



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

**DEBITS TAX (AMENDMENT)
ACT, No. 5 OF 2003**

[Certified on 27th February, 2003]

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Debits Tax (Amendment) Act, No. 5 of 2003

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L. D.—O. 90/2002.

AN ACT TO AMEND THE DEBITS TAX ACT, No. 16 OF 2002

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

1. This Act may be cited as the Debits Tax (Amendment) Act, No. 5 of 2003.

Short title.

2. Section 2 of the Debits Tax Act, No. 16 of 2002 (hereinafter referred to as the "principal enactment") is hereby repealed and the following section substituted therefor:—

Replacement of section 2 of the Debits Tax Act, No. 16 of 2002.

2. Subject to the provisions of section 13, there shall be charged and levied —

"Imposition of debits tax.

(a) on the total amount of the debits, made during each calendar month against each current account maintained at a commercial bank;

(b) on the total amount of the debits, made during each calendar month against each savings account maintained at a commercial bank or a specialized bank; and

(c) on the amount realized on the encashment of a certificate of deposit or travelers cheque,

a tax to be called the debits tax at the rate of one tenth of one *per centum* of the total debit or the amount encashed, as the case may be."

3. Section 3 of the principal enactment is hereby amended by the insertion immediately after paragraph (a) of that section of the following new paragraph:—

Amendment of section 3 of the principal enactment.

"(aa) in the case of a debit from a savings account maintained at a commercial bank or a specialised bank, be paid by the person or persons in whose name or names the account is maintained;"

Amendment of section 4 of the principal enactment.

4. Section 4 of the principal enactment is hereby amended by the insertion immediately after paragraph (a) of that section of the following new paragraph :—

“(aa) in the case of a debit from a savings account maintained at a commercial bank or a specialised bank, commence at the end of the month in which the debit was made;”

Amendment of section 5 of the principal enactment.

5. Section 5 of the principal enactment is hereby amended by the substitution for the words “current account transactions” of the words “current account and savings account transactions”.

Amendment of section 6 of the principal enactment.

6. Section 6 of the principal enactment is hereby amended as follows :—

(1) by the substitution for all the words from “Every commercial bank” to “last working day of each month” of the following :—

“(1) Every commercial bank or specialised bank shall, on the last working day of each month, withdraw from every current or savings account maintained at that bank, a sum equal to the amount payable as debits tax from that account in respect of that month, and shall remit such sum to the Commissioner-General on or before the last working day of each succeeding month.”;

(2) in the first proviso to subsection (1), by the substitution for the words “if the beginning of any month falls” of the words “if the last day of any month falls”;

(3) by the repeal of the second proviso to section (1) and the substitution therefor of the following proviso :—

Provided further that, debits tax should not be withdrawn from a current account or a savings account if the tax liability of such current account or savings account during a particular month is less than rupees twenty.”

(4) in subsection (3) of that section, by the substitution for the words "name or names the current account is being maintained at the commercial bank" of the words "name or names the current account or savings account is being maintained at the commercial bank or specialised bank";

(5) in subsection (4) of that section—

(a) by the substitution for the words "Where owing to there being no funds in a current account or there being an insufficiency of funds in a current account, the commercial bank" of the words "Where owing to there being no funds in a current account or savings account or there being an insufficiency of funds in a current account or savings account, the commercial bank or specialised bank"; and

(b) by the substitution for the words "in the preceding month" wherever those words appear in that subsection of the words "in respect of that month";

(6) in the proviso to subsection (4), by the substitution for the words "commercial bank may differ" of the words "commercial bank or specialised bank may defer"; and

(7) in subsection (5) of that section—

(a) by the substitution for the words "be deemed to authorize a commercial bank to refuse to pay out of the funds in any current account" of the words "be deemed to authorize a commercial bank or specialised bank to refuse to pay out of the funds in any current account or savings account"; and

(b) by the substitution for all the words from "on the debits made from that account, has to be paid:" to the end of that subsection of the words "on the debits made from that account, has to be paid."

Amendment of section 7 of the principal enactment.

7. Section 7 of the principal enactment is hereby amended by the substitution for the words "Where the holder of a current account" of the words "Where the holder of a current account or savings account".

Amendment of section 8 of the principal enactment.

8. Section 8 of the principal enactment is hereby amended by the substitution in paragraph (a) of subsection (2) of that section, for the words "from a current account" of the words "from a current account or savings account".

Amendment of section 9 of the principal enactment.

9. Section 9 of the principal enactment is hereby amended as follows:—

(1) in subsection (1) —

(a) by the substitution for all the words from "A commercial bank shall," to "current account setting out the following:—" of the words "A commercial bank or specialised bank shall, when remitting the sums referred to in subsection (1) of section 6, furnish a statement to the Commissioner-General in respect of any current account or savings account maintained on behalf of a customer, other than a special current account, setting out the following: "

(b) by the substitution for paragraph (a) of that subsection of the following paragraph:—

"(a) the total amount of debits made from all current accounts and savings accounts maintained by that bank in respect of that month;"

- (c) by the omission of paragraph (b) of that subsection ;
 - (d) in the paragraph (c) of that subsection by the substitution for the words "from all current accounts" of the words "from all current accounts and savings accounts";
 - (e) in paragraph (e) of that subsection by the substitution for the words "in each current account" and "relevant current account" of the words "in each current account and savings account" and "relevant current account and savings account", respectively ;
- (2) by the insertion immediately after subsection (1) of that section of the following new subsections :—

"(1A) A commercial bank shall, when remitting the sums referred to in subsection (1) of section 6, furnish a statement to the Commissioner-General in respect of any special current account setting out the total amount of debits from all special current accounts maintained by that bank in respect of that month.

(1B) A commercial bank or specialised bank shall, at the end of each month, furnish a statement to the Commissioner-General setting out the following details in respect of its own transactions :—

- (a) the total value of the debits in respect of debits tax liable transactions in a particular month;
- (b) the sums withdrawn as debits tax for a particular month;
- (c) the total value of debits tax exempt transactions for a particular month."

Amendment of section 10 of the principal enactment.

10. Section 10 of the principal enactment is hereby amended as follows :—

(1) in subsection (1) of that section, by the substitution for the words “Where a commercial bank reports” and “from a current account maintained” of the words “Where a commercial bank or specialised bank reports” and “from a current account or savings account maintained”;

(2) in subsection (2) of that section by the substitution for paragraph (a) of the following paragraph :—

“(a) the total amount of the debits made from a current account or a savings account maintained at that commercial bank or specialised bank in any month; or”;

Amendment of section 13 of the principal enactment.

11. Section 13 of the principal enactment is hereby amended as follows :—

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

(a) in paragraph (a) thereof, by the substitution for the words “any current account maintained” of the words “any current account or savings account maintained”;

(b) in paragraph (b) thereof, by the substitution for all the words from “debits made from any” to “is solely for the purpose of making—” of the words “debits made from any current account being a special account, opened by any person in a commercial bank for the purpose of making—”;

(c) in paragraph (c) thereof, —

(i) by the substitution for all the words from “debits made from any” to “is solely for the purpose of making—” of the words

“debits made from any current account being a special account opened by any person specified hereunder in a commercial bank for the purpose of making—”;

(ii) by the substitution for sub-paragraph (iii) of the following new sub-paragraphs:—

“(iii) payments in relation to the purchase of stock issued in terms of the Registered Stocks and Securities Ordinance (Chapter 420) made by any person or body of persons, at the issue of such registered stock ;

(iii a) payments in relation to the purchase of securities issued in terms of the Registered Stocks and Securities Ordinance (Chapter 420) and treasury bills issued in terms of the Local Treasury Bills Ordinance (Chapter 417), by any person or body of persons, at the issue of such securities or bills ;

(iii) in sub-paragraph (vii) thereof—

(i) by the substitution for the words “by another commercial bank” of the words “by such bank, another commercial bank”;

(ii) by the substitution for the words “or other financial intermediary” of the words “or any other entity engaged in financial intermediation activity”;

(iii) in sub-paragraph (vii) (c) thereof, by the substitution for the words "financial intermediaries" or "financial intermediary" wherever it appears, of the words "any other entity engaged in financial intermediation activity";

(iv) by the addition immediately after sub-paragraph (viii) of paragraph (c) of that subsection of the following proviso :—

"Provided that the exempt transactions referred to in paragraphs (b) and (c) of subsection (1) shall be routed through a single special current account. A separate declaration shall be made for each exempt activity and a single undertaking shall be provided to the effect that such account shall be used only for debit tax exempt activities.";

(d) in paragraph (d) thereof—

(i) by the substitution for the words "from any current account" of the words "from any current account or savings account";

(ii) by the substitution for sub-paragraph (i) thereof of the following :—

"(i) debits made from such account kept in a commercial bank or specialised bank that represent transfer of funds in the name of the same account holder from one current account to another, or from a current account

to a savings account, or from a savings account to a current account, or from one savings account to another, within the same commercial bank or specialised bank or between different commercial banks or specialised banks”;

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

(a) by the substitution for the words “commercial bank” and “any current account” of the words “commercial bank or specialised bank” and “any current account or savings account”; and

(b) by the addition immediately after the first proviso to that subsection of the following :—

“Provided further, that in cases where banks are able to identify the exempt debits specified in sub-paragraphs (i), (ii) and (iii) of paragraph (d) of subsection (1), the bank may exempt the debit without a declaration from the account holder as is required above and refrain from collecting debits tax on the same. No bank shall be indemnified against any error made by the granting of any such exemption. Any bank who so makes an error in the granting of an exemption shall be liable to a penalty of rupees ten thousand in respect of each such exemption wrongfully granted.”.

(3) in subsection (5) of that section by the substitution for the words “current account” of the words “current account or savings account”.

Insertion of new section 14A in the principal enactment.

12. The following new section is hereby inserted immediately after section 14 of the principal enactment and shall have effect as section 14A of that enactment :—

“Commissioner or Deputy Commissioner to exercise and perform powers &c.

14A. The Commissioner-General may authorize any Commissioner or any Deputy Commissioner appointed in terms of the provisions of the Inland Revenue Act, No. 38 of 2000, to exercise, perform and discharge any power, duty or function which is conferred or imposed on, or assigned to, the Commissioner-General, by or under the provisions of this Act.”

Amendment of section 15 of the principal enactment.

13. Section 15 of the principal enactment is hereby amended by the substitution for the marginal note to that section of the following :—

“Offences.”

Amendment of section 19 of the principal enactment.

14. Section 19 of the principal enactment is hereby amended as follows :—

(1) by the substitution in the definition of the expression “debit” for the words “current account” wherever such words appear in that definition, of the words “current account or savings account” and for the words “commercial bank” of the words “commercial bank or specialised bank”; and

(2) by the substitution for the definition of the expression “savings account” of the following definition :—

““savings account” means any account (other than a foreign currency account or a fixed or term deposit account) which is maintained at a licensed commercial bank or a licensed specialised bank, and which qualifies for interest, irrespective of whether such interest is paid or not.”

15. The amendments made to the principal enactment by the provisions of this Act shall be deemed for all purposes to have come into effect on January 1, 2003.

Retrospective effect.

16. (1) Any licensed commercial bank or licensed specialised bank, which collects or remits debits tax from any savings account as provided for in section 6, during the period commencing on January 1, 2003 and the date of the coming into operation of this Act, shall be deemed to have acted with due authority and is hereby indemnified from any civil or criminal prosecution in respect of such collection.

Indemnity for collection of debits tax from savings accounts.

(2) Any licensed commercial bank or licensed specialised bank, which collects from any person debits tax in excess of the amount he was liable to pay in respect of debits from a savings account maintained by him at any licensed commercial bank or licensed specialised bank, or which collects from any person debits tax on any such debits made from a savings account maintained by him in a bank as are exempt from debits tax by or under section 13, is hereby indemnified against civil or criminal prosecution in respect of such collection from and after the period commencing January 1, 2003 and the date on which a refund of such amount is made or the date on which such amount is remitted to the Commissioner-General, as the case may be.

17. In the event of any inconsistency between the Sinhala and Tamil texts of the Act the Sinhala text shall prevail.

Sinhala text to prevail in case of inconsistency.