

(2) 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.

(3) An appeal from a decision of the Tax Appeals Commission to the Court of Appeal shall be made only on a question of law.

(4) 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.

#### CHAPTER XIV

##### LIABILITY FOR AND PAYMENT OF TAX

**145.** (1) Tax shall be due and payable at the time stipulated under this Act.

Liability of taxpayer and due date.

(2) Subject to subsection (1), the amount of tax—

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

shall be due and payable on the date stated in the notice or, in the case described in paragraph (b), on the due date for the return in question.

(3) Tax shall be paid in the manner and place specified by the Commissioner-General.

(4) 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.

(5) 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.

Liability and  
obligations of  
representatives.

**146.** (1) For the purposes of this Act, subject to subsection (2), “representative,” in respect of a person, means—

- (a) where the person is an individual under a legal disability, the guardian or manager who receives or is entitled to receive income on behalf of, or for the benefit of, the individual;
- (b) where the person is a company, a director or principal officer of the company or an agent referred to in subsection (4);
- (c) where the person is a partnership, a partner;
- (d) where the person is a trust, a trustee;
- (e) where the person is a body of persons other than a partnership or company, an individual responsible for accounting for the receipt and payment of moneys or funds on behalf of the body;
- (f) where the person is the Government of Sri Lanka, an individual responsible for accounting for the receipt and payment of moneys or funds on behalf of the Government;
- (g) where the person is a public corporation or local authority in Sri Lanka, an individual responsible for accounting for the receipt and payment of moneys or funds on behalf of such public corporation or local authority;

- (h) where the person is a foreign government or political subdivision of a foreign government, an individual responsible for accounting for the receipt and payment of moneys or funds in Sri Lanka on behalf of the government or political subdivision of the government; or
- (i) where the person is a non-resident, a person controlling the person's affairs in Sri Lanka, including a manager of a business of that person in Sri Lanka.

(2) Where, in relation to a person, there is more than one representative, described in subsection (1), then that person shall nominate which of them shall serve as the representative, but in the absence of a designation all shall serve as representatives pending the designation.

(3) The nomination under subsection (2) shall be of a person residing in Sri Lanka, unless there is none in relation to the person.

(4) Every company carrying on business in Sri Lanka shall be represented for the purposes of this Act by a principal officer residing in Sri Lanka and where there is none, by an authorised agent residing in Sri Lanka, and shall notify the Commissioner-General of its appointed representative within one month after it commences carrying on business in Sri Lanka, or one month after the representative ceases to qualify as such.

(5) Where a representative of a person nominated under subsection (1) is unable to perform duties, the Commissioner-General may, by notice in writing, declare another individual to be a representative of the person for the purposes of this Act.

(6) Every representative of a person shall be responsible for performing duties or obligations imposed by this Act on the person, including maintaining records, filing returns and other documents, and the payment of tax.

(7) Subject to subsection (9), the tax that, by virtue of subsection (6), is payable by a representative of a person shall be recoverable from the representative only to the extent of any assets of the person that are in the possession or under the control of the representative.

(8) A representative of a person who pays tax owed by the person shall be entitled to recover the amount so paid from the person or to retain the amount so paid out of any moneys of the person that are in the representative's possession or under the representative's control.

(9) A representative of a tax payer shall be personally liable for the payment of tax due by the tax payer if, while the amount remains unpaid, the representative—

- (a) alienates, charges, or disposes of moneys received or accrued in respect of which the tax is payable; or
- (b) disposes of or parts with moneys or funds belonging to the taxpayer that are in the possession of the representative or which come to the representative after the tax is payable, if the tax could legally have been paid from or out of the moneys or funds.

(10) A representative of a tax payer shall not be personally liable for tax under subsection (9) if-

- (a) the monies were paid by the representative on behalf of a taxpayer and the amount paid has priority, in law or equity, over the tax payable by the taxpayer; or
- (b) at the time the monies were paid, the representative had no knowledge, and could not reasonably be expected to know, of the taxpayer's tax liability.

(11) Nothing in this section shall relieve a person from performing duties imposed under this Act, notwithstanding any failure to perform such duties by his representative.

(12) Where there are two or more representatives of a person, the duties or obligations referred to in this section shall apply jointly and severally to the representatives but may be discharged by any of them.

(13) Where—

- (a) a partnership or other unincorporated association or body is dissolved or otherwise ceases to exist because of the retirement or withdrawal of one or more, but not all, of its partners or members, or because of the admission or a new partner or member;
- (b) apart from the provisions of this Act a new partnership, association, or body, consisting of the remaining members, or of the existing or remaining members and one or more new members, thereby comes into existence; and
- (c) the new partnership, association, or body continues to carry on the activity that was carried on by the dissolved partnership, association, or body,

the dissolved partnership, association, or body and the new partnership, association, or body are, for the purposes of this Act, shall be deemed to be one and the same.

(14) Where, after the death of a taxable person or the sequestration of a taxable person's estate, a taxable activity previously carried on by the taxable person is carried on by or on behalf of the executor or trustee of the person's estate or anything is done in connection with the termination of the taxable activity, the estate of the taxable person, as represented by the executor or trustee, shall be deemed for the purposes of this Act to be the taxable person in respect of the taxable activity.

(15) Where a mortgagee is in possession of land or other property previously mortgaged by a mortgagor who is a taxable person, and the mortgagee carries on a taxable activity in relation to the land or other property, the mortgagee shall be deemed, from the date the mortgagee took possession of that land or property until such time as the mortgagee ceases to be in possession of the land or property, to be the taxable person carrying on the taxable activity.

(16) For the purposes of this Act, where a person is a trustee in more than one capacity, the person shall be treated as a separate person in relation to each of those capacities.

Officers of  
unincorporated  
bodies.

**147.** (1) A liability or obligation imposed by this Act on an unincorporated body shall be imposed on the body and on any person who is an officer of the body at the time the liability or obligation is imposed, and the body and each such officer shall be jointly and severally liable for that liability or obligation.

(2) For the purposes of this Act, the existence of an unincorporated body and any taxable activity carried on by the unincorporated body shall be deemed not to be affected by any change in its members or officers.

(3) A document which is required to be served on an unincorporated body under this Act may be served on an officer of the body.

(4) Where an offence under this Act has been committed by an unincorporated body, the offence shall be deemed to have been committed by the officers of the unincorporated body.

Liability for tax  
following  
winding-up.

**148.** (1) This section shall apply to a company which is wound up without having satisfied its tax liabilities, including any liability to withhold and remit tax,

(2) A person who was a shareholder of the company at the time of the winding-up or during the preceding year shall be jointly and severally liable to pay the unpaid tax to the extent of a distribution of cash or property from the company received as a shareholder within one year prior to its winding-up.

(3) A person liable for tax of a company under this section may invoke any rights as against the Department that would have been available to the company.

**149.** (1) Where an entity fails to pay tax on time, every person who is or has been a manager of the entity at any time since the relevant time shall be jointly and severally liable with the entity and every other such person for payment of the tax. Managers of entities.

(2) Subsection (1) shall apply irrespective of whether the entity has ceased to exist or not.

(3) Provisions of subsection (1) shall not apply to a manager who has exercised the degree of care, diligence, and skill that a reasonably prudent person in the position of the manager would have exercised in preventing in the initial and continuing failure to pay tax.

(4) Amounts payable to the Commissioner-General by a manager under this section shall be a personal tax liability of the manager.

(5) Where a manager pays tax by reason of a liability under subsection (1), the manager may recover the payment from the entity as a debt due.

(6) A manager of an entity may not be assessed for an amount under this section after the period of limitations for collecting the relevant tax from the entity has expired.

(7) In this section-

“entity” means any taxpayer other than a partnership, unincorporated body, or an individual;

“manager” of an entity includes a person purporting to act as a manager of the entity and, in the case of a company, includes a director, the chief executive officer, and the chief financial officer of the company; and

“relevant time” is six months before the events that gave rise to the entity’s tax liability.

Refundable amounts.

**150.** (1) Where the amount of tax which has been paid by a taxpayer exceeds the amount of tax assessed or found to be payable, the Commissioner-General shall —

- (a) refund the amount against the taxpayer’s assessed liability to pay tax, interest, late fees, or penalties under this Act; and
- (b) unless the taxpayer objects, apply an amount remaining against the taxpayer’s liability to make advance payments of tax that shall become due within the succeeding six months.

(2) Subject to subsection (1), refundable amounts shall be paid to the taxpayer.

(3) A refund or credit may be made under this section only if the taxpayer applies for it within four years of the date of payment or, if made on the Commissioner-General’s initiative, within the specified time period.

Extension of time for payment.

**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 this Act.



(2) The Commissioner-General may, with good cause, extend the time for payment as requested under subsection (1) 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.

(3) Where the Commissioner-General does not notify the person who made application under subsection (1), of the decision in writing within thirty days, the application shall be deemed to be granted.

(4) Where a taxpayer has been granted an extension under subsection (1), interest shall be payable notwithstanding the extension of time.

(5) 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.

**152.** (1) 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.

Default in  
payment.

(2) 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.

(3) 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.

(4) Subsection (3) shall not apply where the taxpayer has—

- (a) entered into a payment arrangement with the Commissioner-General; or
- (b) received an extension pursuant to section 151 and complied with terms of the arrangement.

Priority of tax.

**153.** (1) This section shall apply to the following amounts:—

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

(2) 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:—

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

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

- (a) shall not be subject to attachment in respect of any debt or liability of the person;
- (b) shall be a first charge on the payment or amount from which the tax shall be withheld; and
- (c) 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.

**154.** (1) Payments of a specific tax shall be applied against the taxpayer's liability in the following order:—

Order of  
payment of tax  
debts.

- (a) interest relating to the tax;
- (b) penalties relating to the tax; and
- (c) the principal amount of the tax.

(2) The Commissioner-General may apply a tax payment to any tax which has been assessed and is due—

- (a) where the taxpayer fails to indicate to which specific tax or taxation period the payment should be applied; or
- (b) where the payment has been collected pursuant.

**155.** Tax shall be payable in Sri Lanka currency, except as otherwise provided in this Act.

Currency.

## CHAPTER XV

### INTEREST

**156.** (1) Procedures for the payment, collection and dispute of a tax shall apply equally to interest relating to a tax.

General.