

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

**VALUE ADDED TAX (AMENDMENT)
ACT, No.7 OF 2003**

[Certified on 27th February, 2003]

Printed on the Order of Government

An Act to Amend the Value Added Tax Act. No. 14 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 Value Added Tax (Amendment) Act No. 7 of 2003 Short Title

2. Section 2 of the Value Added Tax Act, No. 14 of 2002 (hereinafter referred to as the "principal enactment") is hereby amended in subsection (3) of that section as follows:- Amendment of
section 2 of Act No.
14 of 2002

(1) in the first proviso to that subsection -

- (a) in paragraph (b) of that proviso by the substitution for the words "any fabric imported by any person, for the purpose of manufacture of garments for export", of the words "any fabric imported by any person for the purpose of manufacture of garments for export";
- (b) in paragraph (e) of that proviso by the substitution for the words "any ship;", of the words "any ship imported on or before December 31, 2002:" ;

(2) in the second proviso to that subsection -

- (a) in sub-paragraph (ii) of paragraph (a) of that proviso by the substitution for the word and figure "subsection (6)", of the word and figure "subsection (7)";
- (b) by the substitution for the words from "subject to the furnishing of a bank guarantee", to the end of that proviso of the following:-
 - "(c) any ship imported on or after January 1 2003, for a period up to thirty six months, from the date of such import and such deferred amount shall be settled in quarterly installments before the expiration of such period of thirty six months.

The deferment of the payment of tax shall be subject to a furnishing of a bank guarantee or a corporate guarantee which covers the amount of tax due on the goods imported, received or purchased. In the case of such deferment under paragraph (b) no guarantee shall be required where such goods have been imported by a Government institution to be re-exported within one month from the date of importation."

Amendment of section 11 of the principle enactment

3. Section 11 of the principle enactment is hereby amended in the proviso to subsection (1) of that section, by the substitution, for the words and figures "registered under subsection (2) of section 77", of the words and figures "registered under subsection (2) of section 80".

Amendment of section 14 of the principle enactment

4. Section 14 of the principle enactment is hereby amended in subsection (2) of that section, by the substitution, for the words and figures "registered under subsection (2) of section 77", of the words and figures "registered under subsection (2) of section 80".

Amendment of Section 20 of the Principle enactment

5. Section 20 of the principle enactment is hereby amended as follows -

- (1) in subsection (2) of that section, by the substitution for the words and figures " Any valid tax invoice issued under the Goods and Services Tax Act, No. 34 of 1996 prior to August 1 2002", of the words and figures "Any tax invoice not issued within the period specified in subsection (1) and which does not conform to the provisions of subsection (2) shall not be a valid tax invoice. Any valid tax invoice issued under the Goods and Services Tax Act, No. 34 of 1996 prior to August 1, 2002 or thereafter";
- (2) in subsection (3) of that section, by the substitution for the words "treated as a tax invoice", of the words "treated as a tax invoice under this Act.";
- (3) in subsection (6) of that section, by the substitution for the words "purposes of this Act", of the words -

"purposes of this Act:

Provided however a tax invoice shall be issued by such registered person who makes such taxable supply to any Government institution, Provincial Council, Local Government institution, or any public corporation, for any taxable supply made to such institution, Council or such corporation, as the case may be, whether or not such institution, Council or corporation is registered under this Act".

6. Section 21 of the principle enactment is hereby amended in subsection (12) of that section, by the substitution for the word and figure "subsection (9)", of the word and figure "subsection (10)"

Amendment of section 21 of the principle enactment

7. Section 22 of the principle enactment is hereby amended as follows:-

Amendment of section 22 of the principle enactment

(1) in the proviso to subsection (1) of that section, by the substitution for the words and figures "Law No. 4 of 1978", of the words and figures "Law No. 4 of 1978 or by any other garment manufacturer who manufactures garments for export under the supervision of the Department of Customs";

(2) by the insertion immediately after the proviso to subsection (1) of that section of the following :-

"Provided further that no other tax or levy including any duty under the Customs Ordinance shall be charged or collected on such sale of garments, where the amount specified in the preceding proviso has been paid on such sale.";

(3) in subsection (5) of that section -

(a) in paragraph (b) of the first proviso to that subsection, by the substitution for the word and figure "subsection (6)", of the word and figure "subsection (7)";

(b) in the second proviso to that subsection, by the substitution for the words "shall not be refunded", of the words and figures "shall not be

refunded but such input tax including any excess input tax as at July 31, 2002, under the Goods and Services Tax Act, No. 34 of 1996 shall be carried forward.";

(4) in subsection (6) of that section -

(a) by the repeal of paragraphs (iii) and (iv) of that subsection and the substitution therefore of the following :-

"(iii) if the supply of goods or services received is not supported by -

(a) a valid tax invoice ; or

(b) a customs goods declaration or other authenticated document issued by the Director General of Customs under this Act or under the Goods and Services Tax Act, No. 34 of 1996.

and received within twelve months from the end of the relevant taxable period in respect of which such tax invoice was issued or from the date of importation of goods, as the case may be;

(iv) if the input tax on such tax invoice or customs goods declaration, as the case may be, has not been deducted from the output tax for any taxable period ending before the lapse of six months from the last day of the taxable period in which such tax invoice or customs goods declaration was received:" ;

(b) by the insertion immediately after the first proviso to subsection (6) of that section of the following proviso :-

"Provided further, where input tax

disallowed in respect of any motor vehicle referred to in paragraph (i) may be allowed up to a limit of fifty percent of such input tax for any taxable period commencing on or after January 1, 2003, subject to the provisions of subsection (3), where such vehicle is partly or wholly used in any taxable activity.";

(5) in subsection (7) of that section, by the substitution for the word and figure "subsection (5)", of the word and figure "subsection (6)";

(6) in paragraph (b) of subsection (8) of that section, by the substitution for the word and figure "subsection (6)", of the words and figures "subsection (7) or subsection (6) of section 22 of the Goods and Services Tax Act, No. 34 of 1996."

Insertion of new
Chapter IIIA in the
Principle enactment

8. The following new Chapter is hereby inserted immediately after Chapter III and shall have effect as Chapter IIIA of the principle enactment:-

CHAPTER IIIA

IMPOSITION OF VALUE ADDED TAX ON THE SUPPLY OF FINANCIAL SERVICES BY SPECIFIED INSTITUTIONS

Charge of value added
tax on the supply
of financial services
by specified
institutions

25A. (1) Notwithstanding the provisions of Chapter I, II, III and item (xi) of the First Schedule to this Act, a Value Added Tax (hereinafter in this Chapter referred to as "the tax") shall be charged in accordance with the provisions of this Chapter with effect from January 1, 2003, on the supply of financial services in Sri Lanka, made by any specified institution which carries on a business of supplying such financial services.

(2) Every specified institution, carrying on the business of supplying any financial service in Sri Lanka, shall be required to be registered where the value of such supply for a period of three months exceeds five hundred thousand rupees or for a period of twelve months one million eight hundred thousand rupees, as the case may be.

(3) Every specified institution, required to be registered under subsection (2), shall make an application for registration in the specified form to the Commissioner General not later than ten days from the date of commencement of this Act:

Provided however any institution registered under this Act and which is a specified institution within the meaning of this Chapter, shall be deemed for all purposes to be a registered specified institution.

(4) The Commissioner General shall upon such registration issue, to such registered specified institution -

- (a) a tax registration number ; and
- (b) a certificate of registration :

Provided however any institution deemed to be registered under this Chapter, shall not be issued with a tax registration number and a certificate of registration, under this Chapter.

Monthly
Taxable period

25B. The taxable period of every registered specified institution shall be one month and a return in the form specified shall be furnished for each month before the end of the following month.

Calculation of
tax

25C. (1) Every registered specified institution under this Chapter shall be liable to tax for each taxable period on its total value addition of such institution which includes the net profits or loss, as the case may be, before payment of income tax on such profit computed in accordance with accepted accounting standards, subject to an adjustment for economic depreciation, determined by the Minister having regard to the interest of economy by order published in the Gazette, and the emoluments payable to all the employees of such institution :

Provided however where the amount of profits for each taxable period cannot be accurately ascertained, such amount may be estimated on the basis of available information. The estimated amounts shall be adjusted to reflect the actual amount on half yearly basis.

Emoluments paid to all the employees shall

include -

- (a) in the case of "specified employees" under Chapter XIV of the Inland Revenue Act, No. 38 of 2000, the gross remuneration payable to such employees and reflected in the pay sheet maintained under paragraph (a) of section 110 of the Inland Revenue Act. No. 38 of 2000, and
- (b) to the case of an employee other than a "specified employee" the gross remuneration paid to such employees reflected in the pay sheet maintained under subsection (2).

(2) Every registered specified institution shall maintain a pay sheet in respect every employee, other than a specified employee, in the manner set out by the Commissioner General under section 110 of the Inland Revenue Act, No. 38 of 2000.

(3) The amount of tax payable for each month shall be ten *percentum* of the value additions specified in subsection (1).

Tax Credit

25D. Where any registered specified institution has paid any tax under any other provision of this Act, other than this Chapter, a tax credit shall be allowed on an amount equal to such tax paid against the tax payable under this Chapter where in the opinion of the Commissioner General there is no material difference in the recognition of receipts of such institution for the calculation of profits for the purposes of this Chapter and for the purposes of the calculation of taxable supplies under any other provisions of this Act.

Provided however, only fifty percentum of any such tax paid under any other provision of this Act other than under this Chapter, in relation to tax calculated as provided in section 22 at the standard rate shall be deducted against the tax payable under this Chapter.

Chapters IV to
XVI to be applicable
To registered specified
Institutions under
This Chapter

25E. The provisions of Chapters IV to XVI shall *mutatis mutandis*, be applicable in respect of the tax charged under this Chapter.

Interpretation

25F. For the purposes of this Chapter -

supply of financial services means -

- (a) the operation of any current, deposit or savings account;
- (b) the exchange of currency ;
- (c) the issue, payment, collection or transfer of ownership of any note, order for payment, cheque or letter of credit ;
- (d) the issue, allotment, transfer of ownership, drawing, acceptance or endorsement of any debt security, being any interest in or right to be paid money owing by any person ;
- (e) the issue, allotment, transfer of ownership of any equity security or a participatory security ;
- (f) underwriting or sub-underwriting the issue of any equity security debt security or participatory security ;
- (g) the provision of any loan, advance or credit ;
- (h) the provision -
 - (a) of the facility of installment credit finance in a hire purchase conditional sale or credit sale agreement for which facility a separate charge is made and disclosed to the person to whom the supply is made ;
 - (b) goods under any hire purchase agreement or conditional sale or hire purchase agreement while have been used in Sri Lanka for a period not less than twelve months as at the date of such agreement ;

specified institution means -

- (a) a licenced commercial bank within the meaning of the Banking Act, No. 30 of 1988;
- (b) a finance company registered under the Finance Companies Act, No. 78 of 1988;
- (c) a licences specialized bank within the meaning of the Banking Act, No. 30 of 1988.

Amendment of
section 26 of the
principle enactment

9. Section 26 of the principle enactment is hereby amended in subsection (2) of that section, as follows

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- (1) in paragraph (b) of that subsection by the substitution for the words "the assessment has been made has not been charged" of the

words "the assessment has been made has not been charged".

- (2) In the proviso to that subsection by the substitution for the words "default of" of the words "default from",

Amendment of section 27 of the principle enactment

10. Section 27 of the principle enactment is hereby amended by the addition immediately after subsection (2) of that section of the following subsection :-

(3) Where any penalty payable under this section is outstanding on November 6, 2002 -

- (a) such penalty shall be waived in full where the tax payable in default has been fully paid on or before November 6, 2002.
(b) Where a portion of the tax in default has been paid on or before November 6, 2002 such penalty referable to the amount of the tax in default paid shall be waived.

11. Section 28 of the principle enactment is hereby amended in subsection (1) of that section by the substitution for the words "that taxable period", to the end of that section of the words "that taxable period".

Amendment of section 28 of the principle enactment

12. Section 33 of the principle enactment is hereby amended in subsection (2) of that section by the substitution for the words "at any time" of the words "within a period of five years from the end of the taxable period to which the assessment relates.

Amendment of section 33 of the principle enactment

For the purposes of this Chapter any notice of assessment may refer to one or more taxable periods."

13. Section 34 of the principle enactment is hereby amended in the second proviso to subsection (8) of that section, by the substitution for the words "three years", of the words "two years".

Amendment of section 34 of the principle enactment

14. Section 35 of the principal enactment is hereby amended as follows :-

Amendment of section 35 of the principle enactment

- (1) by the renumbering of that section as subsection (1) of that section : and
(2) by the addition immediately after the

renumbered subsection (1) of that section of the following subsection :-

"(2) Notwithstanding anything to the contrary in any other law, an appeal to the Board of Review under subsection (1) shall be determined by the Board within a period of two years from the date of commencement of the hearing of such appeal by the Board".

Insertion of new section 48A in the principle enactment

15. The following new section is hereby inserted immediately after section 48 of the principle enactment and shall have effect as section 48A of the enactment:-

"Time limit for the recovery of the tax in default 48A. No proceedings shall be instituted or any action pending for the recovery of tax or any other action taken for the recovery of tax shall be proceeded with under this Chapter where a period of five years has lapsed after three months from the date of default of such tax."

Amendment of Section 58 of the Principle enactment

16. Section 58 of the principle enactment is hereby amended in subsection (1) of that section, by the substitution for the words "the taxable period", of the words "a taxable period, within three years from the end of such taxable period".

Amendment of Section 67 of the Principle enactment

17. Section 67 of the principle enactment is hereby amended by the addition immediately after paragraph (a) of that section of the following paragraph :-

"(aa) fails to apply for registration as required under section 25A; or"

Insertion of new Section 75A in the Principle enactment

18. The following new section is hereby inserted immediately after section 75 of the principle enactment and shall have effect as section 75A of that enactment:-

"Secretary to issue guide lines 75A. The Secretary to the Ministry of the Minister may, from time to time, issue guide lines in respect of any matter, he considers appropriate for the proper implementation of the provisions of this Act."

Amendment of section 80 of the

19. Section 80 of the principle enactment is hereby amended in subsection (1) of that section by the

principle enactment

amended in subsection (1) of that section by the repeal of subparagraph (ii) of paragraph (c) of that subsection and the substitution therefore of the following :-

"(ii) under section 64; and"

20. Section 83 of the principle enactment is hereby amended as follows :-

Amendment of
section 83 of the
principle enactment

- (1) in the definition of the expression "Deputy Commissioner" by the substitution for the words "Deputy Commissioner of Inland Revenue" of the words "Deputy Commissioner of Inland Revenue";
- (2) by the substitution for the definition of the expression of "goods" of the following :-

"goods" means all kinds of movable or immovable property but does not include -

- (a) money ;
 - (b) computer software made to customers special requirements either as unique programme or adaptation for standard programme, inter company information data and accounts, enhancement and update of existing specific programmes, enhancement and update of existing normalized programmes supplied under contractual obligation to customers who have bought the original programme or where the value of contents separately identifiable in a software such vale of contents;"
- (3) in the definition of the expression "taxable period" by the repeal of subparagraph (iv) of paragraph (a) and the substitution therefor of the following :-

"(iv) where any person has commenced a business or started a project and undertakes to comply with the requirements of subsection (7) of section 22 under this Actor subsection (6) of section 22 of the Goods and Services Tax Act, No. 34 of 1996."

21. The First Schedule to the principle enactment is hereby amended as follows :-

(1) by the repeal of paragraph (h) of item (xi) of that Schedule and the substitution therefore of the following :-

"(h) the provision -

(a) of the facility of installment credit finance in a hire purchase conditional sale or credit sale agreement for which facility a separate charge is made and disclosed to the person to whom the supply is made;

(b) of goods under any hire purchase agreement or conditional sale agreement which have been used in Sri Lanka for a period not less than twelve months as at the date of such agreement."

(2) in item (xiii) of that Schedule by the substitution for the words "The import and and supply" of the words "The import and supply";

(3) in item (xiv) of that Schedule by the substitution for the words "The import and supply of unused postage" of the words "The import or supply of unused postage";

(4) by the substitution for item (xvi) of that Schedule of the following :-

(xvi) The import of goods by any organisation approved by the Minister, where he is satisfied that such goods are gifts from persons or organisations abroad or the supply of goods directly funded by any foreign organisation for the relief of sudden distress caused by natural or human disasters;

(5) by the repeal of item (xxvi) of that Schedule.

22. The Second Schedule to the principle enactment is hereby amended as follows:-

Amendment of the
second schedule to
the principle
enactment

(1) In item (ix) of that Schedule by the

substitution for the words "and lentils;" ,
of the words "and dhall";

(2) In item (xii) of that Schedule by the substitution for the words "supply or import of petrol, diesel, fuel liquefied petroleum gas"

(3) By the repeal of item (xviii) of that Schedule and the substitution therefore of the following :-

(xvii) supply of finance leasing facilities by a person registered under the Finance leasing Act, No. 56 of 2000, other than any receipt of an advance payment on account of the asset to be given on lease or in relation to such leasing transaction or any payment for the early settlement of the amount payable under the lease agreement which exceeds ten percentum of the total agreement value;

(4) by the addition immediately after item (xxi) of that Schedule of the following new items:-

"(xxii) the supply of services by professional conference organizers, registered with the Sri Lanka Convention Bureau in organizing seminars or other events;

(xxiii) the supply or import of textiles and handloom products;

(xxiv) the supply or import of ships;

(xxv) the supply or import of any jewellery;

(xxvi) the supply or import of maize;

(xxvii) the supply or import of machinery, medical and surgical instruments, apparatus or accessories including medical and dental equipment, ambulances for the provision of health services and surgical dressings."

(xxviii) The supply, lease or rent of residential accommodation other than supplies specified in the First Schedule;

(xxix) The supply of all health care services provided by medical institutions other than supplies specified in the first Schedule.

(xxx) The supply of land and improvements.

Retrospective effect

23. The -

- (1) amendment made to section 2, the insertion of a new Chapter IIIA, amendments made to sections 33, 34, 35 and the insertion of section 48A, the amendment made to section 58, the insertion of section 75A and the amendment to the Second Schedule to the principle enactment by section 2, 8, 12, 13, 14, 15, 16, 17, 22 (3) and 22 (4) of this Act, shall be deemed for all purposes to have come into force on January 1, 2003;
- (2) amendments made to sections 11, 14, 20, 21, 22, 26, 28, 80, 83 of the First Schedule and the Second Schedule to the principle enactment by sections 3, 4, 5, 6, 7, 9, 11, 19, 19(1), 21, 22(1) and 22(2) of this Act shall be deemed for all purposes to have come into force on August 1, 2002;
- (3) amendment made to section 27 of the principle enactment by section 10 of this Act shall be deemed for all purposes to have come into force on November 6, 2002.

24. Where any person who collects the tax as provided for in this Act, during the period commencing on January 1, 2003 up to the date of commencement of this Act, such person shall be deemed to have acted with due authority and such collection shall be deemed for all purposes to have been, and to be validly made and is hereby indemnified against all actions, civil or criminal, in respect of such collection."

Validation

25. In the event of any inconsistency between the Sinhala and Tamil text of this Act the Sinhala text shall prevail

Sinhala text to prevail in case of inconsistency