

Payment of tax on realisation of investment assets by partnerships and trusts.

96. (1) Each trustee of a trust shall be responsible for performing any duties or obligations imposed by this Act on the trust in relation to its taxable income consisting of a gain from the realisation of an investment asset, including the payment of tax on that gain.

(2) Each partner in a partnership shall be responsible for performing any duties or obligations imposed by this Act on the partnership in relation to its taxable income consisting of a gain from the realisation of an investment asset, including the payment of tax on that gain.

(3) When a trust has more than one trustee, the duties and obligations imposed under this section on the trustee of the trust shall apply jointly and severally to the trustees but may be discharged by any of them.

(4) The duties and obligations imposed under this section on the partners in a partnership shall apply jointly and severally to the partners but may be discharged by any of them.

(5) The executor shall be responsible for performing any duties or obligations imposed by this Act in respect of a deceased person in relation to their taxable income consisting of a gain from the realisation of an investment asset, including the payment of tax on that gain.

PART II

CHAPTER IX

ADMINISTRATION PROVISIONS

Division I: Administration of this Act

Officers.

97. (1) For the purposes of this Act, there shall be appointed a Commissioner-General of Inland Revenue, such number of Deputy Commissioner-Generals of Inland

Revenue, Senior Commissioners of Inland Revenue, Commissioners of Inland Revenue, Senior Deputy Commissioners of Inland Revenue, Deputy Commissioners of Inland Revenue and Assistant Commissioners of Inland Revenue.

(2) A tax official exercising or performing or discharging any power, duty or function conferred or imposed on or assigned to the Commissioner-General by any provision of this Act, shall be deemed for all purposes to be authorized by the Commissioner-General to exercise, perform or discharge that power, duty or function until the contrary is proved.

(3) The Commissioner-General or an officer of the Department authorised by the Commissioner-General to perform any functions under this Act shall not be personally liable in civil proceedings in connection with any act done by the person in good faith in the discharge of those functions.

(4) The Commissioner-General may specify such forms as the Commissioner-General considers appropriate for the purposes of this Act.

98. (1) The Commissioner-General may delegate to a tax official of the Department a power or duty conferred or imposed on him by this Act.

Delegation of powers.

(2) The Commissioner-General may delegate a power or duty to a specific individual tax official within the Department.

(3) Subject to such conditions as the Commissioner-General may specify the Commissioner-General may provide that any information, declaration, or document required to be furnished to the Commissioner-General is to be supplied to tax officials as the Commissioner-General may nominate.

(4) A delegation under this section shall not prevent the Commissioner-General from performing a delegated power, duty, or function.

(5) A tax official shall not exercise a power, or perform a duty or function under this Act; that –

(a) relates to a person in respect of which the tax official has or had a personal, family, business, professional, employment, or financial relationship; or

(b) otherwise presents a conflict of interest.

(6) A tax official exercising or performing or discharging any power, duty or function conferred or imposed on or assigned to the Commissioner-General by any provision of this Act, shall be deemed for all purposes to be authorised to exercise, perform or discharge that power, duty or function until the contrary is proved.

(7) A Commissioner and Senior Deputy Commissioner may exercise any power conferred on any Deputy Commissioner or Assistant Commissioner by any provision of this Act.

Inland Revenue
Incentive Fund.

99. (1) The Minister in charge of the subject of Finance shall establish the Inland Revenue Incentive Fund (hereinafter referred to as the “Fund”).

(2) There shall be paid into the Fund in respect of each year, such sums as may be appropriated annually by Parliament for the purpose of the Fund.

(3) There shall be paid out of the Fund –

(a) all sums required for the welfare of officers of the Department, in accordance with any scheme approved by the Minister; and

- (b) group incentive allowances to any class or category of officers of the Department, in accordance with such scheme as may be approved by the Minister, to ensure efficiency in the administration of any Act administered by the Commissioner-General.

(4) The Commissioner General or any tax official specially authorised by him in that behalf, shall administer the Fund in accordance with the procedure prescribed by the regulations.

100. (1) Except as provided for in subsection (3), (4), (5) or (7) every person having a duty under this Act or being employed in the administration of this Act, shall regard as secret and confidential all information and documents the person has received in an official capacity in relation to a specific taxpayer, and may disclose that information only to the following persons:-

Confidentiality.

- (a) the employees of the Department and of the Customs Department in the course, and for the purpose, of carrying out their duties;
- (b) the Minister in charge of the subject of Finance in the course, and for the purpose, of carrying out supervision of the Department;
- (c) the Auditor-General or any person authorised by the Auditor-General, only when such disclosure is necessary for the purposes of official duties;
- (d) tax authorities of a foreign country, in accordance with an international agreement entered into with a specific authority;
- (e) the Attorney-General for the purpose any criminal proceedings or civil proceedings where actions are instituted by the State or actions filed against the

State or where the opinion or advice of the Attorney-General has been sought in writing by the Department of Inland Revenue;

- (f) a court, in a proceeding to establish a taxpayer's tax liability or responsibility for an offence;
- (g) the Land Reform Commission, only when such disclosure is necessary for the purposes of official duties;
- (h) the Controller of Exchange for the purpose of prosecuting violations of the Exchange Control Act;
- (i) a Commission appointed under the Commissions of Inquiry Act, in an investigation into the affairs of any person or any person's spouse or child; and
- (j) the Commission to Investigate Allegations of Bribery or Corruption established under the Commission to Investigate Allegations of Bribery or Corruption Act, No. 19 of 1994.

(2) A person who is permitted to disclose information under subsection (1) shall maintain secrecy except to the minimum extent necessary to achieve the object for which disclosure is permitted.

(3) A person who receives information under subsection (1) shall maintain secrecy except to the minimum extent necessary to achieve the object for which the information was received.

(4) The Commissioner-General may disclose information concerning a taxpayer's affairs to the taxpayer or the taxpayer's authorised representative only after obtaining reasonable assurance of the authenticity of the claim.

(5) Information concerning a taxpayer may be disclosed to another person with the taxpayer's written consent.

(6) The obligation as to secrecy imposed by this section shall continue to apply in respect of any person notwithstanding that the person ceases to be appointed under or employed in carrying out the provisions of this Act.

(7) The Commissioner-General may publish a list of the names of taxpayers –

- (a) who are in default of tax under section 152;
- (b) who have failed to file a return as required; or
- (c) on whom an understatement penalty has been imposed under Chapter XVII.

101. The Commissioner-General may pay any individual who provides information that results in the assessment and collection of income not disclosed by another person an amount considered reasonable in the circumstances from sums appropriated by Parliament for that purpose. Informants.

Division II: Taxpayer Registration and Taxpayer Identification Numbers

102. (1) 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. Registration.

(2) A person registering under this section, shall submit an application for registration in the form and manner specified by the Commissioner-General and provide such information to the Commissioner-General as may be required by him under this Act.

(3) The Minister with the consent of the Commissioner-General may specify additional classes of persons required to register under this section.

(4) The Commissioner-General shall register any person whom the Commissioner-General considers to have fulfilled the requirements for registration and assign the person a Taxpayer Identification Number (hereinafter referred to as “TIN”).

(5) Where the Commissioner-General refuses to register a person who has applied for registration, the Commissioner-General shall serve the person with written notice of the refusal within fourteen days of making the decision with reasons.

Taxpayer
identification
number.

103. (1) The Commissioner-General shall assign a unique TIN to every taxpayer which shall be used in all correspondence relating to the administration of this Act.

(2) The Commissioner-General may assign a TIN to a person who is not a taxpayer, but who –

- (a) makes payments which are subject to tax in the hands of the recipient;
- (b) is, or may be, required to file a tax return;
- (c) is required under this Act or regulation made under this Act to furnish a TIN to another person; or
- (d) is required to register under subsection (3) of section 102.

(3) To the extent specified, a person is required –

- (a) to include the person’s TIN on documents relating to a tax to which this Act applies; and
- (b) to furnish the TIN to another person designated in regulations as a person who is

required to furnish tax information with respect to the person furnishing the number.

(4) The Commissioner-General shall include the TIN on all correspondence sent to a taxpayer concerning the taxpayer's tax liability, and the taxpayer shall include the TIN number on returns and correspondence with the Commissioner-General.

(5) A taxpayer shall notify the Commissioner-General in writing of a change in name (including business name or other trading name), address, place of business, or nature of the taxable activity carried on no later than thirty days following the date of the change.

Division III: Public Rulings

104. (1) To achieve consistency in the administration of this Act and to provide guidance to the general public and officers of the Department, the Commissioner-General may issue public rulings setting out the Commissioner-General's interpretation of the application of this Act.

Binding public rulings.

(2) A public ruling shall be binding on the Commissioner-General until withdrawn.

(3) A public ruling shall not be binding on taxpayers.

105. (1) The Commissioner-General may make a public ruling by publishing a notice of the public ruling in the *Gazette* and on the Department's website.

Making a public ruling.

(2) A public ruling shall state that it is a public ruling and have a heading specifying the subject matter of the ruling by which it can be identified and an identification number.

(3) A public ruling shall have effect from the date specified in the public ruling or, when no date is specified, from the date the ruling is published in the *Gazette* and on the Department's website.

(4) A public ruling shall set out the Commissioner-General's opinion on the application of the provisions of this Act in the circumstances specified in the ruling and shall not be a decision of the Commissioner-General for the purposes of this Act or any other law.

Withdrawal of a public ruling.

106. (1) The Commissioner-General may withdraw a public ruling, in whole or part, by publishing a notice of the withdrawal in the *Gazette* and on the Department's website.

(2) In the event a public ruling is subsequently found to be inconsistent in whole or in part with any law such public ruling shall be withdrawn in whole or in part by the Commissioner-General to the extent necessary to overcome such inconsistency.

(3) The withdrawal of a public ruling, in whole or part, shall have effect from the date specified in the notice of withdrawal.

Division IV: Private Rulings

Private rulings.

107. (1) A taxpayer may apply to the Commissioner-General for a private ruling setting out the Commissioner-General's position regarding the application of this Act to a transaction entered into, or proposed to be entered into, by the taxpayer.

(2) The Commissioner-General shall appoint a committee of senior officers of the Department known as the Interpretation Committee to review requests for private rulings and to issue private rulings as appropriate on behalf of the Commissioner-General.

(3) An application under this section shall be in writing and -

- (a) include full details of the transaction to which the application relates together with all documents relevant to the transaction;

- (b) specify precisely the question on which the ruling is required; and
- (c) give a full statement setting out the opinion of the applicant as to the application of this Act to the transaction.

(4) Subject to section 108, the Commissioner-General shall, within ninety days of receipt of the application under this section issue a private ruling on the question to the applicant.

(5) If the taxpayer has made a full and true disclosure of all aspects of the transaction relevant to the making of a private ruling and the transaction has proceeded in all material respects as described in the taxpayer's application for the private ruling, the private ruling shall be binding on the Commissioner-General as against the taxpayer identified but shall not be binding on the Commissioner-General as against any other taxpayer.

(6) A private ruling shall not be binding on a taxpayer.

(7) The Commissioner-General may specify reasonable fees to be charged in relation to an application for a private ruling.

108. (1) The Commissioner-General may refuse an application for a private ruling where-

Refusing an application for a private ruling.

- (a) the Commissioner-General has already decided the question that is the subject of the application in any of the following:-
 - (i) a notice of a tax assessment has been served on the applicant;
 - (ii) notice or other guidance issued by the Commissioner-General that is in force; or

- (iii) a ruling published under section 111 that is in force;
- (b) the application relates to a question that is the subject of a tax audit in relation to the applicant or an objection lodged by the applicant;
- (c) the application is frivolous or vexatious;
- (d) the transaction to which the application relates has not been carried out and there are reasonable grounds to believe that the transaction will not be carried out;
- (e) the applicant has not provided the tax official with sufficient information to make a private ruling;
- (f) in the opinion of the Commissioner-General, it would be unreasonable to comply with the application, having regard to the resources needed to comply with the application and any other matters the tax officer considers relevant; or
- (g) the making of the ruling involves the application of a tax avoidance provision.

(2) The Commissioner-General shall serve the applicant with a written notice of a decision to refuse to make a private ruling under this section.

Making a private ruling.

109. (1) The Commissioner-General may make a private ruling by serving written notice of the private ruling on the recipient of the ruling.

(2) The Commissioner-General may make a private ruling on the basis of assumptions about a future event or other matters as considered appropriate.

(3) A private ruling shall state that it is a private ruling, set out the question ruled on, and identify the following:-

- (a) the taxpayer;
- (b) the tax period to which the ruling applies;
- (c) the transaction to which the ruling relates; and
- (d) any assumptions on which the ruling is based.

(4) A private ruling is made when the applicant is served with written notice of the ruling and the ruling shall remain in force until withdrawn under section 110.

(5) A private ruling shall set out the Commissioner-General's opinion on the question raised in the ruling application and shall not be a decision of the Commissioner-General that can be formally reviewed, appealed or otherwise objected to, for the purposes of this Act or any other law. For the avoidance of doubt, this subsection shall not limit in any way a taxpayer's rights with respect to any tax assessment served on the taxpayer to which the ruling relates.

110. (1) The Commissioner-General may, for reasonable cause, withdraw a private ruling, in whole or part, by written notice served on the applicant.

Withdrawal of a private ruling.

(2) In the event a private ruling is subsequently found to be inconsistent in whole or part with any law, such private ruling shall be withdrawn in whole or part by the Commissioner-General to the extent necessary to overcome such inconsistency.

(3) The withdrawal of a private ruling, in whole or part, shall have effect from the date specified in the notice of withdrawal.

Publication of
private rulings.

111. (1) The Commissioner-General shall publish a ruling made under section 109 on the Department's website except that the identity of the applicant to whom the ruling relates must not be indicated in the publication.

(2) When a ruling has been withdrawn in accordance with section 110, the Commissioner-General shall immediately publish a notice of withdrawal on the Department's website stating that the ruling ceases to be binding with effect from the date determined under subsection (3) of section 110.

Division V: Communications, Forms and Notices

Communications
with taxpayers
and other
persons.

112. (1) A notice or statement, issued or an agreement entered into by the Commissioner-General or any tax official to a taxpayer or other person shall be effective if it is authorised by law and in writing, and signed by a tax official.

(2) Except as otherwise provided in this Act or any other law, a notice or other document required to be served on a person by the Commissioner General may be served in the following manner:-

- (a) delivering it personally to the person or the person's nominated officer;
- (b) delivering it to the person's usual or last known place of business or residence in Sri Lanka;
- (c) sending it by registered post to the person's usual or last known place of business or residence in Sri Lanka; or
- (d) transmitting it electronically in accordance with section 113.

(3) Where a person –

- (a) refuses to accept delivery of a letter addressed to the person; or
- (b) fails to collect a letter after being informed that the letter is available for collection at a post office,

the letter shall be treated as having been served on the person on the date on which the person refused to accept delivery of the letter or was informed that the letter was at the post office.

(4) A notice or other document sent by registered mail shall be considered served four days succeeding the day when posted where the address is in Sri Lanka and, where the address is not in Sri Lanka, twenty days succeeding the day when posted.

(5) A signature written on a notice, statement, agreement, return, form, declaration, table, certificate or other document and purporting to be the signature of a tax official shall be considered to be the signature of that person unless the contrary is proved.

113. (1) Notwithstanding any other provisions of this Act, the Commissioner-General may authorise the following to be done either in writing or electronically through a computer system or mobile electronic device:-

Application of electronic tax system.

- (a) the lodging of an application for registration under this Act;
- (b) the filing of a tax return or other document under this Act;

- (c) the payment of tax under this Act;
- (d) the paying of a refund under this Act;
- (e) the service of any document by the Commissioner-General, with such documents treated as being served on the date they are transmitted electronically; or
- (f) the doing of any other act or thing that is required or permitted to be done under this Act.

(2) The Commissioner-General may direct a person to do anything referred to in subsection (1) electronically through the use of a computer system or mobile electronic device.

(3) The Commissioner-General may specify conditions, including additional conditions, for the effective use of the Revenue Administration Management Information System.

(4) A person who files a tax return and pays tax electronically under this section shall continue to file tax returns and pay tax in that manner unless otherwise required or permitted by the Act or authorised by the Commissioner-General.

Forms and
notices.

114. (1) The Commissioner-General shall specify the forms, notices, declarations, returns, statements, tables, and other documents and publish them for the efficient administration of this Act.

(2) The documents referred in subsection (1) shall be available to the public on the website of the Department or at its main office and at other locations, or by mail or electronically, as the Commissioner-General may determine.

115. The Commissioner-General may specify the circumstances under which a taxpayer may designate an authorized representative to communicate with the Department on behalf of the taxpayer and shall accept a designation made in accordance with such circumstances.

Authorized
representatives.

116. (1) No notice, assessment, form, certificate, or other proceeding purporting to be in accordance with the provisions of this Act shall be quashed, or deemed to be void or voidable for want of form or be affected by reason of a mistake, defect or omission, if it is in substance and effect in conformity with, or according to the intent and meaning of this Act, and where the person assessed or intended to be assessed or affected thereby, is reasonably described or identified.

Defect does not
affect validity.

(2) Without prejudice to the generality of subsection (1), an assessment shall not be affected or impugned by reason of –

- (a) a mistake as to the name or surname of the person chargeable, the amount of income assessed, or the amount of tax charged; or
- (b) any variance between the assessment and the notice thereof,

if the notice of such assessment is duly served on the person intended to be charged and contains in substance and effect all relevant particulars.

(3) Without prejudice to the generality of subsection (1) and subsection (2), no notice, assessment, form, certificate, or other proceeding purporting to be in accordance with the provisions of this Act shall be quashed, or deemed to be void or voidable or be affected by reason of any variance in the designation of the tax official who signed or executed such notice, assessment, form, certificate or other proceeding as the case may be.

Rectification of mistakes.

117. When a notice of a tax assessment or other document served by the Commissioner-General under this Act contains a mistake that is apparent from the record and the mistake does not involve a dispute as to the interpretation of the law or facts of the case, the Commissioner-General may, for the purposes of rectifying the mistake, amend the assessment or other document any time before the expiry of four years from the date of service of the notice of the tax assessment or other document.

Taxpayer's right to information.

118. Upon request by a taxpayer, an authorized officer of the Department shall –

- (a) inform the taxpayer of the status of the taxpayer's account with respect to tax;
- (b) provide a copy of a tax return filed by the taxpayer; and
- (c) provide a copy of any written agreement entered into with the Commissioner-General.

Due dates.

119. (1) When the last day for performing an act specified under this Act falls on a day on which the Department is not open to the public for business, the act shall be considered timely if it is performed on the next succeeding day on which the Department is open for business.

(2) A declaration, appeal, or other document, other than a payment, shall be considered filed on the date it is stamped, as received by the Department or, in the case of filing by post, within four days of the date of the postmark.

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