or supplied to a specified 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.

(xvii) bitumen classified under HS code No. 2714 ;

(xviii) any article imported or sold 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) tractors classified under HS codes 8701.10.10, 8701.10.90, 8701.90.10 and 8701.90.20 ;

(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) import of samples in relation to business which is worth not more than rupees twenty- five thousand, subject to which terms and conditions as prescribed by the Director - General of Customs.”.

(3) in Part II of that Schedule—

- (a) in item (vii), by the substitution for the words “services of a construction contractor, not being a sub-contractor, insofar as”, of the following words and figures:—

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“Services—

- (i) prior to January 1, 2011, of a construction contractor, not being a sub-contractor; or
- (ii) on or after January 1, 2011, of a construction contractor or sub-contractor”,

in so far as”;

- (b) in item (xii), by the substitution for the words “operating a hotel, guest house, restaurant or other similar business”, of the words and figures “For any period ended prior to January 1, 2011, operating a hotel, guest house, restaurant or other similar business”;
- (c) in item (xiii), by the substitution for the words “local produce”, of the words “local produce”;
- (d) in item (xxiii), by the substitution for the words “Act, No. 34 of 2002,”, of the words “Act, No. 34 of 2002;”;
- (e) by the addition, immediately after the item (xxiii), the following new items :—
 - (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 the port or airline in relation to international transportation;
- (xxvii) services provided in relation to ship building for the international market for payments made in foreign currency;
- (xxviii) telecommunication services;
- (xxix) supply of locally developed soft ware;
- (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 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;

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Addition of
Second
Schedule to the
principal
enactment.

9. The following new Schedule, as the Second Schedule,
is added immediately after the First Schedule:—

“SECOND SCHEDULE [Section 3]

**Tax Rates of Nation Building Tax payable by any person to
whom this Act applies**

PART I

For the period ending on April 30, 2009
on the liable turnover – 01 *per centum*.

PART II

For the period commencing on May 1, 2009 but
prior to December 31, 2010—

- (1) on the liable turnover (other than in respect
of turnover from the sale of rice manufactured
from locally procured paddy for the period
from July 1, 2009 to December 31, 2010)

– 03 *per centum*.

- (2) on the liable turnover from rice manufactured
out of locally procured paddy for the period
from July 1, 2009 to December 31, 2010

– 1.5 *per centum*.

PART III

For any quarter commencing on or after January 01, 2011—

- (1) on the liable turnover (other than any
turnover from the wholesale or retail sale) of
any article

– 02 *per centum*.

- (2) on the liable turnover from wholesale or retail
sale of any article—

- (a) three fourth of liable turnover of any
distributor—

Nil

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(b) one half of the liable turnover from (the wholesale or retail sale of) any article other than any turnover of a distributor—

Nil

(c) the balance liable turnover

– 02 *per centum*.

For the purposes of Part III of the Second Schedule the expression “distributor”, shall have the same meaning as is assigned to it in section 13 of the Economic Service Charge Act, No. 13 of 2006.”.

10. The Commissioner-General shall transfer 33 1/3 *per centum* of the total sum collected as Nation Building Tax to the respective Provincial Council within such intervals and in such proportions as the Secretary to the Treasury may, from time to time, taking into consideration the required budget of each such Council, direct.

Apportionment of revenue to the Provincial Councils,

11. Any person or partnership carrying on an enterprise, having an annual turnover of a sum not exceeding rupees one hundred million who is liable to pay the Nation Building Tax under this Act and who has defaulted in the payment of such Nation Building Tax as is payable by him under this Act in respect of any taxable quarter ending on or before December 31, 2010 due to the existence generally of any conflict environment or due to any financial constraints of such person or partnership shall be exempted from the payment of such charge as is in default under this Act:

Exemption of certain small and medium enterprises from the payment of taxes payable by them .

Provided that, the Commissioner - General of Inland Revenue shall on a request made in that behalf, issue to such person or partnership a Certificate of Exemption in respect of the sum in default:

Provided further, the person or partnership to whom the Certificate of Exemption is issued shall simultaneously forward to the Commissioner - General of Inland Revenue, a written assurance to the effect that such person or

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partnership will be responsible for the payment of all sums which may become payable by him under this Act, in respect of any future taxable quarter commencing on or after January 1, 2011.

Indemnity.

12. Where the Commissioner - General of Inland Revenue or the Director - General of Customs as the case may be collects under the provisions of section 4 or section 5 respectively of the principal enactment, the levy calculated at the rate specified in section 3 of this Act, during the period commencing on January 1, 2011 and ending on the date of the coming into operation of this Act from a person to whom the provisions of this Act applies, such collection shall be, deemed for all purposes to have been, and to be, validly made, and the Commissioner - General of Inland Revenue and the Director - General of Customs, as the case may be, are hereby indemnified against all actions, civil or criminal in respect of such collection.

Sinhala text to prevail in case of an 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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