



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

**FINANCE (AMENDMENT)
ACT, No. 7 OF 2005**

[Certified on 31st March, 2005]

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[Certified on 31st March, 2005]

L. D. — O. 11/2005.

AN ACT TO AMEND THE FINANCE ACT, NO. 11 OF 2004; TO PROVIDE FOR THE IMPOSITION OF A WITHHOLDING TAX ON THE REGISTRATION OF MOTOR VEHICLES; AND TO PROVIDE FOR MATTERS CONNECTED THEREWITH AND INCIDENTAL THERETO.

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

1. This Act may be cited as the Finance (Amendment) Act, No. 7 of 2005. Short title.

PART I

AMENDMENT OF PART I OF THE FINANCE ACT, NO. 11 OF 2004

2. The Finance Act, No. 11 of 2004 (in this Part referred to as the “principal enactment”) is hereby amended in subsection (3) of section 2 of Part I (Imposition of an Economic Service Charge) of that Act, as follows :— Amendment of section 2 of Part I of Act No. 11 of 2004.

- (1) in the definition of the expression of “liable turnover” by the substitution for the words “other than any trade, business, profession or vocation” of the words “other than any trade, business (not being any trade or business which deals in the wholesale or retail of such goods, not manufactured or produced by such person or partnership), or profession or vocation”; and
- (2) in the definition of the expression of “turnover” by the repeal of paragraph (ii) thereof and the substitution therefor of the following paragraph :—

“(ii) the total proceeds from the disposal of any capital assets ; and”.

Amendment of section 3 of the principal enactment.

3. Section 3 of the principal enactment is hereby amended as follows :—

- (1) in subsection (1) of that section by the substitution for the words “any person or partnership for any relevant year of assessment may be deducted from the relevant income tax payable by that person or partnership for that relevant year” of the words “any person for any relevant year of assessment, shall be deducted from the relevant income tax if any, payable by that person for that relevant year” ;
- (2) by the insertion immediately after subsection (1) of that section, of the following new subsection, which shall have effect as subsection (1A) thereof :—

“(1A) The amount of any service charge paid by any partnership for any relevant year of assessment shall be apportioned among the partners of such partnership in the ratio in which such partners share the profits or losses of such partnership for that relevant year of assessment : the amount of the service charge so apportioned to any partner, shall be deducted from the relevant income tax payable by such partner for such relevant year of assessment (hereinafter referred to as the “first - mentioned relevant year of assessment”).”;

- (3) in subsection (2) of that section by the substitution for the words “The balance, if any, of such service charge after its deduction in accordance with subsection (1) shall be deducted from the relevant income tax payable by such person or partnership for the relevant year” of the words “The balance, if any, of such service charge paid by any person after its deduction in accordance with subsection (1) shall be deducted from the relevant income tax payable by such person for that relevant year”. ;
- (4) by the insertion immediately after subsection (2) of that section, of the following new subsection, which shall have effect as subsection (2A) thereof :—

“(2A) The balance, if any, of any service charge apportioned to any partner in accordance with subsection (1A), after its deduction in accordance with subsection (1A) shall be deducted from the relevant income tax payable by such partner for the relevant year of assessment immediately succeeding the first – mentioned relevant year of assessment (hereinafter referred to as the “first succeeding relevant year of assessment”).”;

- (5) in subsection (3) of that section by the substitution for the words “The residue, if any, of the balance of such service charge after its deduction in accordance with subsection (2), shall be deducted from the relevant income tax payable for the relevant year” of the words “The residue, if any, of the balance of such service charge or of the portion of such service charge, as the case may be, after its deduction in accordance with the provisions of either subsection (2) or subsection (2A), shall be deducted from the relevant income tax payable by such person or such partner of such partnership as the case may be, for the relevant year” ;
- (6) by the repeal of subsection (5) of the principal enactment and the substitution therefor of the following subsection :—

“(5) For the purposes of this section and in relation to any relevant year of assessment, the expression—

“attributable to the liable turnover” in relation to any part of the share of the divisible profits of any partner of any partnership means the sum which bears to the share of the divisible profits of such partner from such partnership for such relevant year of assessment the same proportion as the liable turnover of such partnership for such relevant year of assessment bears to the turnover of such partnership for such relevant year of assessment ;

“relevant income tax payable” in relation to—

- (a) any person in so far as such person is not a partner of any partnership, means the sum which bears to the aggregate statutory income of that person for that relevant year of assessment, from every trade, business, profession or vocation carried on or exercised by that person, other than any trade, business, (not being any trade or business which deals in the wholesale or retail of such goods, not manufactured or produced by such person), profession or vocation, the commercial operations of which has commenced, whether by such person or by any other person or partnership, on a date which falls within the period of thirty six months immediately preceding the first day of that relevant year of assessment, the same proportion as the total income tax payable by such person for that relevant year of assessment bears to the total statutory income of that person for that relevant year of assessment; and
- (b) any person, in so far as such person is a partner of any partnership, means the sum which bears to such part of the share of the divisible profits of such person from such partnership as is attributable to the liable turnover of every trade, business, profession or vocation carried on or exercised by such partnership, the same proportion as the total income tax payable by such person for that relevant year of assessment bears to the total statutory income of that person for that relevant year of assessment;

“total income tax payable” in relation to any person means the sum ascertained by the application of the income tax rate as is specified in the appropriate Schedule to the Inland Revenue Act, to the taxable income of such person for that relevant year of assessment”; and

- (7) by the substitution for the marginal note to that section of the following :—

“Service Charge to be deducted from the relevant income tax”.

4. Section 11 of the principal enactment is hereby amended by the substitution for the words and figures “Chapters XIX, XX, XXI” of the words and figures “Chapters XII, XIX, XX, XXI”.

Amendment of section 11 of the principal enactment.

5. The following new section is hereby inserted immediately after section 11 of the principal enactment and shall have effect as section 11A of that enactment :—

Insertion of new section 11A in the principal enactment.

“Regulations. 11A. (1) The Minister may make regulations in respect of all matters which are required by this Act to be prescribed or in respect of which regulations are required or authorized to be made under this Act.

(2) In particular and without prejudice to the generality of the powers conferred by subsection (1), the Minister may make regulations specifying the guidelines relating to the meaning of the expression “turnover” as is used in subsection (3) of section 2 is to be ascertained in its application to cases where the proviso to the definition of the expression “turnover” in that subsection does not apply.

(3) Every regulation made under subsection (1) shall be published in the Gazette and shall come into operation on the date of publication, or on such later date as may be specified therein.

(4) Every regulation made under subsection (1) shall, as soon as convenient after its publication in the Gazette, be placed before Parliament for approval. Every regulation which is not so approved shall be deemed to be rescinded as from the date of disapproval, but without prejudice to anything previously done thereunder.

(5) Notification of the date on which any regulation is deemed to be so rescinded shall be published in the Gazette.”.

Amendment of section 12 of the principal enactment.

6. Section 12 of the principal enactment is hereby amended as follows :—

- (1) by the substitution in the definition of the expressions “agent”, “allowance for depreciation”, and “Assessor”, the expressions “agent”, “allowance for depreciation”, “Assessor” and “Company” ;
- (2) by the repeal of the definition of the expression “BOI enterprise” and the substitution therefor of the following :—

“BOI enterprise” in relation to any relevant year of assessment means any enterprise in relation to which the exemption of its profits and income from income tax, in terms of any agreement entered into by the Board of Investment of Sri Lanka with such enterprise under section 17 of the Board of Investment of Sri Lanka Law, No. 4 of 1978, subsists during the whole or any part thereof of that relevant year of assessment ;”;

- (3) by the repeal of the definition of the expression “person” and the substitution therefor of the following :—

“person” includes a company or a body of persons, but does not include-

- (a) any registered society, within the meaning of the Co-operative Societies Law, No. 5 of 1972 ;
- (b) any non-resident person carrying on business as an owner or charterer of an aircraft or ship ;”.

7. (1) The provisions of Part 1 of this Act shall subject to subsection (2) be deemed for all purposes to have come into effect on April 1, 2005.

Operation of Part 1 and retrospective operation of sections.

(2) The following provisions shall be deemed for all purposes to have come into operation from April 1, 2004 :—

- (a) the amendment made to section 3 of the principal enactment by items (1), (2), (3), (4), (5) and (6) of section 3 of this Act ; and
- (b) the amendment made to section 12 of the principal enactment by item (2) of section 6 of this Act.

PART II

AMENDMENT OF FINANCE ACT, NO. 11 OF 2004 TO INCLUDE NEW PART IIIA.

8. The following new Part is hereby inserted immediately after section 28 of the Finance Act, No. 11 of 2004 and shall have effect as Part IIIA (sections 28A, 28B, 28c, and 28D) of that enactment :—

Insertion of new Part IIIA in the Finance Act, No. 11 of 2004.

“PART IIIA

IMPOSITION OF WITHHOLDING TAX ON THE REGISTRATION OF MOTOR VEHICLES

Imposition of withholding tax on motor vehicles.

28A. (1) There shall be levied in accordance with the rates as are specified in section 28B, with effect from April 1, 2005, a withholding tax, on every applicant seeking to register a motor vehicle, in respect of every motor vehicle registered by the Commissioner of Motor Traffic in accordance with the provisions of the Motor Traffic Act, (Chapter 203) other than on three-wheelers, lorries and buses used solely for the purpose of providing public transport.

For the purpose of this section “motor vehicle” shall have the same meaning as in the Motor Traffic Act (Chapter 203).

(2) The Commissioner of Motor Traffic shall not issue in respect of any motor vehicle a Certificate of Registration unless the withholding tax payable in terms of this section has been paid by the applicant. Any tax paid under this section shall be duly acknowledged by the issue of a Certificate to the applicant.

Rate at which the tax is to be calculated.

28B. The collection of the withholding tax imposed under section 28A shall be at the following rates :—

- (a) for a first registration of a motor vehicle, a sum of rupees five thousand ; and
- (b) for every other registration a sum of rupees one thousand.

Amount collected to be remitted to the Secretary to the Treasury.

28c. The Commissioner of Motor Traffic shall remit the amount collected by him as withholding tax in terms of this Part to the Commissioner-General on or before the fifteenth day of the month following the month in which the tax was collected along with a return of the moneys collected by him.

Withholding tax to be deducted from income tax.

28D. Any person who has paid the withholding tax in terms of this part of the Act, shall be entitled to deduct such withholding tax from the income tax payable by such person under the Inland Revenue Act.”.

PART III

AMENDMENT OF SCHEDULE TO THE FINANCE ACT, NO. 11 OF 2004

Amendment of Schedule to the Finance Act, No. 11 of 2004.

9. The Schedule to the Finance Act, No. 11 of 2004, (relating to the rate of Service Charge chargeable under Part I) is hereby amended as follows :—

- (1) by the substitution in item 2 that Schedule for the words and figures “any BOI enterprise which had entered into an agreement under section 17 of the Board of Investment of Sri Lanka Law, No. 4 of 1978.” of the words “any BOI enterprise.”;
- (2) by the substitution in item 4 of that Schedule for the words “any trade, business, profession or vocation” of the words “any trade or business (not being any trade or business which deals in the wholesale or retail of such goods, not manufactured or produced by the dealer) or profession or vocation” ; and
- (3) by the addition immediately after item 4 of that Schedule, of the following new item :—

“5. Such part of the liable turnover as consists of the turnover from any trade or business which deals in the wholesale or retail of such goods, not manufactured or produced by the dealer. 0.5 per centum.”.

10. In the event of an inconsistency between the Sinhala and Tamil texts of this Act, the Sinhala text shall prevail.

Sinhala text to prevail in case of inconsistency.

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