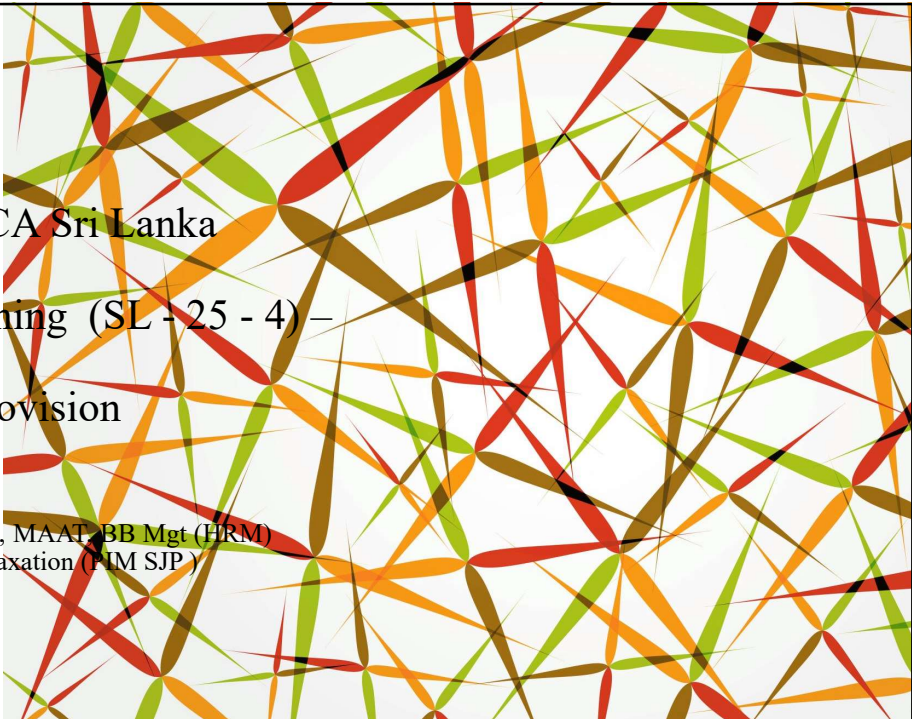




Strategic Level – CA Sri Lanka

Strategic Tax Planning (SL - 25 - 4) –
Tutorial 10
Administrative Provision

Prabath Weerasinghe – ACA, MAAT, BB Mgt (HRM)
SP, ACMA, FCIT, MBA in Taxation (MIM SJP)

Statutory provisions

Key learning outcome

1. Outline the provisions of the Inland Revenue Act with regard to taxable sources, returns, assessments, time-bar, finality, administrative review, appeals and penal provisions.
2. Outline the procedure in making a valid request for an Administrative Review and the settlement procedure, including appeals to the Tax Appeals Commission.
3. Outline the procedure of payment of tax under self-assessment scheme, repayment of tax, recovery of tax in default and penalties for non-compliance.
4. Outline the statutory provisions applicable to recovery of income tax.

Requirement of obtaining a Taxpayer Registration Number – TIN

1. Registration by any person (Section 102)

Every person who is liable to furnish a return of income for a year of assessment, and who has not already registered, shall register with the Commissioner-General not later than thirty days after the end of the basis period for that year. Basis period refers the period where person become liable for income tax.

Further, The Minister with the consent of the Commissioner- General may specify additional classes of persons required to register with CGIR.

Every person liable to furnish a return of income for a year of assessment – Means person having a taxable income (Person who receives taxable income over Rs. 1,800,000/- for a year of assessment . Registration shall be obtained not later than thirty days after the end of the basis period for that year.- Sec 102 (I) Inland Revenue Act no. 14 of 2017

Requirement of obtaining a Taxpayer Registration Number – TIN .. Cont....

2. Additional classes of persons required to register – Gazette Notification No. 2334/21 – 31.05.2023

a) With effect from June 01, 2023; (Contd..)

- i. Practitioners registered with the sri Lanka medical Council established under the medical Ordinance (Chapter 105)
- ii. Members of the Institute of Chartered accountants of sri Lanka established by act, No. 23 of 1959
- iii. Members of the Institute of Certified Management Accountants of Sri Lanka incorporated by Act, No. 23 of 2009.
- iv. Members of Institution of engineers Sri Lanka incorporated by act, No. 17 of 1968
- v. Members of association of Professional Bankers, Sri Lanka
- vi. Members of Sri Lanka Institute of architects incorporated by Sri Lanka Institute of architects Law, No. 01 of 1976

Requirement of obtaining a Taxpayer Registration Number – TIN .. Cont....

2. Additional classes of persons required to register –With effect from June 01, 2023; (Contd..)
 - vii. Members of Institute of Quantity surveyors Sri Lanka incorporated by act, No. 20 of 2007
 - viii. Attorneys-at-Law of the supreme Court of Sri Lanka
 - ix. The persons who registered their businesses in Divisional Secretariats
 - x. The persons who have vehicles registered (other than Three wheelers, Motor bicycles and Hand Tractors) in Department of Motor Traffic
 - xi. The persons who have purchased or acquired by virtue of Deeds of Transfer, of any immovable property in Sri Lanka on or after April 01, 2018
 - xii. Employee whose monthly contribution from both employee and employer to any Provident Fund is more than Rs. 20,000/-
 - xiii. Any individual who obtains approval for a building plan from a Local authority
 - xiv. Any other individual who receives payment of Rs. 100,000/- per month or Rs. 1,200,000/- for twelve months period for providing any services in Sri Lanka

Requirement of obtaining a Taxpayer Registration Number – TIN ... Cont..

2. Additional classes of persons required to be registered– 31.05.2023 (Contd..)
- b) With effect from June 01, 2023; any individual who is at the age 18 years or more, or who attains the age of 18 years on or after January 01, 2024.

Noncitizen Non-resident ? No specific requirement of obtaining a TIN for a non – resident persons , however, if TIN is required to process certain activities in Sri Lanka such as registration of Motor vehicles, property transferred a TIN is needed even to non – residents

Sri Lanka Citizen and None resident? If only income is interest there is no mandatory requirement, but citizens are entitled for tax free allowance , so if the tax file is opened the credit is available , with regards to rent income for dual citizens such income is not final , so if exceeds the taxable level a tax file has to be maintained.

Resident Individual who has an interest income from bank/financial Institution, wishes to submit a self declaration to bank or financial institution confirming his/her taxable income is less than Rs 1,800,000/- for a year of assessment.

Requirement in opening a tax file

A TIN is not a tax file only an allocation of a number to identify for certain requirements. A TIN will be converted to an income tax file if such person is liable to pay income tax .

Every person chargeable for Income Tax for a year of assessment shall be open an Income Tax File – Means person having a taxable income (Person who receives an income over Rs. 1,800,000/- for the year of assessment 2025/26).

None compliance and punitive provisions

Procedures for the assessment, payment, collection, and dispute of a tax shall apply equally to penalties relating to a tax

The burden of proof shall be on the Commissioner General to show non-compliance with the provisions of this Act with respect to the imposition of a penalty

The period of limitations for assessing a penalty shall be five years after the violation which causes the penalty

Penalty for fails to register or notify

Every person liable to furnish a return of income for a year of assessment, and who has not already registered, shall register with the Commissioner General not later than thirty days after the end of the basis period for that year

A person who fails to notify the Commissioner-General in writing of a change in name, address, place of business, or nature of the taxable activity carried on no later than thirty days following the date of the change

A person who fails to register or notify the Commissioner-General shall be liable for a penalty not exceeding fifty thousand rupees (Not exceeding Rs. 50,000/-)

An Individual who submitting false or misleading declaration shall be liable for a penalty not exceeding Two Hundred thousand rupees (Not exceeding Rs. 200,000/-)

Compliance requirement of an Individual Taxpayer

1. Obtain Taxpayer Identification Number
 - a) Chargeable for Income Tax
 - b) Specified Class of individual
2. Register for Income Tax
 - a) Chargeable for Income Tax

Consequences of none compliances – a penalty not exceeding Rs. 50,000/- may be imposed
3. Payment of Income
 - a) Installment Taxpayer shall submit a Statement of Estimated Taxable (SET) for the year of Assessment - on or before the due date of First Installment Tax payment
 - b) Estimated tax payable for the year of Assessment shall be discharged by Four Installment by the Due date
 - 01st Installment on or before 15th August
 - 02nd Installment on or before 15th November,
 - 03rd Installment on or before 15th February
 - 04th Installment 15th MayBalance tax payable can be discharged on or before 30th September

Payment of Income Tax

- Payment of income tax may be made in following three ways:
 1. By withholding -
 2. By installments
 3. By Assessment

Payment of Income Tax

By withholding -

Advance personal income tax [Sec 83 a (1a)] APIT (Know as PAYE)

Deduction of APIT by employer is mandatory from employment income of employees, with effect from 01.01.2023

The obligation of an employer to deduct APIT shall not be reduced or extinguished when the employer has a right or is under an obligation to deduct and withhold any other amount from the payment; or any other law provides that an employee's income from employment shall not be reduced or subject to attachment

Commissioner General has published APIT Tables (based on the individual tax rates) and related procedure

Taxation of terminal benefits – No change (if coming under regular income 36%)

Payment of Income Tax

Advance personal income tax [Sec 83 a (1a)] APIT (Know as PAYE)

Tax Table 01 :- where the payment constitutes regular profits from the employment, of any resident employee or any non-resident employee but citizen in Sri Lanka who has furnished a Primary Employment Declaration. (Primary employment – Monthly Gross income is more than LKR 150,000/-)

Tax Table 02:- where the payment constitutes a Lump-sum payment.

Tax Table 03:- where the payment constitutes a Once-and-for-all payment (Terminal Benefits).

Tax Table 04:- where the payment received by the Non-Resident employees who are non- citizens in Sri Lanka.

Tax Table 05:- where the monthly regular profits of an employee from a primary employment is less than LKR 150,000 but the cumulative profits from the primary employment up to any month in the year of assessment exceeds LKR 1,800,000 due to payment of higher remuneration in certain months, in such instances.

Payment of Income Tax

Advance personal income tax [Sec 83 a (1a)] APIT (Know as PAYE) contd..

Tax Table 06:- where the payment constitutes a payment or reimbursement of the employee's tax liability on his income from employment by the employer.

Tax Table 07:- where the payment constitutes of the remuneration of any employee, who has not furnished a Primary Employment Declaration, or who has more than one employment.

Tax Table 08:- Foreign employment - employment income received from Foreign Employer

Payment of Income Tax

1. Advance Personal Income Tax (APIT) introduced with effect from 01.04.2020, for employment income and it was a compulsory deduction with effect from 01.01.2023
2. Employment income more than Rs. 150,000/- per month or Rs. 1,800,000/- per annum
3. T10 Certificate to be issued
4. Person having only Employment income which is subject to APIT, no further tax payment is required

Payment of Income Tax

Responsibility of a tax agent

Applying the appropriate tax table and deduct tax on the benefits paid to employee

Tax deducted from employment income from every employee during a particular month should be remitted to the Commissioner General of Inland Revenue on or before the 15th day of the month immediately succeeding that month

Submit the Employer's (APIT) Annual declaration – on or before 30th April

Issuing the Certificate (T10) to the employee on the gross earning, tax deducted and remitted to Commissioner General of Inland Revenue on or before 30th April or within 30days from the termination of employment.

Maintaining details of employee related payments etc..

*Allowed an option of not maintaining a tax file/ not submitting an income tax return for an employee who is having only employment income and such employment income is subject to the deduction of APIT (no quarterly or assessment payments are due).

Payment of Income Tax

Advance income tax [SEC 84 (1)] AIT (Know as WHT)

- Withholding from investment returns
 1. Person shall withhold tax at the rate provided for in paragraph 10 of the First Schedule
 - a) Where a Person;
 - Pays a dividend, interest, discount, charge, natural resource payment, rent, royalty, premium
 - Pays amounts as winnings from a lottery, reward, betting or gambling
 - b) the payment or allocation has a source in Sri Lanka
 2. The National Gem and Jewellery Authority shall withhold tax at the rate provided in paragraph 10 of the First Schedule from the sale price of any gem sold at an auction conducted by it, from the sum payable to the seller of such gem and at the time of such sum is paid to the seller. (receiver can claim exemption)

Payment of Income Tax

Income/Payment	Rate (%)
Payment to Non-resident person with respect to land, sea, air transport or telecommunication services in terms of section and extraordinary Gazette Notification No. 2064/51 dated April 01,2018	2%
Interest or Discount paid by a person	10%
Interest or Discount paid by a person to nonresident	Exempted
Interest paid on Government security (Treasury bills or Treasury bonds denominated in Sri Lanka rupees)	No withholding tax
Rent Payment made to a resident person where the aggregated rent payment exceeds Rs. 100,000 per month Rent means Payment for the use of or right to use movable or immovable property. Hiring services is not considered as Rent. Hence not subject to AIT/WHT	10%

Payment of Income Tax

Income/Payment	Rate (%)
Rent payment to non-resident	14%
Charges, Natural Resource payment, royalty, premium or winning from a Lottery, rewards, betting or gambling	14%
Dividends (Paid by a resident company from its profits)	15%
Dividends paid by a resident company from the dividend income received to that company	Exempted
Sale price payable to the seller of any gem sold at an auction conducted by the National Gem & Jewellery Authority (Such income is exempted for tax)	2.5%

Payment of Income Tax

- Withholding from service fees , contract payments and payments to non- residents
- With effect from January 1, 2023, a person shall withhold tax at the rate of 5% of the payment, where such person pays a service fee with a source in Sri Lanka to a resident individual who is not an employee of the payer –
 - a) for teaching, lecturing, examining, invigilating or supervising an examination;
 - b) as a commission or brokerage to a resident insurance, sales or canvassing agent; or
 - c) for services provided by such individual in the capacity of independent service provider such as doctor, engineer, accountant, lawyer, software developer, researcher, academic or any individual service provider as may be prescribed by regulation:
 - d) Provided however, this subsection shall not apply to a service payment which does not exceed Rs.100,000 per month.
- With effect from January 1, 2023, a person shall withhold tax at the rate of 14% of the payment, where such person pays a service fee or an insurance premium with a source in Sri Lanka to a non- resident person (Or rate specified in DTAA)
- Resident person shall withhold tax when the person makes a payment to a non-resident person of a type referred to in paragraph (h) or (i) of section 73 (land, sea or air transport or telecommunication services); and

Payment of Income Tax

Income/Payment (Aggregate Payment more than 100,000/- per month)	Rate (%)
Teaching, lecturing, examining, invigilating or supervising an examination (Payment to resident individual)	5%
Commission or brokerage to a resident insurance, sales or canvassing agent (Payment to resident Individual)	5%
Services provided by an individual in the capacity of independent service provider such as doctor, engineer, accountant, lawyer, software developer, researcher, academic or any individual service provider as may be prescribed by regulation ** Construction services, janitorial and security services, catering, management services, Consultancy services etc.. not subject to WHT as per prevailing law. (Payment to resident individual)	5%
Pays a service fee or an insurance premium with a source in Sri Lanka to a non-resident person (Or rate specified in DTAA)	14%

Payment of Income Tax

Final withholding payment

1. Amounts paid as winnings from a lottery, reward, betting or gambling, other than amounts received in conducting a business consisting of betting and gaming;
2. on or after January 1, 2023, dividends paid by a resident company (refer exemption)
3. Payments made to a non-resident person who is not a citizen of Sri Lanka or to a nonresident entity that is subject to withholding, other than payments derived through a Sri Lankan Permanent Establishment

The withholder of a payment that is not a final withholding payment shall be entitled to a tax credit in an amount equal to the tax treated as paid

Payment of Income Tax

Responsibility of AIT Agent

1. Applying the appropriate tax rate and deduct tax on the payment (SEC/2022/E/03 – 23.12.2022)
2. Tax deducted on payments made during a particular calendar month should be remitted to the Commissioner General of Inland Revenue on or before the 15th day of the following month.
3. Payment code to be used WHT/AIT on interest 43 and WHT on other payments (Rent etc..) 44
4. Submit the WHT Return – on or before 30th April
5. Issuing the WHT Certificate on the gross payment, tax deducted and remittance details within 30days after the end of the calendar month.
6. Maintaining details of related payments etc..

Payment of Income Tax

- Payment of income tax may be made in following three ways:
 1. By withholding -
 2. By installments
 3. By Assessment
- **Payment by Installments (Sec. 90)**
 - A person who is an “Installment payer” liable to income tax is required to compute the income tax liability for each Y/A. The income tax is to be paid in **four quarterly installments**. Non-payment of the income tax that results in penalties as per **Sec. 176** of the IRA.
- **Statement of Estimated Income Tax Payable (SET) (Sec. 91)**
 - As per **Sec. 91** of IRA, each person who is liable to pay income tax is required to submit a SET for the Y/A on or before 15th and estimated tax should be paid in four installments. If the estimate is changed subsequently a **revised SET** should be submitted.

Payment of Income Tax

- **Due Dates (Sec. 90)**
- Due dates for quarterly installments if the year of assessment is ending on 31st March
 1. **1st Quarter** - On or before **15th August** of that year of assessment
 2. **2nd Quarter** - On or before **15th November** of that year of assessment
 3. **3rd Quarter** - On or before **15th February** of that year of assessment
 4. **4th Quarter** - On or before **15th May** of the subsequent year of assessment
- If any person has obtained approval to apply a different Y/A under **Sec. 20**, quarterly payment should be made before **15th day following end of each quarter**.

The estimated tax so calculated by a taxpayer shall remain in force for the whole year of assessment and If tax liability is increased or decreased, a **revised SET** has to be filed with the Commissioner General.

Payment of Income Tax

- **Calculation (Sec. 90(3))**

As per Sec. 90(3) of the IRA, installment tax payable is to be calculated using following formula:

- **Formula:**

$$\frac{A - C}{B}$$

- where “A” is the current estimated tax payable under section 91 or 92 by the instalment payer for the year of assessment
- “B” is the number of instalments remaining for the year of assessment including the current instalment; and

Payment of Income Tax

- “C” is the sum of any
 - a) tax paid during the year of assessment, but prior to the due date for payment of the instalment by the person by previous instalment under this section;
 - b) tax withheld during the year, but prior to the due date for payment of the instalment, from payments received by the person that are included in calculating the person’s income for the year; and
 - c) tax paid in accordance with subsection (3) or (4) of section 86 that is paid to the Commissioner General by a withholding agent or the person as withholders during the year but prior to the due date for payment of the instalment:

Provided however, in calculating the estimated tax payable by an instalment payer, the Advance Personal Income Tax deducted by an employer or to be deducted by an employer for the year of assessment may be deducted prior to applying the formula given in this subsection.

Payment of Income Tax

- **Ex 01:** Accountant of ABC PLC has estimated the tax liability for Y/A 2025/26 as Rs. 10,000,000/-.

- **Required:**

- Calculate** tax to be paid for 1st, 2nd, 3rd and 4th self assessment payment.
- State due date for the payment.
- Assumed there was an AIT/WHT credit of Rs. 1,500,000/- available as of 31.03.2026.
Re do the computation of the installment tax payable by the company
- State** due date for the payment.

Payment of Income Tax

Payment of Income Tax

Statement of estimated tax payable

Statement of estimated tax payable not required

- The Commissioner-General may specify by notice in writing that an instalment payer or class of instalment payers is not required to submit an estimated tax payable
- Where an instalment payer is not required to submit an estimate by above reason, the Commissioner- General shall;
 - a) make an estimate of the person's estimated tax payable for the year of assessment, which may be based on the tax payable for the previous year of assessment with an uplift; and
 - b) serve on the instalment payer a written notice stating the Commissioner-General's estimate and the manner in which it is calculated

Where the Commissioner-General serves a notice, for the purpose of the estimated tax payable by the person for the year of assessment shall be the amount estimated by the Commissioner-General.

Payment of Income Tax

- **Tax payable on assessment (Sec. 82)**
 - Tax on gains from realization of investment assets should be paid within thirty days after the end of the relevant calendar month in which the realization occurred.
 - Any other balance tax payable on assessment before end of six months from the end of relevant year of Assessment. (eg. for Y/A 2025/26 - 30.09.2026)

None compliance and punitive provisions

Consequences of none compliances – Penalty

- Fails to pay all or part of an instalment within fourteen days of the due date for the instalment shall be liable to a penalty equal to ten *per cent* of the amount of tax due but not paid.
- Fail to pay all or part of a tax due for a tax period within fourteen days of the due date, or by the due date specified in the notice of assessment, if later, shall be liable to a penalty equal to twenty *per cent* of the amount of tax due but not paid.

Consequences of none compliances –Interest

If an amount of tax is not paid by the due date, the taxpayer shall be liable for interest at one and one-half per cent on the amount for the period from the due date to the date the tax is paid.

- One and one-half per cent per month or part month, computed monthly
- An amount is charged at 1.5% for every month.
- Even if the delay is only part of a month, it is treated as a full month.
- The charge is calculated monthly, meaning interest/penalty is added each month and the next month's calculation may be based on the updated balance.

None compliance and punitive provisions

Penalty on underpayment on incorrect statement or a material omission (Section 181)

Where tax is underpaid, as a result of an incorrect statement or a material omission in a taxpayer's tax return, and that statement or omission is a result of intentional conduct or negligence on the part of the taxpayer, the taxpayer shall be liable to a penalty in the amount of

- a) Twenty five per cent of the underpayment if paragraph (b) does not apply; or
- b) Seventy five per cent of the underpayment if the amount of the underpayment is —
 - i. higher than ten million rupees; or
 - ii. higher than twenty five per cent of the person's tax liability for the period.

Furnishing of Returns

- **Provisions Relating to Return of Income**
- **Who shall furnish Return of Income?**
 - **Every person chargeable with tax [Section 93 (1)]**
 - Every person chargeable with income tax for any year of assessment (subject to following exclusions) is required to furnish a return with the Commissioner-General not later than eight months after the end of each year of assessment.
 - Ex. 02 – Tax return submission for the year 2025/26?

Furnishing of Returns

- **Provisions Relating to Return of Income**

- Extension of time to file returns. (Sec 130)
 - The Commissioner-General may extend the time limit specified for filing a tax return where the taxpayer or other person required to file the return applies for the extension by due date.
 - The granting of an extension of time under subsection (1) shall not affect the due date for payment of tax, unless an extension of time for payment is also expressly granted.

Furnishing of Returns

- The return should be in such form and containing such particulars as specified by the CGIR. As per the Sec. 94 of the Act a return of Income for a year of assessment shall not be required if,
 - resident individual who has no tax payable for the year of assessment
 - an individual whose tax payable for the year of assessment relates exclusively to income from employment where the employer has deducted Advance Personal Income Tax, and no tax shall be payable by installment or tax on capital gain.
 - non-resident person who has no tax payable for the year

Registration by any person (Section 102)

Every person who is liable to furnish a return of income for a year of assessment, and who has not already registered, shall register with the Commissioner-General not later than thirty days after the end of the basis period for that year. Please refer registration

Furnishing of Returns

- **Notice to require filing (Sec. 127)**

- Where it appears to the CGIR that any person who is liable to furnish a return and has not done so, the CGIR may, by notice in writing, require such person to furnish a return within such time as may be specified in the notice, not being less than fourteen days from the date of service of such notice.

- If the Tax Return is prepared by a person other than the taxpayer (except a fulltime employee of the taxpayer) such person's signature is also required on the Tax Return.

- At the request of the taxpayer, the commissioner General of Inland Revenue may grant extended time period to file a tax return.

- **Information to be furnished along with return [Section 93 (2)]**

- Withholding tax certificates
- Information/Schedules specified by CGIR, should be attached to the return.

Furnishing of Returns

Information required to attached to the Return of Income

1. Auditors Opinion
2. Income Statement /Statement of Comprehensive Income
3. Balance Sheet/Statement of Financial Position
4. Statement of Cash Flow
5. Statement of changes in equity
6. Income Tax Computation Sheet
7. Accounting policies and notes to the financial statement
8. Detailed Profit and Loss Account
9. Transaction with associates entities and Transfer Pricing Disclosure Form
10. Other Documents (if applicable)
11. Schedule for Withholding Tax Credit
12. Receipts of Foreign currency remittance

None compliance and punitive provisions

Submission of Return of Income – Person Chargeable for Income Tax or Issued a Return/notice by the Commissioner General it shall be submitted to the commissioner General on or before 30th November

Consequences of none compliances

- Five *per cent* of the amount of the tax owing, plus a further one *per cent* of the amount of tax owing for each month or part of a month during which the failure to file continues; and
- Fifty thousand rupees plus a further ten thousand rupees for each month or part of a month during which the failure to file continues
- The amount of the penalty in respect of a given tax return shall be limited to four hundred thousand rupees.

Assessments

- Types of assessment can be identified under the Act;

1. Self Assessment
2. Default Assessment
3. Advanced Assessment
4. Amended/ Additional Assessment

Assessments

- **Self Assessments (Section 132)**

1. Return of Income
2. Capital gain tax return

- A taxpayer who filed a Self Assessment return for a tax period including “NIL” Return is treated as a self-assessment having made.

- A self assessment taxpayer who has filed the proper return and declared loss is treated that he has an assessment of the amount of loss declared in the return.

- **Default Assessments (Section 133)**

- Where a taxpayer has failed to file a tax return but the Assistant Commissioner having to his or her judgement to the liability may make a default assessment for amount payable by the Taxpayer for the period.

Assessments

- **Advance Assessments (Section 134)**

- An Assistant Commissioner may issue an advance assessment with evidence available with him/her for a tax period.

- An advance assessment is applicable, only when;

- no return is furnished for the tax period
- Tax is collected by assessment

- An advance assessment should be made;

- before the date taxpayer's return due for the period, and
- Shall be made in terms of the law prevail at that time

Assessments

- **Amended or Additional Assessment [Sec. 135(1)]**

- The Assistant Commissioner may amend a tax assessment by doing an alterations of additions based on such evidence as may be available and to the best of his judgement ,to the original tax assessment of a taxpayer for a tax period to ensure that,
- The taxpayer is assessed correct amount of the loss carry forward for the tax period.
- In any other case, the taxpayer is liable for the correct tax payable

The service of a notice of an amended assessment under this section shall not change the original due date (referred to as the “original due date”) for payment of the tax payable under the assessment as determined under this Act, and late payment penalty and late payment interest shall remain payable based on the original due date.

Assessments

- **Amended or Additional Assessment [Sec. 135(1)]**

Taxpayer application for amend the self- assessment

- A taxpayer who has filed a self-assessment return may apply to the Commissioner-General for making an amendment to the self-assessment.

- An application shall:

- i. state the amendments that the taxpayer believes are required to be made to correct the self-assessment and the reasons for the amendments; and
- ii. be filed with the Commissioner-General within the period

- **for any year of assessment ending prior to April 1, 2022:- within thirty months of the date that the self-assessment return to which the self-assessment relates**
- **for any year of assessment commencing on or after April 1, 2022:- within a period of twelve months from the date on which the self-assessment return was filed.**

Where an application has been made, the Commissioner-General may make a decision to amend the self-assessment or to refuse the application

Assessments

• Amended or Additional Assessment [Sec. 135(1)]

Taxpayer application for amend the self- assessment

- When the Commissioner-General makes a decision to amend the self-assessment:
- the amended assessment shall be made in accordance time bar provision ; and
- notice of the amended assessment shall be served on the
- Where the Commissioner-General makes a decision to refuse an application, he shall serve the taxpayer with written notice of the decision with reasons for the decision.
- Where the Commissioner-General has not made decision on an application made by taxpayer within ninety days of the application being filed, the Commissioner-General shall be deemed to have:-
 - i. made a decision to disallow the application; and
 - ii. served the taxpayer with notice of the decision on the ninetieth day after the application was filed.

Assessments

• Amended or Additional Assessment [Sec. 135(1)]

amended assessment specifying the following:-

- i. the original assessment to which the amended assessment relates;
- ii. the amount of tax assessed and the basis upon which the amended or additional assessment has been made;
- iii. the amount assessed as penalty (if any) in respect of the tax assessed;
- iv. the amount of late payment interest (if any) payable in respect of the tax assessed;
- v. the tax period to which the assessment relates;
- vi. the due date for payment of any tax, penalty, and interest being a date that is not less than thirty days from the date of service of the notice; and
- vii. the manner of objecting to the assessment.

Assessments

•Time Bar for Assessments (Sec. 135 (2))

The applicable provisions are summarized below. Under this provision, the Ass. Commissioner has been prevented from issuing assessments after the expiration of certain time period

For any year of assessment commencing after April 1, 2023

- 1) In case of fraud, or gross or willful neglect by or on behalf of, the taxpayer – At any time (No time bar provision is applied).
- 2) In any other case, within 30 months of;
 - for a self-assessment, the date that the self-assessment taxpayer filed the self-assessment return to which the self-assessment relates; or
 - for any other assessment, the date on which the Assistant Commissioner served notice of the assessment on the taxpayer; or
- 3) A period of one year after the Assistant Commissioner served the notice of the amended assessment on the taxpayer

Assessments

Time Bar for Assessments (Sec. 135 (2))

For any year of assessment commencing prior to April 1, 2023

In case of fraud, or gross or willful neglect by or on behalf of, the taxpayer – At any time (No time bar provision is applied).

Where the Assistant Commissioner has served a notice of an amended assessment on a taxpayer, the Assistant Commissioner may further amend the original assessment to which the amended assessment relates within the later of:-

- a) four years after:-
 - i. for a self-assessment, the date the taxpayer filed the self-assessment return to which the self-assessment relates; or
 - ii. for any other assessment, the date the Assistant Commissioner served notice of the original assessment on the taxpayer; or
- b) one year after the Assistant Commissioner has served notice of the amended assessment on the taxpayer.

Assessments

- **Finality of assessment (Sec. 143 (1))**

- If no request for review is made within the time permitted, an assessment shall be treated as final.
- If an assessment is treated as final, and the taxpayer timely files an amended return, the filing of the amended return has the effect of revising the assessment, but only if the tax shown on the amended return exceeds the tax assessed.

Appeals – Administrative Review

Right of Appeal

- A taxpayer who is dissatisfied with an assessment or other decision may request the CGIR to review the decision.
- Any taxpayer is empowered to obtain the services of an “authorized representative” (Refer Sec. 195) for the appeal procedure.

Administration review (Sec. 139)

- Time period for request for an administrative review [Sec 139 (2)]

A request for review shall be made to the CGIR in writing not later than 30 days after the taxpayer was notified of the decision. However, if the request has not been made within 30 days,

Taxpayer can submit a request after the lapse of 30 days period after satisfying the CGIR that owing to absence from Sri Lanka, sickness or other reasonable cause the taxpayer was prevented from making a request.

Appeals – Administrative Review

- The request must specify in detail the grounds upon which it is made.
 - Where the request for review is an objection against an assessment which has been made in the absence of a return or annual statement required to be furnished, such request shall be sent together with a duly filled return or annual statement, as the case may be.
 - The Commissioner-General must acknowledge every request within 30 days from its receipts.
 - The date of the acknowledgement of such request is the date of the request.
- The Commissioner-General shall, in the case of a request for review made, notify his decision and the reason for the decision within a period of two years from the date on which such request for review is received by the Commissioner- General.
- Where such decision is not notified within such period, the request for review shall be deemed to have been allowed, unless an appeal has been preferred to the Tax Appeals Commission.

Appeals – Administrative Review

On receipt and acknowledgement of a tax payer's request for review,

- Commissioner-General shall review the assessment or other decision and notify the taxpayer in writing of the Commissioner-General's decision and the reasons for the decision.
- The tax payer's request for review shall be considered by a tax official other than the tax official who made the assessment or other decision
- The CGIR should take a decision by confirming the assessment, making an amended assessment, or an additional assessment or taking such other action to give effect to that decision.
- If no request is made within 30 days for administrative review, an assessment should be treated as final, subject to the right of the CGIR to issue a new or revised assessment. [amended assessment (including for a nil amount) or an additional assessment in accordance with the Act, but notwithstanding the time limits specified in subsections (2) and (3) of section 135]
- A person aggrieved by the decision of administrative review of an assessment may appeal against the decision of review to the Tax Appeals Commission (TAC) [Sec. 140 (1)].

Appeals – Appeal to Tax Appeals Commission

A person aggrieved by the decision of administrative review of an assessment may appeal against the decision of review to the Tax Appeals Commission (TAC) [Sec. 140 (1)].

- An appeal to the Tax Appeals Commission shall not be made unless a request for administrative review has first been made, and —
 - a) a decision has been received from the Commissioner-General; or
 - b) seven months have lapsed since the request for administrative review was made.
- Where the Tax Appeals Commission is satisfied that the appellant is overcharged it may reduce the amount of the assessment by the amount of the overcharge, and if it is satisfied that the appellant is undercharged, it may increase the amount of the assessment by the amount of the undercharge, or may confirm or annul the assessment.
- Notwithstanding anything contained in Chapter XVI (Recovery of taxes) where the Tax Appeals Commission is satisfied that tax in accordance with its decision upon the appeal may not be recovered, the Tax Appeals Commission may require the appellant to furnish security for payment of the tax, if any, which may become payable by the appellant as may seem to the Tax Appeals Commission to be proper.

Appeals – Appeal to Tax Appeals Commission

- A petition of appeal under this section shall be filed in writing to the Tax Appeals Commission with a copy to the Commissioner-General within thirty days from the date of receipt of the decision of the Commissioner-General or within thirty days from the date on which the period of seven months lapsed since the request for administrative review was made.
- Notwithstanding anything to the contrary, the appellant may appeal against an assessment upon satisfying the Tax Appeals Commission that owing to absence from Sri Lanka, sickness, or other reasonable cause the appellant was prevented from filing a petition of appeal as required, and that there has been no unreasonable delay on the appellant's part.
- The burden of proof shall be on the taxpayer or person making an objection to an assessment to show that the assessment is incorrect.
- Notwithstanding that a request for administrative review of an assessment has been filed or a taxpayer has appealed to the Tax Appeals Commission against an assessment, the tax payable under the assessment shall remain due and payable, unless the Commissioner-General grants an extension of time and may be recovered, despite the request for review or appeal

Appeals – Appeal to Tax Appeals Commission

- Finality of assessment
- Subject to the right of the Assistant Commissioner to issue a new or revised assessment, if no request for review is made within the time permitted, an assessment shall be treated as final.
- If an assessment is treated as final, and the taxpayer timely files an amended return, the filing of the amended return has the effect of revising the assessment, but only if the tax shown on the amended return exceeds the tax assessed.

Appeals – Appeal to Court of appeal

Appeal from a decision of the Tax Appeals Commission.

- Either party to a proceeding before the Tax Appeals Commission who is dissatisfied with the decision of the Tax Appeals Commission may, within one month after being notified of the decision, file a notice of appeal with the Court of Appeal; and the party so appealing shall serve a copy of the notice of appeal on the other party to the proceeding before the Tax Appeals Commission.
- An appeal to the Court of Appeal shall not be made unless an appeal request to the Tax Appeals Commission has first been made, and—
 - a) a decision has been received from the Tax Appeals Commission; or
 - b) ninety days have lapsed since the request for appeal to the Tax Appeals Commission was made and no response to the request for appeal has been received from the Tax Appeals Commission.
- An appeal from a decision of the Tax Appeals Commission to the Court of Appeal shall be made only on a question of law.
- Where an appeal is made from a decision of the Tax Appeals Commission, the Tax Appeals Commission shall provide a written statement of the decision, including a summary of the evidence, the Commission's finding of the facts, and their conclusions on the points of law involved.

Due date

- the amount of tax is due where it is —
 1. stated in a notice of assessment to be due; or
 2. deemed to be assessed
- Tax shall be paid in the manner and place specified by the Commissioner-General.
- Where the Commissioner-General has reasonable grounds to believe that a taxpayer may leave Sri Lanka before the due date for payment of an amount that would be due under this Act, inform the person by notice in writing that tax is due on the date specified by the Commissioner-General.
- Where a taxpayer fails to pay tax on the due date, the taxpayer shall be liable for any costs incurred by the Commissioner-General in taking action to recover the unpaid tax.

None compliance and punitive provisions

Interest on under payments (157)

- If an amount of tax is not paid by the **due date**, the taxpayer shall be liable for interest on the amount for the period from the due date to the date the tax is paid .
- In the case of tax due under a revised assessment, the due date for the calculation of interest shall be the original due date of the tax.

Tax shall be due and payable at the time stipulated under the Act [Sec 145 (1)]

The amount of tax—

- (a) stated in a notice of assessment to be due; or
- (b) deemed to be assessed under Chapter XII - **Assessments**

shall be due and payable on the date stated in the notice or, in the case , on the due date for the return in question.

Tax shall be paid in the manner and place specified by the Commissioner-General

Where the Commissioner-General has reasonable grounds to believe that a taxpayer may leave Sri Lanka before the due date for payment of an amount that would be due under this Act, inform the person by notice in writing that tax is due on the date specified by the Commissioner-General.

None compliance and punitive provisions

Extension of time for payment [Sec 151 (1)]

- The taxpayer may apply, on a form specified by the Commissioner-General, for an extension of the time for payment of tax beyond the date on which it is required to be paid under section 145 of the Act.
- The Commissioner-General may, with good cause, extend the time for payment as requested under above and may grant an extension period different from the period requested by the taxpayer, pending resolution of an appeal, and may make other arrangements to ensure payment of the tax, including arrangements requiring the person to pay the amount due in instalments or by requiring security.

Where the Commissioner-General does not notify the person who made application for time extension for payment, of the decision in writing or by electronic means within thirty days, the application shall be deemed to be granted.

Where a taxpayer has been granted an extension for payment, interest shall be payable notwithstanding the extension of time

If an extension is granted by permitting the taxpayer to pay the tax by instalments and the taxpayer defaults in paying any of the instalments, the amount of the outstanding tax shall become payable immediately.

None compliance and punitive provisions

Where a taxpayer fails to pay tax on the due date, the taxpayer shall be liable for any costs incurred by the Commissioner-General in taking action to recover the unpaid tax.

Interest on refundable amounts (158)

Where the Commissioner-General is required to refund a refundable amount under IR Act to a taxpayer, an interest shall be paid on such refundable amount to the taxpayer from the date of the refund claim filed until the date on which the refundable amount is paid.

Interest Rate (Sec. 159)

- The interest rate for payments pursuant to section 157 shall be 1.5% per month or part month, computed monthly.
- The interest rate for payments pursuant to section 158 shall be 0.5% per cent per month or part month, computed monthly.

However, the Minister may vary the interest rate by Order published in the Gazette.

None compliance and punitive provisions

- **Tax in default and Penalty thereon**

The Commissioner-General may send a notice to the taxpayer demanding payment when a tax is not paid by the date on which it became due and payable.

- **A taxpayer who defaults tax due is liable to a penalty in addition to the tax in default.**

Failure to pay all or part of an installment tax within 14 days of the due date Sec. 179(2)

- **10% of the tax due (but not paid)**

Failure to pay tax due for a tax period; within 14 days of the due date per notice of assessment Sec. 179(1)

- **20% of the tax due (but not paid)**

None compliance and punitive provisions

- **The notice shall state:**

(a) the name of the taxpayer;

(b) the taxpayer identification number (TIN), if such number has been issued to the taxpayer;

(c) the date of issue of the notice;

(d) the amount of tax, interest, and penalties payable, and the tax period or periods to which they relate;

(e) a demand for payment of these amounts;

(f) the place at which payment is to be made; and

(g) that the taxpayer is on notice that, if payment is not made within twenty one days after service of the notice, the Commissioner-General has the right to institute action to collect the amounts specified in the notice.

None compliance and punitive provisions

The taxpayer shall be in default, twenty-one days after service of the notice in respect of any amounts remaining unpaid as of that date. shall not apply where the taxpayer has—

- (a) entered a payment arrangement with the Commissioner-General; or
- (b) received an extension and complied with terms of the arrangement

Institute action to collect the amounts shall apply to the following amounts:—

- withholding tax;
- an amount that a payer is required to pay under a notice issued under section 170 (Notice to third party debtor) .

A person owing, holding, receiving, or withholding an amount to which this section applies shall hold the amount in trust for the Republic of Sri Lanka and, in the event of the liquidation or bankruptcy of the person, the amount:-

- shall not form part of the person's estate in liquidation or bankruptcy; and
- shall be paid to the Commissioner-General before any distribution of property is made.

None compliance and punitive provisions

Notwithstanding any other written law, withholding tax withheld by a person:-

- shall not be subject to attachment in respect of any debt or liability of the person;
- shall be a first charge on the payment or amount from which the tax shall be withheld; and
- shall be withheld prior to any other deduction that the person may be required to make from the payment or amount under an order of any court or any law

Order of payment of tax debts.

- interest relating to the tax;
- penalties relating to the tax; and
- the principal amount of the tax.
- Tax shall be payable in Sri Lanka currency, except as otherwise provided in the Act.

Recovery actions (Sec. 160 to 175)

- The CGIR could take the following actions to recover taxes, and he can initiate action under more than one provision if he believes that it is appropriate. However, action should be initiated within five years from the date of default.
- Seizure of property through a lien. A lien in favour of CGIR is created in that amount (Interest +penalty+ cost of collection) on all property belong to taxpayer. CGIR may file an action in the High Court to enforce the lien.
- The CGIR may cause Execution against taxpayer's property if he has failed to pay tax within thirty days after service of the notice.
- Unless the CGIR has good reason to release the seized property, the property will be sold. The sales proceeds should apply first against the expenses of the recovery of the levy and sale, then against the liability for penalties & interest, and then tax. Excess should be returned to the taxpayer.
- Where a defaulter is about to or likely to leave Sri Lanka without paying the tax in default, taxpayer can be prevented from leaving Sri Lanka by issuing a direction to Inspector General of Police through the Magistrate Court who then issue a direction to the controller of Immigration and Emigration.

Recovery actions (Sec. 160 to 175)

- Where a government department, institution, or Ministry is about to make a payment to any person (other than salary and wages) that department may apply such amount in respect of default tax and will notify the defaulter accordingly.
- CGIR may serve a notice in writing on a third-party debtor. the third part debtor should remit such moneys to the CGIR.
- Where the CGIR has reasonable cause to believe that the taxpayer will not pay the tax due, CGIR may make an ex-parte application (without notice) to the District Court requesting for an "Asset preservation order" to preserve the Assets and prohibiting any person holding, controlling or managing assets belonging to the taxpayer.

None compliance and punitive provisions

Penalty for failure to file a Return or Late filing of Return (Sec. 178)

- 5% of the amount of the tax owing and further 1% of the amount of tax owing for each month (or part thereof), and
- Rs.50, 000/- and further Rs.10, 000/- for each month (or part thereof)]
- However, the maximum penalty chargeable is Rs.400, 000/-.

The penalty shall be treated as an addition to the tax liability for the tax period to which the return relates and may be assessed and collected in the same manner as the tax for that period.

Penalty for failure to pay tax

Failure to pay all or part of an installment tax within 14 days of the due date Sec. 179(2)

- 10% of the tax due (but not paid)

Failure to pay tax due for a tax period; within 14 days of the due date per notice of assessment Sec. 179(1)

- 20% of the tax due (but not paid)

None compliance and punitive provisions

Penalty for Negligent or Fraudulent Underpayment

Where tax is underpaid, as a result of an incorrect statement or a material omission in a taxpayer's tax return, and that statement or omission is a result of intentional conduct or negligence on the part of the taxpayer, the taxpayer shall be liable to a penalty in the amount of ;

- twenty five *per cent* of the underpayment (if the below condition does not apply); or
- seventy five *per cent* of the underpayment if the amount of the underpayment is
 - higher than ten million rupees; or
 - higher than twenty five *per cent* of the person's tax liability for the period

None compliance and punitive provisions

Penalty for False or misleading statement

- The amount of the penalty for which the person is liable shall be the greater of fifty thousand rupees —
if an amount payable by the person would have been less if it were determined on the basis of the information provided in the statement, the amount by which that amount would have been so reduced; or
if the amount of a refund that the person applied for would be increased if it were determined on the basis of the information provided in the statement, the amount by which that amount would have been so increased.

Penalty for Failure to maintain documents

- **For any year of assessment ending prior to April 1, 2023,** a person who fails to maintain proper documents as required by this Act shall be liable for a penalty for each month or part of a month during which the failure continues.
- The penalty shall be one thousand rupees per day for each day the failure continues.

Before assessing a penalty under this section, the Commissioner-General shall issue a warning notice, and no penalty shall be due under this section if the taxpayer complies with the warning notice within the time specified in the notice.

None compliance and punitive provisions

Penalty for Failure provide facilities

- A person who fails to render reasonable facilities and assistance to a tax official as required by or under this Act shall be liable for a penalty in an amount not exceeding ten thousand rupees.

Penalty for Failure to comply with third party notice.

Person who fails to comply with a notice issued notice in writing on a third party debtor shall be liable for a penalty of twenty five per cent of the difference between the amount payable by the third party and the amount paid to the Commissioner- General by the due date specified in the notice

None compliance and punitive provisions

Transfer pricing penalties.

Where any person fails to comply with the requirements, in relation to transactions with associated enterprises, the Commissioner- General may impose on such person

- a penalty of a sum not exceeding one *per centum* of aggregate value of transactions with associated enterprises, where required documents have not been maintained;
- a penalty of a sum not exceeding two hundred and fifty thousand rupees, where required documents have not been submitted;
- a penalty of a sum not exceeding two *per centum* of aggregate value of transactions with its associated enterprises, in case of non-disclosure of any required information;
- a penalty of a sum not exceeding one hundred thousand rupees, where required documents have not been submitted on the specified date; or
- a penalty of two hundred *per centum* of the value of additional tax where such person has—
 - (i) concealed the particulars of his income, or furnished inaccurate particulars of such income; and
 - (ii) sought to evade by reason of concealment of particulars of his income or the furnishing of inaccurate particulars of such income,

notice in writing require such associated enterprise, to pay such penalty within such period as may be specified in such notice.

None compliance and punitive provisions

Penalty for Failure to comply with notice to give information.

A person who fails to comply with a request for information properly made under this Act, within the specified time, shall be liable for a penalty of an amount not exceeding one million rupees.

Before assessing a penalty, the Commissioner-General shall issue a notice of warning, and no penalty shall be due under this section where the taxpayer complies with the warning notice within thirty days of service of the notice.

Criminal proceedings for Tax evasion

A person who willfully evades or attempts to evade the assessment, payment or collection of tax or who willfully and fraudulently claims a refund of tax to which the person is not entitled, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding ten million rupees or to imprisonment for a term not exceeding two years or to both such fine and imprisonment.

A person who willfully aids, abets, assists, counsels, incites or induces another person to commit a criminal offence shall be liable on conviction to the same punishment as if the offence had been committed by that person

None compliance and punitive provisions

Criminal proceedings for impedes or attempts to impede

A person who willfully impedes or attempts to impede the Department in the administration of this Act shall be guilty of an offence and shall be liable on conviction to a fine not exceeding one million rupees or to imprisonment for a term not exceeding one year or to both such fine and imprisonment

a person impedes the administration of this Act if the person—

- (a) fails to comply with a lawful request by a tax official to examine documents, records, or data within the control of the person;
- (b) fails to comply with a lawful request by a tax official to have the person appear before officials of the Department;
- (c) interferes with the lawful right of a tax official to enter into premises;
- (d) fails to file a return;
- (e) uses a false taxpayer identification number or a taxpayer identification number that does not apply to the person;

None compliance and punitive provisions

Criminal proceedings for impedes or attempts to impede

(f) refuses to allow the Commissioner-General or authorized officer to inspect or measure land or refuses to deliver for inspection any map, plan, title deed, instrument of title or other document;

(g) makes a statement to a tax official that is false or misleading in a material particular;

(h) fails to comply with a notice issued under section 170;

(i) fails to maintain required records; or

(j) otherwise impedes the determination, assessment or collection of tax.

Criminal proceedings for fraudulently prepared or certified documents

Any person who fraudulently prepares any document of information; Or certifies a document

to be furnished to the Commissioner-General of Inland Revenue, commits an offence under this Act, and on conviction after summary trial before a Magistrate, be liable to a fine not exceeding One Million Rupees or to imprisonment of either description for a term not exceeding six months.