

2021

RECENT CHANGES TO INCOME TAX

As per the Inland Revenue (Amendment) Act, No. 10 of 2021

Analysis of amendments brought to the Inland Revenue Act, No. 24 of 2017 by the Inland Revenue (Amendment) Act, No.10 of 2021

Analysis of amendments brought to the principal enactment, the Inland Revenue Act, No. 24 of 2017 by the Inland Revenue (Amendment) Act, No. 10 of 2021 is organized in this e-publication in the following manner.

Point numbers mentioned in this e-publication as 1, 2, 3, refer to the same section numbers in the Inland Revenue (Amendment) Act, No. 10 of 2021.

Each point number is divided into two parts named *Amendment* and **Analysis**.

Amendment

Under the heading *Amendment* (up to point number 50), the effect of the amendment is incorporated into the section/subsection in Inland Revenue Act, No. 24 of 2017 and is presented as a consolidated section/subsection.

Provisions extracted from the Inland Revenue Act, No. 24 of 2017 are given in

blue colour italic letters while amendments brought by the Inland Revenue (Amendment) Act, No. 10 of 2021 are given in ***blue colour bold italic letters***.

Analysis

Explanation of the *Amendment* is given under the heading **Analysis** in each point below. Amendments to make error corrections and amendments done for clarity purposes are just mentioned as the same under **Analysis**.

Schedules to the Inland Revenue Act

Amendments brought to the first schedule to the sixth schedule of the Inland Revenue Act, No. 24 of 2017 are given under the relevant schedule heading from point no. 51 to 56.

Date of operation of each amended section/subsection in the Amendment Act is given below with the relevant section/subsection **in orange colour bold letters** for easy reference.

1. Date of operation of the Inland Revenue (Amendment) Act, No. 10 of 2021

The provisions of this Act (other than the provisions of sections referred to in Table A and Table B set out in the Amendment Act) shall commence on May 13, 2021.

The provisions of sections referred to in

Table A shall be deemed to have come into operation on April 1, 2021.

The provisions of sections referred to in Table B shall be deemed to have come into operation on the respective dates specified in that Table.



INCOME TAX BASE

Assessable Income

2. Amendment to Section 5 (3) (C) & S. 5 (3) (f) - Employment Income- 1.4.2018

Words in **bold letters stricken off** are substituted by words in **bold letters** in Section (hereinafter use as S.) 5 (3) (c) and S. 5 (3) (f) as follows.

Amendment

S. 5(3)(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 in the same grade of the service, on equal terms.~~

Analysis

S. 5 (3) gives amounts to be excluded in calculating an individual's gains and profits from an employment.

Benefit of discharge or reimbursement of dental, medical and health insurance is excluded in calculating individual's gains and profits from employment if it is available to all full-time employees even if terms are different among different grades but equal in the same grade.

Amendment

S. 5(3)(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 provident, gratuity or savings fund or savings society~~ approved by the Commissioner - General.

Analysis

Contributions made by an employer to a gratuity fund approved by the Commissioner-General are excluded in calculating individual's gains and profits from employment.

3. Amendment to Section 6 (2) (d) - Business Income - 1.4.2018

Words in **bold letters stricken off** are substituted by words in **bold letters** in S. 6 (2) (d) as follows.

Amendment

*S. 6 (2) (d) - amounts required to be included by ~~the Second or Fourth Schedule to this Act~~ **the Fourth Schedule to this Act** on the realisation of the person's depreciable assets of the business*

Analysis

Under the amendment, calculation of assessable charges on realization of depreciable assets of a business has been limited to the calculation referred to in Fourth Schedule to the Inland Revenue Act (IRA).

Exempt Amounts

4. Amendment to Section 9 (3) - Exempt Amounts - 1.4.2018

Words in **bold letters stricken off** are substituted by words in **bold letters** in S. 9 (3).

Amendment

*S. 9 (3) - Subsection (2) shall not apply to a provision in another law or an agreement that is in force on date of ~~commencement of this Act~~ **commencement of this Act or for any project approved under the Strategic Development Projects Act , No.14 of 2008.***

Analysis

Section 9 sets out amounts exempt from payment of income tax. As per S. 9 (2), an exemption of any person or amount from tax imposed by IRA shall not be provided and an agreement that affects or purports to affect the application of the Act shall not be entered into, except as provided for in the Act.

Granting tax exemptions for projects under the Strategic Development Projects Act is allowed under the IRA.

Deductions

5. Amendment to Section 10 (1) (b) (v) – General Deduction - 1.4.2018

Words in **bold letters stricken off** are substituted by words in **bold letters** in S (10) (1) (b) (v).

Amendment

*S. 10 (1) (b) (v) - Retirement contributions, unless they are included in calculating the income of an employee or consist of a contribution by an employer to a pension, ~~provident or savings fund~~ **provident, gratuity or savings fund** or a savings society, which*

is approved by the Commissioner-General subject to any specified conditions.

Analysis

Contribution made by an employer to a gratuity fund approved by the Commissioner-General is an allowable deduction.

6. Amendment to Section 11 - Main Deduction - 1.4.2021

Following new subsection is added to section 11 as S. 11(4).

Amendment

S. 11(4) – For the purpose of this section, cost of funds of the financial institution incurred on the loans provided for new businesses commenced on or after April 1, 2021 by any 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, shall be deemed to be incurred in the production of income of such financial institution.

Analysis

Cost of funds of financial institutions on loans (given at 4% interest) provided for new businesses commenced on or after April 1, 2021 by an individual as prescribed in the subsection is treated as an allowable deduction.

Words in **bold letters stricken off** are substituted by words in **bold letters** in S. 14(2) as follows.

Amendment

S.14(2) ~~The deductions referred to in subsection (1) granted for a year of assessment~~ The deductions of improvements referred to in subsection (1) granted for any year of assessment commencing from April 1, 2021 with respect to a depreciable asset of a person –

(a) shall not exceed –

(i) ~~in the case of repair or improvement to~~ in the case of improvement to a Class 4 depreciable asset, five percent of the written down value of the asset at the end of the previous year (paragraph 4(3) of the Fourth Schedule);

(ii) in all other cases, twenty percent of the written down value of the asset at the end of the previous year (paragraph 4(3) of the Fourth Schedule); and

(b) shall be allowed in the order in which the expenses are incurred.

Further, following sub-section is added to section 14 as S.14 (4) defining the term 'improvement'.

Amendment

S.14 (4) "Improvement" means the expenditure incurred by a person to make additions or alterations to a depreciable asset which enhances the value of such asset, but excludes the expenditure incurred to maintain or repair a depreciable asset which temporarily enhances the value of such asset.

Analysis

Repair expenses of depreciable assets are allowed to deduct without any restriction while improvement expenses of depreciable assets are restricted to deduct as given in S.14 (2).

'Improvement' is defined which helps to identify repair expenses specifically.

Following new section is added to IRA as S. 15A.

Amendment

S.15A (1) For any year of assessment commencing on or after April 1, 2021, in calculating a person's income from a business, marketing and communication expenses incurred by such person in the production of income during the year of assessment shall be deducted irrespective of whether they are of a capital nature or not

(2) In this section, "marketing and communication expenses" means, any expenses incurred by an

(a) carrying out a market research by such person or any institution in Sri Lanka on his behalf;

(b) the development or production of marketing, advertising and communication campaign to the extent that such development or production is carried out in Sri Lanka;

(c) advertising on mainstream media or social media including television, radio, print or as outdoor advertising;

(d) product launches or campaign activation carried out by such person or by any local institution on his behalf;

(e) development and printing of point-of-sale material by such person or by any local institution on his behalf.

Analysis

The above new section allows specifically to deduct marketing and communication expenses in calculating business income disregarding whether they are of a capital nature or not.

Subject to given conditions (**Refer point 56 – Amendments to Sixth Schedule**), a person shall be entitled to an additional deduction when calculating his income from business for a year of assessment, equal to 100% of the total amount of marketing and communication expenses deducted under section 15A during the three years of assessment commencing from April 1, 2021.

9. Amendment to Section S.16(2)(b) and S.16(4)(b) – Capital Allowances and Balancing Allowances - 1.4.2018

Words in **bold letters stricken off** are substituted by words in **bold letters** in S. 16 (2) (b) and S.16 (4)(b) as follows.

Amendment

16 (2) *Capital allowances are –*

(a) granted in respect of depreciable assets owned and used by a person at the end of a year of assessment in the production of the person's income from a business; and

*(b) calculated in accordance with the provisions of ~~the Second or Fourth Schedule to this Act~~ the **Second, Fourth or Sixth Schedule to this Act.***

16 (4) *Balancing allowances are –*

(a) made in respect of depreciable assets -

(i) realised during a year of assessment; and

(ii) in respect of which Capital allowances have been granted in that year or an earlier year; and

*(b) calculated in accordance with the provisions of ~~the Second or Fourth Schedule to this Act~~ the **Fourth Schedule to this Act.***

Analysis

Method of calculation of capital allowances is given in Fourth Schedule to the IRA while enhancing capital allowances are granted as an investment incentive under Second and Sixth Schedules. Amendment to S.16(2)(b) is a correction of error.

Calculation of balancing allowances on realization of depreciable assets of a business has been limited to the calculation of balancing allowances specified in Fourth Schedule to the IRA. Amendment to S.16(4)(b) clarifies this.

S. 18 (1) and (2) are repealed and those are substituted by following sub-sections.

Amendment

18. (1) The amount of financial cost deducted in calculating an entity's income, other than a financial institution from conducting a business or investment for a year of assessment shall not exceed the amount of financial costs attributable to financial instruments within the limit referred to in subsection (2).

(2) The limit shall be computed according to the following formula:-

AxB-

Where:-

'A' is the total of the issued share capital and reserves of the entity; and

'B' is-

(a) in the case of a manufacturing entity, the number 3; and

-

(b) in the case of an entity other than a manufacturing entity, the number 4.-

S.18(1) The amount of financial costs deducted in calculating the income of a company (other than a financial institution) which is incorporated in or outside Sri

Lanka and having an issued share capital as at the date on which the year of assessment ends, from conducting a business or investment for a year of assessment commencing from April 1, 2021, shall not exceed the limit referred to in subsection (2).

(2) The limit shall be computed according to the following formula: -

A

-- X C

B

'A' = financial cost of the year;

'B' = value of financial instruments on which the financial cost incurred during the year; and

'C' = 4 x total of the issued share capital and reserves of the company as at the end of the year.

Analysis

S.18 restricts the deductible amount of financial cost of a company excluding a financial institution.

Further, amendment specifies that share capital and reserves as the total of issued share capital and reserves of the company as at the end of the year while

original sub-section was silent.

Original sub-section allows only interest attributable to three times of issued share capital and reserves of a manufacturer as allowable expenses for a year of assessment but the amendment allows the interest attributable to

four times of the issued share capital and reserves of a manufacturer.

Financial cost incurred in year of assessment 2021/2022 is fully deductible as a temporary concession. **Refer point 56.**

11. Amendment to Section 19 (3) - Business or Investment Losses - 1.4.2021

Amendment adds following paragraph in **bold letters** to S.19 (3)

Amendment

S. 19 (3) *Notwithstanding the provisions of subsections (1) and (2), where a person makes a loss and if the loss were a profit it would be taxed at a reduced rate, the loss shall be deducted only in calculating income taxed at the same reduced rate, a lower reduced rate or exempt amounts. If the loss were a profit and the profit would be exempt, the loss shall be deducted only in calculating exempt amounts.*

For the purpose of this subsection, where any company has an unrelieved loss from business to deduct in the current year of assessment from a period during which that company had operated as a small and medium enterprise and, if-

(a) the unrelieved loss was a profit in the year of

assessment in which that unrelieved loss was incurred and which would have been taxed at a reduced rate; and

(b) the current year business income is not taxable at the same reduced rate as in the year referred to in the paragraph (a)

that unrelieved loss shall, (subject to paragraph (b) of subsection (1)), be deemed to be a loss (if it would have been a taxable profit) taxed at the same rate of the current year.

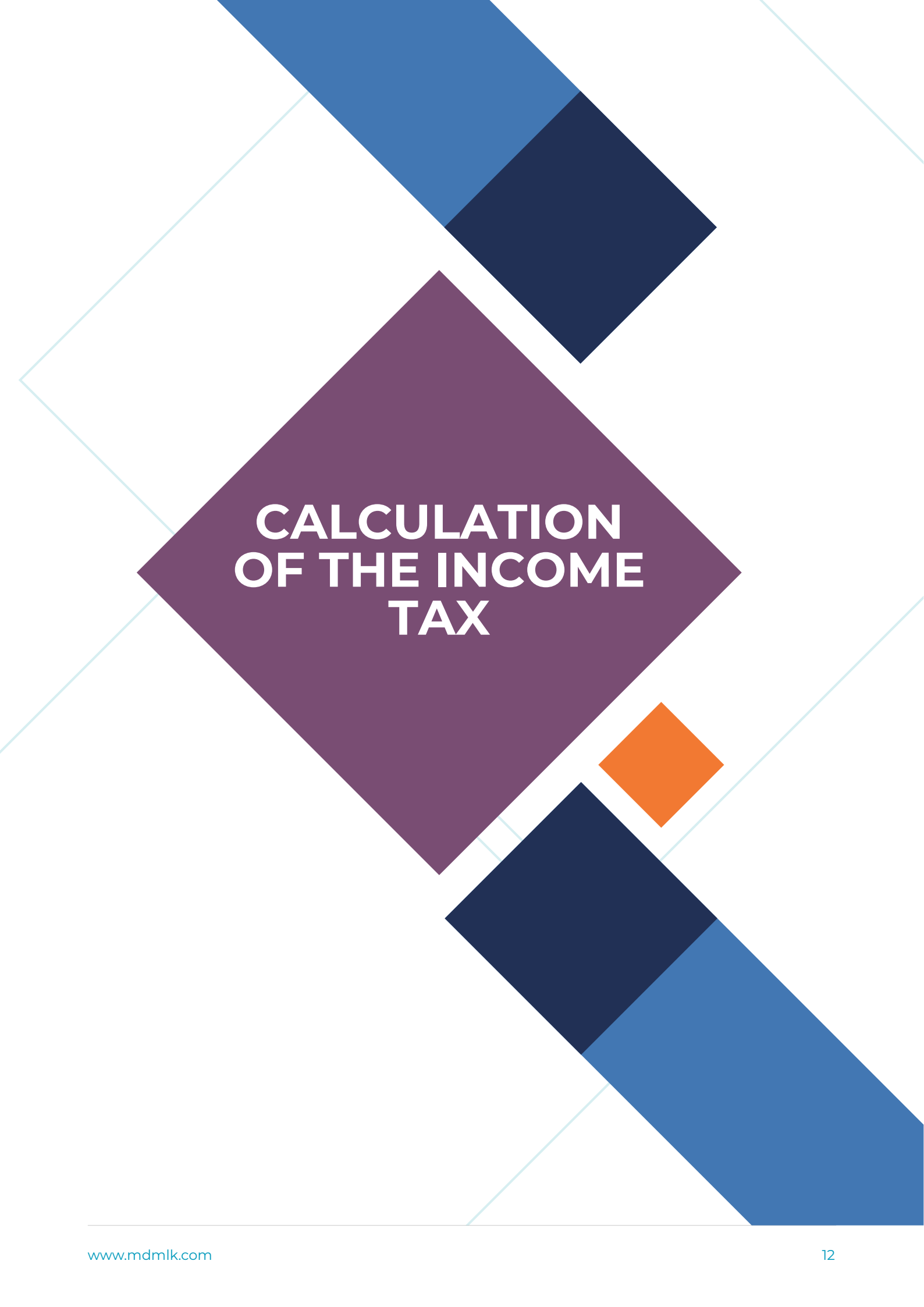
Analysis

The amendment removes previous restriction of deducting brought forward losses by a SME against current higher rate profit.

If a company previously operated as a SME has an unrelieved loss from business from that period

and current year business income is not taxable at same reduced rate as that previous SME period, the unrelieved loss from SME period is deemed to be a loss (if it were a profit) taxed

at the same rate as of current year. Accordingly, such losses of SMEs, which would have been taxable at lower rate if it were a profit, are deductible against current higher rate profit.



CALCULATION OF THE INCOME TAX

Method of Accounting

12. Amendment to Section 20 (2) & 20 (3) - Year of Assessment - 1.4.2018

S. 20 (2) is repealed and substitutes the following subsection.

Amendment

~~S. 20 (2) A trust or company may apply to the Commissioner-General for a change to its year of assessment and the Commissioner-General may, on such terms and conditions as the Commissioner-General thinks fit, approve the change. The Commissioner-General may revoke an approval if a trust or company fails to comply with a term or condition attached to the approval.~~

S. 20(2) Where a trust or company is unable to submit the accounts for the period of twelve months of the year of assessment as provided in subsection (1), such trust or company may apply to the Commissioner-General requesting that the accounts based on an alternative period of twelve months be used to compute the income tax payable for a given year of assessment. The Commissioner-General may approve such request on such terms and conditions as he thinks fit. The Commissioner-General may revoke such approval if the trust or company fails to

comply with terms and conditions attached to the approval.

Words in **bold letters** are added to S. 20 (3) substituting words in **bold letters stricken off** as follows.

Amendment

S. 20(3) A change in a trust or company's year of assessment shall A change approved under subsection (2) shall not result in altering the time at which the trust or company shall pay tax by instalments and on assessment under Chapter VIII.

Marginal note of S.20 is substituted as follows.

Year of assessment

Analysis

Original S. 20 (2) dealt with change of year of assessment. According to amendment, a trust or a company can change its accounting year subject to approval from CGIR.

A trust and company may apply to CGIR to use financial statements prepared for a different period of twelve months other than the period commencing from April, 1 and

ending on March 31 to compute income tax payable for a year of assessment.

Above change shall not result in

altering time at which the trust or company shall pay tax by instalments and on assessment.



ASSETS AND LIABILITIES

Calculation of Gains and Losses

13. Amendment to Section 36 - Calculating Gains and Losses - 1.4.2021

Amendment adds following subsection to S. 36.

Amendment

S. 36 (5) Where, in any year of assessment commencing from April 1, 2021, an asset owned by a person is used in the production of different gains and profits from business (including losses) taxable at different tax rates, the cost of, and consideration received for the asset shall be apportioned among such gains and profits, according to the market value of the parts of the assets used to produce respective gains and profits.

Analysis

Section 36 sets out method of calculation of gains and losses on realization of an asset or a liability. An asset may be used for different businesses activities taxable at different tax rates. When such an asset disposes, amendment requires splitting of cost, and consideration received for the asset among different businesses activities taxable at different rates, according to market value of the parts of the asset used to produce respective gains and profits. Accordingly, assessable charge is split into different businesses to tax at relevant rate applicable for each business.

Amendment adds following subsection 1A to S. 38.

Amendment

S.38 (1A) Notwithstanding anything to the contrary in subsection (1), the consideration received for the realisation of an investment asset of a person shall be the amount received or receivable by the person in respect of such asset or the assessed value at the time of realisation, whichever is higher:

Provided, however, a tax official may determine the consideration received for an asset in terms of subsection (1), if such tax official is of the opinion that the assessed value is not indicative of the market value of such asset.

For the purpose of this subsection, “assessed value” means the value at the time of the realisation, certified by a professionally qualified valuer in a valuation report.

Analysis

In calculating gains from realization of investment assets (capital gains), consideration received for such investment assets will be the amount received or receivable or the assessed value at the time of realization of such asset, whichever is higher. Assessed value is defined as above

However, a tax official decides that the assessed value is not indicative of market value, such official may determine the market value.



TYPES OF PERSONS

Partnerships

15. Amendment to Section 53 - Partnerships – 1.1.2020

Words in **bold letters stricken off** are substituted by words in **bold letters** in S.53(1)

Amendment

S.53(1) Subject to subsection (2), ~~a partnership prior to January 1, 2020, a partnership~~ shall not be liable to pay income tax with respect to its taxable income and shall not be entitled to any tax credit with respect to that income, but shall be liable to pay income tax with respect to withholding payments.

Amendment adds following subsection 1A to S.53.

Amendment

S.53 1A. Every partnership shall be liable to pay income tax with effect from January 1, 2020 at the rate provided for in paragraph 2 of the First Schedule to this Act, separately from its partners.

Analysis

From January 1, 2020, every partnership is liable to pay income tax on its taxable income.

Tax rates are given under point 51.2.

Words in **bold letters** are added to S.53(9) substituting words in **bold letters stricken off**.

Amendment

S.53(9) ~~The precedent partner~~ Prior to January 1, 2020, the precedent partner or in the absence of such partner in Sri Lanka, an agent of the partnership in Sri Lanka, shall withhold tax in accordance with section 84 and at the rate provided for in paragraph 10 of the First Schedule to this Act on each partner's share of any partnership income of the relevant partnership year, excluding the share of any partnership income that includes a gain from the realisation of an investment asset in respect of which tax is payable on assessment by the partnership

Amendment adds following subsection to S.53

Amendment

S.53(10) Each partner in a partnership shall be responsible for performing any duty or obligation imposed by this Act on the partnership in relation to its income tax payable.

Analysis

Each partner in a partnership is responsible in performing duties or obligations under the Act in

relation to income tax payable while before amendment precedent partner or his agent was responsible to deduct the withhold tax.

16. Amendment to Section 55 (4) – Taxation of Partners - 1.1.2020

Words in **bold letters** are added to S.55(4) substituting words in **bold letters stricken off**.

Amendment

*S.55(4) Tax paid under provisions of this Act and foreign income tax paid or treated as paid by partnership with respect to the partnership income shall be allocated to the partners, proportionately to each partner's share, and shall be treated ~~as paid by them.~~ **as paid by them without any right to a refund (but with a right to carry forward to the next succeeding year to deduct as a tax credit in that year) of any excess of such share of tax attributable to such partner.***

The allocation occurs at the time partnership income is treated as derived by the partners under paragraph (b) of subsection 3.

Analysis

Partners of a partnership are entitled for credit for income tax paid by partnership without any right to a refund but with a right to carry forward for next year.

Companies

17. Amendment to Section 60 (2) - Taxation of Companies - 1.4.2021

Words in **bold letters** are added to S.60(2) substituting words in **bold letters stricken off**.

Amendment

*S.60(2) Subject to the provisions of this Act, all business activities of a company shall be treated as conducted in the course of ~~a single company business~~ **a single company business unless different tax rates are applicable to the different***

activities and sources of income, in which case each such different activity and source shall be treated as distinct businesses and sources.

Analysis

Amendment introduces a basis for taxing the gains and profits of business activities of a company.

18. Amendment to Section 62 (2) - Remittance Tax - 1.4.2021

Words in **bold letters** are added to S.62(2)

Amendment

S. 62.2 A non-resident person who has earned remitted profits under subsection (1) shall pay a final tax on the gross amount of the remitted profits to the Commissioner-General in accordance with the rate set out in the First Schedule to this Act on or before the thirtieth day succeeding the date of making such remittances;

Provided however, if a non-resident person retained the total income earned in any

year of assessment commencing on or after April 1, 2021 in Sri Lanka for a minimum period of three years commencing from the first day of the immediately succeeding year of assessment in which the income is earned and invested the same in Sri Lanka to expand its business or to acquire shares or securities from the Colombo Stock Exchange licensed by the Securities and Exchange Commission of Sri Lanka or to acquire any treasury bill, treasury bond or Sri Lanka International Sovereign Bond issued on behalf of the Government of Sri Lanka, the

tax rate on remittances of such retained income invested shall be zero percent.

Analysis

Remittance tax (14% on remitted profits) is not required to be paid by a non- resident person who earns profits and income on or after April 1, 2021 and retained such total profits for minimum of three years by investing in Sri

Lanka to expand its business or to acquire shares or any securities from Colombo Stock Exchange or to acquire treasury bills, treasury bonds or Sri Lanka International sovereign bonds issued on behalf of the Government of Sri Lanka. Whenever such retained and invested profit is remitted after that three years, remittance tax rate is zero.



SPECIAL INDUSTRIES

19. Amendment to Section 66 - Banking business

Words in **bold letters** are added to S.66(2) - **1.4.2018**

Amendment

S. 66(2) Where a person conducting a banking business makes specific provision for a debt claim in accordance with the relevant directives made by the Central Bank of Sri Lanka, the Commissioner-General may specify the extent to which that provision shall be deductible, but a person shall not deduct such provision unless such directives are complied with:

Provided that, where the previously allowed specific provision for a debt claim as a deduction has been reversed, reduced or paid during the year in full or part, the amount so reversed, reduced or paid shall be included in calculating such person's income.

Subsection 66(3) is repealed and following subsection is substituted. - **1.4.2021**

Amendment

S. 66 (3) In this section, "banking business" means the banking business of a financial institution.

S. 66(3) A person conducting a banking business shall, in addition to the records, accounts or any other document required to be prepared as referred to in any

other provision of this Act, prepare and retain the records in respect of specific provision for a debt claim, in such form as may be specified by the Commissioner-General.

Following new subsection 4 is added. - **1.4.2018**

Amendment

S.66(4) In this section-

(a) "banking business" means the banking business of a financial institution;

(b) "debt claim" does not include the right to receive a payment on deposits, debentures, stocks, treasury bills, promissory notes, bills of exchange and bonds;

(c) "directives made by the Central Bank of Sri Lanka" means any directives issued to make specific provisions relating to bad and doubtful debts under subsection (1) of section 76J of the Banking Act, No. 30 of 1988 or under subsection (1) of section 12 of the Finance Business Act, No. 42 of 2011 or under subsection (1) of section 9 of the Finance Companies Act, No. 78 of 1988 by the Central Bank of Sri Lanka and applicable to the relevant year of assessment, but excludes any directives issued in relation to the adaptation of Sri Lanka Accounting Standards

Analysis

As per amendment, when previously deducted specific provision for a debt claim made by a person conducting a banking business is reversed, such reversed amount is required to be included in calculating income.

Further, a person conducting a banking business is required to prepare and retain the records in respect of specific provision for a debt claim as specified by CGIR .

Definitions of 'debt claim' and 'directives made by the Central Bank of Sri Lanka' is added to section.

20. Amendment to Section 68 (1)– Non-Governmental Organizations and Charitable Institutions - 1.4.2018

Words in **bold letters** are added to S.68 (1) substituting words in **bold letters stricken off** as follows

Amendment

*S.68 (1) A non-government organization shall pay ~~additional tax of three percent on amounts~~ **additional tax on three percent of amounts** received in each year of assessment by way of grant, donation or contribution or in any other manner at the rate set out in the First Schedule.*

Analysis

Amendment is for the purpose of clarity.



INTERNATIONAL

Residence and Sources

21. Amendment to Section 70 (1) – Change of Residence - 1.4.2018

Words in **bold letters** are added to S. 70 (1) substituting words in **bold letters stricken off** as follows.

Amendment

S. 70 (1) An individual who is resident in Sri Lanka only by reason of ~~paragraph (c) of subsection (1) of section 69, paragraph (b) of subsection (1) of section 69~~, shall be so resident from the start of the

one hundred and eighty three day period. Otherwise, a person who is resident in Sri Lanka during a year of assessment shall be treated as a resident for the whole of the year.

Analysis

Amendment is an error correction.

Double Taxation Agreements and Mutual Administrative Assistance Agreements

22. Amendment to Section 75 - Double Taxation Agreements and Mutual Administrative Assistance Agreements - 1.4.2018

Amendment repeals S.75(1) and following subsection is substituted.

Amendment

~~75 (1) The Minister may give effect to any double taxation agreement or mutual administrative assistance agreement with a foreign government or governments that has been approved by Parliament and published in the Gazette.~~

75 (1) (a) Where Parliament by resolution approves any double taxation agreement or mutual administrative assistance agreement entered into between the Government of Sri Lanka and the Government of any other territory, or such agreement entered into by the Government of Sri Lanka with the Governments of any other territories, such agreement shall, notwithstanding anything in any other written law, have the force of law in Sri

Lanka. Every such resolution which is so approved by Parliament, shall be published in the Gazette.

(b) Every agreement entered into between the Government of Sri Lanka and the Government of any other territory and having the force of law in Sri Lanka by virtue of the provisions of section 70 of the Inland Revenue Act, No. 4 of 1963, or section 82 of the Inland Revenue Act, No. 28 of 1979, or section 92 of the Inland Revenue Act, No. 38 of 2000, or section 97 of the Inland Revenue Act, No. 10 of 2006 shall be deemed for all purposes to be an agreement approved by Parliament under paragraph (a) of this subsection.

Words in **bold letters** are added to S. 75 (5) substituting words in **bold letters stricken off** as follows.

Amendment

*S. 75(5) "Double taxation agreement" means **an***

~~international agreement relating to the avoidance of double taxation and the prevention~~ international agreement for the purpose of affording relief from double taxation in relation to income tax under Sri Lanka law and any taxes of a similar character imposed by the laws of the other territory, and the prevention of fiscal evasion.

Analysis

Amendment clarifies that any double taxation agreement or mutual administrative assistance agreement have force of law in Sri Lanka notwithstanding anything in any other written law. Further, any agreement having force of law under previous Inland Revenue Acts is deemed to be an agreement approved by Parliament under S.75 (1) (b).

Transfer Pricing

23. Amendment to Section 76 - Profits and Income or Loss from International Transactions between Associates - 1.4.2018

Amendment repeals S.76(2)(b) and following subsection is substituted.

Amendment

76 (2) (b) “*permanent establishment*”—

(i) in relation to a country with which an agreement has been entered into on avoidance of double taxation means, a permanent establishment defined in an agreement for the relief of double taxation where an agreement is in force between the government of Sri Lanka and the government of any territory in which any person and their agencies, branches or establishments in Sri Lanka is resident; or

(ii) in relation to a country with which an agreement has not been entered into on avoidance of double taxation, includes any business connection or a fixed place of business through which the business of the enterprise is wholly or partly carried out irrespective of the number of days of such business carried out in Sri Lanka;

S. 76(2) (b) “*permanent establishment*”, *in relation to a country with which an agreement has been entered into on avoidance of double*

taxation means, a permanent establishment defined in an agreement for the relief of double taxation where an agreement is in force between the Government of Sri Lanka and the Government of any territory in which any person and their agencies, branches or establishments in Sri Lanka is resident.

Words in **bold letters** are added to S. 76 (2) (c) substituting words in **bold letters stricken off** as follows.

Amendment

S. 76 (2) (c) *any income, gains or profits arising, derived or accruing from, or any loss incurred in any transaction between a permanent establishment and its head office or other related branches ~~in Sri Lanka, in which case in Sri Lanka or elsewhere, in which case~~ the permanent establishment shall be treated as a distinct and separate entity from its head office and related branches, shall be ascertained having regard to the arm's length price; and*

Analysis

Amendments to S.76 (2) (b) and S.76 (2) (c) are to clarify subsections.

Words in **bold letters** are added to S. 76 (3) (f) substituting words in **bold letters stricken off** as follows.

Amendment

S. 76 (3) (f) After determining arm's length price of the cases initiated under ~~paragraph (a) or (b) of subsection (2), paragraph (a) or (b) of subsection (3),~~ Transfer Pricing Officer shall prepare a preliminary order determining the arm's length price and refer to the Technical Review Committee which is appointed by the Deputy Commissioner-General of the subject of transfer pricing, for review.

Analysis

Amendment is for an error correction.

Words in **bold letters** are added to S. 76 (3) (g) substituting words in **bold letters stricken off** as follows and items (i) and (ii) of that paragraph are repealed and substituted with following items.

Amendment

S. 76 (3) (g) The Technical Review Committee shall review the determined arm's length price in the preliminary order and shall confirm, ~~reduce or enhance the arm's length price~~ **reduce, enhance or annul the arm's length price** and refer to the Transfer Pricing Officer –

~~(i) a final order, if all the members of the Committee are in agreement; or~~

~~(ii) an interim order in any other circumstances where all the members of the Committee are not in agreement.~~

(i) a final order, where all the members of the Committee are in agreement; or

(ii) an interim order, where the majority of the members of the Committee are in agreement.

Words in **bold letters** are added to S.76 (3) (j) & (l) substituting words in **bold letters stricken off** as follows

Amendment

S.76 (3) (j) ~~Where person or partner of a partnership has not~~ **Where a person has not** communicated their dissatisfaction on an interim order received to the Dispute Resolution Panel, the interim order shall be deemed to be a final order.

(S.76 (3) (l)) ~~Such person or partner of a partnership who is~~ **Such person who is** aggrieved by such assessment made based on the final order, may within thirty days of the notice of assessment make an appeal to the Commissioner-General under Chapter XIII.

Analysis

Amendments to S.76 (3) (g), S.76 (3) (j) and S.76 (3) (l) are to clarify subsections.

Words in **bold letters** are added to S. 76 (4) substituting words in **bold letters stricken off** as follows.

Amendment

S. 76 (4) *The provisions of this section shall not apply in a case where the computation of*

*income ~~under subsection (2)~~ **has under subsection (3)** has the effect of reducing the income, gain or profits chargeable to tax or increasing the loss, as the case may be, computed on the basis of entries made in the books of account in respect of any year of assessment in which the international transaction was entered into.*

Analysis

Amendment is for an error correction.

24. Amendment to Section 77 - Profits and Income or Loss from Transactions between Associates - 1.4.2018

Items (ii) of S.77 (2) (f) is repealed and substituted with following item.

Amendment

S.77 (2) (f) *The Technical Review Committee shall review the determined arm's length price in the preliminary order and shall confirm, reduce or enhance the arm's length price and refer to the Assistant Commissioner -*

(i) a final order, where all the members of the Committee are in agreement; or

(ii) a interim order in any other circumstances where all the members of the Committee are not in agreement.

(ii) an interim order in any other

circumstances where the majority of the members of the Committee are in agreement ;

Words in **bold letters** are added to S.77 (2) (g) substituting words in **bold letters stricken off** as follows.

Amendment

S.77 (2) (g) *Assistant Commissioner shall communicate the final order or the interim order as the case ~~may be to such person or partner of such partnership~~ **may be to such person.***

Analysis

Amendments to S.77 (2) (f) and S.77 (2) (g) are to clarify subsections.

Words in **bold letters** are added to S. 77 (5) (e) substituting **bold letters stricken off** as follows.

Amendment

S. 77 (5) (e) “*Arm’s Length Price*” means for the purpose of ascertaining income, gain or profits arising in, derived or accruing from or losses incurred in any transaction, operation or scheme entered into between two associated enterprises calculated in accordance with

the arm’s length principle, as that ~~where a connected transaction where a controlled transaction~~ is carried out taking into account the terms and conditions that would have been used in comparable independent transactions.

Analysis

Amendment is for an error correction.

25. Amendment to Section 78 (3) – Dispute Resolution Panel - **1.4.2018**

Words in **bold letters** are added to S. 78 (3) substituting words in **bold letters stricken off** as follows.

Amendment

S. 78 (3) *Any person who is dissatisfied with the interim order ~~made by the Transfer Pricing Officer or Assistant Commissioner may~~ made by the Technical Review Committee may* communicate in writing or by electronic mean by himself or by his authorized representative to the Commissioner-General, his dissatisfaction with such interim order.

Every such communication shall be made to the Secretary to the Panel within fourteen days from the date of receipt of such interim order.

Analysis

Amendment is to clarify subsection.



TAX PAYMENT PROCEDURE

Tax Payable by Withholding

26. Amendment to Section 83 – Withholding by Employers - 1.1.2020

Words in **bold letters** are added to S. 83 (1) substituting words in **bold letters stricken off** as follows.

Amendment

S. 83 (1) The Commissioner-General may specify the circumstances in which an employer ~~shall withhold tax shall withhold tax prior to January 1, 2020~~ from a

payment that is to be included in calculating the taxable income of an employee.

Analysis

Amendment limits the obligation of the employer to deduct income tax under PAYE scheme for the periods prior to January 1, 2020.

27. Amendment to Section 83 – Withholding by Employers – 1.4.2020

Following new section is added to S.83 as S. 83A

Amendment

S. 83A (1) An employer shall deduct an Advance Personal Income Tax with effect from April 1, 2020 on any payment which falls under section 5 made to his employee, if such employee -

(a) is a non-resident or non-citizen of Sri Lanka; or

(b) is a resident and citizen of Sri Lanka who gives his consent, as specified by the Commissioner- General.

(2) The obligation of an employer to withhold tax under

subsection (1) shall not be reduced or extinguished when –

(a) the employer has a right or is under an obligation to deduct and withhold any other amount from the payment; or

(b) any other law provides that an employee's income from employment shall not be reduced or subject to attachment.

(3)The provisions applicable to the withholding tax under this Act shall, mutatis mutandis, be applicable to the Advance Personal Income Tax and every reference to the term “withholding”, “withholding tax” or “tax payable by

withholding” in any such provisions of this Act shall, subject to such modification, be deemed to be a reference to the “Advance Personal Income Tax.”

Analysis

Advance Personal Income Tax (APIT) is introduced with effect from April 1, 2020 on employment income and APIT

should be deducted on employment income falls under S. 5 of the IRA made to a non-resident or non-citizen person. APIT should be deducted from resident and citizen employees only if they requested.

28. Amendment to Section 84 – Withholding from Investment Returns - 1.1.2020

Words in **bold letters** are added to S. 84 (1) (a) (i) substituting words in **bold letters stricken off** and after subparagraph (i) a new subparagraph is added as (ii), subparagraph (ii) is renumbered as (iii) and in renumbered subparagraph (iii) words in **bold letters** are added substituting words in **bold letters stricken off**.

Amendment

S. 84 (1) Subject to subsection (3), a person shall withhold tax at the rate provided for in paragraph 10 of the First Schedule to this Act where –

(a) such person –

(i) pays a dividend, interest, discount, charge, natural resource payment, rent, royalty, premium or retirement payment or pays

~~amounts as winnings from a lottery, reward, betting or gambling~~ **retirement payment, prior to January 1, 2020 or**

(ii) pays amounts as winnings from a lottery, reward, betting or gambling; or;

(iii) being the precedent partner or in the absence of such partner in Sri Lanka, the agent of the partnership in Sri Lanka, at the time that each partner’s relevant share of any partnership income of the partnership year under subsection (9) of section 53 **has been allocated; and has been allocated prior to January 1, 2020; and**

(b) the payment or allocation has a source in Sri Lanka.

Analysis

Requirement for deduction of WHT on payment of dividend, interest, discount, charge, natural resource payment, rent, royalty, premium or retirement

payment has been removed with effect from January 1, 2020. WHT in respect of the partner's share of profit allocated by the partnership has been removed with effect from January 1, 2020. .

29. Amendment to Section 84 – Advance Income Tax – 1.4.2020

Following new section is added to S.84 as S. 84A

Amendment

S.84A (1) Subject to section 83A and subsection (3) of section 84, with effect from April 1, 2020, the taxpayer who is resident in Sri Lanka may make a request to the withholding agent to deduct Advance Income Tax from the payment of dividend, interest, discount, charge, natural resource payment, rent, royalty, premium or similar periodic payment that the payment or allocation has a source in Sri Lanka. On the receipt of such request, a withholding agent shall deduct advance income tax as specified by the Commissioner-General.

(2)The provisions applicable to the withholding tax under this Act shall, mutatis mutandis, be applicable to the Advance

Income Tax, and every reference to the term “withholding”, “withholding tax” or “tax payable by withholding” in any such provisions of this Act shall, subject to such modification, be deemed to be a reference to the “Advance Income Tax.”

Analysis

Advance Income Tax (AIT) is introduced with effect from April 1, 2020 on dividend, interest, discount, charge, natural resource payment, rent, royalty, premium or similar periodic payment paid to a resident that has a source in Sri Lanka, as specified by the Commissioner-General. Deduction of AIT is only on the request of the taxpayer.

30. Amendment to Section 85 – Withholding from Service Fees, Contract Payments and Payments to Non-Residents – 1.1.2020

Words in **bold letters** are added to S. 85 (1) substituting words in **bold letters stricken off** as follows.

Amendment

S.85 (1) *Subject to subsection (3), a person ~~shall withhold tax~~ shall, prior to January 1, 2020, withhold tax at the rate provided for in paragraph 10 of the First Schedule to this Act where such person –*

(a) pays a service fee with a source in Sri Lanka to a resident individual who is not an employee of the payer –

(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 through tender or quotation; or

(v) for such other matters as may be prescribed by regulation; or

(b) pays a service fee or an insurance premium with a source in Sri Lanka to a non-resident person.

Analysis

Requirement for deduction of WHT on service fees and contract payments to a resident individual and service fees and insurance premium paid to non-resident person has been removed with effect from January 1, 2020.

Following new section is added to S.85(1) as 1A.

Amendment

85(1A) *Subject to subsections (2) and (3), a person shall withhold tax at the rate provided for in paragraph 10 of the First Schedule to this Act, where such person pays a dividend, interest, discount, charge, natural resource payment, rent, royalty, premium, service fee or an insurance premium with a source in Sri Lanka to a non-resident person ; and*

Analysis

When a dividend, interest, discount, charge, natural resource payment, rent, royalty, premium, service fee or an insurance premium with a source in Sri Lanka is paid to a non-resident person, WHT is required to be deducted at rates given paragraph 10 of the First Schedule.

Words in **bold letters** are added to marginal note of S. 85 substituting words in **bold letters stricken off** as follows.

Amendment

'Withholding from service ~~fees and contract payments fees, contract payments and payments to non-residents~~'

31. Amendment to Section 87 – Withholding Certificates – 1.4.2018

Words in **bold letters** are added to S. 87 (4) substituting words in **bold letters stricken off** as follows.

Amendment

S.87(4) In the case of tax withheld under section 83, a withholding certificate-

(a) shall cover the part of the year during which the employee is employed; and

(b) shall be served not later

than the thirtieth day of April ~~of that year of the subsequent year~~ or, where the employee has ceased employment with the withholding agent during the year, no more than thirty days from the date on which the employment ceased.

Analysis

Amendment is to correct an error.

32. Amendment to Section 88 – Final Withholding Payments

Words in **bold letters** are added to S. 88(1) substituting words in **bold letters stricken off** as follows. – 1.1.2020

Words in **bold letters** are added to S. 88 (1) (d) substituting words in **bold letters stricken off** as follows - 1.4.2018

Amendment

S. 88 (1) For the purposes of this Act, ~~the following shall be the~~

~~final~~ the following shall, prior to January 1, 2020, be the final withholding payments:-

(a) dividends paid by a resident company to a resident person;

(b) interest paid to or treated as being derived by-

(i) a resident individual (other than such amount of interest paid to a senior citizen falling within the relief

threshold in paragraph 2 (d) of the Fifth Schedule to this Act);

(ii) a charitable institution;

(c) amounts paid as winnings from a lottery, reward, betting or gambling, other than amounts received in conducting a business consisting of betting and gaming; and

(d) payments made to non-resident persons that are subject to withholding under this Division, or would be so subject if **paragraph (b) of subsection (2) of section 84 paragraph (b) of subsection (3) of section 84** and paragraph (b) of subsection (3) of section 85 were disregarded, other than payments derived through a Sri Lankan permanent establishment.

Analysis

Above amendment is due to the changes made to the WHT structure. The above are the final withholding payments prior to January 1, 2020.

Amendment to S. 88 (1) (d) is to correct an error.

Following new subsection is added to S.88(1) as 1A.- **1.1.2020**

Amendment

S.88 (1A) For the purposes of this Act, the following shall, on or after January 1, 2020, be the final withholding payments: -

(a) amounts paid as winnings from a lottery, reward, betting or gambling, other than amounts received in conducting a business consisting of betting and gaming;

(b) payments made to a non-resident person who is not a citizen of Sri Lanka or to a non-resident entity that is subject to withholding under this Division, other than payments derived through a Sri Lankan Permanent Establishment; and

(c) interest paid to or treated as being derived by a non-resident individual who is a citizen of Sri Lanka:

Provided however, the following interest amounts shall not be deemed as final withholding payments to such non-resident individual who is a citizen of Sri Lanka: -

(i) such amount of interest paid and falling within the relief threshold in paragraph 2(a) of the Fifth Schedule to this Act; or

(ii) such amount calculated by deducting the total of other sources of assessable income (total assessable income other than interest) from the relief threshold if the total of assessable income from other sources does not exceed the relief threshold.

Analysis

The above are the final withholding payments on or after January 1, 2020.

Words in **bold letters** are added to S. 88 (3) substituting words in **bold letters stricken off** as follows. – **1.4.2018**

Amendment

88(3) *Where a final withholding payment is not subject to withholding (whether by reason of ~~paragraph (b) of subsection (2) of section 84~~ paragraph (b)*

or (d) of subsection (3) of section 84 or paragraph (b) of subsection (3) of section 85 or that the payer is a non-resident) the recipient's tax liability under paragraph (b) of subsection (1) of section 2 with respect to the payment shall be payable by way of instalment and assessment. For the purposes of applying Divisions III and IV, the liability shall be treated as a liability under paragraph (a) of subsection (1) of section 2.

Analysis

Amendment is to correct an error.

Tax Payable by Installment

33. Amendment to Section 90 -Payment of tax by quarterly installment

Words in **bold letters** are added to S.90(1) substituting words in **bold letters stricken off** as follows – **1.4.2018**

Amendment

S. 90. (1) *A person who is an "instalment payer" shall pay tax by quarterly instalments if he derives or expects to derive assessable income during a year of assessment –*

*(a) from a ~~business or investment a business or investment or other income;~~
or*

(b) from an employment where the employer is not required to withhold tax under section 83.

Analysis

Amendment is an error correction to include the income tax payable on the other income under installment payments.

Amendment repeals S.90(2) and following subsection is substituted. – **1.4.2018**

Amendment

~~S.90 (2) An instalment payer shall pay instalments of tax—~~

~~(a) in the case of a person whose year of assessment is a twelve month period ending on the thirty first day of March, on or before the fifteenth day respectively of August, November and February in that year of assessment and the fifteenth day of May of the next succeeding year of assessment; or~~

~~(b) in any other case, on or before the fifteenth day after each three month period commencing at the beginning of each year of assessment and a final instalment on or before the fifteenth day after the end of each year of assessment, unless it coincides with the end of one of the three month periods.~~

S.90 (2) An instalment payer shall pay instalments of tax for the year of assessment on or before the fifteenth day respectively of August, November and February in that year of assessment and the fifteenth day of May of the next succeeding year of assessment.

Analysis

Amendment is to clarify subsection.

Words in bold letters are added to S.90(3) – 1.4.2020

Amendment

S.90 (3) Subject to subsections (4) and (5), the amount of each instalment of tax payable by an instalment payer for a year of assessment shall be calculated according to the following formula:—

$$\frac{A - C}{B}$$
where

'A' is the current estimated tax payable under section 91 or 92 by the instalment payer for the year of assessment;

'B' is the number of instalments remaining for the year of assessment including the current instalment; and

'C' is the sum of any –

(a) tax paid during the year of assessment, but prior to the due date for payment of the instalment, by the person by previous instalment under this section;

(b) tax withheld under Division II during the year, but prior to the due date for payment of the instalment, from payments received by the person that are included in calculating the person's income for the year; and

(c) tax paid in accordance with subsection (3) or (4) of section 86

that is paid to the Commissioner- General by a withholding agent or the person as withholder during the year but prior to the due date for payment of the instalment:

Provided however, in calculating the estimated tax payable by an instalment payer, the Advance Personal Income Tax deducted by an employer or to be deducted by an employer for the year of assessment may be deducted prior to applying the formula given in this subsection.

Analysis

According to amendment, if APIT is deducted or deductible by the employer, tax liability on employment income can be disregarded in application of formula given above.

Words in **bold letters** are added to S.90(5). – **1.4.2020**

Amendment

S.90 (5) *An instalment payer shall be entitled to a tax credit for a year of assessment in an amount equal to the tax paid by way of instalment for the year. **Notwithstanding anything to the contrary in section 55 (but without any right to a refund), a partner in a partnership shall be entitled to a tax credit in calculating the amount of current instalment of tax payable for such share of tax***

credit amount treated as being paid by the partner, but subject to the payment of the same instalment due by the partnership.

Analysis

A partner of a partnership is entitled to a tax credit for his share of installment tax paid by partnership in calculating current installment payable by such partner.

Tax Payable on Assessment

34. Amendment to Section 93 – Return of Income and Capital Gains

Words in **bold letters** are added to S.93(2)(a)(i) substituting words in **bold letters stricken off** as follows. – **1.4.2018**

Amendment

S.93(2) *A return of income of a person for a year of assessment shall subject to any instructions by the Commissioner- General-*

(a) be in the manner and form specified by the Commissioner-General and furnishing the following details :-

*(i) the person's assessable income for the year from each employment, ~~business,~~ **investment business, investment and other income** and the source of that income;*

Analysis

Amendment is an error correction.

Amendment repeals S.93(3) and following subsection is substituted. – **1.4.2021**

Amendment

S.93 (3) Every person with taxable income consisting of a gain from the realisation of an

investment asset shall file with the Commissioner-General a capital gains tax return not later than one month after that realisation.-

S.93 (3) Every person with taxable income consisting of a gain from the realisation of an investment asset shall file with the Commissioner-General a capital gains tax return within thirty days after the end of the relevant calendar month in which the realisation occurred.

Analysis

A single return can be submitted for all capital gain transactions in a calendar month within thirty days after the end of the relevant calendar month in which the realisation occurred.

35. Amendment to Section 94 – Return of Income not required - 1.4.2019

Words in **bold letters** are added to S.94(1)(a)(ii) substituting words in **bold letters stricken off** as follows.

Amendment

S.94. (1) *Subject to subsection (2), a return of income for a year of assessment shall not be required under section 93 from –*

(a) a resident individual –

(i) who has no tax payable for the year under paragraph (a) of subsection (1) of section 2; or

(ii) whose tax payable for the year under paragraph (a) of subsection (1) of section 2 relates exclusively to income from employment ~~subject to~~

~~*withholding under section 83 subject to withholding under section 83 prior to April 1, 2019; or*~~

(b) a non-resident person who has no tax payable for the year under paragraph (a) of subsection (1) of section 2.

Analysis

Amendment makes the submission of income tax returns compulsory for employees irrespective of fact whether APIT is deducted by an employer (except non-resident employees unless they have taxable income from other sources which is not liable for withholding of income tax).

36. Amendment to Section 95 – Assessment – 1.4.2021

Words in **bold letters** are added to S.95.

Amendment

S.95. *A return of income or capital gains tax return filed under section 93 shall result in a self-assessment.*

Provided however, capital gains tax returns filed in relation to any gains from the realisation of an investment asset received or derived during a year of assessment by a self-assessment

taxpayer who is required to file a return of income under subsection (1) of section 93 for the same year of assessment, shall not result in a self-assessment.

Analysis

A capital gain return filed by a taxpayer, who is required to file a return of income under S.93(1) of the IRA will not result in a self-assessment.



ADMINISTRATION PROVISIONS

Tax Payer Registration and Tax Payer Identification Numbers

37. Amendment to Section 103 – Taxpayer Identification Number – 1.4.2021

Words in **bold letters** are added to S.103 substituting words in **bold letters stricken off** as follows.

Amendment

S.103. (1) *The Commissioner-General shall assign a unique TIN to every taxpayer which shall be used in all correspondence relating to the administration of ~~this Act~~ **this Act** and in all tax related source*

documents or underlying documents of the taxpayer.

Analysis

Amendment introduces a mandatory provision to use Tax Identification Number in all tax related source documents or underlying documents of the tax payer.

Communications, Forms and Notices

38. Amendment to Section 113 – Application of Electronic Tax System – 1.4.2021

Words in **bold letters** are added substituting words in **bold letters stricken off** and following new subsection is added to S.113.

Amendment

S.113. (1) *Notwithstanding any other provisions of this Act, the Commissioner-General may authorise the following to be done either in writing or electronically through a computer system or mobile electronic device:-*

(a) the lodging of an application for registration under this Act;

*(b) ~~the filing~~ **subject to***

~~subsection (1A), the filing of a tax return or other document under this Act;~~

.....

(1A) A company which is incorporated in or outside Sri Lanka or a public corporation shall only file its tax returns electronically through the use of a computer system or mobile electronic device.

Analysis

It is compulsory to file tax returns electronically for companies incorporated in or outside Sri Lanka.

Record Keeping and Information Collection

39. Amendment to Section 120 – Accounts and Records – 1.4.2021

Following **new subsection** is added to S.120.

Amendment

S. 120 (1A) With effect from the year of assessment commencing from April 1, 2021, where any person is engaged in business or investment activity and the income tax payable shall be calculated by applying different tax rates for such part of taxable income from any gains and profits from business or investment activity or may have exempted amounts as the case may be, such person shall maintain and prepare the financial statements to separately identify such part of

taxable income from gains and profits in applying each income tax rate to each part of the taxable income or to identify the exempted gains and profits.

Analysis

If different tax rates are applied in calculating income tax payable by a person engaged in business or investment activity or such person has exempt income, separate accounts should be maintained to identify taxable income from each gain or profits which are liable at different rates or to identify exempted gains and profits.

Tax Returns

40. Amendment to Section 126 (5) – Tax Returns – 1.4.2021

S. 126 (5) is repealed and following subsection is substituted.

Amendment

S. 126 (5) Where a return or part of a return was prepared for reward by some other person, including by an approved accountant, other than a full-time employee of the taxpayer, that other person shall also sign the return.

S. 126 (5) Where a return or part of a return was prepared for a payment by any person, including by an approved accountant, such person shall certify separately specifying the extent to which he was involved in the preparation of such return and specify the documents examined by him and the information relied upon by him. Such certification

shall be submitted along with the return and the said certification shall be deemed to be part and parcel of the said return.

Analysis

Where a return or part of return was prepared for a payment by any person, a separate certification from the said

person specifying the extent he was involved in preparation of the return and specifying the documents examined by him and the information relied upon by him, should be submitted along with the return as a part and parcel of the return.

41. Amendment to Section 129 – Information Returns and Annual Statements – 1.4.2018

Words in **bold letters** are added to S. 129 substituting words in **bold letters stricken off**.

Amendment

S. 129 The provisions of this Act relating to ~~returns shall apply to a person required under this Act to file a return of information related returns, assessments, objections and appeals shall apply to a person required under this Act to file a return of information or annual statement related~~ to matters other than the person's own tax liability.

Analysis

Amendment is to broaden the purview of S.129 of the IRA.

Words in **bold letters** are added to marginal note as follows.

Amendment

*Information Returns **and annual statements***

Objections and Appeals

42. Amendment to Section 139 - Administrative Review

Subsection 3 and 5 of S.139 are repealed and are substituted by following new subsections.

1.4.2018

Amendment

~~S. 139 (3) Where the request is an objection against an assessment which has been made in the absence of a return required to be made, the notice of request relating to the objection shall be sent together with a return duly made.~~

S. 139 (3) Where the request for review is an objection against an assessment which has been made in the absence of a return or annual statement required to be furnished, such request shall be sent together with a duly filled return or annual statement, as the case may be.

1.4.2021

Amendment

~~S.139 (5) The Commissioner-General shall consider the taxpayer's request and notify the taxpayer in writing of the Commissioner-General's decision and the reasons for the decision. Taxpayer's request shall be considered by a tax official other than the tax official who made the assessment or other decision.~~

S. 139 (5) (a) On receipt and acknowledgement of a tax payer's request for review under subsection (4), Commissioner-General shall review the assessment or other decision and notify the taxpayer in writing of the Commissioner-General's decision and the reasons for the decision.

(b) The tax payer's request for review shall be considered by a tax official other than the tax official who made the assessment or other decision.

Words in **bold letters** are added to S.139 (6) substituting words in **bold letters stricken off**.

1.4.2021

Amendment

S. 139 (6) Commissioner-General shall give effect to the decision referred to in subsection (5) by confirming an existing assessment or making an amended assessment (including for a nil amount) or an additional assessment ~~in accordance with this Act, in accordance with this Act, but notwithstanding time limits specified in subsections (2) and (3) of section 135,~~ or taking such other necessary action to give effect to that decision.

Analysis

Amendment is to broaden the purview of S.139 of the IRA.

43. Amendment to Section 140 – Appeal from Administrative Review – 1.4.2021

Words in **bold letters** are added to S. 140 (1) substituting words in **bold letters stricken off**.

Amendment

S.140. (1) *A person aggrieved by the decision of **administrative review under section 139** may appeal against the decision to **administrative review of an assessment under section 139** may appeal against that decision of review to the Tax Appeals Commission.*

Words in **bold letters** are added to S. 140 (2) substituting words in **bold letters stricken off**.

Amendment

S.140 (2) *An appeal to the Tax Appeals Commission shall not be made unless a request for administrative review has first been made, and —*

(a) a decision has been received from the Commissioner-General; or

*(b) **ninety days have lapsed seven months have lapsed** since the request for administrative review was made.*

Subsection 5 and 6 of S.140 are repealed and are substituted by following new subsections.

Amendment

~~*S. 140 (5) Notice of an appeal under this section shall be given in writing to the Tax Appeals Commission with a copy to the Commissioner-General within thirty days from the date of the decision of the Commissioner-General under section 139.*~~

S. 140 (5) *A petition of appeal under this section shall be filed in writing to the Tax Appeals Commission with a copy to the Commissioner-General within thirty days from the date of receipt of the decision of the Commissioner-General or within thirty days from the date on which the period of seven months lapsed since the request for administrative review was made under section 139.*

Analysis

A taxpayer who is aggrieved by the decision on administrative review of an assessment may appeal to the Tax Appeals

Commission within thirty days from the date of receipt of the decision of the Commissioner General or within thirty days from the date on which the period of seven months lapsed since the request for administrative review was made.

Amendment

S. 140 (6) Notwithstanding the provisions of subsection (5), the appellant may appeal against an assessment or other decision upon satisfying the Tax Appeals Commission that owing to absence from Sri Lanka, sickness, or other reasonable cause the appellant was prevented from giving notice of appeal within thirty days as required under subsection (2), and that there has

been no unreasonable delay on the appellant's part.

S. 140 (6) Notwithstanding anything to the contrary in subsection (5), the appellant may appeal against an assessment upon satisfying the Tax Appeals Commission that owing to absence from Sri Lanka, sickness, or other reasonable cause the appellant was prevented from filing a petition of appeal as required under subsection (2), and that there has been no unreasonable delay on the appellant's part.

Analysis

Amendment is to clarify subsection.

Interest

44. Amendment to Section 157 – Interest on Under Payments and Late Payments – **1.4.2018**

Words in **bold letters** are added to S. 157 (1) substituting words in **bold letters stricken off**.

Amendment

S.157. (1) If an amount of tax is not paid by the due date, the taxpayer shall be liable for interest on the amount for the period from the due date (determined without having regard to ~~an extension of time~~) **under section 151 to the date an extension of time under section 151) to the date the tax is paid.**

Analysis

Amendment is to correct an error.

Current marginal note of S.157 'Interest on under payments' is substituted by the following marginal note.

Amendment

'Interest on under-payments and late payments'

45. Amendment to Section 158 – Interest on Refundable Amounts

S.158 (1) is repealed and is substituted by following new subsection. – **1.4.2018**

Amendment

S.158. (1) Where the Commissioner-General is required to refund an interest amount, it shall be paid to the taxpayer from the later of—

(a) the due date; or

(b) the date the tax was paid,

until the date on which the refundable amount is paid.

S. 158 (1) Where the Commissioner-General is required to refund a refundable amount under this Act to a taxpayer, an interest shall be paid on such refundable amount to the taxpayer from the date of the refund claim filed until the

date on which the refundable amount is paid.

Words in **bold letters** are added to S. 158 (2) substituting words in **bold letters stricken off.** – **1.4.2021**

Amendment

S. 158 (2) *Notwithstanding the provisions of subsection (1), no interest shall be payable in respect of a refund that is based on a claim for refund and is paid to the taxpayer ~~within sixty days of~~ **within six months** of the filing of the claim for refund.*

Analysis

Amendment is to extend the time period available to the Commissioner General to make a refund to the tax payer without paying interest.

46. Amendment to Section 159 – Interest Rate – **1.4.2018**

Words in **bold letters** are added to S. 159 (1) and S. 159 (2) substituting words in **bold letters stricken off.**

Amendment

S.159. (1) *The interest rate for payments pursuant to section 157 shall be one and one-half per cent per month or part month, ~~compounded monthly~~ **computed monthly.***

S.159. (2) *The interest rate for payments pursuant to section 158 shall be one and one-half per cent per month or part month, ~~compounded monthly~~ **computed monthly***

Analysis

Amendment is to correct an error.

Criminal Proceedings

47. Amendment to Section 190 – Impeding Tax Administration – 1.4.2021

Following new section is added to S.190 as S.190A.

Amendment

Punitive provision for fraudulently prepared or certified documents (marginal heading of 190A)

190A. Any person who fraudulently-

(a) prepares any document or information; or

(b) certifies a document

to be furnished to the Commissioner-General of Inland Revenue, commits an offence under the this Act, and

on conviction after summary trial before a Magistrate, be liable to a fine not exceeding One Million Rupees or to imprisonment of either description for a term not exceeding six months.

Analysis

Any person who fraudulently prepares any document or information or certifies a document to be furnished to CGIR is liable to a fine not exceeding one million rupees or to imprisonment of either description for a term not exceeding six months.

Interpretation

48. Amendment to Section 195 – Interpretation

Agricultural business – 1.4.2019

Definition of 'agricultural business' is substituted repealing existing definition.

Amendment

“agricultural business” means the business of producing agricultural, horticultural or any

animal produce and includes an undertaking for the purpose of rearing livestock or poultry

“agricultural business” means the business of agro farming or agro processing, but excludes farming of, or processing of liquor or tobacco produces or products, as the case may be;

“agro farming” means-

(a) the tillage of the soil and cultivation of land with plants of any description, cultivation in green house, bee-keeping, rearing of fish, shrimp farming or animal husbandry, poultry farms, hatchery, veterinary or artificial insemination services;

(b) the cleaning, sizing, sorting, grading, cutting or chilling of any produce produced out of any activity referred to in paragraph (a) by any person who is engaged in any such activity, in preparation of such produce for the market but excludes the agro or food processing;

“agro processing” means the processing of any locally produced agricultural, fishing, or animal product and includes an undertaking for the dehydrating, milling, packaging, canning for the purpose of changing the form, contour or physical appearance of such product in preparation for the market but excludes an undertaking of deep-sea fishing or manufacturing;”

Dividend – 1.4.2018

Amendment

(a) means a payment derived by a member from 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~~ share buy-back or otherwise;

(b) includes a capitalisation of profits –

(i) whether by way of a bonus share issue, increase in the amount paid-up on shares or otherwise; and

(ii) whether an amount is distributed or not; and

(c) excludes a payment to the extent to which it is –

(i) matched by a payment made by the member to the company;

(ii) debited to a capital, share premium or similar account; or

(iii) otherwise constitutes a final withholding payment or is included in calculating the income of the member;

Entertainment – 1.4.2018

Words in **bold letters** are added to definition ‘entertainment’ substituting words in **bold letters stricken off**.

Amendment

“entertainment” means the provision to any ~~person of food, beverages, tobacco, person of liquor, tobacco,~~ accommodation, amusement, recreation or hospitality of any kind;

Analysis

As per general deductions given in S. 10 of IRA, 'outlays or expenses for entertainment' is not allowable deduction. According to amendment, providing liquor falls into definition of entertainment while provision of food and beverages is an allowable deduction.

Manufacture – 1.1.2020

New definition of 'manufacturer' is added as follows.

“manufacture” means a change in a non-living physical object, article or thing-

(a) resulting in transformation of such object, article or thing into a new and distinct object, article or thing having a different name, character or use; or

(b) bringing into existence of a new and distinct object, article or thing with a different chemical composition or integral structure;

Small and Medium Enterprise – 1.4.2020

Paragraph (b) is substituted by following new paragraph and a new paragraph is added after paragraph (c) as follows.

Amendment

“Small and Medium Enterprise”

means a person who satisfies the following conditions:—

(a) the person who 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

(b) subject to paragraph (d) the person does not have an associate that is an entity;

(c) the person's annual gross turnover is less than Rs. 500,000,000;

(d) the person's or his associate's aggregate annual gross turnover is less than Rs.500,000,000, if such associate is an entity or entities;

Specified undertaking – 1.4.2021

Words in **bold letters** are added to definition 'specified undertaking'.

Amendment

“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;

(l) sale of goods manufactured in Sri Lanka by an export-oriented company 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, to-

(i) any company 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 including a company enjoying tax holidays under the Strategic Development Projects Act, No. 14 of 2008 and which is permitted to import project related goods or raw materials on duty free basis under the provisions of such agreement, during the project implementation period; or

(ii) any person eligible to import specific goods on duty free basis under any Government Authority,

but, up to the quantity approved by the Board of Investment of Sri Lanka as import replacement within the three years period commencing on April 1, 2021;

(m) bunkering services provided for the supply of marine fuel, including the supply of marine fuel to local bunker suppliers within a specified port premises;

Sri Lankan permanent establishment – 1.4.2018

Definition of 'Sri Lankan permanent establishment' is substituted repealing existing definition.

Amendment

~~“Sri Lankan permanent establishment” means a place in Sri Lanka where a non-resident person carries on business or that is at the disposal of the person for that purpose and includes—~~

~~(a) a place in Sri Lanka where a person has, or is using or is installing substantial equipment or substantial machinery;~~

~~(b) a place in Sri Lanka where a person is engaged in a construction, assembly or installation project for ninety days or more, including a place where a person is conducting supervisory activities in relation to such a project;~~

~~(c) the provision of services in Sri Lanka, but only if activities of~~

~~that nature continues (for the same or a connected project) for a period of one hundred and eighty three days or more in any twelve month period; and~~

~~(d) a place in Sri Lanka where an agent performs any function on behalf of the business of a non-resident person—~~

~~(i) including, in the case of an insurance business, the collection of premiums or the insurance of risks situated in Sri Lanka; but~~

~~(ii) excluding a case involving a general agent of independent status acting in the ordinary course of business as such;~~

“Sri Lankan permanent establishment” means any business connection or fixed place of business through which the business of the enterprise is wholly or partly carried out, irrespective of the number of days of such business being carried out in Sri Lanka;

Tax Return – 1.4.2018

Words in **bold letters** are added to definition 'Tax Return' substituting words in **bold letters stricken off**.

Amendment

~~“tax return”~~ **means a return, means a return or annual statement, including an information return, that a person is required to file with the Department, in which**

information about that person's or some other person's possible tax liability is provided.

Tertiary and Vocational Education Commission – 1.4.2021

New definition of 'Tertiary and Vocational Education Commission' is added as follows.

Amendment

“Tertiary and Vocational Education Commission” means the Tertiary and Vocational Education Commission established under the Tertiary and Vocational Education Act, No 20. of 1990.

Temporary concessions and Transitional Provisions

49. Amendment to Section 201 - Temporary Concessions – 1.4.2018

Words in **bold letters** are added to section 201 (2) (b) substituting words in **bold letters stricken off**.

Amendment

S.201. (1) The provisions of the Sixth Schedule to this Act provide for concessions of a temporary nature, and apply to modify the application of this Act for the periods set out therein.

(2) Unless expressly stated to the contrary, the provisions

of the Sixth Schedule –

(a) shall be applied strictly and only in accordance with their clear wording; and

*(b) expire **five years seven years** after they become operative.*

Analysis

Temporary Concessions given under the Sixth Schedule are extended till March 30, 2025, subject to the time limitations stated in certain paragraphs of the Sixth Schedule..

Words in **bold letters** are added to section 203 (5) substituting words in **bold letters stricken off**.

Amendment

S.203 (5) *For the purpose of calculating the amount of each instalment of tax payable by an instalment payer under section 90 for the first year of assessment commencing ~~on or after 1 April 2017~~, on or after 1 April 2018, the instalment payer may assume that its current estimated tax payable for that year of assessment is equal to*

the amount of tax that was payable by the instalment payer in the previous year of assessment, increased by an uplift of five percent. A person shall not be required to pay tax by quarterly instalments under section 90 where that person had no tax payable in the previous year of assessment.

Analysis

Amendment is to correct an error.

51. Amendment to First Schedule – Tax Rates

Changes to tax rates brought by the Amendment Act are given below.

1. Tax rates for resident and non-resident individuals

1.1 Except gains from realization of investment assets and types of income mentioned in below 1.2 and 1.3, the taxable income of a resident or non-resident individual commencing from January 1, 2020 shall be taxed at the following rates. **1.1.2020**

Taxable Income	Tax Rate
First Rs. 3,000,000	6%
Next Rs. 3,000,000	12%
Balance	18%

1.2 Income from employment received as commutation of a pension, retiring gratuity, amounts 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, amount paid to a person at or after the time of retirement from employment from the Employees Trust Fund (excluding investment income derived by the fund on or after 1 April, 1987 – exempted under Third Schedule) shall be taxed at the following rates. **1.1.2020**

Terminal Benefits	Tax Rate
First Rs. 10,000,000	0%
Next Rs. 10,000,000	6%
Balance	12%

1.3 Business consisting of betting and gaming, manufacture and sale or import and sale of any liquor or tobacco product – 40% **1.4.2019**

1.4 Consideration received in respect of gems and jewellery – Maximum 14% **1.4.2021**

1.5 Amounts received on supply of electricity to national grid generated by using renewable energy resources – Maximum 14% **1.4.2021**

1.6 Gains from the realization of investment assets will be continued to tax at 10%.

2. Tax rate for partnerships

Taxable income of a partnership shall be taxed at the following rates with effect from January 1, 2020: - **1.1.2020**

Taxable Income	Tax Rate
First Rs.1,000,000	0%
Balance	6%

Taxable income of a partnership from the realization of investment assets will be continued to tax at 10% **1.4.2018**

3. Tax rates for trusts.

*Taxable income of a trust for a year of assessment to which subsection (1) of section 57 applies shall be **taxed at 18% with effect from January 1, 2020. 1.1.2020***

Taxable income of a trust from the realization of investment assets will be continued to tax at 10%.

4. Tax rates for companies.

(1) Standard tax rate for companies – 24% **1.1.2020**

(2A) *Such part of the gains and profits of a company for a year of assessment shall be taxed at the following rates with effect from January 1, 2020:- **1.1.2020 other than (k) , (l) and (ll)***

(a) gains and profits from the business of a Small and Medium Enterprise, excluding such gains and profits from a business of betting and gaming or from the sale of liquor (in the case of liquor, other than those gains and profits from a business which is merely incidental to another business)- 14%;

Refer amendment to SME definition under point 48 above.

(b) gains and profits from conducting a business of sale of goods or

merchandise including export of goods, where the payment for such sale or export is received in foreign currency and remitted through a bank to Sri Lanka-14%;

(c) gains and profits of a specified undertaking-14%;

Refer amendment to definition of specified undertaking under point 48 above.

(d) gains and profits from providing educational services -14%;

(e) gains and profits of an undertaking for the promotion of tourism-14%;

(f) gains and profits from providing construction services-14%;

(g) gains and profits from agro processing- 14%;

Refer new definition of agro processing under point 48 above

(h) gains and profits from providing health care services-14%;

(i) gains and profits from dividends received from a resident company-14%;

(j) gains and profits derived by any export company which is registered with the Board of Investments of Sri Lanka established by the Board of Investment of Sri Lanka Law, No.4 of 1978

from the consideration received in respect of health protective equipment and similar products supplied to the Ministry of Health, Department of Health Services, Sri Lanka Army, Sri Lanka Navy, Sri Lanka Airforce, Sri Lanka Police and COVID Center- 14%;

(k) gains and profits of any company (even though a higher rate of income tax is applicable as provided under this Act or under any other written law) which lists its shares on or after January, 1 2021, but prior to December 31, 2021, in the Colombo Stock Exchange licensed by the Securities and Exchange Commission of Sri Lanka, for three years of assessment commencing from April 1, 2022 -14%; -
1.4.2021

(l) gains and profits from the consideration received in respect of gems and jewellery – 14%;
1.4.2021

(ll) with effect from April 1, 2021, gains and profits from the supply of electricity to national grid generated using renewable energy resources by a company – 14%;
1.4.2021

(m) subject to item (a), (b), (c), (j) or (k) of this subparagraph, gains and profits from manufacturing-18%;

Refer new definition of manufacturer under point 48 above.

(n) gains and profits from conducting betting and gaming-40%;

(o) gains and profits from the manufacture and sale or import and sale of any liquor or tobacco product-40%

(3) Meaning of 'providing information technology', 'undertaking for the promotion of tourism' and 'predominantly' are included in subparagraph 3. (No change)

(4) Where a company's taxable income includes gains from the realization of investment assets, then-

(a) those gains, shall be taxed to the company at the rate of 10%; and

(b) only the remainder of the company's taxable income shall be taxed at the rate referred to in subparagraph (1)

(5) The income tax payable by a company, calculated in accordance with subparagraphs (1), (2A), (3) and (4) of paragraph 4 of this Schedule shall be reduced as follows: - **1.4.2021**

(a) aggregate income tax payable by any company (including income tax payable calculated on the basis and tax rate provided

in any 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, but other than on gains from the realization of investment assets) which lists its shares on or after January, 1 2021, but prior to December 31, 2021, in the Colombo Stock Exchange licensed by the Securities and Exchange Commission of Sri Lanka, shall be reduced by fifty per centum for the year of assessment commencing from April 1, 2021;

Reduction of income tax payable by a newly listed company-

Aggregate income tax payable by any company ((including income tax payable calculated on the basis and tax rate provided in any 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, but other than on gains from the realization of investment assets) which lists its shares on or after January 1, 2021 but prior to December 31, 2021 in the Colombo Stock Exchange shall be reduced by fifty per centum for the year of assessment commencing from April 1, 2021 (2021/2022).

(b) such part of income tax payable on gains and profits from dividends by any multi-national company shall be reduced by twenty-five per centum for the year of assessment commencing from April 1, 2021 and fifty per centum for the two years of assessment immediately succeeding that year of assessment, subject to the condition that there shall be-

(i) an increase in exports (other than specified undertakings) by thirty per centum in the year of assessment commencing from April 1, 2021, compared to the immediately preceding year of assessment (hereinafter referred to as the “first year”); or

(ii) an increase in exports (other than specified undertakings) by fifty per centum in the year of assessment commencing from April 1, 2022, compared to the first year and maintains such status in the subsequent year of assessment.”;

Reduction of income tax payable on gains and profits from dividends by a multinational company-

Income tax payable on gains and profits from dividend by any multi-national company shall be reduced by twenty five percent for the year of assessment 2021/2022 and fifty percent for the years of assessment 2022/2023 and 2023/2024 subject to the fulfillment of conditions either,

- increase in exports (other than specified undertakings) by thirty per centum in year of assessment 2021/2022 compared to year of assessment 2020/2021; or

- increase in exports (other than specified undertakings) by fifty per centum in year of assessment 2022/2023 compared to year of assessment 2020/2021 and maintains such status in the subsequent year of assessment (increase in exports by fifty per centum in year of assessment 2023/2024 compared to year of assessment 2020/2021)

5. Tax rates for unit trusts or mutual funds.

*Taxable income of a unit trust or mutual fund to which section 59 applies for a year of assessment shall be **taxed at the rate of 24% with effect from January 1, 2020. 1.1.2020***

Taxable income of a unit trust or mutual funds from the realization of investment assets will be continued to tax at 10%.

6. Tax rate for charitable institutions – 14% (other than gain from realization of investment assets which is taxable at 10%) (no change)

7. Tax rates for non-governmental organizations. 1.1.2020

*Taxable income of a non-governmental organization for a year of assessment shall be **taxed at the rate of 24% with effect from January 1, 2020.***

*Rate of tax payable by a non-governmental organization on amounts received in a year of assessment by way of grant, donation or contribution or in any other manner under section 68 shall be **taxed at the rate of 24% with effect from January 1, 2020.***

Taxable income of a non-governmental organization from the realization of investment assets will be continued to tax at 10%.

8. Tax Rates for Employees Trust Funds, Provident, Pension or Gratuity Funds and Termination Funds. 1.4.2018 – 14% (no change)

9. Remittance tax

Remittance tax rate by a non-resident on remitted profits – 14% (no change)

Tax rate for retained profits under S.62 (2) – 0% (refer point 18 above)

10. Withholding tax rates.

1.1.2020 except no. (i) and (ii)

Deduction of WHT currently applicable is as follows.

(i) Advance Personal Income Tax (APIT) on employment income 1.4.2020

APIT should be deducted on the payments of employment income to the non-residents or non-citizens, and residents and citizens who have given consent for the deduction as specified by the Commissioner-General in the APIT tables.

(ii) Advance Income Tax (AIT) and withholding tax on the payments made to residents 1.4.2020

AIT should be deducted on the payments of dividend, interest, discount, charge, natural resource payment, rent, royalty, premium or similar periodic payments that has a source in Sri Lanka, paid to residents in Sri Lanka who have requested to deduct the AIT, at the rates stated below.

(a) Resident individuals at the rate 6%, 12% or 18% as stated in the declaration.

(b) Person other than resident individual

-On the payments to partnership at the rate of 6%.

-On the dividend payable to the resident Company at the rate of 14%.

-On the payments to charitable institutions at the rate of 14%.

-On the payments to the employees' trust funds, provident funds, pension funds or terminal funds at the rate of 14%

-On other resident entities at the rate of 24%

WHT on amounts paid as winnings from lottery, reward, betting or gambling to any person - 14%.

WHT on sale price of gem sold at auction conducted by the National Gem and Jewellery Authority - 2.5%.

(iii) WHT on payments made to non-residents

Where a person pays a dividend, interest, discount, charge, natural resource payment, rent, royalty, premium, service fee or an insurance premium with a source

in Sri Lanka to a non-resident withholding tax should be deducted as follows-

(a) interest or discount paid -5%

(b) all other cases payments - 14%.

WHT on land, sea or air transport or telecommunication services S. 85 (2) (a) – 2%

WHT on amounts paid as winnings from lottery, reward, betting or gambling - 14%.

WHT on sale price of gem sold at auction conducted by the National Gem and Jewellery Authority - 2.5%.

11. Tax rate for persons who engage in agro farming together with agro processing or manufacturing 1.4.2021

Where a person utilizes agro farming produce produced by him for his agro processing or manufacturing business activity in Sri Lanka, such portion of the tax payable in respect of such agro processing or manufacturing business activity that corresponds to the proportion of the farming produce produced by him to the total farming produce utilized in such agro processing or manufacturing, shall be reduced by twenty-five per centum, for the period of five years of assessment commencing on April 1, 2021.

Refer new definition of agro farming, agro processing and manufacturer under point 48 above.

12. Application of tax rates for different gains and profits

1.4.2020

Where a person's taxable income consists of different sources of income or gains and profits from different business activities, the income tax rates applicable to each such source of income or such gains and profits from such different business activities shall be applied to such source of income or such gains and profits.

In the first schedule different tax rates are given for different sources and profits from different business activities. Where a person's taxable income is consisted of different sources and profits from different business activities, relevant tax rate should be applied for each source and profits from different business activities.

Amendments made to Second Schedule are given below.

Words in **bold letters** are added to subparagraph (2), (3), (4), (6) of paragraph 1 substituting words in **bold letters stricken off** as follows.

Enhanced Capital Allowances

1. (1) A person who invests in Sri Lanka (other than the expansion of an existing business) during a 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.

(2) A capital allowance of 100% of the expenses incurred by a person on depreciable assets, other than intangible assets during a year of assessment shall be granted to that person for that year if the ~~total expenses incurred by that person during that year total investment made by that person~~ on depreciable assets (other than intangible assets) that are used in a part of Sri Lanka other than the Northern Province exceeds USD 3 million but does not exceed USD 100 million. **1.4.2018**

(3) A capital allowance of 150% of the expenses incurred by a person on depreciable assets other than intangible assets during a year of assessment shall be granted to that person for that year if the ~~total expenses incurred by that person during that year total investment made by that person~~ on depreciable assets (other than intangible assets) that are used in a part of Sri Lanka other than the Northern Province exceeds USD 100 million. **1.4.2018**

(4) A capital allowance of 200% of the expenses incurred by a person on depreciable assets other than intangible assets during a year of assessment shall be granted to that person for that year where the ~~total expenses incurred by that person during that year total investment made by that person~~ on depreciable assets (other than intangible assets) that are used in the Northern Province exceeds USD 3 million. **1.4.2018**

(5) A capital allowance of 150% of the expenses incurred by a person on assets or shares of a state owned company during a year of assessment shall be granted to that state owned company for that year if the total expenses incurred by that person during that year on

assets of a state owned company that are used in a part of Sri Lanka exceeds USD 250 million.

(6) Capital allowances arising under a subparagraph of this paragraph 1 with respect to a particular year of assessment cannot be accumulated with another subparagraph and shall be taken in that year and **shall be deferred shall not be deferred** to a later year of assessment. **1.4.2018**

Assessable Charges and Balancing Allowances 1.4.2021

Subparagraph (9) of Paragraph 1 is repealed and is substituted by following subparagraph.

(9) Where an asset for which Capital allowance has been granted under this paragraph is disposed of (or deemed to be disposed of) during a year of assessment —

(a) if the consideration received for the disposal exceeds the written down value of the asset, the excess shall be included in calculating a person's income for a year of assessment from a business in which the depreciable assets are or were employed; and

(b) if the written down value of the asset exceeds the consideration received for

the disposal, an additional Capital allowance shall be granted for the year in an amount equal to the excess.

Refer point 54 – Balancing allowances and assessable charges

Improvements on Leasehold Lands 1.4.2021

(9) Notwithstanding anything to the contrary in any other provision of this Act, for the purpose of this Schedule, any building, structure, or similar work of a permanent nature constructed or made in a leasehold land by the person who made the investment shall not be deemed as an intangible asset but deemed as a depreciable asset.

Amendment is to allow enhanced capital allowances for building or similar work of a permanent nature constructed on a leasehold land.

Paragraph 2 and 3 are repealed and is substituted by following paragraphs.

Exemption of Certain Dividends from Withholding Tax 1.4.2021

2. Notwithstanding anything in the First Schedule, the rate of tax to be withheld from a dividend paid by a company to a non-resident member shall be

zero, if the company paying the dividend has incurred more than USD 1,000 million on depreciable assets (other than intangible assets) in Sri Lanka or entitled to an enhanced capital allowance under subparagraph (5) of paragraph 1, and that dividend is paid out of profits sheltered by enhanced Capital allowances under this Schedule.

Exemption of Certain Dividends from Withholding Tax 1.4.2021

2. Notwithstanding anything in the First Schedule, the rate of tax to be applied on a dividend paid by a company to a non-resident member prior to January 1, 2020 shall be zero, if the company paying the dividend has incurred more than USD 250 million on depreciable assets (other than intangible assets) in Sri Lanka, for the period in which that payment is made out of profits sheltered by enhanced capital allowances under this Schedule.

Exemption of Employment Income from Withholding Tax 1.4.2021

3. Notwithstanding anything in the First Schedule, the rate of tax to be withheld from a payment made by an employer to an expatriate employee shall be zero, if the company paying the dividend has incurred more than USD 1,000 million on depreciable assets (other than intangible assets) in Sri Lanka or

entitled to an enhanced capital allowance under subparagraph (5) of paragraph 1, and that dividend is paid out of profits sheltered by enhanced Capital allowances under this Schedule, where the number of expatriate employees is not exceeding twenty.

Exemption of Employment Income 1.4.2021

3. Notwithstanding anything in the First Schedule, the rate of tax to be applied on employment income of an expatriate employee shall be zero, if the company making the payment has incurred more than USD 250 million on depreciable assets (other than intangible assets) in Sri Lanka, for the period in which that payment is made out of profits sheltered by enhanced capital allowances under this Schedule, or for five years from the commencement of commercial operations, whichever is higher, where the number of expatriate employees at any time during that period does not exceed twenty.

Following are the new exemptions introduced under the Amendment Act.

Retirement Benefit

1. An amount paid to an employee at the time of retirement from a **regulated provident fund**; **1.4.2018**

Gain from realization of land and building sold to REITs

2. A gain made by a person on or after April 1, 2021 from the realisation of land or building which was sold, exchanged or transferred to a real estate investment trust listed in the Colombo Stock Exchange and licensed by the Securities and Exchange Commission of Sri Lanka; **1.4.2021**

Interest

3. the interest accruing to or derived by-

(i)

(ii) any person outside Sri Lanka on any loan granted to any person in Sri Lanka or to the Government of Sri Lanka by such person;
1.4.2018

(iii) any person on moneys lying to his credit in foreign currency in any foreign currency account opened by him or on his behalf, in any commercial bank or in any specialized bank, with the approval of the Central Bank of Sri Lanka, on or after January 1, 2020;

1.1.2020

(iv) any person from a term deposit account titled as "Special Deposit Account" opened and maintained with an authorized dealer in Sri Lanka as prescribed by regulations made by the Minister under section 29 read with section 7 of the Foreign Exchange Act, No. 12 of 2017, (excluding the subsequently renewed accounts), either in any designated foreign currency or in Sri Lanka Rupees on or after April 8, 2020; **8.4.2020**

(v) any welfare society, on or after April 1, 2021;

In this subparagraph, "welfare society" means a fund or a society which has been set up or formed for the welfare of its members or their respective families and contributions are made by its members, including benevolent fund which promotes the savings of

members, but other than any company which is incorporated or registered under any law in force in Sri Lanka or elsewhere and a partnership; 1.4.2021

(vi) any multi-national company on any deposit opened and maintained in foreign currency in any domestic bank, if such deposit is maintained to cover its import expenditure for that year of assessment, on or after April 1, 2021. 1.4.2021

In this subparagraph, “multi-national company” means a company that is part of a group of associated companies, with business establishments in two or more countries

Sum received by Public Corporation from Consolidated Fund or loan arranged through Government

4. Any sum received by- 1.4.2018

(i)

(ii) any Public Corporation out of the funds voted by Parliament from the Consolidated Fund or out of any loan arranged through the Government;

Income from Sovereign Bonds, Sri Lanka Development Bonds, Security or Treasury Bonds or Treasury Bills

5. Any income earned by- 1.4.2018

(i) any non-resident person other than a Sri Lankan permanent establishment by way of interest, discount or realization of any gain on any sovereign bond denominated in local or foreign currency;

(ii) any person by way of interest or discount paid or allowed, as the case may be, on any sovereign bond denominated in foreign currency, including Sri Lanka Development Bonds, issued by or on behalf of the Government of Sri Lanka.

6. A gain from the realisation of Sri Lanka international sovereign bonds issued by or on behalf of the Government of Sri Lanka and received or derived by a commercial bank or authorized dealer who made an aggregate investment not less than USD 100 million in such bonds on or after April 1, 2021; 1.4.2021

7. Interest or discount accrued or derived on or after April 1, 2021 by any Samurdhi community-based banks established under the Department of Samurdhi Development from security or treasury bonds under the Registered Stocks and Securities Ordinance (Chapter 420) or treasury bills under the Local Treasury Bills Ordinance (Chapter 417); 1.4.2021

Dividend

8. On or after January 1, 2020, a dividend paid by a resident company- **1.1.2020**

(i) to a member to the extent that such dividend payment is attributable to, or derived from, gains and profits from dividend received by that resident company;

(in this paragraph, “gains and profits from dividend” means the dividend received by that company after the deduction of expenses or losses, if any, subject to the provisions of this Act and income tax paid or payable on such dividend received by that company);

(ii) to a member who is a non-resident person;

(iii) which is engaged in any one or more of the following businesses in accordance with the provisions of Part IV of the Finance Act, No. 12 of 2012 and which 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: -

(iiia) entrepot trade involving import, minor processing and re-export;

(iiib) 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;

(iiic) providing front-end services to clients abroad;

(iiid) headquarters operations of leading buyers for management of financial supply chain and billing operations;

(iiie) logistics services including bonded warehouse or multi- country consolidation in Sri Lanka;

9. Dividends from and gains on the realisation of shares in a non-resident company where derived by **any person** with respect to a substantial participation in the non-resident company. In this paragraph, “substantial participation” means— **1.4.2018**

(i) holding 10 percent or more of the value of shares in the company, excluding redeemable shares; together with

(ii) control, either directly or indirectly, of 10 percent or more of the voting power in the company;

10. Dividends and gains on the realisation of units or amounts derived as gains from the realization of capital assets of a business or investment by a unit holder, from real estate investment trust listed in the Colombo Stock Exchange and

licensed by the Securities and Exchange Commission of Sri Lanka; 1.4.2021

Amounts derived by a non-resident from the Sri Lankan Airlines Limited

11. Any amount derived on or after April 1, 2018, by any non-resident person as any payment for air craft, software licences or as for other related services from the Sri Lankan Airlines Limited; 1.4.2018

12. The gains and profits earned or derived by any person from-

Agro farming

(i) the sale of produce from agro farming of such person within the period of five years of assessment commencing from April 1, 2019; 1.4.2019

Provided that in relation to an undertaking which consists of the production of agro farming produces and utilizing such produce to agro processing or manufacture of any product, such produce shall be deemed to have been sold for the agro processor or manufacturer at the market price prevailing at the time of such deemed sale, and the gains and profits computed on the basis of such deemed sale in relation to the agro farming shall be considered as exempt gains

and profits within the period of five years of assessment commencing on April 1, 2019;

Information technology and enabled services

(ii) providing information technology and enabled services on or after January 1, 2020, as may be prescribed; 1.1.2020

Service rendered to be utilized outside Sri Lanka

(iii) any service rendered in or outside Sri Lanka to any person to be utilized outside Sri Lanka, where the payment for such services is received in foreign currency and remitted through a bank to Sri Lanka on or after January 1, 2020; 1.1.2020

Any foreign source

(iv) any foreign source (other than gains and profits referred to in subparagraph (iii)) where such gains and profits are earned or derived in foreign currency and remitted through a bank to Sri Lanka on or after January 1, 2020; 1.1.2020

Vocational Education Institution

(v) any vocational education programmes of 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-*

(a) if such institution has doubled its student intake of the vocational education programmes for such year of assessment compared to the student intake of such programmes in the year of assessment immediately preceding that year of assessment;

(b) for a period of five years commencing on April 1, 2021:

Provided however, for the purpose of paragraph (a), any institution which doubled the student intake of the vocational education programmes as provided for in the first year and maintained the same student intake of such programmes of the first year for the next four years shall be deemed as an institution which fulfilled the requirement in such years;

1.4.2021

Export of gold, gems or jewellery or from the business of cutting and polishing of gems

(vi) any business of export of gold, gems or jewellery or from the business of cutting and polishing of gems which are brought to Sri Lanka and exported after such cutting and polishing, where such gains and profits earned in foreign currency are remitted through a bank to Sri Lanka, with effect

from April 1, 2021; 1.4.2021

13. any amount derived on or after January 1, 2020 by- 1.1.2020

Laboratory services or standards certification services by non-resident

(i) any non-resident person from laboratory services or standards certification services;

Religious Institution by way of grants or donations

(ii) any religious institution which is registered with the Ministry in charge of the subject of religious affairs, by way of grants or donations;

New undertakings

14. Gains and profits received or derived from business (other than any gains from the realisation of capital assets and liabilities of the business as calculated under Chapter IV of this Act) by a person from following any new undertaking (which is not formed by splitting-up or re-construction of an existing undertaking) commenced on or after April 1, 2021, for that period, subject to the conditions contained herein: - 1.4.2021

(i) an undertaking which is involved in the sale of construction materials recycled in a selected

separate site established in Sri Lanka to recycle the materials which were already used in the construction industry, (a person who is involved in the provision of construction services using construction materials recycled by him from a site with the same conditions, in the provision of such services provided by him shall be deemed to have sold such materials for the construction service at a market price prevailing at the time of such deemed sale), for a period of ten years;

(ii) any business commenced on or after April 1, 2021 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;

(iii) an undertaking commenced by a resident person for the purpose of manufacturing of boats or ships in Sri Lanka and received or derived any gains and profits from the supply of such boats or ships, for a period of seven years;

(iv) any renewable energy project established with a capacity to produce not less than one hundred Mega Watts of solar or wind power and supplied such power to the national grid, for a period of seven years;

(v) an undertaking commenced on or after January 1, 2021 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;

(vi) an undertaking for letting bonded warehouses or warehouses related to the offshore business in the Colombo and Hambanthota Ports, if such person has invested on such undertaking on or after April 1, 2021;

Tax exemption periods provided in the above subparagraphs (other than in subparagraph (vi)) shall be reckoned from the year of assessment in which the undertaking commences to make profits (assessable income from such business) from transactions entered into in that year of assessment or from the commencement of the year of assessment immediately succeeding the year of assessment in which

the undertaking completes a period of two years reckoned from the date on which the undertaking commences to carry on commercial operations, whichever occurs earlier.

54. Amendment to Fourth Schedule - Capital Allowances, Balancing Allowances and Assessable Charges

Changes made to depreciable assets and number of years applicable to depreciable assets and balancing allowances and assessable charges under the Amendment Act are given below.

Types and classification of depreciable assets

Following new class is added as a depreciable asset and it is classified as class 6.

milking machines with latest technology, used to manufacture local liquid milk related products. 1.4.2021

Capital allowances

Capital allowances are claimable for milking machines within **2 years**.

Capital allowances are granted for **motor cycles**.

Balancing allowances and assessable charges

The following new subparagraph is added after paragraph 4(3).

1.4.2021

4 (4) Notwithstanding anything to the contrary in subparagraph (1), where a depreciable asset of a person which was subject to deduction of the enhanced capital allowances calculated in accordance with the provisions of the Second Schedule (Investment Incentives) or Sixth Schedule (Temporary Concessions) to this Act is realized by that person, an assessable charge included in calculating the person's income for the year shall be equal to the consideration received by the person during the year of assessment for such asset, or no balancing allowance shall be granted to the person for the year for such asset.

Subparagraph 9 of paragraph 1 of Second Schedule (Refer point number 52) and paragraph 2 of Sixth Schedule (Refer point number 56) are repealed under the Amendment Act and substituted by above subparagraph.

Accordingly, if enhanced capital allowances are granted to an asset and such asset is disposed, total consideration received is liable for tax and balancing allowances are not granted for such asset.

55. Amendments to Fifth Schedule - Qualifying Payments and Reliefs

New qualifying payments and reliefs introduced and existing qualifying payments and reliefs removed under the Amendment Act are given below.

Qualifying Payments

Sum paid by a public corporation to consolidated fund

Any sum paid to the Consolidated Fund by a public corporation as required by the law by or under which such corporation is established.

1.4.2019.

Contribution made by a resident individual to establish a shop for a female individual

With effect from April 1, 2021, contribution made by a resident individual in money or otherwise to establish a shop for a female individual who is from a Samurdhi beneficiary family as recommended and confirmed by the Department

of Samurdhi Development; **1.4.2021**

Cost of A & M incurred by a financial institution

With effect from April 1, 2021, expenditure incurred by any financial institution by way of cost of acquisition or merger of any other financial institution where such cost is ascertained by considering all the facts on case-by-case basis and as confirmed by the Central Bank of Sri Lanka. Such deductible expenditure shall be apportioned in equal amounts over a period of three years of assessment and be deductible from the assessable income of that financial institution in each such year of assessment commencing from the year of assessment where the expenditure is incurred:

Provided however, any amount which was not deducted during the three years period, by reason of the total assessable

income in a year has not exceeded the above permitted deduction, shall be deducted in the year of assessment immediately after the three years period and so on; 1.4.2021

Expenditure incurred in production of a film/ construction or upgrading of a cinema

Expenditure incurred on or after April 1, 2021, by any person-

(i) in the production of a film at a cost of (including promotional expenditure of such film) not less than five million rupees;

(ii) in the construction and equipping of a new cinema at a cost of not exceeding twenty- five million rupees;

(iii) in the upgrading of a cinema at a cost of not exceeding ten million rupees:

Provided that, the deduction under this subparagraph shall be restricted to one third of the taxable income of the year of assessment, and any amount which is not deducted in current year may be carried forward and deducted in the next succeeding year and so on, subject to the same restriction. 1.4.2021

For the purpose of this subparagraph-

“film” means any audio-visual presentation of the moving image produced on any form or format whatsoever and which is intended primarily to be exhibited by projection on a screen in a cinema; and

the expenditure on construction and equipping or upgrading a cinema shall be certified by the National Film Corporation of Sri Lanka established by the National Film Corporation of Sri Lanka Act, No. 47 of 1971 as being equipped with digital technology, Digital Theatre Systems and Dolby Sound Systems.

Reliefs

Increase of personal relief to Rs.3,000,000 per year of assessment

(i) Rs. 500,000, for each year of assessment prior to January 1, 2020; and

(ii) Rs. 3,000,000, for each year of assessment commencing on or after January 1, 2020,

except that an individual who is a trustee, receiver, executor or liquidator shall not be entitled to deduct this personal relief as such trustee, receiver, executor or liquidator, and the relief shall not be deducted against gains from the realization of investment asset; 1.1.2020

Removal of employment relief

In the case of an individual with income from employment, Rs. 700,000 for each year of assessment, but prior to January 1, 2020, up to the total of the individual's income from employment for the year;

1.1.2020

Removal of interest relief for senior citizens

In the case of an individual who is a senior citizen in a year with interest income derived from a financial institution, Rs.1,500,000 for each year of assessment, up to the total of the individual's interest income for the year up to December 31, 2019; 1.1.2020

Removal of foreign service income

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 to be utilized outside Sri Lanka, Rs. 15,000,000 for each year of assessment, up to the total of such income for the year for the year up to December 31, 2019;

1.1.2020

However, gains and profits from any service rendered in or outside Sri Lanka to any person to be utilized outside Sri Lanka, where the payment for such services is received in foreign

currency and remitted through a bank to Sri Lanka on or after January 1, 2020 is fully exempted for any person.

Introduction of Expenditure relief up to Rs. 1,200,000

In the case of a resident individual, following expenditure up to a total sum of Rs. 1,200,000, incurred for a year of assessment on or after January 1, 2020: -

- (i) health expenditure including contributions to medical insurance;*
- (ii) vocational education or other educational expenditure incurred locally by such individual or on behalf of such individual's children;*
- (iii) interest paid on housing loans;*
- (iv) contributions made to any local pension scheme, other than for a scheme under the employer or on behalf of the employer, by an employee;*
- (v) expenditure incurred for the purchase of shares or any other financial instrument listed in the Colombo Stock Exchange and licensed by the Securities and Exchange Commission of Sri Lanka or treasury bonds under the*

Registered Stocks and Securities Ordinance (Chapter 420) or treasury bills under the Local Treasury Bills Ordinance (Chapter 417); 1.1.2020

Introduction of relief for acquisition of solar panels

In the case of a resident individual who has acquired solar panels to fix on his

premises and connected to the national grid, Rs. 600,000 for each year of assessment, up to the total expenditure on such solar panels or up to the amounts paid to a bank in respect of any loan obtained to acquire such solar panels.
1.4.2021

56. Amendments to Sixth Schedule - Temporary Concessions

Time extension given to current temporary concessions and new temporary concessions introduced by the Amendment Act are given below.

Enhanced Capital Allowances – Time period for granting enhanced capital allowances is extended up to 31.3.2024.

Following investments are entitled for enhanced capital allowances as per Sixth Schedule.

(1) A person who invests in Sri Lanka (other than expansion of existing business) on depreciable assets mentioned in subparagraph (4) during a 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.

(2) A Capital allowance of 100% for expenses incurred by a person, up to USD 03 million on depreciable assets mentioned in subparagraph (4) during a year of assessment shall be granted to that person for that year where the depreciable assets are used in a part of Sri Lanka, other than the Northern Province.

(3) A Capital allowance of 200% for expenses incurred by a person, that are used in the Northern Province up to USD 3

million on depreciable assets mentioned in subparagraph (4) during a year of assessment shall be granted to that person for that year where the depreciable assets are used in the Northern Province.

(4) The depreciable assets referred to in subparagraphs (1) and (2) shall be -

(a) Class 1 and Class 4 assets within the meaning of paragraph 1 of the Fourth Schedule (being, buildings, structures and similar works of a permanent nature); and

(b) Depreciable assets (other than intangible assets) comprising plant or machinery that are used to improve business processes or productivity and fixed to the business premises.

(5) Capital allowances arising with respect to a particular year of assessment shall be taken in that year and cannot be deferred to a later year of assessment. **1.4.2018**

Paragraph 2 is repealed

Assessable Charges and Balancing Allowances **1.4.2018**

~~2. (1) Where an asset for which Capital allowances has been granted under this paragraph is disposed of (or deemed to be disposed of) during a year of assessment—~~

~~(a) where the consideration received for the disposal exceeds the written down value of the asset, the excess shall be included in calculating a person's income for a year of assessment from a business in which the depreciable assets are or were employed; and~~

~~(b) where the written down value of the asset exceeds the consideration received for the disposal, an additional Capital allowance shall be granted for the year in an amount equal to the excess.~~

~~(2) In this paragraph~~

~~“Capital allowance expenditure” means expenditure for which Capital allowances are available under this Schedule; and~~

~~“written down value” of an asset means the cost of the asset less all Capital allowances granted with respect to expenditure included in that cost.~~

Information Technology – Time period for additional deduction is extended till 2024/2025

(1) A company is entitled to an additional deduction when calculating the company's income from business for a year of assessment equal to 35% of the total amount deducted for the year under this Act that represents payments made by

the company which are to be included in calculating the taxable income of its employees (other than as a company director), where that company—

(a) conducts a business which predominately consists of providing information technology services within the meaning of the First Schedule;

(b) has at least 50 employees during the whole of the year ; and

(c) report those employees in the statement that the company, as a withholding agent, is required to file under section 86.

(2) A company which is entitled for deduction under this paragraph shall not be entitled to an enhanced capital allowance under paragraph 1 of this Schedule.

(3) Notwithstanding anything in section 19(1) where the deduction under this paragraph results in an unrelieved loss for a company that unrelieved loss shall not be deducted in any succeeding year of assessment.

Research and Development – entitlement for additional deduction is extended till end of year of assessment 2022/2023.

A person is entitled to an additional deduction when calculating the person's income

from business for a year of assessment equal to 100% of the total amount of research and development expenses deducted for the year under section 15, **during the period of five years** of assessment after the commencement of this Act.

1.4.2018

Rate of Interest – zero interest for late payments of fourth installment due on May 15, 2020 and final payment due on September 30, 2020 for the year of assessment 2019/2020.

Notwithstanding anything to the contrary in subsection (1) of section 159, the rate of interest for any payment due and payable during the period from March 1, 2020 to September 30, 2020 under this Act, shall be zero percent. 1.3.2020

Additional deduction of 100% for Marketing and Communication Expenses

(1) Subject to subparagraph (2), a person shall be entitled to an additional deduction when calculating his income from business for a year of assessment, equal to 100% of the total amount of marketing and communication expenses deducted under section 15A during the three years of assessment commencing from April 1, 2021.

(2) The additional deduction under subparagraph (1) shall be

made subject to the following conditions: -

(a) the payment shall be made to a person who is not an associated person of the tax payer;

(b) internal marketing expenses, salaries of marketing staff, expenditure on maintaining an internal marketing department, expenditure on corporate social responsibility initiatives and foreign travel expenses shall not be considered for the purpose of the additional deduction under subparagraph (1);

(c) expenditure shall be attributable to goods and services with 65% of local value addition, the mode of calculation of which shall be as specified by the Commissioner-General;

(d) the total additional deduction under subparagraph (1) shall not exceed Rs. 500,000,000 in any year of assessment;

(e) the Commissioner-General shall specify the requirements to maintain records, source documents and

underlying documents for the purpose of subparagraph (1), in addition to the requirements of other sections of this Act.

1.4.2021

Full deduction for Financial Cost incurred during year of assessment 2021/2022 1.4.2021

Subject to the provisions of this Act, financial cost incurred (other than such amounts, of which deductions is denied in previous years) during the year of assessment commencing on April 1, 2021, shall be deducted irrespective of the limit referred to in subsection (2) of section 18. That year of assessment shall not be recognized for the purpose of six years period referred to in subsection (3) of section 18.

57. Power of the Commissioner-General to issue guidelines for specific periods – 1.4.2019

Subject to the provisions of the Act, the Commissioner-General may, for the effective implementation of the provisions of the Act, issue guidelines as may be necessary for the purpose of calculating the income tax payable for the year of assessment ending March 31, 2020, specifying the computation of assessable income (or losses) from each source, deductions of qualifying payments and reliefs, computation of taxable income, applicable tax rates and tax credits in which to

apply the pro-rata basis or actual basis only for the required circumstances as the case may be, for over the two periods of the year of assessment as for the first period from April 1, 2019 to December 31, 2019 and for the second period from January 1, 2020 to March 31, 2020.

Notices PN/IT/2020-04, PN/IT/2020-05, PN/IT/2020-06 issued by the Commissioner-General on May 6, 2020 are validated by this amendment.

58. Tax relief measures to facilitate post Covid – 19 economic recovery 26.6.2020

(1) The Commissioner-General shall write off any income tax arrears payable by any Small and Medium Enterprise as defined in section 195 of the principal enactment for the year of assessment commencing on April 1, 2019, if such arrears arise due to any assessment made (other than the assessments made for tax payments as per the returns but including any penalty) up to the year of assessment ending March 31, 2019 which is outstanding as at June 26, 2020, in the records of the Commissioner-General-

(a) if such assessment was made as per the provisions of this Act or the provisions of the Inland Revenue Act, No. 10 of 2006 or the provisions of the Inland Revenue Act, No. 38 of 2000 or the provisions of the Inland Revenue Act, No. 28 of 1979; but

(b) subject to the deduction of any refunds duly claimed by such person as provided in any tax Act administered by the Commissioner-General from such income tax arrears.

CGIR should write off any income tax arrears payable by any SME (less any tax refunds due to such SME) for the year of assessment 2019/2020 if such arrears arise due to any assessment made up to year of assessment 2018/2019 (other than as per return assessments to recover tax as per return plus any penalty) which is outstanding in records of CGIR as at June 26, 2020.

(2) Subject to section 136 of the principal enactment, the Assistant Commissioner shall not amend the self-assessment under the provisions of section 135 of that enactment for the year of assessment ending on March 31, 2020, where the Assistant Commissioner is satisfied that there is no fraud or willful neglect involved in the disclosure of income or any deduction or relief by such Small and Medium Enterprise and paid the tax declared in the return.

An assistant commissioner shall not issue an amended assessment (unless a taxpayer has applied to amend self-assessment) for the year of assessment 2019/2020, if he is satisfied that there is no fraud or willful neglect involved in disclosure of income or any deduction or relief by a SME and paid tax as declared in the return.

(3) The Commissioner-General shall not impose any penalty or initiate criminal proceedings under Chapter XVIII of the principal enactment against a person who-

(a) files his return of income for the year of assessment commencing on April 1, 2019, before June 30, 2021; and

(b) makes the payment of tax payable on assessment referred to in subparagraph (ii) of paragraph (c) of subsection (2) of section 82 of the principal enactment, for the year of assessment commencing on April 1, 2019, before June 30, 2021.

Return of income for year assessment 2019/2020 is allowed to file until June 30, 2021 and payment of tax payable on assessment due on September 30, 2020 is allowed to pay until June 30, 2021 without subject to any penalty or criminal proceedings.

59. Retrospective effect

The amendments made to the principal enactment by the sections specified in Column I of Table B set out in this Amendment Act, to the corresponding sections specified in Column II of that Table shall be deemed, for all purposes, to have come into operation on such dates as are specified in the corresponding

entries in Column III of that Table.

Date of operation of each amended section/subsection in the Amendment Act is given above with the relevant section/subsection **in orange colour bold letters** for easy reference.

60. Validation

Any person who has collected the income tax as provided for in the Amendment Act during the period commencing from such dates as are specified in Column III of Table B set out in the Amendment Act and ending on the date of commencement of the Amendment 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.

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