

STRATEGIC LEVEL – CA SRI
LANKA

STRATEGIC TAX PLANNING
(SL 25 - 4) – TUTORIAL 3

ASSESSABLE INCOME FROM
INVESTMENTS

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Definition for Investment (Sec195)

Investment means –

- a) the owning of one or more assets, including one or more assets of a similar nature or that are used in an integrated fashion, and
 - includes a past, present or prospective investment; but
 - excludes a business or employment; or

- b) a game of chance, including lotteries, betting or gambling

Assessable
Income
from
Investment
[Sec 7]

- A person's income from an investment for a year of assessment shall be the person's gains and profits from that investment for the year

- In calculating a person's gains and profits from an investment derived or received during a year of assessment the following amounts received or derived by the person during the year of assessment from the investment **shall be included:-**

- **dividends, interest, discounts, charges, annuities, natural resource payments, rents, premiums and royalties;**
- **gains from the realisation of investment assets** as calculated under Chapter IV;
- amounts derived as consideration for accepting a restriction on the capacity to conduct the investment;

Assessable Income from Investment [Sec 7 (2)]

- gifts received by the person in respect of the investment;
- **winnings from lotteries, betting or gambling**; and
- other amounts required to be included under this Act

In calculating a person's gains and profits from an investment for a year of assessment the following **shall be excluded**:-

- exempt amounts and final withholding payments; and
- amounts that are included in calculating the person's income from an employment or business

Assessable Income from Investment

Dividends means;

- i. a payment derived by a member from a company, whether received as a division of profits, in the course of a liquidation or reconstruction, in a reduction of capital or share buy-back or otherwise;
- ii. includes a capitalisation of profits –
 - whether by way of a bonus share issue, increase in the amount paid-up on shares or otherwise; and
 - whether an amount is distributed or not; and
- iii. excludes a payment to the extent to which it is –
 - matched by a payment made by the member to the company;
 - debited to a capital, share premium or similar account; or
 - otherwise constitutes a final withholding payment or is included in calculating the income of the member;

Assessable
Income
from
Investment

Rent means;

- a) a payment, including a payment of a premium or like amount, for the use of or right to use property of any kind;
- b) a payment for the rendering of, or the undertaking to render, assistance ancillary to a use or a right,
- c) but excludes a natural resource payment or a royalty; interest,

Assessable
Income
from
Investment

Royalty means;

- a) a payment, including a payment of a premium or like amount, derived as consideration for –
- b) the use of or right to use a copyright of literary, artistic or scientific work, including cinematograph films, software or video or audio recordings, whether the work is in electronic format or otherwise;
- c) the use of or right to use a patent, trade mark, design or model, plan, or secret formula or process;
- d) the use of or right to use any industrial, commercial, or scientific equipment;
- e) the use of or right to use information concerning industrial, commercial or scientific experience;
- f) the rendering of or the undertaking to render assistance ancillary to a matter referred to above or a total or partial forbearance with respect to a matter referred to above;

Assessable
Income
from
Investment

Annuities; a fixed sum of money paid to someone each year

Natural resource payments means;

a payment, including a premium or like amount, for the right to take natural resources from land or the sea or calculated in whole or part by reference to the quantity or value of natural resources taken from land or the sea

Natural resource means;

minerals, petroleum, water or any other non-living or living resource that may be taken from land or the sea.

Assessable
Income
from
Investment

Interest –

- a) a payment, including a discount or premium, made under a debt obligation that is not a repayment of capital; and
- a) a swap or other payment functionally equivalent to interest;
- b) a commitment, guarantee or service fee paid in respect of a debt obligation or swap agreement; and
- c) a distribution by a building society;

Discounts, charges, Premium

Gains from the realisation of investment assets [Capital Gain] as calculated under Chapter IV;

An amount derived as consideration for accepting a restriction on the capacity to conduct the investment;

Assessable Income from Investment

Gains from the realisation of investment assets

investment asset means;

- a) a **capital asset** held as part of an investment, but-
- b) excludes the principal place of residence of an individual, provided it has been owned by the individual continuously for the three years before disposal and lived in for at least two of those three years (calculated on a daily basis);

Capital asset means each of the following assets:-

- a) land or buildings;
- b) a membership interest in a company, partnership or trust;
- c) a security or other financial asset;
- d) an option, right or other interest in an asset referred to in the foregoing paragraphs;

but excludes trading stock or a depreciable asset

Assessable
Income
from
Investment

Gains from the realisation of investment assets

Depreciable asset means;

- a) an asset to the extent to which it is employed in the production of income from a business and which is likely to lose value because of wear and tear, obsolescence or the passing of time; but
- b) excludes goodwill, an interest in land, a membership interest in an entity and trading stock;

Land or buildings includes a structural improvement to land or buildings, an interest in land or buildings or an interest in a structural improvement to land or buildings, and includes the following:—

- a lease of land or buildings;
- a lease of a structural improvement to land or buildings; or
- an exploration, prospecting, development, or similar right relating to land or buildings; and
- information relating to a right referred to in paragraph

Assessable Income from Investment

Gains from the realisation of investment assets

Consideration received	xxxxx
Less. Cost	[xxxx]
Gain/[Loss]	xxxxx

Consideration received - amounts received or receivable by the person for the asset, including the fair market value of any consideration in kind determined at the time of realisation; **[Assessed value]**

If the Assessed value is not **indicative of the market value** of such asset, then market value determined by the tax officials.

Cost of the asset

- a) expenditure incurred by the person in acquiring the asset
- b) expenditure incurred by the person in improving the asset
- c) incidental expenditure incurred by the person in acquiring and realising the asset (advertisement, legal fees..)
- d) income amounts

Assessable Income from Investment

- i. gain made on realisation of shares quoted in any official list published by any stock exchange licensed by the Securities and Exchange Commission of Sri Lanka;
- ii. Interest received by
 - a) a charitable institution, where it is proved to the satisfaction of the Commissioner-General that such interest is applied solely for the purpose of providing care to children, the elderly or the disabled in a home maintained by such charitable institution;
 - b) any person outside Sri Lanka on any loan granted to any person in Sri Lanka or to the Government of Sri Lanka by such person
 - c) any person on moneys lying to his credit in foreign currency in any foreign currency account opened by him or on his behalf, in any commercial bank or in any specialized bank, with the approval of the Central Bank of Sri Lanka,
 - d) any welfare society,
- iii. any winning from a lottery, the gross amount of which does not exceed Rs. 500,000;
- iv. Dividend paid to a member to the extent that such dividend payment is attributable to, or derived from, another dividend received by that resident company or another resident company.

Tax exempted investment income [Third schedule]

Method of Tax payment



By
withholding

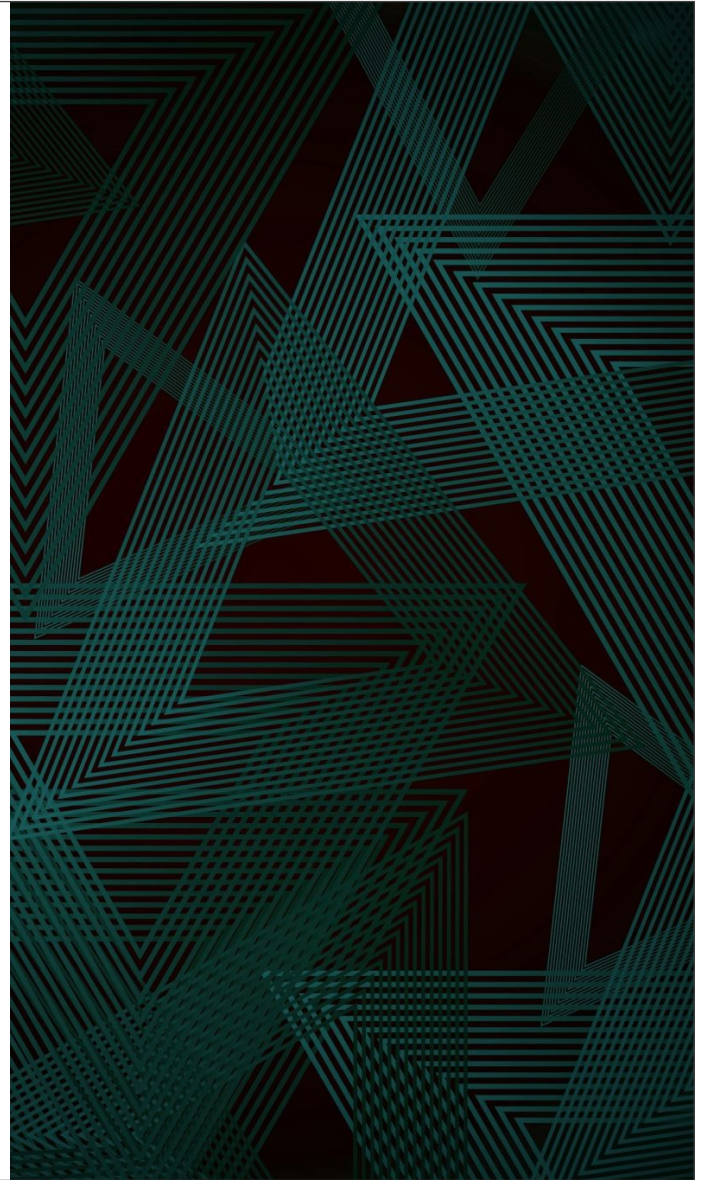


By installment



By assessment

**BY
WITHHOLDING
(APIT ,
AIT,WHT)**



Withholding Tax (APIT , AIT)



On
Employment
Income



On Investment
Income



On Service Fee

Advance Personal Income Tax [Sec 83 a (1a)]

APIT
(Previously
Known 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 (Regular income 36%)

Advance Personal Income Tax [Sec 83 a (1a)]

APIT
(Previously
Known 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.
- 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**.

Advance Personal Income Tax [Sec 83 a (1a)]

APIT
(Previously
Known as
PAYE)

1. Applying the appropriate tax table and deduct tax on the benefits paid to employee
2. 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
3. Submit the Employer's (APIT) Annual declaration – on or before 30th April
4. 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 30 days from the termination of employment.
5. 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).

Withholding Tax [SEC 84 (1)] WHT

Advance Income Tax [sec 84 (A) 1 (A)]

- Withholding from investment returns [With effect from January 1, 2023, a person shall deduct Advance Income Tax]
 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)

Source in Sri Lanka

In respect of employment;
to the extent derived in respect of employment in Sri Lanka, wherever paid
if paid by, or on behalf of, the Government of Sri Lanka, wherever the employment

Dividends paid by a resident company

Interest, charges, annuities, a royalty, technical service fee, or similar payment if;

Paid by a resident person, other than as an expenditure of a business carried on by the resident person through a permanent establishment outside Sri Lanka

Paid by a non-resident person as an expenditure of a business carried on by the non-resident person through a Sri Lankan permanent establishment; or

Paid by the Government of Sri Lanka, including such payments made by any institution on behalf of the Government of Sri Lanka

Source in Sri Lanka

Winnings from lottery, betting, or gambling relating to a game of chance held in Sri Lanka

Natural resource payments made in respect of or calculated by reference to natural resources taken from land or the sea situated within Sri Lanka or its territorial waters

Rent paid for the use of, right to use or forbearance from using an asset situated in Sri Lanka

Premiums for general insurance paid to and proceeds from general insurance paid by a person in respect of the insurance of any risk in Sri Lanka

Payments received by a person who conducts a relevant transport business in respect of;

the carriage of passengers who embark or cargo, mail or other moveable tangible assets that are embarked in Sri Lanka, other than as a result of transshipment; or

rental of containers and related equipment which are supplementary or incidental to carriage

Source in Sri Lanka

Payments received by a person who conducts a business of transmitting messages by cable, radio, optical fibre or satellite or electronic communication in respect of the transmission of messages by apparatus established in Sri Lanka, whether or not such messages originate in Sri Lanka.

Payments, including service fees attributable to service rendered or a forbearance from rendering service

in Sri Lanka, regardless of the place of payment or termination and pension payments

where the payer is the Government of Sri Lanka, irrespective of the place of residence, rendering or forbearance

of a resident person, other than an expenditure of a business carried on by the resident person through a permanent establishment outside Sri Lanka;

paid by a non-resident person as an expenditure of a business carried on by the non-resident person through a Sri Lankan permanent establishment; or

paid by, or on behalf of, the Government of Sri Lanka

Source in Sri Lanka

Gifts and other ex gratia payments to the extent received in respect of business or investment conducted with domestic assets.

Payments, made in respect of the acquisition of a domestic asset, incurring of a domestic liability or realisation of such an asset or liability

Payment received in respect of activity conducted or a forbearance from conducting activity in Sri Lanka

except, in relation to a resident person, to the extent attributable to a foreign permanent establishment

in relation to a non-resident person, to the extent attributable to a Sri Lankan permanent establishment or any other activity (including sales in Sri Lanka of goods and merchandise) of the same or similar kind as that conducted by the nonresident person through a Sri Lankan permanent establishment

made to any foreign entertainer or artist for activity relating to Sri Lanka

WHT /AIT (01.01.2023)

Income	Rate
Payments to non-resident person with respect to land, sea, air transport or telecommunication service in terms of section and Extraordinary Gazette Notification No. 2064/51 dated April 01, 2018	2%
Interest or discount paid by a person	5%
Rent payments made to a resident person where the aggregate payment exceeds Rs. 100,000 per month **Rent = Payment for the use of or right to use property (movable or immovable) of any kind *** Hiring services is not subject to AIT/WHT	10%
Rent payments to Non-residents, Charge, natural resource payment, royalty, premium or pays amounts as winnings from a lottery (exceeds Rs.500,000), reward, betting or gambling Payment or allocation has source in Sri Lanka (Non-Residents)	14%
Dividend	15%
Sale price payable to the seller of any gem sold at an auction conducted by the National Gem & Jewellery Authority	2.5%

Advance Income Tax [sec 84 (A) 1 (A)]

AIT/WHT

- Withholding from investment returns
- Rent
- 1. Fees paid for local Transport service
 - As this is not recognized under the service fee payment, therefore not subject to 5% Withholding Tax.
- 2. Payment for renting vehicle/assets
 - Where the ability to control the asset is retained with the user, it shall be considered as rent.
 - Factors that may be considered in determining the asset on hiring or renting are;
 - Valid Rent agreement
 - Time period and possibility of reclaim the assets by the owner
 - User identification
 - Purpose of use of the asset
 - If the aggregated payment is exceeded Rs. 100,000/- per month WHT shall be deducted on entire amount. If the payment is exactly Rs. 100,000/- per month, such payment is not liable for WHT.

Advance Income Tax [sec 84 (A) 1 (A)]

AIT /WHT

- Withholding from investment returns
- 3. **Rental payment under a finance lease**
 - This shall not be considered as rent and not liable for Withholding Tax
- 4. **Rental payment under an operating lease**
 - This shall be considered as rent and liable for Withholding Tax (If the payment is exceeded Rs. 100,000/- per month).
- 5. **Rental payment to Co-owner (Jointly hold assets)**
 - Where an asset is jointly owned and entered into a rent agreement jointly with tenant, rent amount relevant to each co-owner shall be considered separately for Withholding Tax purposes. Accordingly, WHT shall be applicable for each owner if the respective portion of rent payment is exceeded Rs. 100,000/- per month.
- 6. **Rental payment to non-resident**
 - Irrespective of the amount paid shall be considered as rent and liable for Withholding Tax at 14% (or rate as specified in a double tax avoidance agreement, if any).

Advance Income Tax (AIT)

Person

Makes a payment

Resident or non-resident Person

Person not include Government Ministries, Departments & Local Authorities

Not Subject to AIT

Individual not doing Business

Makes a payment

Resident or non-resident Person

Person

Pays Interest on Ordinary Loans

Financial Institutions

Person

Pays Interest on Treasury bills and Bonds

Resident or non-resident Person

Person

Makes a payment

Persons income exempt from tax (Resident or non-resident)

Any exemption, other than specified in the regulation, a confirmation to be obtain from Tax authority

Advance Income Tax [sec 85 (1C)]

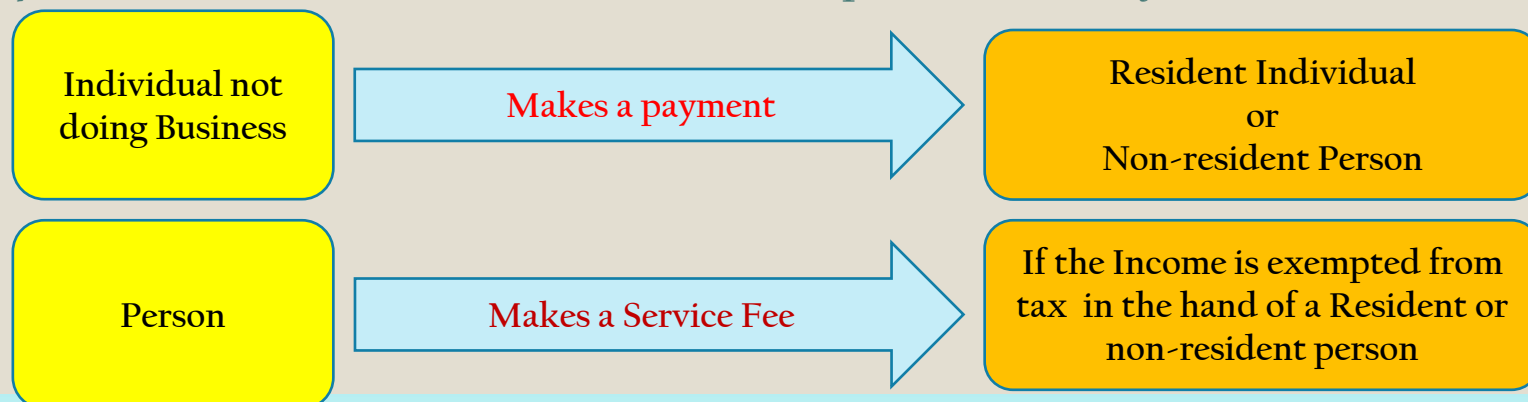
AIT /WHT

- Withholding from service fees , contract payments and payments to non- residents
- 1) 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 –
 - i. for teaching, lecturing, examining, invigilating or supervising an examination;
 - ii. as a commission or brokerage to a resident insurance, sales or canvassing agent; or
 - iii. 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:
- Provided however, this subsection shall not apply to a service payment which does not exceed Rs.100,000 per month.
- 2) 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)
- 3) 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

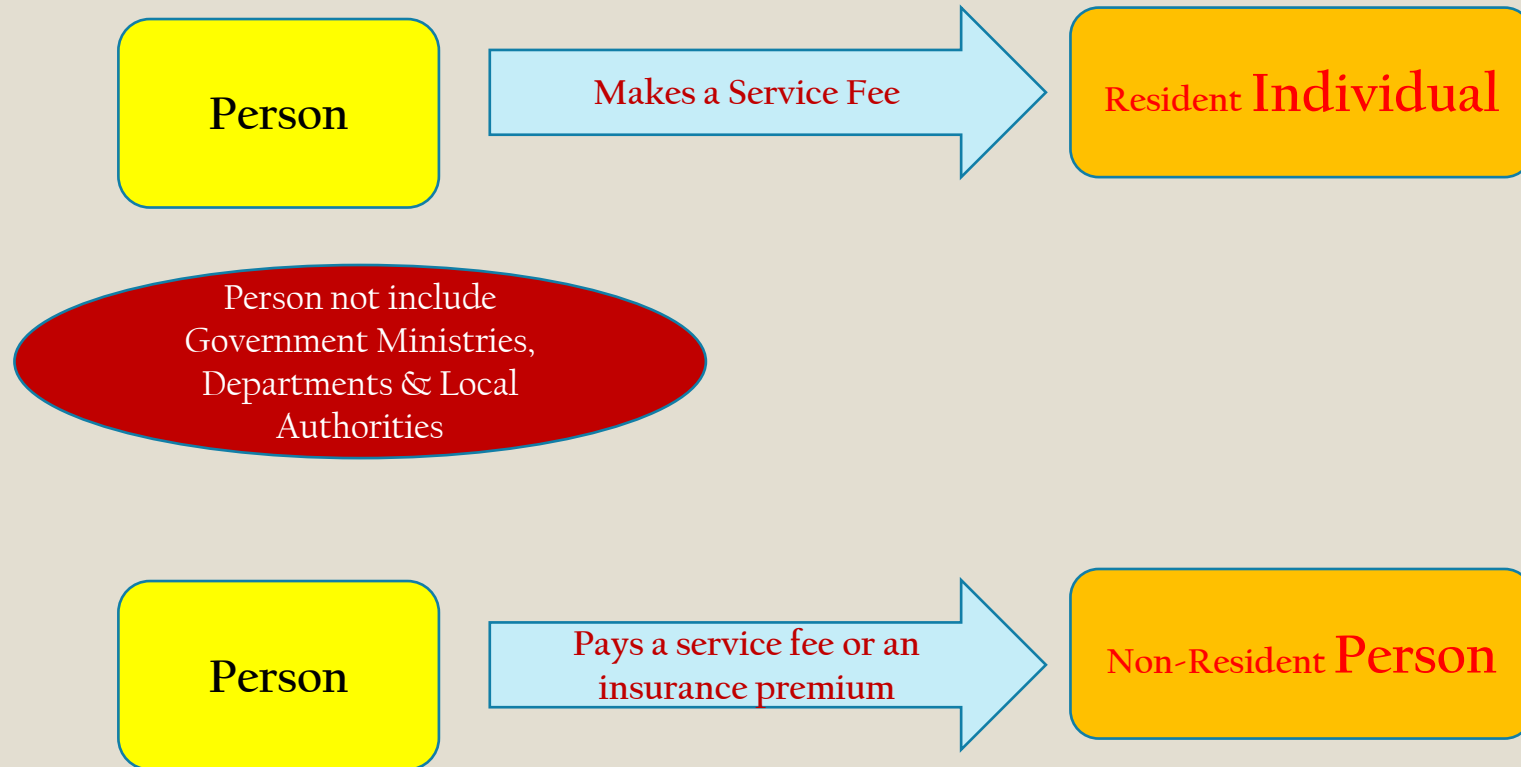
WHT on Service fee and contract payments

Income (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)	
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)	
Pays a service fee or an insurance premium with a source in Sri Lanka to a non-resident person	14%

Payment to resident individual or non-resident person - not Subject to WHT



WHT on Service fee and contract payments



Final withholding payment

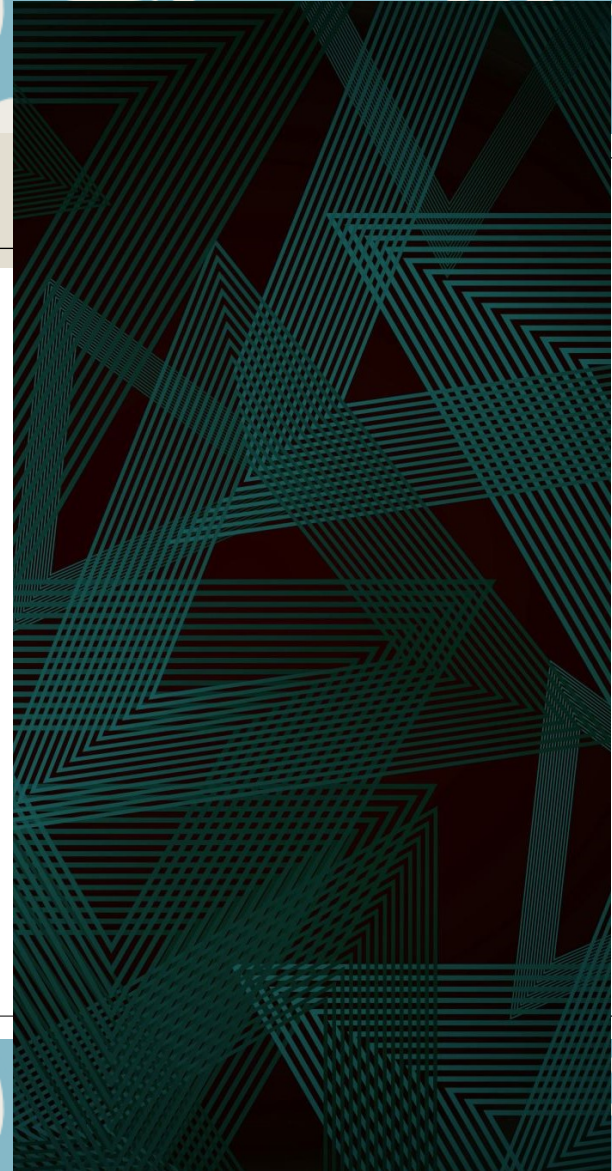
1. Amounts paid as winnings from a lottery, reward, betting or gambling, other than amounts received in conducting a business consisting of betting and gaming;
 2. on or after January 1, 2023, dividends paid by a resident company (refer exemption)
 3. Payments made to a non-resident person who is not 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

Advance Income Tax

AIT (WHT)

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..

BY
INSTALLMENT
PAYMENT



Payment of tax by quarterly instalment [sec 90 (1)]

(Know as self
assessment tax
payment)

A person who is an “instalment payer” shall pay tax by quarterly instalments if he derives or expects to derive assessable income during a year of assessment

- a) from a business , investment or other income
- b) from an employment where the employer is not required to withhold tax (prior to 01.01.2023)

However, gains derived or expected to be derived from the realisation of an investment asset, during a year of assessment shall not be considered for the purpose of quarterly installments.

An instalment payer shall pay instalments of tax for the year of assessment on or before the fifteenth day respectively of August, November and February in that year of assessment and the fifteenth day of May of the next succeeding year of assessment.

Instalment of tax payable by an instalment payer for a year of assessment shall be calculated according to the formula

Payment of tax by quarterly instalment [sec 90 (1)]

(Know as self
assessment tax
payment)

The formula is;

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

Where ;

“A” is the current estimated tax payable 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

“C” is the sum of any;

- i. tax paid during the year of assessment, but prior to the due date for payment of the instalment (Previous installment)
- ii. tax withheld during the year (not a final withholding payment), 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

Statement of estimated tax payable [sec 91 (1)] (Know as SET)

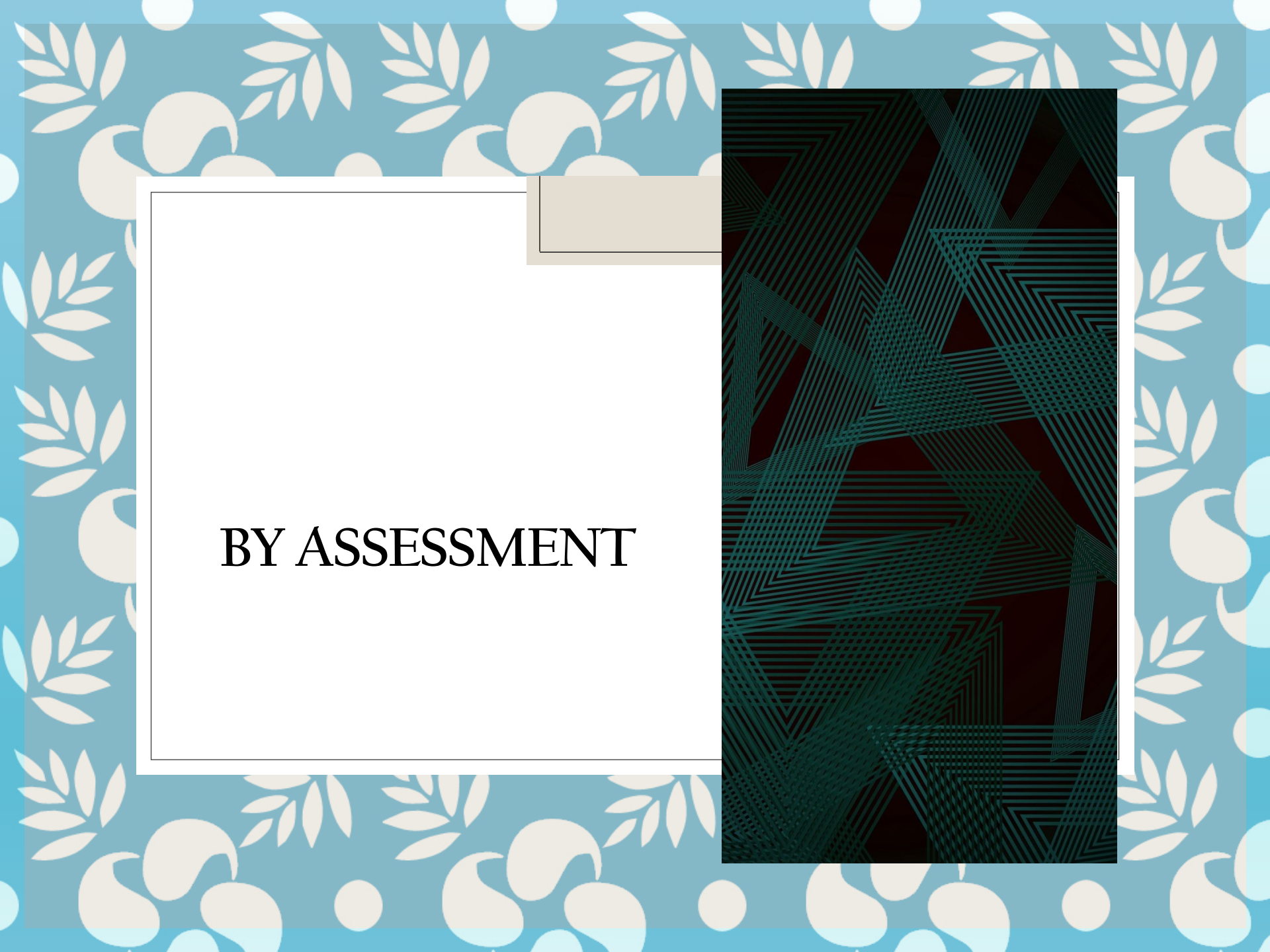
Every person who is an instalment payer for a year of assessment shall file with the Commissioner-General by the date for payment of the first tax instalment an estimate of tax payable for the year

person's assessable income for the year of assessment from each employment, business and investment and the source of that income

the person's taxable income for the year and the tax payable with respect to that income

In estimating tax payable for a year of assessment, a person may take into account a foreign tax credit to be claimed. However, in doing so a person may take account of foreign income tax only if the person has paid the tax or the person reasonably estimates that the tax will be paid during the year.

An instalment payer's estimate shall remain in force for the whole of the year of assessment unless the person files a revised estimate with the Commissioner-General



BY ASSESSMENT



Tax Payable on Assessment

- Person shall file with the Commissioner-General not later than eight months after the end of each year of assessment a return of income for the year.
- 1. The amount of tax remaining to be paid for the year shall be paid on the date that is six months after the end of the year of assessment for which a return of income shall be filed.
- Every person with taxable income consisting of a gain from the realisation of an investment asset shall file with the Commissioner-General a capital gains tax return within thirty days after the end of the relevant calendar month in which the realization occurred.
- 2. Tax to be paid on the date on which the capital gains tax return shall be filed.
- 3. In any other case, on the date stated in a notice for payment