



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

**VALUE ADDED TAX (AMENDMENT)
ACT, No. 7 OF 2012**

[Certified on 30th March, 2012]

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*Value Added Tax (Amendment)
Act, No. 7 of 2012*

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L.D.– O. 9/2012

AN ACT TO AMEND THE VALUE ADDED TAX ACT, NO. 14 OF 2002

BE it enacted by the Democratic Socialist Republic of Sri Lanka as follows:-

1. This Act may be cited as the Value Added Tax (Amendment) Act, No. 7 of 2012 and shall be deemed to have come into operation on January 1, 2012 unless different dates of operation are specified therefor, in the relevant sections.

Short title and
date of operation.

2. Section 2 of the Value Added Tax Act, No.14 of 2002 (hereinafter referred to as the “principal enactment”) is hereby amended as follows:-

Amendment of
section 2 of the
Value Added Tax
Act, No.14 of
2002.

(1) in subsection (2) of that section:-

(a) by the repeal of item (i) of sub-paragraph (e) and the substitution therefor of the following:-

“(i) a person engaged in any Strategic Development Project in terms of subsection (4) of section 3 of the Strategic Development Projects Act, No.14 of 2008, as is referred to in sub-paragraph (i) of paragraph (f) of Part II of the First Schedule, during the project implementation period, or a registered person engaged in any specific project referred to in sub-paragraph (ii) of paragraph (f) of PART II of the First Schedule (effective from April 1, 2011)”;

- (2) by the addition immediately after item (iv) thereof, of the following:-

“(v) any registered person who supplies any goods or services on or after April 1, 2011, to any registered person referred to in items (i), (ii), (iii) or (iv) above, provided that the Commissioner - General is, on the information available, satisfied that the value of such supplies exceeds fifty *per-centum* of the total supplies of such registered person who supplies such goods or services.”;

- (3) by the addition immediately after paragraph (c) of the second proviso to subsection (3) of that section of the following:-

“(d) plant, machinery or equipment imported by any enterprise qualified for a tax exemption under section 16D and 17A of the Inland Revenue Act, No. 10 of 2006, for the use by such enterprise for the purposes specified in any agreement entered into with the Board of Investment of Sri Lanka established under the Board of Investment of Sri Lanka Law, No. 4 of 1978, where any such agreement provides that tax is exempted under item (xxxiv) of paragraph (c) of PART II of the First Schedule, during the project implementation period, subject to the fulfillment of the conditions specified in the agreement.”.

Amendment of
section 22 of the
principal
enactment.

3. Section 22 of the principal enactment is hereby amended as follows:-

- (1) in subsection (1) of that section, by the repeal of

the first proviso thereof and the substitution therefor of the following:-

“ Provided that, the amount of tax due on the supply of-

(a) garments within such percentage-

- (i) as is permitted for sale locally by the Board of Investment of Sri Lanka, established by the Board of Investments of Sri Lanka Law, No. 4 of 1978 under any agreement entered into by the manufacturer of garments for export under section 17 of the aforesaid law; or
- (ii) as is permitted for sale locally by the Board of Investment of Sri Lanka, established by the Board of Investments of Sri Lanka Law, No. 4 of 1978, by any other garment manufacturer who manufactures garments for export under the supervision of the Department of Customs ,

shall be rupees twenty five for each such garment so supplied within Sri Lanka;

(b) fabric within such percentage -

- (i) as is permitted for sale locally by the Board of Investment of Sri Lanka, established by the Board of Investment of Sri Lanka Law, No. 4 of 1978, under any agreement entered into by the manufacturer of fabric for export under section 17 of the aforesaid law; or
- (ii) as is permitted for sale locally by the Board of Investment of Sri Lanka, established by the aforesaid law by any

other fabric manufacturer who manufactures fabric for export under the supervision of the Department of Customs,

shall be forty rupees per kilogram.”;

- (2) in the second proviso to subsection (1), by the substitution for the words and figures “no other tax or levy including any duty under the Customs Ordinance (Chapter 235) or Cess under subsection (1) of section 14 of Sri Lanka Export Development Act, No. 40 of 1979, shall be charged or collected on such sale of garments,” of the words and figures “no other tax or levy payable at the point of entry into the country including any duty under the Customs Ordinance (Chapter 235) or Cess under subsection (1) of section 14 of Sri Lanka Export Development Act, No. 40 of 1979, shall be charged or collected on such sale of garments or fabric.”;
- (3) in paragraph (e) of the second proviso to subsection (5) of that section by the substitution for all the words from “there is an excess of input tax” to the words “taxable supplies of the taxable period” of the following:-

“there is an excess of input tax including tax deferred under section 2, of any registered person who is registered with the Textile Quota Board established under the Textile Quota Board Act, No. 23 of 1996, being a supplier of goods or services to any registered person referred to in paragraph (c) of subsection (2) of section 2 or any registered person who is registered with the Export Development Board, who was subsequently brought under the deferment scheme administered by the Commissioner-General under paragraph (e) of subsection (2) with effect from April 1, 2011, being a supplier of goods to exporters of goods, referred to in paragraph (d) of subsection (2) of section 2,

the value of supplies to suppliers referred to in paragraph (c), (d) or in the corresponding provisions of paragraph (e) for the taxable period was more than fifty *per centum*.”;

- (4) in the third proviso to subsection (5) of that section by the substitution for all the words from “Provided further” to the words “shall be carried forward.” of the following:—

“Provided further, in case of a registered person who imports goods for re-sale without processing, the excess input tax representing the tax paid under subsection (3) of section 2 shall not be refunded, but such input tax including any excess input tax as at July 31, 2002, under the Goods and Services Tax Act, No. 34 of 1996 shall be carried forward except in a case where such supplies are made to any registered person referred to in items (i), (ii), (iii) or (iv) of paragraph (e) of subsection (2) of section 2 of this Act, subject to the conditions and the limitations specified in the guidelines published for the purposes of applying the deferment for the specified period.”;

- (5) in subsection (10) of that section:-

- (i) in paragraph (a), by the substitution for the words and figures “The unabsorbed residue, if any, as at December 31, 2010 shall be carried forward and may be claimed by a registered person for any taxable period not exceeding a sum equivalent to ten *per centum* of the unabsorbed amount for each month, provided that, such sum does not exceed five *per centum* of the net tax payable after deducting allowable input credit from the output tax by such person;” of the following:-

“The unabsorbed residue, if any, as at December 31, 2010 shall be carried

forward and may be claimed by a registered person for any taxable period –

- (A) commencing on or after January 1, 2011 but prior to January 1, 2012, not exceeding a sum equivalent to ten *per centum* of the unabsorbed amount for each month, but not exceeding five *per centum* of the net tax payable after deducting allowable input credit from the output tax payable by such person;
 - (B) commencing on or after January 1, 2012, not exceeding a sum equivalent to ten *per centum* of the unabsorbed amount for each month but not exceeding the net tax payable after deducting allowable input credit from the output tax by such person;”;
- (ii) by the repeal of the first proviso to that subsection and the substitution therefor of the following:-

“Provided that, in the case of a registered person –

- (A) who as at December 31, 2010, has an unabsorbed input credit, but from and after January 1, 2011, such person has no taxable supplies liable to tax under the provisions of this Act; or
- (B) where in respect of each month with effect from January 1, 2012, the actual set off of the unabsorbed input credit of such person, not exceeding ten *per centum* of the unabsorbed input credit as at December

31, 2010, the excess over the amount set off, as is referred to in sub-paragraph (B) of paragraph (a) of subsection (10),

may be set off after ascertaining the amount of the unabsorbed input credit in the following manner:—

- (i) for any taxable period commencing on or after January 1, 2011 but prior to January 1, 2012, in the manner provided for in either paragraph (a), paragraph (b), paragraph (c) or (d), as the case may be—
 - (a) in the case of a registered person who is an operator of a telecommunication services licensed under section 17 of the Sri Lanka Telecommunication Act, No. 25 of 1991, the set off may be made as against the sum payable by him as Telecommunication Levy payable under the Telecommunication Levy Act, No. 21 of 2011;
 - (b) in the case of a registered person who is liable to pay income tax, the set off may be made as against the sum payable by such person as income tax after January 1, 2011;
 - (c) in the case of a person to whom the provisions of either paragraph (a) or (b) above does not apply, the set off shall be made against the sum payable after January 1, 2011, by such person as tax under any written law for the time being in force,

administered by the Commissioner
- General;

- (d) in the case of a person to whom the provisions of either paragraph (a), (b), or (c) above does not apply, the set off may be considered against the tax payable at the point of entry into the country, by the Director-General of Customs after July 13, 2011 with the approval of the Commissioner-General after considering the facts of the case;
- (ii) for any taxable period commencing on or after January 1, 2012, against the tax payable in the manner provided for in either paragraph (a), paragraph (b) or paragraph (c) below, as the case may be:-
 - (a) in the case of a registered person who is an operator of a telecommunication services licensed under section 17 of the Sri Lanka Telecommunication Act, No. 25 of 1991, the set off may be made as against the sum payable by him as Telecommunication Levy payable under the Telecommunication Levy Act, No. 21 of 2011; or
 - (b) in the case of a registered person who is liable to pay any tax administered by the Commissioner - General of Inland Revenue, the set off may be made against the sum payable after January 1, 2012, by such person as tax under any written law for the time being in force,

administered by the Commissioner
– General; and

- (c) in the case of a registered person to whom the provisions under paragraph (a) and (b) above do not apply, the set off may be considered against the tax payable at the point of entry into the country, by the Director-General of Customs after January 1, 2012 with the approval of the Commissioner- General after considering the facts of the case.

The set off for each month, against the tax payable in terms of this subsection–

- (i) where such set off is applicable to any taxable period from January 1, 2011 but prior to January 1, 2012 shall not exceed ten *per centum* of the unabsorbed input credit as at December 31, 2010 or five *per centum* of the relevant tax liability, which ever is less;
- (ii) where such set off is applicable to any taxable period commencing on or after January 1, 2011 shall not exceed ten *per centum* of the unabsorbed input credit as at December 31, 2010 or the net unabsorbed balance as at December 31, 2011 after setting off the tax payable during the period of twelve months from the total unabsorbed balance as at December 31, 2010, which ever is less.”.

4. Section 25A of the principal enactment is hereby amended in paragraph (iv) of subsection (1) of that section by the substitution for the words and figures “commencing on or after January 1, 2009.” of the words and figures, “commencing on or after January 1, 2009:

Amendment
of section
25A of the
principal
enactment.

Provided however, the supply of financial services by a Unit Trust or a Mutual Fund shall not be treated as a financial service for the purpose of this section.”.

Amendment of
the first schedule
to the principal
enactment.

5. The First Schedule to the principal enactment is hereby amended in PART II thereof as follows:-

(1) in paragraph (a) of that PART :-

- (i) by the repeal of item (x) and substitution therefor of the following item:-

“(x) agricultural machinery, mammoties, forks, fertilizer (effective from 01.07.2004), artemia eggs and peat moss classified under the Harmonized Commodity Description and Coding System Numbers for Custom proposes;”;

- (ii) in item (xii), by the substitution for the words and figures “machinery used for construction industry imported not later than December 31, 2010” of the words and figures “machinery used for the construction industry,”;

- (iii) by the addition immediately after item (xxi) of the following:-

“(xxii) (i) lorries, trucks, buses, sports equipments, machinery used for the production of rubber or plastic products, sunglasses, perfumes, moulding (steel, glass, rubber or plastic), photo sensitive semi conductor devices;

- (ii) raw materials for the manufacture of spectacles and spectacle frames ;
- (iii) items and spares for the poultry industry;
- (iv) wood (sawn);
- (v) fabric for domestic consumption subject to a cess at a specific rate in lieu of chargeability of any other tax payable on importation at the point of entry into the country, as specified in a *Gazette* Notification issued under the Sri Lanka Export Development Act, No. 40 of 1979,
classified under the Harmonized Commodity Description and Coding System Numbers for Custom purposes;
- (xxiii) goods for any international event approved by the Minister of Finance taking into consideration the economic benefit to the country, by conducting such event in Sri Lanka.”;

(2) in paragraph (b) of that PART:-

- (i) in sub-paragraph (A), by the repeal of item (ii) and the substitution therefor of the following :-
 - “(ii) lorries, tractors or motor coaches with a seating capacity of not less than twenty eight

passenger seats, in respect of any rental falling due for payment on or after April 1, 2012.”;

- (ii) by the repeal of item (xiii) and the substitution therefor of the following:-

“(xiii) imported unprocessed timber logs or ships or any article subject to the Special Commodity Levy under Special Commodity Levy Act, No. 48 of 2007 subject to the condition that such Nation Building Tax referred to in paragraph (d) of subsection (10) of section 2 of the Nation Building Tax Act, No. 9 of 2009, shall be payable in respect of such article.”;

- (iii) by the addition immediately after item (xxxv) of the following:-

“(xxxvi) locally manufactured–

- (i) hydropower or wind power machinery and equipment;
- (ii) turbines;
- (iii) canned fish or clay pottery products using locally produced raw materials;
- (iv) products using locally procured raw materials for the required specification of tourist hotels or airlines;

- (v) specified products to identified state institutions replacing imports,

by the manufacturer in so far as such products are locally value added products, as per the conditions specified in the guidelines issued for this purpose;

- (xxxvii)(i) locally manufactured fabric in the domestic market by any manufacturer who does not enjoy any concessions under any agreement entered into with the Board of Investment of Sri Lanka;

- (ii) fabric which are subject to a cess at a specific rate classified under the Harmonized Commodity Description and Coding System Numbers for Custom proposes, in lieu of chargeability of any other tax on importation at the point of entry into the country, by the Director-General of Customs as specified in a *Gazette* Notification issued under the Sri Lanka Export Development Act, No. 40 of 1979;

- (xxxviii) services, being research and development services provided by the supplier of such services within the meaning of the Inland Revenue Act, No.10 of 2006 for the purposes of deduction under section 25 of that Act;
- (xxxix) painting, at the point of sale, by the artist thereof;
- (xl) services, by the Department of Commerce, with effect from January 1, 2012, services by the Board of Investment of Sri Lanka or the Sri Lanka Ports Authority, with effect from April 1, 2012, in so far as such services are provided to exporters or to providers of services which are zero rated services, for the purposes of tax under this Act;
- (xli) being any sum paid out of the Export Development Fund as export development rebate with effect from October 8, 2009;
- (xlii) specific services for any international event approved by the Minister of Finance having taken into consideration the economic benefit to the country by conducting such an event in Sri Lanka;
- (xliii) services, which result in the improvement of quality, character or value of any fabric or garment with effect from April 1, 2012;
- (xliv) locally manufactured palm oil, with effect from April 1, 2012.”;

(3) in paragraph (c) of that PART :-

(a) by the repeal of item (xxiii) and the substitution therefor of the following:-

“(xxiii) goods, for a project identified as a strategic development project under the provisions of the Strategic Development Project Act, No.14 of 2008, during the project implementation period, subject to the conditions specified therein or with the approval of the Minister of Finance any special project referred to in paragraph (f);”;

(b) in item (xxviii), by the substitution for the words “discharge lamps and arc lamp carbon” of the words and figures “discharge lamps, arc lamp carbon, speakers, amplifiers, digital stereo processors and accessories, cinema media players and digital readers”;

(c) by the addition immediately after item (xxx) of the following:-

“(xxxi) pharmaceutical machinery and spare parts for the pharmaceutical machinery which are not manufactured in Sri Lanka, classified under the Harmonized Commodity Description and Coding System Numbers for Custom proposes, imported by pharmaceutical manufacturers

and recommended by the Secretary to the Ministry of Health, including pharmaceutical machinery or parts imported after June 1, 2011 under the same conditions on which Value Added Tax has been deferred;

(xxxii) machinery for the manufacture of bio mass briquettes and pallets so far as such machinery is imported by the manufacturer of such products classified under the Harmonized Commodity Description and Coding System Numbers for Custom proposes, including such machinery imported after June 1, 2011 under the same conditions on which Value Added Tax has been deferred;

(xxxiii) green houses, poly tunnels and materials for the construction of green houses, by any grower of agricultural products or plants of any type, subject to the condition that such items are not manufactured in Sri Lanka, and approved by the Director-General, Department of Fiscal Policy on the recommendation of the Secretary to the Ministry of Agriculture;

- (xxxiv) plant, machinery or equipment by any enterprise qualified for a tax exemption under section 16D and 17A of the Inland Revenue Act, No. 10 of 2006, for the use by such enterprise for the purposes specified in the agreement entered into with the Board of Investment of Sri Lanka on which tax is deferred during the project implementation period, subject to the fulfillment of the conditions specified in the agreement, during the project implementation period;
- (xxxv) any goods, (other than motor vehicles and goods for personal use) required for the purpose of provision of services being international transportation which is consigned to Sri Lankan Air Lines Limited, Mihini Lanka (Pvt) Ltd. or Air Lanka Catering Services Ltd. ;
- (xxxvi) fabric, specified under the Harmonized Commodity Description and Coding System Numbers for Customs purposes, for the sale in the domestic market without any value addition, subject to the chargeability of a cess of rupees seventy five per kilogram on importation .”.

Indemnity.

6. Any person who collects the Value Added Tax as provided for in this Act during any period prior to the date of coming into operation of this Act, shall be deemed to have acted with due authority and such collection shall be deemed to have been, and to be, validly made and such person is hereby indemnified against all actions civil or criminal, in respect of such collection.

Sinhala text to prevail in case of inconsistency.

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

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