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The Gazette of the Democratic Socialist Republic of Sri Lanka
EXTRAORDINARY

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PART I : SECTION (I) — GENERAL

Government Notifications

INLAND REVENUE ACT, No. 24 OF 2017

Notice under Section 83A

BY virtue of the powers vested in me under subsection (1A) of section 83A read with item (a) of sub paragraph (1) of paragraph 10 of First Schedule to the Inland Revenue Act, No.24 of 2017 as amended by the Inland Revenue (Amendment) Act, No. 10 of 2021 and the Inland Revenue (Amendment) Act, No. 45 of 2022, I, Don Ranjith Sisirakumara Hapuarachchi, Commissioner General of Inland Revenue, by this notice, specify the circumstances to withhold tax from payments where the payments made to any employee and rates of tax to be withheld from such payments.

D. R. S. Hapuarachchi,
Commissioner General of Inland Revenue.

Inland Revenue Department,
Colombo 2,
20th December, 2022.

REGULATIONS

Withholding by Employers

1. Short Title and Commencement

These regulations may be cited as the “Withholding by Employers Regulations 2023”, and come into operation with effect from January 01, 2023.



2. Amount to be Withheld by Employers

An employer who makes a payment during a year of assessment to an employee in respect of that employee's employment must withhold an amount from such payment in accordance with—

- (a) where the payment constitutes regular profits from the employment of an employee who is having one employment or any employee who has furnished a Primary Employment Declaration,
Tax Table 01 should be applied;
- (b) where the payment constitutes a Lump-sum payment,
Tax Table 02 should be applied;
- (c) where the payment constitutes a Once-and-for-all payment (Terminal Benefits),
Tax Table 03 should be applied;
- (d) where the payment received by non-resident and non-citizens in Sri Lanka,
Tax Table 04 should be applied;
- (e) where the monthly regular profits of an employee from a Primary Employment is less than LKR 100,000 but the cumulative profits from the Primary Employment up to any month in the period concerned exceeds liable taxable income from employment for such period due to payment of higher remuneration in certain months,
Tax Table 05 should be applied;
- (f) where the payment constitutes a payment or reimbursement of the employee's tax liability on his income from employment by the employer,
Tax Table 06 should be applied;
- (g) where the payment constitutes of the remuneration of any employee who has not furnished a Primary Employment Declaration, or in respect of remuneration of any employee employed under more than one employer, or from the remuneration of employee who is engaged in more than one employment, where such remuneration is paid by any employer other than the employer of Primary Employment,
Tax Table 07 should be applied.

Tax Tables are available in the Inland Revenue Department Web Portal www.ird.gov.lk

3. Primary Employment

- i. The Primary Employment of an employee for a year of assessment is the employment with respect to which the employee has provided an employer with a declaration under item(ii) for that year.
- ii. An employee shall furnish an employer, with a declaration nominating the employment as the employee's Primary Employment except any employee who is having one employment.
- iii. A declaration under item (ii) must be signed and dated by the employee and the employer, and may relate to one or more years of assessment.
- iv. An employee must not have more than one Primary Employment at any one time.
- v. Subject to paragraph 4, an employee may withdraw a declaration under item (ii) only at the end of a year of assessment.

4. Consecutive Primary Employment

- i. If an employee has ceased the Primary Employment during a year of assessment and the employee has another employment after the Primary Employment has ceased, the employee must provide the employer of the other employment with -
 - a. a new declaration under item (ii) of paragraph 3; and
 - b. the withholding tax certificate issued under paragraph 7 with respect to the prior Primary Employment.

- ii. An employer who is provided with a withholding tax certificate under item (i) must return the certificate to the employee within 7 days from the date submitted.
- iii. Where item (i) applies, the new employer must (for the purposes of calculating the tax to be withheld under paragraph 2 from payments to be made to the employee during the remainder of the year of assessment) –
 - a. add to the payments from the new Primary Employment for the year to the payments from the employee's prior Primary Employment referred to in the withholding tax certificate; and
 - b. add to tax considered to be withheld by the new employer during the year from payments made to the employee to the amount of tax referred to in the withholding tax certificate as withheld by the employee's prior employer.
- iv. Where an employee ceases two or more Primary Employments during a year of assessment–
 - a. the employee may provide the new employer with multiple withholding tax certificates under item (i); and
 - b. item (iii) applies with respect to those multiple withholding tax certificates.

5. Secondary Employment

With respect to an employee, Secondary Employment means any employment that is not the Primary Employment of the employee.

6. Annual Statement of Employer

- I. An annual statement prepared and filed by an employer with the Commissioner General must be in the required form specifying –
 - i. the name, employment number and national identity card number of each employee employed by the employer during the year;
 - ii. whether the employment is a Primary Employment or a Secondary Employment with respect to each employment;
 - iii. with respect to each employee, payments made by the employer during the year;
 - iv. the amount of tax withheld from the payments;
- II. Records on regular profits, lump sum payments or other details should be furnished in Schedules as specified by the Commissioner General.
- III. Schedules should be uploaded using-Service. However, when the records are less than 20, such schedules may be furnished as hard copies.

7. Employee Withholding Tax Certificates

A withholding tax certificate prepared and served by an employer on an employee under section 87 of the Act must be in the required form specifying –

- i. the name, employment number and National Identity Card number of the employee;
- ii. whether the employment is or was a Primary Employment or a Secondary Employment with respect to the employee;
- iii. the amount of payment received by the employee from the employment during the year of assessment; and
- iv. the amount of tax withheld from the payments.

8. False or Misleading Statement

For the purposes of section 181 of the Act, a declaration, statement or certificate provided by an employee to an employer or by an employer to an employee under these regulations is treated as a statement made to a tax official.

9. Employers to maintain proper records

Every employer who makes any payment of remuneration to any employee shall—

- (a) keep a proper record of payment of such remuneration,
- (b) take all reasonable precautions for the safe custody of all employees' declarations, pay sheets, receipts for payment of remuneration to employees and all other accounting records pertaining to the remuneration of the employees and to the income tax deducted and paid to the Commissioner-General,
- (c) retain all such records for a period of not less than five years after the end of the year of assessment to which such records relate;
- (d) permit any officer authorized in writing by the Commissioner-General to inspect any record maintained by him and referred to in paragraph (a) or (b) or (c).

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