

## CHAPTER X

### RECORD KEEPING AND INFORMATION COLLECTION

**120.** (1) A taxpayer engaged in business or investment activity or required under this Act to make a return shall keep and maintain in Sri Lanka records and accounts sufficient to record all transactions and to ascertain the gains and profits made or the loss incurred in respect of those transactions.

Accounts and records.

(2) The circumstances under which a person engaged in business or investment activity shall have accounts prepared by an approved accountant and the form by which an approved accountant shall attest to the accuracy and completeness of the accounts prepared shall be prescribed by regulations.

(3) Where the Commissioner-General is of the opinion that proper records or books of account are not being kept in accordance with subsection (1) or (2), or where no records or books of account are being kept, by any person carrying on business then in addition to prosecution for an offence, the Commissioner-General may direct such person to keep such records or books of account as the Commissioner-General may specify.

(4) The records or books of accounts required by this section shall be kept at the place of business or investment activity of the person unless the Commissioner-General approves of them being kept at some other place.

(5) In addition to the records and accounts referred to in subsections (1) and (2), a taxpayer shall also retain source documents and underlying documentation utilized in the creation of the records and accounts.

(6) A person required to prepare or retain records of a transaction under this Act shall retain such records—

- (a) for a period of five years from the date on which the transaction took place; or

- (b) for a period exceeding five years, until expiration of the time limit for assessment of tax for any tax period to which the records are relevant and until any related proceedings have been completed.

(7) Notwithstanding anything in any law, the Commissioner-General may specify a system of simplified record keeping for small businesses.

(8) Where a person has prepared records required under this section in a language other than Sinhala, Tamil or English, that person shall at that person's expense, upon request, provide a translation acceptable to the Commissioner-General.

(9) Financial statements, invoices, books of original entry, and all written communications between the Department and the taxpayer shall be in Sinhala, Tamil or English with amounts and values to be provided in Sri Lankan currency as well.

(10) For the purposes of this section, source documents include sales and purchase invoices, costing documents, bookings, diaries, purchase orders, delivery notes, bank statements, contracts, and other documents which relate to an element of a transaction.

Obligations of  
Financial  
Institutions.

**121.** A bank or financial institution shall keep records of all transactions with a client, including the client's identity.

Access to  
information,  
assets and land.

**122.** (1) An authorised officer may enter a business premises, or other premises open to the public, without prior notice, for an authorised purpose—

- (a) during normal business hours; or
- (b) at any time authorised in writing by a Magistrate upon application by the Commissioner-General and a showing the necessity to enter at that time.

(2) The authorised officer may enter a taxpayer's dwelling, or other premises not referred to in subsection (1), for an authorised purpose—

- (a) with the consent of the taxpayer; or
- (b) at the time stated and in the manner authorised in writing by a Magistrate upon application by the Commissioner-General and a showing of necessity to enter that time.

(3) An authorised officer may enter on any property for the purpose of surveying and valuing it—

- (a) with the consent of the taxpayer; or
- (b) after giving not less than twenty-four hours' notice in writing.

(4) An authorised officer who lawfully enters a premises or a dwelling under subsection (1), (2) or (3) may—

- (a) make a copy of a record;
- (b) seize a record or other item that appears to be relevant to an authorised purpose;
- (c) seal records or other items;
- (d) question any person in the premises or dwelling with respect to any matter arising under this Act;
- (e) open and examine any receptacle where any book of account, register, record, or other document may be found and examine and make an inventory of any materials found therein;
- (f) operate any computer and take a record of any data stored within; or

(g) count and make a record of any cash found.

(5) Where an authorised officer seizes a record or other item pursuant to the authority provided under this section, the Commissioner-General may make a copy of the record or other item and shall return the original to the person in the shortest time practicable.

(6) A copy of a document made pursuant to the power conferred by this section may be produced in Court and shall have the same evidentiary value as if it were an original.

(7) This section shall not authorise access to premises of diplomatic, consular, or other missions of foreign countries and international organizations which enjoy immunity from such investigations under international law.

(8) Where taxpayer or other specified person fails to provide any document required by the Commissioner-General under this section or section 123 such document shall not be used by the taxpayer or other person in a judicial proceeding challenging an assessment, except with the agreement of the Commissioner-General.

(9) The owner or lawful occupier of the premises or place in respect of which power is exercised under this section shall provide all reasonable facilities and assistance to the authorised officer.

(10) A person whose books, records, or other items have been seized under this section may examine them and make copies, at the person's expense, during office hours.

(11) An authorised officer shall sign for all records, books, or other items removed and retained under this section and shall return them to the owner within fourteen days of the conclusion of the investigation or related proceedings.

(12) The Commissioner-General may cause any land to be visited, inspected, and measured and may call on any person to produce for inspection any map, plan, title deed, instrument of title, or other document in the custody or under the control of that person which relates to the land.

(13) The Commissioner-General shall require a peace officer to be present for the purposes of exercising powers under this section, unless the Commissioner-General is of the opinion that the presence of a peace officer shall not be necessary in the circumstances.

(14) In this section-

“authorised purpose” means—

- (i) the collection of information for the purpose of determining the liability of person for the payment of tax;
- (ii) the collection of information for the purpose of collecting tax from a specific person; or
- (iii) the collection of information related to the investigation or prosecution of a specific person for an offence specified in this Act; and

“business premises” includes a place where any business is carried on, where anything is done in connection with a business, a dwelling used for the maintenance of stocks, keeping of records, signing of contracts or agreements, and attesting of deeds, and any place used for meeting clients.

**123.** (1) For the purpose of this Act, the Assistant Commissioner may require from the tax payer or the Commissioner may require from any other person, by giving reasonable notice in writing—

Notice to obtain information.

- (a) to furnish any information that is required by the notice, including information concerning another person;

- (b) to appear at the time and place designated in the notice for the purpose of being examined or of producing documents or other evidence in control of that person which are referred in the notice; or
- (c) to produce, within the time specified in the notice, all documents in the person's custody or under the person's control relating to the person's or any other person's tax affairs as specified in the notice.

(2) Without prejudice to the generality of subsection (1), the Commissioner may require any bank—

- (a) to furnish to the Commissioner details of any banking account or other assets which may be held on behalf of any person, or to furnish a copy of bank statements of any such banking account; or
- (b) to permit the Commissioner or Assistant Commissioner to inspect the records of the bank with respect to the banking account of any person; or
- (c) to furnish annually a schedule showing the amount of interest paid on deposits together with the names and addresses of the persons to whom such interest accrued or may require the attendance of any officer of a bank before the Commissioner to give evidence with regard to any bank account or other assets which may be held by the bank on behalf of any person.

(3) The provisions of subsection (1) shall extend to the furnishing of information, the production of documents and the giving of evidence to the Commissioner or Assistant Commissioner in relation to—

- (a) the payment of income by any person to a non-resident; or

- (b) the payment of remuneration by an employer to an employee, the deduction of tax therefrom and the accounting for any tax so deducted.

(4) The Commissioner or Assistant Commissioner may make copies of books of account or other documents that are produced for purposes of this section, or may retain them where such course of action appears to the Commissioner-General to be necessary for the purposes of any prosecution or the substantiation of any assessment.

(5) Subject to subsection (8) of section 122, this section shall have effect notwithstanding anything contrary in any written law relating to confidentiality, privilege, or the public interest with respect to the production of or access to documents or other evidence, including a law relating to bank secrecy and any contractual duty of confidentiality.

**124.** (1) For the purposes of determining whether a person has violated any provisions of this Act, the Commissioner-General or an authorised officer may make an ex parte application to a Magistrate for a search and seizure warrant.

Search and seizure with warrant.

(2) An application under subsection (1) shall set out the following:-

- (a) the provisions of this Act alleged to have been contravened;
- (b) the name of the person alleged to have contravened the provisions of this Act;
- (c) the premises to be searched; and
- (d) the documents sought.

(3) When an application is made under subsection (1), Magistrate may issue a search and seizure warrant where he is satisfied that there are reasonable grounds to believe that-

- (a) the search and seizure is necessary to determine whether a person has contravened any provision of this Act or committed an offence under this Act; and
- (b) any documents (including in electronic format) that are likely to be found on the premises which may provide evidence as to the matters specified in paragraph (a).

(4) A warrant issued under subsection (3) shall, as far as is reasonably practical contain the following information:-

- (a) the alleged commission of the offence under this Act which is the basis for the application;
- (b) the person alleged to have contravened any provision of this Act or committed an offence under this Act;
- (c) the premises to be searched; and
- (d) the documents that are the subject of the search.

Execution of a search and seizure with warrant and search without warrant.

**125.** (1) The owner or lawful occupier of premises to which access is sought under a search and seizure warrant may refuse access to the premises where the Commissioner-General or authorised officer fails to produce the warrant.

(2) An authorized officer shall not enter or remain on any premises which is subject to search and seizure warrant if, upon request by the owner or lawful occupier, the officer is unable to produce an authorisation in writing from the Commissioner-General permitting the officer to exercise powers under the warrant.



(3) In executing powers under a search and seizure warrant, the Commissioner-General or authorised officer -

- (a) shall have full and free access, at any time and without notice-
  - (i) to the premises specified in the warrant;
  - (ii) to any relevant material located on the premises, including in electronic format; and
  - (iii) to any data storage device located on the premises containing relevant material;
- (b) may open or cause to be opened or removed in conducting a search of the premises specified in the warrant, anything that the Commissioner-General or authorised officer reasonably suspects to contain relevant material;
- (c) may make an extract, or a paper or electronic copy of any relevant material, including on a data storage device;
- (d) may seize any relevant material;
- (e) may, if a paper or electronic copy of relevant material on a data storage device is not provided, seize and retain the device for as long as is necessary to copy the information required; and
- (f) may search any person on the premises specified in the warrant.

(4) The owner or lawful occupier of the premises to which an exercise of search and seizure warrant relates shall provide all reasonable facilities and assistance to the Commissioner-General or authorised officer including the following:-

- (a) answering questions, orally or in writing, concerning whether a person has violated the provisions of this Act; or

- (b) providing access to information necessary to decrypt data to which access is sought in exercise of a search and seizure warrant.

(5) The Commissioner-General or authorised officer shall-

- (a) make a written inventory of the relevant material seized and provide a copy thereof to the owner of the material; and
- (b) sign for any relevant material or data storage device removed and retained under this section.

(6) An authorized officer may search a person only if such officer is of the same sex as the person being searched.

(7) For the purposes of the exercise of powers under this section, the Commissioner-General or any authorised officer may require a police officer to be present when executing a warrant under this section.

(8) The Commissioner-General or authorised officer shall not retain any document seized under this section for a period longer than six months from the date of seizure unless the document is required for the purposes of any proceedings under this Act or any other written law.

## CHAPTER XI

### TAX RETURNS

Tax returns.

**126.** (1) Every person chargeable with income tax under this Act shall furnish to the Assistant Commissioner in accordance with subsection (2) a tax return in the specified form containing such particulars as may be specified by the Commissioner- General either in writing or by electronic means within the stipulated time.