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CIRCULAR TO CLIENTS

Inland Revenue Act, No. 24 of 2017 is amended by the Amendment Act, No. 4 of 2023 as certified by the Speaker on 08th May 2023.

The changes to the Inland Revenue Act shall be deemed to have come into operation from **08th May 2023**, unless a specific date is mentioned.

01. New provision for single transaction
Section 10

Where a person pays to another person, a sum of money amounting in the aggregate to Rs. 500,000 or more, on or after May 8, 2023, in a day, or in respect of a single transaction, or in respect of a series of single transactions relating to one event otherwise than by way of an account payee cheque or account payee bank draft or by the use of a credit card, debit card or electronic payment system through a bank account,

(i) Any deduction shall not be allowed in respect of such payments in calculating the first-mentioned person's income; and

(ii) The amounts paid shall not be considered as cost of an asset of the first mentioned person.

The above provisions shall not apply to,

(i) Any payment by the Government of Sri Lanka or any Government institution;

(ii) Any payment by a bank or financial institution; and

(iii) Such classes of persons or payments as may be prescribed by the Minister.

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

02. Cost of an Asset
Section 37

This section is amended to include expenditure incurred by the person in altering, improving, maintaining or repairing the asset prior to April 1, 2021 and only in improving the asset on or after April 1, 2021, when ascertaining the cost of an asset of a person.

03. Source of Payment
Section 73

This section is amended to include the following;

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

04. Advance Income Tax
Section 84A

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

Section 84A (1A) reads as follows;
A person shall deduct Advance Income Tax from the payment of dividend, interest, discount, charge, natural resource payment, rent, royalty or premium which has a source in Sri Lanka, at the rate provided in paragraph 10 of the First Schedule to this Act.

05. Withholding from service fees, contract payments and payments to non-residents
Section 85

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

Section 85 reads as follows;

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

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

(a) for teaching, lecturing, examining, invigilating or supervising an examination;

(b) as a commission or brokerage to a resident insurance, sales or canvassing agent; or

(c) for services provided by such individual in the capacity of independent service provider such as doctor, engineer, accountant, lawyer, software developer, researcher, academic or any individual service provider as may be prescribed by regulation:

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

06. Statements and payments of tax withheld or treated as withheld
Section 86

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

Every withholding agent who has deducted Advance Income Tax under the provisions of section 84A shall file with the Commissioner-General a quarterly statement as specified by the CommissionerGeneral, within thirty days after the end of each quarter, ending on the thirtieth day of June, thirtieth day of September and thirty first day of December.

07. Confidentiality
Section 100

Every person having a duty under Inland Revenue Act or being employed in the administration of this Act, shall regard as secret and confidential all information and documents the person has received in an official capacity in relation to a specific taxpayer, and may disclose that information only to certain specific persons.

This section is amended to include the following;

“The Director-General of the Department of Fiscal Policy, for the purpose of making decisions on the tax policy and Government revenue”

08. Application of electronic tax filing system
Section 113

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

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

09. Notice to obtain information
Section 123

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

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

(*b*) The Registrar-General of Companies

(*c*) The Commissioner-General of Motor Traffic

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

(*e*) A financial institution

(*f*) A stock exchanges

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

10. Amended or additional assessments
Section 135

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

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

whichever occurs later.

11. Administrative Review
Section 139

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

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

12. Refundable amounts
Section 150

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

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

Provided that, if such resident individual is a senior citizen who is not an instalment payer and his refund claim is not exceeding twenty-five thousand rupees for any quarter ending on the thirtieth day of June, thirtieth day of September, thirty first day of December and thirty first day of March, such refund claim shall be paid within three months of the date of the refund claim made by such resident individual, prior to a tax audit.

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

13. Failure to maintain documents or provide facilities
Section 182

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

14. Tax rate for dividends
First Schedule

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

15. Enhanced Capital Allowance
Second Schedule

A person who has entered into an agreement with the Board of Investment of Sri Lanka established under the Board of Investment of Sri Lanka Law, No. 4 of 1978 and invests in Sri Lanka in the expansion of his existing undertaking, during any year of assessment shall be granted enhanced capital allowances computed in accordance with this paragraph, in addition to the capital allowances computed under the Fourth Schedule.

"Existing undertaking" means any undertaking conducted by a person, prior to the first date of investment on depreciable assets

"Expansion" does not include–

(a) the transfer, purchase or exchange of a depreciable asset of an existing undertaking of a person or an associate of a person; or
(b) the purchase of a depreciable asset to replace an existing depreciable asset of an undertaking of a person

"New undertaking" does not include–

(a) the existing undertaking; or
(b) an undertaking formed by splitting-up or re-construction of an existing undertaking of a person or an associate of a person;".

16. Exemption for gain from realisation of capital asset or liability
Third Schedule

This Exemption is amended as follows,

A gain made by **an entity of which more than fifty percent of direct or indirect membership interest is owned by** the Government of Sri Lanka as a gain from the realisation of a capital asset or liability of the business or realisation of an investment asset, if such gain was made due to any decision by the Government of Sri Lanka as being essential for the economic development of Sri Lanka and subject to the prior written approval of the Minister.

17. Exemption for dividend
Third Schedule

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

18. Exemption for projects funded from foreign grants
Third Schedule

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

19. Restriction introduced for claiming exemptions
Item w (ii) of Third Schedule

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

Item w (v) of Third Schedule

An undertaking commenced on or after January 1, 2021, but prior to April 1, 2023, by any resident person who constructs and installs communication towers and related appliances using local labour and local raw materials in Sri Lanka or provides required technical services for such construction or installation, for a period of five years.

Item w (vi) of Third Schedule

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

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

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

21. Relief from penalty or interest

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

22. Avoidance of doubt

If–

(a) an enterprise 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, 2018 but prior to October 1, 2022; and

(b) such agreement provides for the profits and income of that enterprise or any dividend paid by that enterprise to be fully or partly exempt from income tax or to be taxed at a reduced rate of income tax,

such profits and income of such enterprise or such dividend paid by such enterprise shall continue to be exempt from income tax payable, or shall be liable for income tax at the rate provided for in such agreement, as the case may be.

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

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