



**PARLIAMENT OF THE DEMOCRATIC
SOCIALIST REPUBLIC OF
SRI LANKA**

**SURCHARGE ON INCOME TAX
ACT, No. 6 OF 2001**

[Certified on 11th April, 2001]

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Surcharge on Income Tax Act, No. 6 of 2001

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L.D.—O. 13/2001.

AN ACT TO IMPOSE A SURCHARGE ON EVERY COMPANY CHARGEABLE WITH INCOME TAX FOR THE YEAR OF ASSESSMENT COMMENCING ON APRIL 1, 2001 BY REFERENCE TO THE INCOME TAX PAYABLE BY SUCH COMPANY FOR SUCH YEAR OF ASSESSMENT ; AND TO PROVIDE FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO

Be it enacted by the Parliament of the Democratic Socialist Republic of Sri Lanka as follows : —

1. This Act may be cited as the Surcharge on Income Tax Act, No. 6 of 2001. Short title.

2. Every company which is chargeable with income tax under the Inland Revenue Act, for the year of assessment commencing on April 1, 2001 (hereinafter in this Act referred to as “the relevant year”) shall, notwithstanding anything contained in any other written law, be liable to pay a surcharge on the income tax payable by the company for the relevant year (hereinafter in this Act referred to as “the surcharge”), calculated at the rate of twenty *per centum* of the income tax payable by such company for the relevant year. Imposition of the surcharge on income tax payable by companies.

3. Every company, which is liable to pay the surcharge under this Act, shall notwithstanding that no assessment has been made on it, pay to the Commissioner-General— Dates for payment of the surcharge.

(a) a sum of not less than fifty *per centum*, on or before August 15, 2001 ; and

(b) a sum equal to the balance, on or before November 15, 2001,

of the amount of the surcharge payable by it for the relevant year. Each sum so payable shall hereinafter in this Act be referred to as an “instalment”.

Surcharge in
default and sums
added thereto.

4. (1) Where an instalment of the surcharge payable by any company for the relevant year, or a part of such instalment is not paid on or before the date, specified in section 3 for the payment of that instalment, such instalment of the surcharge or part thereof, shall be deemed to be in default and such company shall be deemed to be a defaulter for the purposes of this Act.

(2) Where any instalment of the surcharge or any part thereof is in default, the defaulter shall, in addition to such instalment or part thereof in default, pay as a penalty—

- (a) a sum equal to ten *per centum* of the amount in default ; and
- (b) where the amount in default is not paid before the expiry of thirty days after it has begun to be in default, a further sum equal to two *per centum* of the amount in default, in respect of each further period of thirty days or part of such period during which it is in default :

Provided that—

- (a) the total amount payable as a penalty under the preceding provisions of this section, shall in no case exceed fifty *per centum* of the amount in default ;
- (b) where any company which is liable to pay the surcharge under this Act for the relevant year, pays—
 - (i) on or before August 15, 2001, as the instalment payable by that company on or before that date, a sum of not less than ten *per centum* ; and
 - (ii) on or before November 15, 2001, as the instalment payable by that company on or before that date, a sum of not less than ten *per centum*,

of the income tax payable by it under the Inland Revenue Act, for the year of assessment commencing on April 1, 2000, such company shall not be liable to any penalty under this section, if it pays, on or before November 30, 2002 the excess of the amount of the surcharge payable by it for that relevant year over the aggregate of the sums paid by it as aforesaid;

- (c) the Commissioner-General may reduce or waive any penalty payable under this section, if it appears to him that such reduction or waiver is just and equitable in all the circumstances of the case.

5. The provisions of Chapter XII and Chapter XVIII to Chapter XX and Chapter XXII to Chapter XXVII of the Inland Revenue Act, relating to the furnishing of returns relating to income tax payable under that Act, assessment, appeals against assessment, finality of assessment, recovery and repayment of such tax and miscellaneous matters, penalties and offences, administration and general matters relating to such tax, shall, *mutatis mutandis*, apply to the furnishing of returns relating to the surcharge payable under this Act, assessment, appeals against assessment, finality of assessment, recovery and repayment of such surcharge and miscellaneous matters, penalties and offences, administration and general matters relating to such surcharge, subject to the following modifications :—

Certain provisions of the Inland Revenue Act to apply.

- (a) the requirement imposed by this Act, on any company to furnish a return of the surcharge payable by it under this Act, for the relevant year, shall be deemed to have been sufficiently complied with if such company furnishes a return of its income tax for that year under subsection (1) or (2) of section 98 of the Inland Revenue Act ;
- (b) where an assessor makes an assessment or an additional assessment on any company, of the income tax payable by such company under the Inland Revenue Act for the relevant year, the assessor may,

at the same time and in the same form, make an assessment or additional assessment, as the case may be, of the surcharge payable by such company for that year under this Act. The assessments or additional assessment, as the case may be, shall be deemed to be separate assessments issued under the respective Acts;

- (c) where notice of assessment is given to any company under section 135 of the Inland Revenue Act stating the amount of income tax charged on such company under the Inland Revenue Act, for the relevant year, such notice may also include the amount of the surcharge charged on such company under this Act, for that year. The notices shall be deemed to be separate notices issued under the respective Acts;
- (d) where an appeal is made against an assessment of income tax payable by any company under the Inland Revenue Act, for the relevant year, such appeal shall be deemed to include an appeal against the surcharge payable by that company under this Act for that year, and shall be determined accordingly; and
- (e) where under Chapter XXII of the Inland Revenue Act, a certificate is issued to a Magistrate, or a notice, statement or certificate is issued to any company, such certificate issued to such Magistrate or such notice, statement or certificate, issued to any company as the case may be, may also include the particulars of any amount of the surcharge in default under this Act. Such certificate issued to such Magistrate and such notice, statement or certificate, issued to any company as the case may be, shall be deemed to be separate certificates, notices, statements or certificates issued under the respective Acts.

6. In the event of any inconsistency between the Sinhala and Tamil texts of this Act, the Sinhala text shall prevail.

Sinhala text to prevail in case of inconsistency.

7. In this Act, unless the context otherwise requires—

Interpretation.

“Assessor”, “Commissioner General”, “non-resident company”, “resident Company” and “year of assessment” have the respective meanings assigned to them in the Inland Revenue Act;

“company” means any company incorporated or registered under any law in force in Sri Lanka or elsewhere and shall be deemed to include a public corporation;

“income tax” with reference to the relevant year and —

(i) in relation to a resident company, means the income tax payable under the Inland Revenue Act, by that company for the relevant year after deducting therefrom, the aggregate of —

(a) any income tax payable by that company for that year, under paragraph (b), (c) or (d) of subsection (1) of section 53 of the aforesaid Act ;

(b) any relief from income tax granted to that company in terms of any agreement referred to in section 92, or under section 93 of the aforesaid Act ; and

(ii) in relation to a non-resident company means the income tax payable, under the Inland Revenue Act, by that company for the relevant year after deducting therefrom any income tax payable by that company for that year, under (sub-paragraph (i) or sub-paragraph (ii) of paragraph (b) of subsection (1) of section 57 of the aforesaid Act;

“Inland Revenue Act” means the Inland Revenue Act, No. 38 of 2000; and

“public corporation” means any corporation, board or other body, which was, or is established by, or under any written law, other than the Companies Act, No. 17 of 1982, with capital wholly or partly provided by the government, by way of grant, loan or other form.