

# Inland Revenue (Amendment) Act No. 04 of 2023



May 2023

## Tax Alert

The Inland Revenue (Amendment) Act No 04 of 2023 was certified by the Speaker on 08 May 2023. The Act will come into operation with effect from specific dates referred to under specific sections in the attached Tax Alert.

Prior to this, the Principal Act (Inland Revenue Act No 24 of 2017) has been amended by Amendment Act No. 10 of 2021 and Amendment Act No.45 of 2022.

The synopsis of the Amendments introduced via the Inland Revenue (Amendment) Act 04 of 2023 (Amending Act) are as follows :-

### 1. Restrictions in carrying out cash transactions

A provision has been introduced with the intention of discouraging cash transactions by denying a tax deductibility in computing the taxable income and excluding such payment from being considered as 'cost of the asset' if the criteria laid down is not complied with. Accordingly, a sum aggregating Rs. 500,000/- or more is paid **on or after the date of commencement of the Act**, 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

This provisions was initially proposed to be implemented from 1<sup>st</sup> April 2023, however the Amending Act states that the effective date would be on or after the date of commencement of the Act.

## 2. Amendments in relation to Dividend

### a) Tax rate for dividend for the second six months of the Year of Assessment.

The Act 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 while 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.

### c) Exemption on gain on realization of assets or liability

If a gain is made from the realization of a capital asset or liability of the business or realization of an investment asset, by an entity of which more than 50% of direct or indirect membership interest is owned by Government of Sri Lanka, such gain shall be exempt from income tax. This exemption is effective from 1<sup>st</sup> April 2022.

#### 4. Restrictions 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

As per the Amending Act, 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. Enhanced Capital Allowance for expansion

A BOI company which invests in the expansion of the existing undertaking will be granted Enhanced capital allowances during any Year of Assessment. The enhanced capital allowance will be granted in addition to the capital allowance and the rate will vary from 100% to 200% depending upon the quantum of investment and the location.

## **7. Income Tax rate for BOI registered company**

For clarity a provision has been introduced where it states that any company who has registered with the BOI on or after April 1, 2018, but before October 1, 2022, and if the agreement provides that its profits and income, or any dividends paid by such company, will be fully or partially exempt, or will be taxed at a reduced rate, those benefits will continue, or the company will be liable for income tax at the rate specified in that agreement.

## **8. Time Bar for CGIR's decision on request for administrative review w.e.f. commencement of the Act**

Any request for Administrative Review made after the commencement of the Amending 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.

## **9. Utilization of refund Amount before the Tax Audit**

### **▪ Option to utilize 60% of the refund amount claimed**

At the request of a taxpayer, 60% of the unaudited refundable amount could be set off against the future income tax payable.

### **▪ Refunds of income tax overpaid by resident individuals**

CGIR is mandated to pay the refund amount prior to a tax audit, if the refund value is less than Rs. 100,000/-, within a period 03 months from the date of the refund claim made by a resident individual.

A senior citizen resident individual who is not an installment payer where his refund claim is less than Rs. 25,000/- for any quarter ending on the 30<sup>th</sup> June, 30<sup>th</sup> September, 31<sup>st</sup> December and 31<sup>st</sup> March, such refund claim shall be paid within 03 months of the date of the refund claim made by such person, prior to a tax audit.

The manner and the procedure relating to the payment of the refund amount to be specified by the CGIR.

## **10. Relief from Penalty or Interest**

The Capital Gains Tax Rate for companies was increased to 30% with effect from 01 October 2022. The Act 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 30 days of the succeeding month from the date of commencement of this Amending Act.

## **11. The CGIR is empowered to specify the procedure that should be followed by a Withholding Agent and Financial Institutions in relation to payments made to non-residents.**

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.

## **12. Quarterly statements by the Withholding Agents**

The Act introduces another compliance obligation on the withholding agents where a quarterly statement should be lodged by the withholding agents within 30 days after, the end of each quarter.

## **13. 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 Act 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.

## **14. Miscellaneous**

- a) 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.
- b) All information and documents received in an official capacity by the CGIR in relation to a specific taxpayer, may now also be disclosed to the Director General of the Department of Fiscal Policy.
- c) An opinion or observation of the Secretary to the Treasury could be obtained by the CGIR in relation to any private or public rulings or for any Act administered by the CGIR to ascertain the tax policy in order to interpret the Law.

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