

Inland Revenue Amendment Bill 2023



March 2023

Tax Alert

A Bill to amend the Inland Revenue Act, No. 24 of 2017 has been ordered to be published by the Minister of Finance, Economic Stabilization and National Policies in the Government Gazette. This Bill seeks to amend the Principal Inland Revenue Act No.24 of 2017 introduced w.e.f. 01 April 2018. Prior to this the Principal Act has been amended by Amendment Act No. 10 of 2021 and Amendment Act No.45 of 2022.

The salient features of the Inland Revenue (Amendment) Bill issued on 16 March 2023 are as follows.

1. **New provision introduced to deny deductions for cash transactions**

The provision has been introduced with the intention of discouraging cash transactions by denying the tax deductibility in computing the taxable income and excluding such payment from being considered as 'cost of the asset' if criteria laid down is not complied with. Accordingly, a sum aggregating Rs. 500,000/- or more is paid after 1st April 2023 in a day or in respect of **a single transaction** or in respect of series of single transactions in relation to one event is paid other than by way of account payee cheque or account payee bank draft or by the use of a credit card, debit card or electronic payment system through a bank account, will not be allowed as a deduction in computing the taxable income to the person making such payment and also would not be allowed to be considered as part of the 'cost of an asset'.

However, this would not be applicable

- for any payment by the Government of Sri Lanka or any Government institution,
- any payment by a bank or financial institution,
- and such classes of persons or payments as may be prescribed by the Minister.

A "single transaction" means the purchase or procurement of any goods or services, on a single invoice, receipt or statement". Other key relevant terms are defined in the Amending Bill.

2. Clarifications on Dividend Income

a) Tax rate for dividend for the second six months of the year of assessment.

The Bills clarifies that the tax rate for gains and profits from dividends will be taxed at the rate of 15% for the second six months of the Year of Assessment commencing on 01 April 2022.

b) Pass through dividend exemption

On or after 01 October 2022 where the dividend is paid by a resident company, and such dividends received by the members are from dividend received by that company or another resident company, such dividend is exempt from income tax.

c) Dividend paid to a non-resident person

A dividend paid to a member who is a non-resident person where such dividend is paid prior to 1 January 2023 would be exempt from income tax and any such dividend payments after 1 January 2023 will be liable to income tax i.e. withholding of income tax at the rate of 15%. (subject to the pass through dividend exemption above).

3. Introduction of Exemptions

a) Exemption for projects funded from foreign grants

A non-resident person who is engaged in a project of the Government of Sri Lanka, if such project is approved by the Minister taking into consideration the economic benefits to the country, and is totally funded from foreign grants, amounts derived from such project would be exempt from income tax. This exemption would be effective from 01 April 2023

b) Colombo Port City Economic Commission Act, No. 11 of 2021

- Gains and profits received or derived by an authorized person carrying on a Business of Strategic Importance as approved under the provisions of the Colombo Port City Economic Commission Act, No. 11 of 2021 would be exempt from income tax.
- The employment income of an employee who is employed in terms of S.35 of the above-mentioned Act, would be exempt from income tax

up to the extent provided for in the Colombo Port City Commission Act.

This exemption is effective from 27 May 2021.

4. Clarification on the restriction introduced for claiming exemptions for certain undertakings

The time limit to commence business/ make investments to claim the following exemptions which were introduced by way of the Inland Revenue (Amending) Act No 10 of 2021 will be prior to 01 April 2023

- a) The following exemption would apply for any business commenced on or after 01 April 2021 but prior to 01 April 2023
 - Any business commenced on 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 05 years.
- b) The following exemption would apply for any business commenced on or after 01 January 2021 but prior to 01 April 2023
 - An undertaking commenced 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 05 years.
- c) The following exemption would apply for investments made after 01 April 2021 but prior to 01 April 2023
 - An undertaking for letting bonded warehouses or warehouses related to the offshore business in the Colombo and Hambantota Ports, if the investment has been made after 01 April 2021 but prior to 01 April 2023 for a period of 02 Years of Assessment.

5. Payments to Non-resident Person

Obligation has been imposed on the Government to withhold tax on payments made to non-resident person on account of

- a) Dividend, interest, rent, royalty, discount, charge or premium with a source in Sri Lanka.
- b) Service fee or an insurance premium with a source in Sri Lanka.

6. Introduction of New Time Bar to CGIR for determinations for request for administrative review w.e.f. Amendment Act.

New request for administrative review to be made after the commencement of the Amendment Act should be determined by the CGIR within 2 years from the date of the request made by the taxpayer. Where such decision is not notified by the CGIR within the specified period, the request for review would be deemed to have been allowed unless an Appeal has been lodged to the Tax Appeals Commission (i.e a tax payer has the option to escalate the appeal to the Tax Appeals Commission if no decision is received after 7 months of the request for Administrative Review and the 2 year time bar rule will not apply if the tax payer has opted to Appeal to the Tax Appeals Commission further to this proposed amendment).

7. Utilization of refund Amount before the Tax Audit

▪ Option to utilize 60% of the refund amount claimed

The Bill seeks to provide the option to the taxpayer, where 60% of the refundable amount could be set off against the subsequent income tax payable, prior to a tax audit on the refund claim, at the request of the taxpayer.

This may reduce the on-return Assessments issued in the future, where the taxpayer has utilized the available refunds against the tax liability.

▪ Individual Income Tax refund value of less than Rs 100,000

Further the Bill seeks to impose a mandatory obligation on the CGIR to refund the amount within 03 months of the date of the refund claim made by such resident individual, prior to a tax audit if the refund value is less than Rs. 100,000/-. The manner and the procedure relating to the payment of the refund amount to be specified by the CGIR.

8. Relief from Penalty or Interest

The Capital Gains Tax Rate for companies was increased to 30% with effect from 01 October 2022. The Bill seeks to provide relief on penalty or interest to companies which have not paid the taxes at the revised rate of 30% for transactions after 01 October 2022, if such taxes are duly paid on or before the 30th day of the succeeding month from the date of commencement of this Amending Act (i.e after the Bill is passed into law).

9. The CGIR would be empowered to specify the procedures that should be followed by the Withholding Agents and the Financial Institutions in relation to payments made to non-residents.

Withholding Agents and Financial Institutions would be liable to a penalty of Rs. 50,000/- or less for the non-compliance of the procedure specified by the CGIR in relation to withholding of tax from any payment made to a non-resident.

10. Application of Electronic Filing

Commencing from the Year of Assessment 2023/24 (the Year of Assessment commencing from 01 April 2023) in addition to the corporates, non-corporates are also mandatorily required to file the return electronically. The Bill also seeks to empower the CGIR to authorize a person to file a tax return in writing, for a Year of Assessment on the basis such request is just and equitable.

11. Provision has been introduced to mandate the Specified Institutions (Registrar of companies, CG of Motor Traffic, financial institutions, CSE etc.) to provide Information including information on financial transactions on a regular basis in an electronic format to be prescribed by the CGIR.

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