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உள்ளநாட்டு இறைவரித் திணைக்களம்
DEPARTMENT OF INLAND REVENUE

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Circular No: SEC/2018/05

Date: 29.03.2018

Circular to Withholding Agents

Withholding from Payments made under Section 84 and 85

This Circular sets out explanatory notes and guideline to every **withholding agent**, to facilitate the application of the provisions of section 84 and 85 of the Inland Revenue Act, No. 24 of 2017 (the Act), with effect from April 1, 2018.

1. Applicability of the Circular

- (i) On the deduction of income tax on sources referred to in section 84:
 - (a) from the payments made **under section 84 (1) (a) (i)** , by a person (withholding agent) where such person pays to **any individual, partnership, company or body of persons etc.**, of any payment being dividends, interest, discount, charges, natural resource payments, rent, royalty, premium or retirement payments or pays amounts as winnings from a lottery, reward, betting or gambling;
 - (b) from each partner's relevant share of any partnership income under section 84 (1) (ii), by the precedent partner or in the absence of such partner in Sri Lanka, the agent of the partnership in Sri Lanka (withholding agent) at the time that each partner's relevant share has been allocated to each such partners ;
 - (c) from the payments or allocation has a source in Sri Lanka under section 84 (1)(b), pays by a person (withholding agent), to any such recipient;
 - (d) from the sale price of any gem sold at an auction conducted by National Gem and Jewellery Authority, established by the National Gem and Jewellery Authority

Act, No. 50 of 1993 (withholding agent) , from the sum payable to the seller of such gem and at the time of such sum is paid to the seller under 84(2).

(ii) On the deduction of income tax on sources referred to in section 85:

(a) from the service fee and contract payments under section 85 (1)(a), pays by a person (withholding agent) with a source in Sri Lanka to a resident individual who is not an employee of the payer-

- for teaching, lecturing, examining, invigilating or supervising an examination;
- as a commission or brokerage to a resident insurance, sales or canvassing agent;
- as an endorsement fee;
- in relation to the supply of any article on a contract basis through tender or quotation;
- for such other matters as may be prescribed by regulation (Gazette Notification will be issued for this purpose) ;

(b) from a service fee or an insurance premium with a source in Sri Lanka , pays by a person (withholding agent) to a non-resident person under section 85 (1) (b).

(c) from a payment to a non-resident person of a type referred to in paragraph (h) or (i) of section 73 (land, sea or air transport or telecommunication services), by a resident person (withholder) when the person makes under section 85(2) (a).

2. Time of Deduction

Tax should be deducted at the time the investment return or service fee or contract payment is paid to any person or credited to a bank account on behalf of recipient (the withholdee).

3. Circumstances for non-reduction of withholding tax

(i) The tax deduction required under section 84 or section 85 is not applicable to the following payments.

- (a) payments subject to withholding under section 83;
- (b) payments made by individuals, unless made in conducting a business;
- (c) for the purpose of section 84:
 - interest paid to a resident financial institution on the ordinary loans and advances provided by it;
 - interest or discount paid to any person on Security or Treasury Bond Under the Registered Socks and Securities Ordinance (Chapter 420) or Treasury Bill under the Local Treasury Bills Ordinance (Chapter 417); or
- (d) payments or allocations that are exempt amounts under section 9 of the Act;
- (e) For the purpose of section 85(1) (a), payments of service fee in respect of which a certificate is presented by the recipient person confirming that the payments are chargeable with the Economic Service Charge under the Economic Service Charge Act, No. 13 of 2006.

(The withholding agent is required to seek confirmation from the Department that such institution is qualified for this exemption)

4. Rates of Deduction

Every withholding agent on the above referred payments should deduct income tax (unless it is excluded/exempted) as follows:

- (a) payments to which section 84(1)(a)(i) applies –**
 - (i) in the case of interest or discount paid to a person (other than to an individual who is a senior citizen in relation to a bank deposit account) - 5%;
 - (ii) in the case of interest paid to a senior citizen - at the rate and in the manner prescribed in regulations (Gazette Notification will be issued for this purpose);
 - (iii) in the case of rent paid to a resident person – 10%; and
 - (iv) in all other cases - 14%;

- (b) The rate of tax to be withheld from each partner's shares of any partnership income under section 53(9) and section 84(1) (a) (ii) - 8% of the amount.
- (c) The rate of tax to be withheld from payments to which section 84(2) – [sale of gems through gem auctions] – 2.5%.
- (d) **payments to which section 85 applies –**
- (i) in the case of service fees referred to in section 85(1)(a) - 5% on amounts exceeding Rs.50,000 per month;
 - (ii) in the case of service fees referred to in section 85(1)(b) - 14%;
 - (iii) in the case of insurance premiums referred to in section 85(1)(b) - 14%;
- (e) For the purposes of paragraph (b) of sub section (2) of section 85 of the Act, when a resident person makes a payment to a non-resident person as prescribe in the regulations (Gazette Notification will be issued for this purpose).

Notes:

- (a) In case, if different rates are applicable based on the Double Taxation Avoidance Agreements (if any) on payments to be made to nonresident persons, a confirmation may be obtained from the Department or follow the general instructions in the Web portal on such cases.
- (b) If a direction has been issued by the Commissioner General of Inland Revenue or any officer authorized by the Commissioner General, the deduction should be made in accordance with such direction (as referred to in paragraph 5), and such directions issued by the Commissioner General should be kept in safe and be made available to any officer authorized by the Commissioner General for inspection (if required);
- (c) As per the section 195 (interpretation) of Inland Revenue Act, “**Person**” means an individual or **entity** and includes a body of persons corporate or unincorporated, an executor, non-governmental organization and charitable institution. Further, “**entity**” means a company, partnership or trust, but excludes an individual.

5. Direction

If the recipient of investment return/service payment has reasons to believe that income tax payable/computed by such recipient for any year of assessment, is not liable for income tax under the section 85(3) (d) for that year of assessment, such a recipient may request a direction from the Commissioner General and that the withholding agent be directed to adjust as so directed.

Further, if the recipient (the withholder) is not liable for withholding tax under section 84 (e) or section 85 (c) of the Act, such a recipient may request a direction from the Commissioner General.

The withholding agent should honor any such direction issued by or under the authority of the Commissioner General, and make adjustment accordingly.

The request for the direction should be submitted to the **Customer Supporting Unit** of the Department of the Inland Revenue.

6. Certificate of Deduction

The withholding agent who deducts withholding tax in accordance to the paragraph 4, is required to issue in respect of each deduction a certificate of tax deduction to every withholder (individual, partnership, company or body of person, trust, association or charitable institutions etc.), in the following format specified in **Annexure 1**. **The withholding tax deduction should be made on the gross amount of the invoice value (inclusive all taxes).**

The withholding certificate shall cover a calendar month and shall be served within 30 days after the end of the month.

7. Records to be maintained by the Withholding Agent and their other obligations

Every withholding agent is required to –

- (a) Register as withholding agent under the requirements of Commissioner General of Inland Revenue.

As per section 195;

"withholding agent" means a person required to withhold tax from a payment under the Inland Revenue Act.

"withholdee" means a person receiving or entitled to receive a payment from which tax is required to be withheld under the Inland Revenue Act.

- (b) As provided in section 102 of the Inland Revenue Act, withholding agent is required to obtain a registration number from the Commissioner General not **later than 30 days prior to the commencement of deduction of tax** and to furnish a return not **later than 30 days after the end of the basis period for that year**.

All withholding agents should obtain the registration as a "withholding tax agent" prior to make deductions. Those who have already obtained the primary registration for tax purpose should obtain the registration as a withholding agent from **Tax Type Registration Unit** of the Department whereas the others should obtain the registration from the **Primary Registration Unit**.

- (c) Keep a proper record of the payment amount as the case may be, paid by it any year of assessment to any person and the date or dates on which the payment is made in the format specified in **Annexure 2, 3, 4 and 5**.
- (d) Keep a record of the payments that no withholding tax has been deducted due to the circumstances as mentioned in paragraph 3 of this guideline and in the case of service fees referred to in section 85(1) (a) that is not exceeding Rs.50, 000 per month as per the format specified in **Annexure 5**.

Note: Commissioner General of Inland Revenue may permit any officer of the Department authorized (in writing) to inspect the above records.

8. Payments of tax withheld or treated as withheld

- (i) Every withholding agent must pay to the Commissioner-General within 15 days after the end of each calendar month any tax that has been withheld in accordance of the paragraph 3, during the month. The monthly payment of the relevant tax, to the People's Bank Account No. 014-1002-6-9026620 through the paying-in-slip issued by the Department (which has a DLN Number).
- (ii) A withholding agent who fails to withhold tax in accordance with this Division must nevertheless pay the tax that should have been withheld in the same manner and at the same time as tax that is withheld.

9. Submission of Returns and Schedules

(i) Return


Every withholding agent commencing on or after April 1, 2018, duly prepared **annual return** which are issued by the Commissioner General of Inland Revenue, should file with the Commissioner General within 30 days after the end of each year ending on 31st day of March,

Please note that Photostat copies of the return issued by the Department of Inland Revenue will not be entertained. Further, return should be furnished even in the instances where no any tax is payable.

(ii) Schedules

Please note that with effect from April 1, 2018, the following schedules should be submitted on withholding tax deducted on the payments specified in the paragraph 1 (along with the annual return), paid or credited on any charge, referred to in section 84 and 85 of the Inland Revenue Act, if applicable, as per the formats specified in the **Annexure 1 to 5**.

Note: The schedules are required to be furnished in (Excel csv format) electronic form. However, if numbers of tax payers are less than 20, hard copies may be submitted.


D.M.L.I. Dissanayake
Commissioner General of Inland Revenue

Ivan Dissanayake
Commissioner General of Inland Revenue
Department of Inland Revenue
Sir Chittampalam A Gardiner Mawatha
Colombo 02

Annexure 1

Certificate No:/ Serial No:

Withholding Agent TIN:

Certificate of Tax Deduction

Name and address of the Withholding Agent:

Name and address of the Withholdee:

National Identity Card No. /Passport No. / Tax Identification No of the Withholdee:.....

.....

Period: from: to:

(a) Gross amount of the payment (Rs.):

(b) (i) Rate of tax:

(ii) Amount of tax deducted (Rs.):

(c) Date of tax deduction:

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Name of the Authorized Officer

Signature of the Authorized Officer

Date:

Annexure 2

Year of Assessment:.....

Name & TIN of the Withholding Agent:

WHT - Schedule 1 (WHT Deduction from interest / Discount)

1	2	3	4	5	6	7	8	9	10	11	12	13	14
Serial No	Type of investment	Name	Address	TIN / NIC. No Passport No/	Account No / Certificate No	Date of Commencement of Deposit/ Investment (YYYY-MM-DD)	Date of Maturity (YY Y-MM-DD)	Account Value / Investment Value (Rs)	Interest Rate (%)	Interest payable (Rs)	Rate of WHT (%)	WHT (Rs)	WHT Certificate No.

Annexure 3

Year of Assessment:.....

Name & TIN of the Withholding Agent:

WHT - Schedule 2 (WHT Deduction from other than interest / Discount/ Dividend)

1	2	3	4	5	6	7	8	9	10	11
Serial No	Type of Payment	Name	Address	TIN / NIC. No / Passport No/	Receipt No	Date of Payment to Withholdee	Paid Amount (Rs)	Rate of WHT (%)	WHT (Rs)	WHT Certificate No

Annexure 4

Year of Assessment:

Name & TIN of the Withholding Agent:

WHT - Schedule 3 (Gross Dividend Distributed)

Shareholder's TIN/ID No	Date of Distribution (YYYY-DD- MM)	Gross Amount Distributed	Exempt Amount	Liable Amount	Tax Rate	Dividend Tax Deducted	Dividend Tax Not Deducted	Date of Payment (YYYY-DD- MM)
		Total	Total	Total		Total	Total	

Annexure 5

Year of Assessment:

Name & TIN of the Withholding Agent:

WHT - Schedule 5 (Details of Withholding Tax not deducted)

1	2	4	5	6	7	8	9	10
Serial No	Type of payment	Name	Address	TIN / NIC. No / Passport No/	Date of Payment to Withholdee	Paid Amount (Rs)	Reason for exemption / not deducted	Reference No. of the Direction issued by the Dept. of Inland Revenue
						Total		