



PARLIAMENT OF THE DEMOCRATIC SOCIALIST REPUBLIC OF SRI LANKA

TAX AND FOREIGN EXCHANGE AMNESTY ACT, No. 4 OF 1997

[Certified on 29th April, 1997]

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*Tax and Foreign Exchange Amnesty
Act, No. 4 of 1997*

[Certified on 29th April, 1997]

L.D.—O. 3/97.

AN ACT TO ENABLE THE DEPOSIT IN SAVINGS ACCOUNTS IN THE NATIONAL SAVINGS BANK, OF MONEYS REPRESENTING ACCUMULATED PROFITS AND INCOME, RETAINED IN OR OUTSIDE SRI LANKA, AND IN RESPECT OF WHICH A PERSON HAS NOT FURNISHED A RETURN OF INCOME OR WHICH HAVE NOT BEEN DISCLOSED IN A RETURN FURNISHED BY SUCH PERSON UNDER THE LAW RELATING TO THE IMPOSITION OF INCOME TAX, OR OF RELEVANT FOREIGN CURRENCY HELD BY A PERSON OUTSIDE SRI LANKA AND CONVERTED INTO SRI LANKAN RUPEES FOR THE PURPOSE OF SUCH DEPOSIT ; TO ENABLE THE WITHDRAWAL OF THE MONEYS DEPOSITED IN SUCH SPECIAL ACCOUNTS FOR SPECIFIED PURPOSES ; TO INDEMNIFY PERSONS AGAINST LIABILITY TO PAY CERTAIN TAXES, AND AGAINST PROSECUTIONS OR PENALTIES FOR OFFENCES IN RELATION TO SUCH TAX LAWS AND EXCHANGE CONTROL LAWS ; WITH A VIEW TO SECURING FULL COMPLIANCE, IN THE FUTURE, BY SUCH PERSONS, WITH TAX LAWS AND LAWS RELATING TO EXCHANGE CONTROL ; AND 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 Tax and Foreign Exchange Amnesty Act, No. 4 of 1997.

Short title.

2. (1) This Act shall, subject to the provisions of subsection (2), apply to any person who—

Person to whom this Act applies.

(a) under the law for the time being applicable to the imposition of income tax or surcharge on income tax, was liable to pay income tax for any year of assessment ending on or before March 31, 1996, in respect of any profits and income which arose, or accrued, on or before March 31, 1996, and who has not furnished a return of income under the provisions of such law for any such year of assessment or who has not disclosed such profits or income in any return furnished by him under the provisions of such law for any such year of assessment ; or

(b) holds any relevant foreign currency outside Sri Lanka.

(2) This Act shall not apply to any person in relation to whom any investigation was pending on February 15, 1997 for—

(a) any alleged or suspected evasion of any tax payable under, the law for the time being applicable to the imposition of income tax or the Finance Act, No. 11 of 1963 or the Turnover Tax Act , No. 69 of 1981, or the National Security Levy Act, No. 52 of 1991, in respect of any profits and income or turnover, as the case may be, which arose or accrued to, or was derived, by such person on or before March 31, 1996 ;

(b) any alleged or suspected violation, of any provision of the Exchange Control Act or the Prevention of Terrorism (Temporary Provisions) Act, No. 48 of 1979.

(3) Every person referred to in subsection (1), not being a person referred to in subsection (2), shall, hereafter in this Act, be referred to as "a person to whom this Act applies".

3. A person to whom this Act applies who—

(a) has any moneys (not being relevant foreign currency), in or out side Sri Lanka, which represent accumulated profits or income for any year of assessment ending on or before March 31, 1996, and in respect of which such person has not made a return of income or which such person has not disclosed in the returns of income made by him under the law for the time being applicable to the imposition of, income tax or surcharge on income tax ; or

Persons to whom this Act applies may deposit moneys in special accounts in the Bank.

(b) holds any relevant foreign currency,

may, in the case of such moneys as are referred to in paragraph (a), deposit such moneys or convert and deposit such moneys, on or after February 15, 1997, but prior to August 15, 1997, to his credit, in a special account opened by him for that purpose in the Bank, and in the case of such foreign currency as is referred to in paragraph (b), convert and deposit such foreign currency, on or after February 15, 1997, but prior to August 15, 1997, to his credit, in a special account opened by him for that purpose in the Bank.

4. (1) Every person who deposits any moneys in a special account in the Bank under the provisions of section 3 shall make a declaration to the Bank in the Form set out in the Schedule to this Act.

Declarations to be furnished by depositors.

(2) The Bank shall cause a copy of every declaration made to it under subsection (1) to be transmitted to the Commissioner-General, and in the case of a declaration made in respect of any foreign currency converted and deposited, the Bank shall cause a copy of such declaration to be transmitted to the Controller of Exchange.

5. Notwithstanding anything in any other law the Bank shall not permit any person who has deposited any moneys in any such special account as is referred to in section 3 to withdraw, prior to the expiration of a period of two years from the date on which the deposit was made, the whole or any part of the amount lying to the credit of such person in such special account (other than the interest accruing on such amount), except for the purposes, and after the period, specified in the proviso to subsection (1) of section 6.

Restrictions on withdrawal of moneys deposited in special accounts.

6. (1) Any person who has deposited any moneys in any such special account as is referred to in section 3 may withdraw the balance amount lying to his credit in such special account after the expiration of a period of two years from the date on which he made the deposit :

Purposes for which moneys deposited in special accounts may be withdrawn.

Provided, however, that such person may upon being authorised in writing by the Commissioner -General to do so, withdraw, after the expiration of a period of one month from the date on which he made the deposit, the whole or any part of such balance amount, for investment in an agricultural or industrial undertaking or in any undertaking or facility for infrastructure development, being an undertaking or a facility which has been duly authorised by any Government Authority or by any local authority or the Board of Investment of Sri Lanka established by the Board of Investment of Sri Lanka Law, No. 4 of 1978.

(2) Where any person who withdraws after the period of one month from the date on which he has made the deposit, any moneys lying to his credit in any such special account as is referred to in section 3, for any of the purposes specified in the proviso to subsection (1), fails to apply such moneys for the purpose for which such moneys were withdrawn, such person shall be guilty of an offence under this Act and shall on conviction after summary trial before a Magistrate, be liable to a fine of an amount equal to the moneys withdrawn and an amount not exceeding one hundred thousand rupees.

(3) Where any person withdraws after the expiration of a period of one month from the date on which he made the deposit, any moneys lying to his credit in any such special account as is referred to in section 3, for any of the purposes specified in the proviso to subsection (1), the Bank shall cause to be transmitted to the Commissioner-General, the details regarding every such withdrawal.

**Interest on
moneys deposited
in special
accounts.**

7. The Bank shall pay interest on the amount lying to the credit of any person in any such special account as is referred to in section 3, at the current rate of interest payable by the Bank on moneys lying to the credit of savings accounts. The interest so accruing may be withdrawn by such person after the expiration of a period of one month from the date on which he made the deposit.

8. Any person to whom this Act applies, who has deposited any moneys in any such special account as is referred to in section 3, shall not be liable—

Indemnification from certain taxes and prosecutions.

(a) to pay—

- (i) any income tax or surcharge on income tax payable respectively, under the law for the time being applicable to the imposition of income tax and the law for the time being applicable to the imposition of surcharge on income tax, in respect of such part of his profits and income for any year of assessment ending on or before March 31, 1996, as is represented by any moneys deposited by him in such special account ;
- (ii) any wealth tax or surcharge on wealth tax payable respectively, under the law for the time being applicable to the imposition of wealth tax and the law for the time being applicable to the imposition of surcharge on wealth tax, in respect of such part of his net wealth for any year of assessment ending on or before March 31, 1996, as was acquired by the utilization of any such part of his profits and income as is referred to in sub-paragraph (i) ;
- (iii) any business turnover tax under the Finance Act, No. 11 of 1963 or any turnover tax under the Turnover Tax Act, No. 69 of 1981 or any National Security Levy under the National Security Levy Act, No. 52 of 1991, in respect of the turnover from which such part of the profits and income as is referred to in sub paragraph (i), arose or was derived ; or

(b) to a prosecution or to a penalty for any offence under—

- (i) the law for the time being applicable to the imposition of, income tax or surcharge on income tax or wealth tax or the surcharge on wealth tax in relation to any year of assessment ending on or before March 31, 1996, in respect of, or in connection with, such part of his profits and income as is referred to in sub-paragraph (i) of paragraph (a) or such part of his net wealth as is referred to in sub-paragraph (ii) of paragraph (a);
- (ii) the Finance Act, No. 11 of 1963 or the Turnover Tax Act, No. 69 of 1981 or the National Security Levy Act, No. 52 of 1991 in respect of, or in connection with, such turnover as is referred to in sub-paragraph (iii) of paragraph (a);
- (iii) the Exchange Control Act, in respect of the whole or any part of the relevant foreign currency converted and deposited by him in such special account.

Preceding provisions of this Act, not to be construed as authorizing the revision of any assessment previously made.

9. Nothing in the preceding provisions of this Act shall be read or construed as authorizing the revision of—

- (a) any assessment made under the provisions of—
 - (i) the law for the time being relating to the imposition of, income tax or surcharge on income tax or wealth tax or surcharge on wealth tax; or
 - (ii) the Finance Act, No. 11 of 1963, the Turnover Tax Act, No. 69 of 1981, or the National Security Levy Act, No. 52 of 1991;

(b) any requirement imposed before March 31, 1996, on any person to whom this Act applies and in relation to any violation by him of any provision of the Exchange Control Act ; or

(c) any other matter,

which has become final and conclusive under the provisions of any such law.

10. (1) Subject to the provisions of subsection (2), every officer or employee of the Department of Inland Revenue or of the Department of Exchange Control or of the Bank shall preserve, and aid in preserving, secrecy with regard to all matters that may come to his knowledge in the administration of this Act and shall not give, divulge or reveal, any information whatsoever regarding any such special account as is referred to in section 3 to any individual, corporation, bank, court, institution, entity, department, official, agent, representative of the Government of Sri Lanka or to any other legal or natural person.

Maintenance
of
secrecy.

(2) Notwithstanding the provisions of subsection (1), the Commissioner-General or the Controller of Exchange, or an officer or employee of the Bank, as the case may be, shall if he is required to do so—

(i) by the person to whom such matter or information relates ;

(ii) by any provision of any law giving effect to an international convention on narcotics or hijacking, in any criminal proceedings instituted under that law, in any court ;

(iii) by an order of the Supreme Court, made on application therefor, on the ground that moneys in any special account referred to in section 3 have been, or are being used, in furtherance of an act which constitutes an offence under the Prevention of Terrorism (Temporary Provisions) Act, No. 48 of 1979 ; or

(iv) by an order of court in any legal proceedings instituted by or against the Bank or by or against the holder of a special account referred in section 3, relating to a banking transaction arising from such special account,

communicate to such person or court in so far as such communication is strictly necessary for the purposes of complying with such requirement or order of court, any matter or information which has come to his knowledge in the administration of this Act.

(3) Any officer or employee of the Department of Inland Revenue or of the Department of Exchange Control or of the Bank who acts in contravention of the provisions of subsection (1) shall, be guilty of an offence under this Act, and shall on conviction after summary trial before a Magistrate, be liable to a fine not exceeding one hundred thousand rupees or to imprisonment for a term not exceeding one year or to both such fine and imprisonment.

Sinhala text to prevail in case of inconsistency.

Interpretation.

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

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

“Bank” means the National Savings Bank established by the National Savings Bank Act, No. 30 of 1971 ;

“Commissioner-General”, “local authority”, “net wealth”, “profits and income”, and “year of assessment” shall have the respective meanings assigned to them by the Inland Revenue Act, No. 28 of 1979 ;

“Controller of Exchange” means the officer designated as the head of the Department of Exchange Control of the Central Bank and includes an officer designated as assistant to him ;

“Exchange Control Act” means the Exchange Control Act (Chapter 423) ;

“Foreign currency” means any currency other than Sri Lanka currency and includes any currency payable by a foreign Government or institution to a person in, or resident in, Sri Lanka in respect of his pension or other gratuities due to him and all

deposits, credits and balances payable in any currency other than Sri Lankan currency and any such drafts, travellers' cheques, letters of credit and bills of exchange as are expressed or drawn in Sri Lanka currency but payable in any currency other than Sri Lankan currency ;

"person" includes a company, a body of persons or a partnership ;

"relevant foreign currency" in relation to a person means foreign currency held on March 31, 1996 by such person outside Sri Lanka in violation of the provisions of the Exchange Control Act, being or being attributable to, profits and income or not being or not being attributable to profits and income, and which was acquired by him outside Sri Lanka by way of gift, donation, inheritance or otherwise ;

"the law for the time being applicable to the imposition of income tax" means the Inland Revenue Act, No. 28 of 1979 ;

"the law for the time being applicable to the imposition of surcharge on income tax" means the Surcharge on Income Tax Act, No. 26 of 1982, the Surcharge on Income Tax Act, No. 12 of 1984, the Surcharge on Income Tax Act, No. 7 of 1989 ;

"the law for the time being applicable to the imposition of wealth tax or surcharge on wealth tax" means the Inland Revenue Act, No. 28 of 1979, the Surcharge on Wealth Tax Act, No. 25 of 1982 and the Surcharge on Wealth Tax Act, No. 8 of 1989 ;

"turnover" and "quarter" shall have the respective meanings assigned to them by the Turnover Tax Act, No. 69 of 1981.

SCHEDULE (SECTION 4)

TAX AND FOREIGN EXCHANGE AMNESTY ACT, NO. 4 OF 1997

DECLARATION UNDER SECTION 4

Income Tax File No. if any

National Identity Card Number /Company Registration Number

Special Amnesty Savings Deposit Account No.

Name of Business, if any

Date:

I, Mr/Mrs/Miss/we

(full name/names)

of do hereby :—

(address)

(1) request you to accept in terms of the Tax and Foreign Exchange Amnesty Act, No. 4 of 1997, a sum of Rupees
(Rs) being moneys

(a) Rs held by me/ by the company in Sri Lanka ;

(b) Rs obtained by the conversion of foreign currency (not being relevant foreign currency) held by me out side Sri Lanka ; and

(c) Rs obtained by the conversion of relevant foreign currency

to be placed in a Special Amnesty Savings Deposit Account in the name of of

(2) undertake not to withdraw any part of this amount before the expiration of a period of two years from the date of this deposit, except for the purposes, and after the period, specified in the proviso to subsection (1) of section 6 of the aforesaid Act ;

(3) agree to my/our Special Amnesty Savings Deposit Pass Book being kept in the safe custody of your Bank ;

(4) further agree to be bound by the rules pertaining to savings deposits in your Bank for the time being, and which may come into effect from time to time.

; 0301108 04/10/97 Signature/Signatures of
Depositor/Depositors

Designation if declaration is on behalf of a Company.

Signed in my presence.

Signature of Branch Manager.