



# KPMG Sri Lanka

## Tax News Flash

January 2021

### For clients of KPMG in Sri Lanka

The Department of Inland Revenue (“DIR”) has issued the attached notice (PN/IT/2021-01) dated 13<sup>th</sup> January 2021, indicating the proposed amendments to the Inland Revenue Act No. 24 of 2017 (“IR Act”) to be implemented by them post formal amendments to the IR Act.

We have provided below a synopsis of the **key proposals** as indicated in the notice:

#### **A. Exemptions from Income Tax (subject to meeting the conditions specified in the notice)**

- Exemption from Remittance Tax of 14% for a Sri Lankan Permanent Establishment which retains its profits for a minimum of 3 years and reinvests same to expand, to acquire shares/ securities from CSE, or to acquire treasury bills/ bonds or Sri Lanka International Sovereign Bonds issued on behalf of the Government of Sri Lanka, with effect from 1<sup>st</sup> April 2021.
- Exemption on any gain made on sale/ exchange/ transfer of land to a Sri Lanka REIT listed in the CSE and licensed by the SEC of Sri Lanka, with effect from 1<sup>st</sup> April 2021.
- Exemption on dividends, gains on realization of units and gains on realization of capital asset of a business/ investment derived by a unit holder from a Sri Lanka REIT.
- Exemption on interest accruing to a MNC from bank deposits opened utilizing foreign sources and maintained in foreign currency, if such deposit is maintained to cover its import expenditure for that year of assessment, with effect from 1<sup>st</sup> April 2021.



- Exemption on gain from realization of Sri Lanka International Sovereign Bonds issued by/ on behalf of the Government of Sri Lanka, derived by a commercial bank/ authorized dealer who made an investment not less than USD 100Mn in such bonds on or after 1<sup>st</sup> April 2021.
- Following exemptions on gains and profits from business, other than gains from realization of capital assets and liabilities of the business, derived by a person from a new undertaking, subject to meeting the specified conditions:
  - a) 10 year exemption for an undertaking which sells construction materials recycled in a selected separate site established in Sri Lanka, commencing on or after 1<sup>st</sup> April 2021.
  - b) 5 year exemption for any business carried on by an individual after successful completion of specified vocational education, commencing on or after 1<sup>st</sup> April 2021.
  - c) 7 year exemption for an undertaking carried on by a resident person which manufactures and sells boats or ships, commencing on or after 1<sup>st</sup> April 2021.
  - d) 7 year exemption for any renewable energy project supplying power to the national grid, with a capacity to generate not less than 100 MW solar or wind power, commencing on or after 1<sup>st</sup> April 2021.
  - e) 5 year exemption for an undertaking carried on by a resident person for construction and installation of communication towers and related appliances, or providing required technical services for such construction/ installation, commencing on or after 1<sup>st</sup> January 2021.
  - f) Exemption for an undertaking for letting bonded warehouses or warehouses related to the offshore business in Colombo or Hambantota Ports, if the investment on same has been made on or after 1<sup>st</sup> April 2021 [the exemption period has not been mentioned].

## **B. Concessional tax rates**

- 50% reduction on the income tax payable (other than on Capital Gains) by a company, which lists its shares in the CSE on or after 1<sup>st</sup> January 2021 but prior to 31<sup>st</sup> December 2021, for the year of assessment 2021/2022. Furthermore, gains and profits of such company (other than Capital Gains) shall be taxed at the rate of 14% for subsequent 3 years of assessment (i.e. 2022/2023 to 2024/2025).
- Income tax payable on dividends derived by MNCs shall be reduced by 25% for the year of assessment 2021/2022 and by 50% for the subsequent 2 years of assessment (i.e. 2022/2023 and 2023/2024) subject to meeting the conditions specified in relation to achieving an increase in exports.

## C. Computation of tax

- The consideration received for purpose of computing Capital Gain to be ascertained based on the higher of the amount received/ receivable, or the “assessed value” of the asset at the time of the realization. “Assessed value” means the value at the time of realization, certified by a professionally qualified valuer in a valuation report.
- Instructions to be issued in relation to claim of specific provisions for debt by banks and financial institutions.
- Accelerated depreciation to be granted over 2 years for Milking Machines with latest technology used to manufacture local liquid milk related products.
- Temporary concessions provided under the Sixth Schedule to the IR Act in relation to the additional deduction of 100% granted for R&D expenses, has been extended by another 2 years (i.e. 2021/2022 and 2022/2023).
- A qualifying payment deduction to be granted over a period of 3 years for expenditure incurred by a financial institution by way of cost of acquisition or merger of any other financial institution where such cost has been confirmed by the Central Bank of Sri Lanka considering the facts of the case (cost apportioned over the 3 years equally).

## D. Tax administrative measures

- A single Capital Gain Tax (“CGT”) Return can be submitted for all Capital Gain transactions in a calendar month and the payment of CGT can be paid within 30 days after the calendar month.
- All companies (other than body of persons) are required to file tax returns electronically with effect from 1<sup>st</sup> April 2021.
- The CGIR’s decision on the review of assessment or other decision and the reasons for the decision to be served to the taxpayer within a period of 6 months from the date of acknowledgement of request for review under Section 139 of the IR Act.
- An appeal to the Tax Appeals Commission can be made within 30 days from the receipt of the decision of the CGIR on administrative review, or within next 30 days from the lapse of 7 months since the request for administrative review was made under Section 139 of the IR Act.

## E. Tax amnesty

- The provisions relating to assessment, imposing of penalties or other penal provisions under any Act administered by the CGIR will not apply to a person who has not declared or not paid the due taxes to the CGIR as required by such Acts on moneys earned from any source, if such person complies with the following:
  - a) Utilizes such money hidden in Sri Lanka or outside Sri Lanka as investments on any undertaking in Sri Lanka during the period from 1<sup>st</sup> January 2021 to 31<sup>st</sup> December 2021; and
  - b) Pays a 1% final tax to the CGIR on the gross investment amount; and
  - c) Makes a declaration to the CGIR in the approved form with his/ her investment plan [separate guideline to be issued].

You may click on the link below to access the notice published by the DIR:

[http://www.ird.gov.lk/en/Lists/Latest%20News%20%20Notices/Attachments/312/PN\\_IT\\_2021%E2%80%9313012021\\_E.pdf](http://www.ird.gov.lk/en/Lists/Latest%20News%20%20Notices/Attachments/312/PN_IT_2021%E2%80%9313012021_E.pdf)

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# INLAND REVENUE DEPARTMENT

## Notice to Taxpayers

### Tax Proposals Announced in the Budget -2021

As per the National budget of 2021 presented in Parliament, following new tax proposals have been made. These proposals will be implemented after formal amendment to the Inland Revenue Act No. 24 of 2017 (IRA).

#### 1. Exemptions from Income Tax

- i. Remittance tax (at the rate of 14% on remitted profits) is not required to be paid by a non-resident company carrying on a business in Sri Lanka through a Sri Lankan permanent establishment which earns profits and income on or after April 1, 2021 and retained such total profits for minimum of three years period by investing in Sri Lanka to expand its business or to acquire shares or any securities from Colombo Stock Exchange or to acquire treasury bills, treasury bonds or Sri Lanka International sovereign bonds issued on behalf of the Government of Sri Lanka. The exemption is applicable on such retained and invested profit is remitted whenever after that three years.
- ii. Gains and profits earned or derived by any person from the sale of produce of an undertaking for agro farming, without subjecting such produce to any process of production or manufacture within the period of five years of assessment commencing on April 1, 2019. “Agro farming” means the tillage of the soil and cultivation of land with plants of any description, rearing of fish or animal husbandry, including poultry farms, veterinary and artificial insemination services. [This exemption has already been administrated as informed by Notice dated 08.04.2020(PN/IT/2020-03(Revised)]
- iii. Gains made by a person on or after April 1, 2021 from the realization of land which were sold, exchanged or transferred to a Sri Lanka Real Estate Investment Trust (SLREIT) listed in Colombo Stock Exchange and licensed by the Security Exchange Commission of Sri Lanka.
- iv. Dividends or gains on the realization of units or amounts derived as gains from the realization of capital asset of a business or investment by a unit holder from SLREIT.
- v. Interest accruing to or derived on or after April 1, 2021 by any welfare society formed or setup by Sri Lanka Army, Sri Lanka Navy, Sri Lanka Air Force or Sri Lanka Police.

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- vi.** Interest accruing to or derived by any multi-national company on or after April 1, 2021 from the deposit opened by utilizing the foreign sources and maintained such deposit in foreign currency in any domestic bank, if such deposit is maintained to cover its import expenditure for that year of assessment.
- vii.** Interest or discount accruing to or derived on or after April 1, 2021 by any Samurdhi community-based banks established under the Department of Samurdhi Development, from security or Treasury bonds under the Registered Stocks and Securities Ordinance (Chapter 420) or Treasury bills under the Local Treasury Bills Ordinance (Chapter 417).
- viii.** Gains from the realization of Sri Lanka international sovereign bonds issued by or on behalf of the Government of Sri Lanka and received or derived by a commercial bank or authorized dealer who made aggregate investment not less than USD 100 million in such bonds on or after April 1, 2021.
- ix.** Gains and profits earned or derived by any Vocational Education Institution which is standardized under TVET concept (Technical and Vocational Education and Training) and regulated by the Tertiary and Vocational Education Commission, if such institution has doubled their student intake for such year of assessment compared to the student intake in the year of assessment immediately preceding that year of assessment. Exemption is available for a period of five years commencing on April 1, 2021. For the above purpose, if any such institution which doubled the student intake as provided in for first year and maintained the same student intake of the first year for the period of next four years shall be deemed as an institution which fulfilled the requirement of exemption in each year of such period of four years.
- x.** Gains and profits received or derived from business (other than any gains from the realization of capital assets and liabilities of the business as calculated under Chapter IV of the IRA) by a person from following new undertakings (which is not formed by splitting-up or re-construction of an existing undertaking) commenced on or after April 1, 2021. Tax exemption can be claimed during the specified period subject to the stated conditions.
- a)** Ten-year tax exemption period for an undertaking which sells construction materials recycled in a selected separate site established in Sri Lanka to recycle the materials which were already used in the construction industry. (In any case, if recycled materials are used by the same person for construction services, this exemption can be claimed by deeming such materials as have been sold to the construction service business at market price)
- b)** Five-year tax exemption period for any business commenced on or after April 1, 2021 by an individual after successful completion of vocational education from any institution which is standardized under TVET concept and regulated by the Tertiary and Vocational Education Commission.
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- c) Seven-year tax exemption period for an undertaking commenced by a resident person in manufacturing of boats or ships in Sri Lanka and received or derived any gains and profits from the supply such boats or ships.
  - d) Seven-year tax exemption period for any “renewable energy project” established with a capacity to generate not less than one hundred Mega Watts solar or wind power and supplies such power to national grid.
  - e) Five-year tax exemption period for any undertaking commenced on or after January 1, 2021 by any resident person who constructs and installs the communication towers and related appliances using local labours and local raw materials in Sri Lanka or provide required technical services for such construction or installation.
  - f) Any undertaking for letting bonded warehouses or warehouses related to the offshore business in Colombo or Hambanthota ports, if such person has invested on such warehouses on or after April 1, 2021.

Tax exemption period provided in above item x [(a) to e)] shall be reckoned from the year of assessment in which the undertaking commences to make profits from transactions entered into in that year of assessment or from the commencement of the year of assessment immediately succeeding the year of assessment in which the undertaking completes a period of two years reckoned from the date on which the undertaking commences to carry on commercial operations, whichever occurs earlier.

## 2. Tax rate changes

- i. Aggregate income tax payable by any company (other than on gains from the realization of investment assets) which lists its shares on or after January 1, 2021 but prior to December 31, 2021 in the Colombo Stock Exchange licensed by the Securities and Exchange Commission of Sri Lanka shall be reduced by fifty per centum for the year of assessment commencing from April 1, 2021 (2021/2022).

Further, gains and profits of such company (other than gains from the realization of investment assets) shall be taxed at the rate of 14% for three years of assessment commencing from April 1, 2022 (2022/2023 to 2024/2025).

- ii. Income tax payable on gains and profits from dividend by multi-national companies shall be reduced by twenty five percent for the year of assessment commencing from April 1, 2021 (2021/2022) and fifty percent for the two years of assessment immediately succeeding that year of assessment (2022/2023 and 2023/2024) subject to the fulfillment of conditions either,
  - increase in exports (other than specified undertakings) by thirty per centum in year of assessment commencing from April 1, 2021 (2021/2022) compared to the immediately preceding year of assessment; or

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- increase in exports (other than specified undertakings) by fifty per centum in year of assessment commencing from April 1, 2022 (2022/2023) and maintains such status in the subsequent year of assessment, compared to the years of assessment 2020/2021.

### **3. Tax computation, deductions and qualifying payments**

- i.** Simplify the calculation of gains from the realization of investment assets (Capital Gains). Accordingly, the consideration received for the purpose of capital gain will be calculated based on the amount received or receivable or the assessed value at the time of realization of such asset, whichever is higher.

“Assessed value” means the value at the time of realization, certified by a professionally qualified valuer in a valuation report.

- ii.** Relevant instructions will be issued to ensure the better and transparent management with regard to the specific provisions for a debt claim by the banks and financial institutions.
- iii.** Capital allowance will be granted within two years for Milking Machines with latest technology, used to manufacture the local liquid milk related products.
- iv.** Temporary concession provided for Research and Development expenses under the Sixth Schedule to the IRA has been extended to another two years. Accordingly, additional deduction which is equal to the 100% of actual research and development expenditure incurred and deductible in line with Section 15 of the IRA in each year can be deducted during the years of assessment 2021/2022 and 2022/2023 respectively.
- v.** Cost of funds of loans provided for start-up capital of the businesses starting by young men and women after a vocational training (which is qualified for 5-year tax holiday), provided by banks and financial institutions will be considered as a deductible expenditure.
- vi.** Qualifying Payments,

- a)** With effect from April 1, 2021 contribution made by a resident individual in money or otherwise to establish a shop for a female individual who is from a Samurdhi beneficiary family as instructed and confirmed by the Department of Samurdhi Development.

- b)** With effect from April 1, 2021 expenditure incurred by any financial institution by way of cost of acquisition or merger of any other financial institution where such cost is ascertained by considering all the facts on case-by-case basis and as confirmed by the Central Bank of Sri Lanka. Total deductible expenditure shall be apportioned in equal amounts over a period of three years of assessment and be deductible from the assessable income of that financial institution in each such year of assessment commencing from the year of assessment in which the expenditure incurred. In any case if any amount which was not deducted during the three years period whether by reason of the total assessable income in a year has not exceeded



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the permitted deduction, then it shall be deducted in any year of assessment after the three years period.

#### **4. Tax administrative measures**

- i.** Single return can be submitted for all capital gain transactions in a calendar month and the payment due is to be paid within thirty days after the relevant calendar month.
- ii.** All companies (other than body of persons) shall file tax returns only by electronically through the use of computer system or mobile electronic devices (e-filing) with effect from April 1, 2021.
- iii.** It is mandatory to use the Tax Identification Number (TIN) in all tax related source documents or underlying documents of the taxpayer.
- iv.** The Commissioner-General's decision of the review on assessment or other decision and the reasons for the decision will be served to the taxpayer within a period of six months from the date of acknowledgment of request for review under Section 139 of the IRA.
- v.** A taxpayer who is aggrieved by the decision on administrative review of an assessment may appeal to the Tax Appeals Commission within thirty days from the date of receipt of the decision of the Commissioner General or within next thirty days from the date lapsed the seven months since the request for administrative review was made under section 139.
- vi.** Punitive provisions (including an issuing a prohibition order to practice in same capacity) will be introduced against the auditors, tax practitioners, tax advisors or to the approved accountants (other than full-time employees of the taxpayer) who intentionally disregard or fail to take reasonable care in discharging the professional duty or fraudulently prepare and certify those documents and information or deliberately misinterpret any provisions of any Act administered by the Commissioner General, or regulation, rule or order made there.

#### **5. Other proposals**

- i.** No assessment shall be made, no penalty shall be imposed or no action shall be initiated under penal provisions of any Act administered by the Commissioner General of Inland Revenue on or after January 1, 2021 to a person who,
  - earned money from any source and such person has not declared or not paid the due taxes to the Commissioner General as required by such enactments; and
  - utilizes such money hidden in Sri Lanka or outside Sri Lanka as investments on any undertaking in Sri Lanka during the period from January 1, 2021 to December 31, 2021; but

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- subject to the payment of one percent of final tax to the Commissioner General on the gross investment amount.

Such persons are required to make a declaration to the Commissioner General in an approved form with their investment plan. One percent of tax shall be paid immediately as instructed by the Commissioner General. (Separate guideline will be issued in this regard.)

## **6. Tax relief measures to facilitate post Covid-19 economic recovery**

- i. Action will be taken to write off any income tax arrears payable by any Small and Medium Enterprise as interpreted in Section 195 of the Inland Revenue Act No. 24 of 2017, if such arrears has arisen due to any assessment made (other than the assessments made for tax payments as per the returns) up to the year of assessment ending March 31, 2019 and which is outstanding as at June 24, 2020, in the record of the Commissioner General.

However, write off will be considered only for the cases where the Commissioner General satisfies that there is no fraud or willful neglect involved in the disclosure of income or any deduction or relief by such person in return of income submitted for the relevant year of assessment.

- ii. No amended or additional income tax assessment will be issued (unless an application has been made to amend the self-assessment) for the year of assessment ending on March 31, 2020 (2019/2020) where the Commissioner General satisfies that there is no fraud or willful neglect involved in disclosure of income or any deduction or relief by the Small or Medium Enterprise which paid the tax declared in the return.
- iii. The Commissioner General may grant a grace period to settle the taxes in default or tax arrears which is outstanding and payable as at June 24, 2020 by any Small and Medium Enterprise.

**For any clarifications:**

**011-2135431, 011-2135438, 011-2135434, 011-2135412, 011-2135410, 011-2135300  
(Secretariat - Tax Policy and Legislation)**

**Commissioner General of Inland Revenue**

