



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

**SURCHARGE ON INCOME TAX
ACT, No. 12 OF 1984**

[Certified on 11th April, 1984]

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Surcharge on Income Tax

Act, No. 12 of 1984

[Certified on 11th April, 1984]

L. D.—O. 66/83.

AN ACT TO IMPOSE A SURCHARGE ON EVERY PERSON CHARGEABLE WITH INCOME TAX FOR THE YEAR OF ASSESSMENT COMMENCING ON APRIL 1, 1984, BY REFERENCE TO THE INCOME TAX PAYABLE BY SUCH PERSON FOR THAT 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. 12 of 1984. Short title.
2. Every person who is chargeable with income tax for the year of assessment commencing on April 1, 1984 (in this Act referred to as the "relevant year") shall, notwithstanding anything contained in any other written law or in any convention, grant or agreement, be liable to pay a surcharge on the income tax payable by him for the relevant year, calculated at the rate of ten *per centum* of such income tax. Imposition of surcharge on income tax.
3. Every person liable to pay the surcharge under this Act, shall, notwithstanding the fact that an assessment has not been issued to him, pay to the Commissioner-General not less than fifty *per centum* of the amount of the surcharge payable by him, on or before July 15, 1984, and the balance on or before November 30, 1984. Date for payment of surcharge.
4. Every employer who employs any employee from whose remuneration income tax for the relevant year is deductible, in accordance with the provisions of Chapter XV of the Inland Revenue Act, (not being an employee who is deemed by subsection (7) of section 67 of that Act, to be a non-resident) shall also deduct for every month commencing on April 1, 1984, and ending on March 31, 1985, ten *per centum* of the amount deducted as income tax, as the surcharge on income tax payable under this Act. Employer to deduct surcharge.
5. Where the aggregate of—
 - (a) the income tax payable for the relevant year ;
 - (b) the wealth tax payable for the relevant year ; and
 - (c) the surcharge on income tax payable under this Act,by any person, exceeds eighty *per centum* of the aggregate of the assessable income of that person for that year and any profits and income (other than the net annual value of Deduction of surcharge when the aggregate of income tax, wealth tax and surcharge exceeds a certain limit.

a residence and any subsidy exempt from income tax under the Inland Revenue Act), being profits and income exempt from income tax under that Act, or any other enactment and which but for that exemption would have been taken into account in computing the assessable income of that person for the relevant year, the amount of such excess shall be set off against such surcharge on income tax.

Surcharge
in default
and sums
added
thereto.

6. (1) Where an instalment of the surcharge or a part of such instalment is not paid on or before the dates specified in section 3 for the payment of that instalment, such instalment of surcharge or part thereof, shall be deemed to be in default and—

(a) where such surcharge is payable by one person, such person ; and

(b) where such surcharge is payable by more than one person or by a partnership, each of such persons or each partner in such partnership,

shall be deemed to be a defaulter for the purposes of this Act.

(2) Where any surcharge payable by any person is in default, the defaulter shall, in addition to the surcharge in default, pay as a penalty—

(a) a sum equivalent to five *per centum* of the amount in default ; and

(b) where any amount in default is not paid before the expiry of thirty days after it has begun to be in default, a further sum equivalent to five *per centum* of the amount in default in respect of each further period of three months or part of such period during which it is in default :

Provided that—

(i) the total amount payable as a penalty under the preceding provisions of this section shall in no case exceed fifty *per centum* of the surcharge in default ;

(ii) where any person has paid as surcharge not less than five *per centum* of the income tax payable by him for the year of assessment commencing on April 1, 1983, under the Inland Revenue Act, on or before July 15, 1984, and November 30, 1984, respectively, such person shall not be liable to any penalty in respect

of the payment he is required to make under section 3 if he pays to the Commissioner-General on or before November 30, 1985, any excess of the amounts payable under section 3 over the amounts paid by him ;

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

7. The provisions of Chapter XIII and Chapters XV to XXVI of the Inland Revenue Act relating to the furnishing of returns relating to income tax payable under that Act, the deduction of income tax, assessment, appeals against assessment, payment, recovery and refund of such tax shall, apply to the furnishing of returns relating to the surcharge payable under this Act, and, the deduction, assessment, appeals against assessment, payment, recovery and refund, of 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 person to furnish a return of the income tax payable by him under the Inland Revenue Act, for the relevant year shall be deemed to have been sufficiently complied with if such person furnishes a return of his income for that year under section 92(1) of the Inland Revenue Act ;

- (b) where an assessor makes an assessment or an additional assessment on any person, of the income tax payable by such person 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 person for that year under this Act. The assessments or additional assessments, 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 person under section 116 of the Inland Revenue Act stating the amount of income tax charged on such person under the Inland Revenue Act, for the relevant year,

such notice may also include the amount of the surcharge charged on such person 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 under the Inland Revenue Act for the relevant year, such appeal shall be deemed to include an appeal against the surcharge payable under this Act, for that year and shall be determined accordingly ; and

(e) where a notice, statement or certificate is issued to any person under Chapter XXI of the Inland Revenue Act, such notice, statement or certificate, as the case may be, may also include particulars of any surcharge in default under this Act. The notices, statements or certificates, as the case may be, shall be deemed to be separate notices, statements or certificates issued under the respective Acts.

Inter-
pretation.

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

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

“ employer ”, “ employee ” and “ remuneration ” have the respective meanings assigned to them in Chapter XV of the Inland Revenue Act ;

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

(a) in section 2 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, less any income tax payable by that company for that year under paragraph (b) of subsection (1) of section 33 of that Act ;

- (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 less 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 34 of that Act ;
- (iii) in relation to a resident individual whose profits and income for the relevant year include any profits from employment referred to in paragraph (c) of section 4 of the Inland Revenue Act, means such income tax as would have been payable, under the Inland Revenue Act, by such individual had such profits from employment not formed part of his profits and income for the relevant year ;
- (iv) in relation to an individual who is deemed by subsection (7) of section 67 of the Inland Revenue Act to be a non-resident, means such income tax as would have been payable, under the Inland Revenue Act, by such individual had his profits from employment in Sri Lanka for the relevant year not formed part of his profits and income for that year ; and
- (v) in relation to any other person, means the income tax payable, under the Inland Revenue Act, by that person for the relevant year ; and
- (b) in section 5, means the income tax payable, under the Inland Revenue Act, by that person for that year ;

“Inland Revenue Act” means the Inland Revenue Act, No. 28 of 1979.