



ASSESSABLE INCOME FROM EMPLOYMENT

Strategic Level – CA Sri Lanka

**Strategic Tax Planning (SL 25 - 4) –
Tutorial 02**

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Calculation of Income Tax Payable by an individual

Assessable Income (Sec. 4)

Assessable income of a person for a year of assessment from each source shall be based on such person's residential status.

a) For a resident person

The income from employment, business, investment or other source for the year **“wherever the source arises”**.

b) For a non-resident person

The income from employment, business, investment or other source for the year to the extent that the **“income arises in or is derived from a source in Sri Lanka”**.



Calculation of Income Tax Payable by an individual

Taxable Income (Sec. 3)

The taxable income shall be computed as follows.

Assessable income from “employment”	xxx
Assessable income from “business”	xxx
Assessable income from “investment”	xxx
Assessable income from “other sources”	<u>xxx</u>
Total Assessable Income	xxx
Less: Qualifying payments and reliefs under section 52 (5 th Schedule)	<u>(xx)</u>
Taxable Income	<u>xxx</u>

The taxable income of each person and the assessable income from each source shall be determined separately.

Resident status of an Individual

Resident Individual [Section 69(1)]

An individual shall be a resident in Sri Lanka for a year of assessment if:

- a) resides in Sri Lanka;
- b) is present in Sri Lanka during the year and that presence falls within a period or periods amounting in aggregate to one hundred and eighty-three days or more in any twelve-month period that commences or ends during the year;
- c) is an employee or an official of the Government of Sri Lanka and his spouse is posted abroad during the year; or
- d) is an individual who is employed on a Sri Lanka ship, within the meaning of the Merchant Shipping Act, during the period the individual is so employed

Change of Residency [Section 70 (1)] An individual who is resident in Sri Lanka only by reason of paragraph (b) of subsection (1) of section 69, shall be so resident from the start of the one hundred and eighty three day period. Otherwise, a person who is resident in Sri Lanka during a year of assessment shall be treated as a resident for the whole of the year

INCOME FROM EMPLOYMENT (Sec 5)

Employment involves provision of labour for gain.

"employment" means –

- a position of an individual in the employment of another person;
- a position of an individual as manager of an entity;
- a position of an individual entitling the individual for a fixed or ascertainable remuneration in respect of services performed;
- a public office held by an individual
- a position of an individual to whom any payment is made or due by or from an employer or who receives any other benefit as an employee or in a similar capacity;
- a position as a corporation or company director

INCOME FROM EMPLOYMENT

- ▶ The definition of employment is extended to past and prospective employment and so amounts received either before or after employment may be required to be included in income.
- ▶ “Employee” means an individual engaged in employment;
- ▶ “Employer” means the person who engages or remunerates an employee in employment or pays a pension or other remuneration to a former employee or to any other person for the past services of such former employee.

INCOME FROM EMPLOYMENT

Entity	Employer
A company or a body of persons whether corporate or unincorporate	Director, Secretary, Manager or other principal officer of such company or body of persons
A partnership	The precedent partner or any active partner resident in Sri Lanka, and in the case of a partnership of which no active partner is resident in Sri Lanka, the agent of such partnership in Sri Lanka
A trust	The trustee or trustees of the trust
A non- resident person	The agent or attorney of such person in Sri Lanka
A Government Institution	Accountant or Director of Finance or Administrative Officer or Head of the Department or Institution, or Secretary to the Ministry or Chairman of Commission or Committee or any other person who pays remuneration

INCOME FROM EMPLOYMENT

Prospective Employment

Mr. Anil works for an accounting firm. Company Z another accounting firm, wishes to recruit Mr. Anil and they approach him. Mr. Anil is reluctant to joint with Company Z, but company Z tries to convince him by giving him a new Car and Mr. Anil agreeing to commence employment with them after 3 months. Mr. Anil has a prospective employment with Company Z at the time he is given the motor Car. A prospective employment is an "employment". Therefore, the value of the motor Car must be included in calculating Mr. Anil's income from the employment.

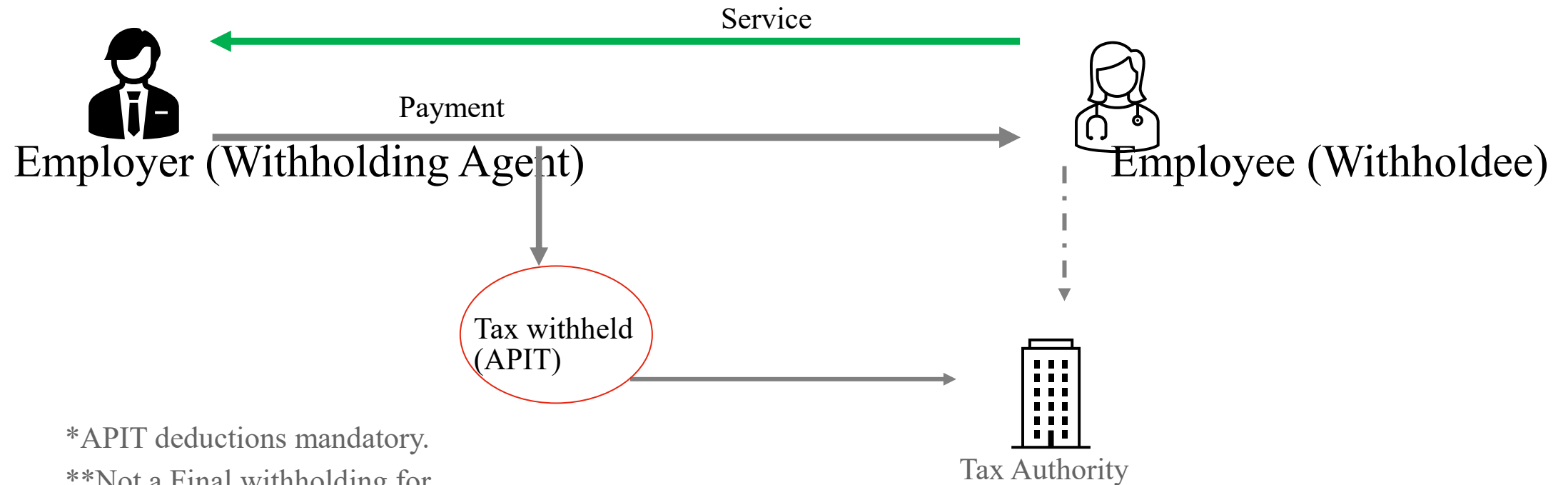
INCOME FROM EMPLOYMENT

Past Employment

Ms. Manik worked as an accountant for 30 years until she left their employment in last year form Company A. Ms. Menik continues to refer enquiries and acquaintances regarding office matters to Company A. For this and all her work over the years, Company A gives Ms. Menik a 3% commission on fees charged. Ms. Menik has a past employment with Company A. This is an "employment". Therefore, Ms. Menik must include the commissions in her income from the employment with Company A.

- ▶ An individual shall account for income tax purposes on a **cash basis** in calculating the individual's income from an employment or investment.
- ▶ An individual's income from an employment for a year of assessment shall be the individual's gains and profits from the employment for that year of assessment

INCOME FROM EMPLOYMENT



*APIT deductions mandatory.

**Not a Final withholding for resident individual

INCOME FROM EMPLOYMENT

Employment Vs Profession, Vocation

- **Independency in performing service:-** Employees are subject to instructions as to not only what they are to do but how they are to do it. Independent contractors are told what is required but not how to do it.
- **Materials and equipment are used:-** Independent contractors use their own equipment to perform the task and purchase the materials to complete the task. Employees are provided with equipment and materials.
- **Length of service contact :-** Independent contractors are told when a job must be completed but within this timeframe set their own hours (and these often do not coincide with those of normal employees).
- **Working hours/Service period:-** These are typically set hours that are similar for other employees. The typical employee works fulltime.
- **Exclusivity:-** Independent contractors work for more than one client and often many. Employees typically have just one job.

INCOME FROM EMPLOYMENT

Employment Vs Profession, Vocation (Contd..)

- **Training:-** Independent contractors arrange and pay for their own training. Employers arrange and pay for the training of employees.
- **Remuneration:-** Independent contractors are paid to produce a result for hours worked. Employees are paid to attend for a set time, typically by the week or month.
- **Continuing Relationship:-** Independent contractors have a limited relationship with the contractor, typically determined by the scope of the task. Employees have a continuing relationship with their employer.

COMPUTATION OF ASSESSABLE INCOME FROM EMPLOYMENT

Income from Employment shall be included: -

- a) payments of salary, wages, leave pay, overtime pay, fees, pensions, commissions, gratuities, bonuses and other similar payments;
- b) payments of personal allowance, including any cost of living, subsistence, rent, entertainment or travel allowance;
- c) payments providing discharge or reimbursement of expenses incurred by the individual or an associate of the individual;
- d) payments for the individual's agreement to conditions of employment;
- e) payments for redundancy or loss or termination of employment;
- f) retirement contributions made to a retirement fund on behalf of the employee and retirement payments received in respect of the employment (Other than specifically excluded);

COMPUTATION OF ASSESSABLE INCOME FROM EMPLOYMENT

Income from Employment shall be included: -

- g) payments or transfers to another person for the benefit of the individual or an associate person of the individual;
- h) the **fair market value of benefits** received or derived by virtue of the employment by an individual or an associate person of the individual;
- i) other payments, including gifts received in respect of the employment; and
- j) the market value of shares at the time allotted under an employee share scheme, including shares allotted as a result of the exercise of an option or right to acquire the shares, reduced by the employee's contribution for the shares.

COMPUTATION OF ASSESSABLE INCOME FROM EMPLOYMENT

Sec 27: Quantifying a payment or amount

A payment or amount to be included or deducted in calculating income of a person shall be quantified in the amount, as specified by the Commissioner-General or, in any other case, according to market value.

Ascertaining the fair market value of benefits (Non-cash benefits) effective from 01.04.2023

1. Value of company shares awarded by employer
2. Value of benefits from any residence provide by employer
3. Value of benefits from providing travelling, transport facilities provide by employer
4. Value of other benefits provide by employer

(SEC/2023/E/2 – Dated 06.04.2023)

COMPUTATION OF ASSESSABLE INCOME FROM EMPLOYMENT

Excluded income from employment:-

- a) exempt amounts and final withholding payments;
 - b) a discharge or reimbursement of expenses incurred by the individual on behalf of the employer;
 - c) a discharge or reimbursement of the person's dental, medical or health insurance expenses where the benefit is available to all full-time employees in the same grade of the service, on equal terms;
 - d) payments made to or benefits accruing to employees on a non-discriminatory basis that, by reason of their size, type and frequency, are unreasonable or administratively impracticable for the employer to account for or to allocate to the individual;
 - e) the value of a right or option to acquire shares at the time granted to an employee under an employee share scheme
 - f) subject to conditions as may be specified by the Commissioner-General, contributions made by an employer to an employee's account with a pension, provident, gratuity or savings fund or savings society approved by the Commissioner General.
 - g) any retirement payment received at the time of the retirement from employment, subject to the condition that the respective retirement contribution have already been considered for income tax purposes and the employee has paid tax on such contributions in a previous year of assessment.
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COMPUTATION OF ASSESSABLE INCOME FROM EMPLOYMENT

Exemptions relevant to employment income:-

- a) Compensation or gratuity paid in lieu of personal injuries or death.
 - b) Amounts paid on retirement from any provident fund approved by the Commissioner General of Inland Revenue.
 - c) Amounts paid on retirement from any pension fund or the Employees' Trust Fund, representing investment income earned for any period commencing on or after 1 April 1987.
 - d) Pension received from the Sri Lankan Government or from a Department of the Government.
 - e) Benefits derived by a government employee, from a road vehicle permit granted to such employee.
 - f) Income derived by an individual entitled to privileges under the Diplomatic Immunities Law and other specified conventions. Ex. Salaries received from World Health Organization
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COMPUTATION OF ASSESSABLE INCOME FROM EMPLOYMENT

Deductions from employment income

Sec 10 (1) (a) – General deduction :- No expenses are deductible in ascertaining the employment income.

Primary employment

When an employee has employments with more than one employer, one of his or her employments, shall be recognized as a "primary employment". Employee shall provide a declaration to the employer nominating such employment as the employee's primary employment ("primary employment declaration").

An employee can only have one primary employment at any one time and once nominated, such employment will remain as the employee's primary employment until expressly withdrawn.

COMPUTATION OF ASSESSABLE INCOME FROM EMPLOYMENT

Primary employment

Where an employee ceases his or her primary employment and commences a new employment within the same year of assessment, the new employer can treat the employment as a primary employment if the employee provides the new employer with a new primary employment declaration and withholding tax certificate issued by the former primary employer for that year of assessment.

The new primary employer must take into consideration the income and tax withheld by former primary employer when calculating the employee's tax to be withheld for that year of assessment at the appropriate rates in the tax tables specified by the Commissioner General of Inland Revenue.

Other than primary employment - Secondary Employment(s)

Any employee who has not furnished a primary employment declaration to employer will be treated as a secondary employment. Withhold tax on that employee's income from such secondary employment in accordance with the APIT Table 7

COMPUTATION OF ASSESSABLE INCOME FROM EMPLOYMENT

Retirement Benefits from Employment

Profit from employment include certain lump sum receipts of an employee at retirement. These receipts are profits for the year of assessment in which they received.

1. Retiring gratuity
2. Commuted pension
3. Compensation for loss of office or employment
4. Withdrawals from Employees Trust Fund

Retirement benefits other than compensation for loss of office is taxed at lower rates.

However, compensation for loss of office is taxed at lower rate if the employer has made such payments in accordance with a scheme, which is uniformly applicable to all his employees.

Where the employer does not have a uniformly applicable scheme for the payment of compensation for loss of office, it should be taxed at normal rates.

COMPUTATION OF ASSESSABLE INCOME FROM EMPLOYMENT

Lower tax rates applicable for retirement benefits is as follows:

Total Income from Employment Tax Payable

On the first	Rs. 10,000,000	Nil
On the next	Rs. 10,000,000	6%
On the balance		12%

COMPUTATION OF ASSESSABLE INCOME OF AN INDIVIDUAL

Assessable Income (Sec. 4)

The Assessable income shall be computed as follows.

Assessable income from “employment”	xxx
Assessable income from “business”	xxx
Assessable income from “investment”	xxx
Assessable income from “other sources”	<u>xxx</u>
Total Assessable Income	<u>xxx</u>

COMPUTATION OF TAXABLE INCOME OF AN INDIVIDUAL

Taxable Income (Sec. 4)

The Taxable income shall be computed as follows.

Assessable income from “employment”	xxx
Assessable income from “business”	xxx
Assessable income from “investment”	xxx
Assessable income from “other sources”	xxx
Total Assessable Income	<u>xxx</u>
Less: Qualifying payments and reliefs under section 52 (5th Schedule)	<u>(xx)</u>
Taxable Income	<u>xxx</u>

The taxable income of each person and the assessable income from each source shall be determined separately.

COMPUTATION OF TAXABLE INCOME OF AN INDIVIDUAL

Deduction under section 52 :- Qualifying payment and relief

1. In arriving at the taxable income of **an individual** or entity for a year of assessment under section 3, the aggregate qualifying payments referred to in the Fifth Schedule to this Act shall be deducted.
2. In arriving at the taxable income of **an individual who is resident in Sri Lanka** for a year of assessment under section 3, the aggregate reliefs referred to in the Fifth Schedule to this Act shall be deducted.
3. In arriving at the taxable income of **an individual who is not resident in Sri Lanka for a year of assessment but is a citizen of Sri Lanka** under section 3, the relief referred to in paragraph 2(a) of the Fifth Schedule to this Act shall be deducted.

COMPUTATION OF TAXABLE INCOME OF AN INDIVIDUAL

Deduction under section 52 :- Qualifying payment

The qualifying payments referred to in section 52 shall be as follows:

1. (a) a donation made by an individual or entity in money to an approved charitable institution that is:
 - i. a charitable institution established for the provision of institutionalized care for the sick or the needy; and
 - ii. declared by the Minister as an approved charitable institution for the purposes of this sub-paragraph, subject to a maximum of –
 - (iia) in the case of an individual, one-third of the taxable income of the individual or Rupees seventy five thousand, whichever is less;

COMPUTATION OF TAXABLE INCOME OF AN INDIVIDUAL

The qualifying payments referred to in section 52 shall be as follows:

1. (b) a donation made by an individual or entity in money or otherwise to the following:-
 - i. the Government of Sri Lanka;
 - ii. a local authority;
 - iii. any Higher Education Institution established or deemed to be established under the Universities Act, No. 16 of 1978;
 - iv. the Buddhist and Pali University of Sri Lanka or any Higher Educational Institution established by or under the Buddhist and Pali University of Sri Lanka Act, No. 74 of 1981;
 - v. a fund established by the Government of Sri Lanka;
 - vi. a fund established by a local authority and approved by the Minister;
 - vii. the Sevana Fund created and administered by the National Housing Development Authority established by the National Housing Development Authority Act, No. 17 of 1979;
 - viii. a fund established by a Provincial Council and approved by the Minister;
 - ix. the Api Wenuwen Api Fund established by the Api Wenuwen Api Fund Act, No. 6 of 2008;
 - x. National Kidney Fund established under the National Kidney Foundation of Sri Lanka (Incorporation) Act, No. 34 of 2006;

COMPUTATION OF TAXABLE INCOME OF AN INDIVIDUAL

The qualifying payments referred to in section 52 shall be as follows:

- c) 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 recommended and confirmed by the Department of Samurdhi Development;
- d) expenditure incurred on or after April 1, 2021, by any person-
 - i. in the production of a film at a cost of (including promotional expenditure of such film) not less than five million rupees;
 - ii. in the construction and equipping of a new cinema at a cost of not exceeding twenty five million rupees;
 - iii. in the upgrading of a cinema at a cost of not exceeding ten million rupees:

Provided that, the deduction under this subparagraph shall be restricted to one third of the taxable income of the year of assessment, and any amount which is not deducted in current year may be carried forward and deducted in the next succeeding year and so on, subject to the same restriction.