PROPOSALS FOR BUDGET 2026

Research Publications and Resources

Amend tax laws to limit ministerial discretion in tax changes

Abstract – This proposal highlights that, certain taxes in Sri Lanka, such as the Special Commodity Levy (SCL), violate the principle of parliamentary control over public finances set out in the constitution as they are subjected to vulnerable and opaque tax changes without parliamentary approval. This proposal advocates amending all tax-related legislation to remove the excessive use of discretion for taxation changes without approved schemes.

Overview – Taxes such as SCL violate the principle of parliamentary control over public finances set out in the constitution. For example, the SCL Act grants the minister full discretion to announce tax changes, for immediate implementation through a gazette notification. This enables benefits to be channeled to vested interests, creating opportunities for corruption. Parliament subsequently disallowing the tax change does not impact the tax reduction provided up to the parliamentary vote.

The Supreme Court has noted this in a ruling concerning another law with the same level of discretion, which was challenged prior to enactment. However, the SCL remains unchanged, as Sri Lanka lacks a system for reviewing laws after they are passed, particularly those approved swiftly without opposition.

A controversial reduction of tax on sugar in October 2020, colloquially referred to as the 'sugar scam', brought this abuse of discretion into public focus. Estimates by Verité Research show that the huge revenue loss to the government (LKR 59 billion by end-2022) mostly accrued as surplus to the suppliers rather than to the consumers.

Other legislation that is vulnerable to tax changes without parliamentary approval includes the Colombo Port City Commission Act and the Value Added Tax Act. Presently, there are bills that have been introduced to parliament to remove the undue discretion granted in setting SCL and VAT but have yet to be implemented.

Government actions and further requirements – The IMF's Governance Diagnostic Assessment (GDA) draws attention to the opacity of frequent tax changes and the unpredictable use of ministerial discretion to grant these tax changes.

The government, in its Letter of Intent in the IMF's First Review, highlights its commitment *'to impose further discipline on the ministerial authority to introduce tax policy changes without prior parliamentary approval by end-June 2024 and ensure that modifications that are permitted do not result in tax revenue losses.'* – a priority recommendation from the GDA. This recommendation has also been included in the government's action plan on the implementation of the GDA recommendations. The government's action plan states that, following the approval of the National Tariff Policy (NTP) by the Cabinet (received on June 11, 2024)[1], the Ministry of Finance will review the legislation pertaining to border taxes, including the Customs Import Duty (CID), Special

[1] http://www.cabinetoffice.gov.lk/cab/index.php?option=com_content&view=article&id=16&Itemid=49&lang=en&dID=12580

Commodity Levy (SCL), and other measures subject to ministerial authority.[2] This process is expected to introduce checks and balances that strike a balance between appropriate consultation, prevention of market manipulation, ensuring revenue protection, and reducing corruption vulnerabilities.

Supporting reading/reference material

Civil Society Governance Diagnostic Report on Sri Lanka An Assessment of the Anti-Corruption Landscape of Sri Lanka - https://www.tisrilanka.org/wp-content/uploads/2023/09/GDA_REPORT_2023.pdf

Sri Lanka Technical Assistance Report — Governance Diagnostic Assessment - https://www.imf.org/en/Publications/CR/Issues/2023/09/29/Sri-Lanka-Technical-Assistance-Report-Governance-Diagnostic-Assessment-539804

[2] https://www.treasury.gov.lk/api/file/5e0c54aa-62cd-4ac3-846a-9073dfc653c6