



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

SURCHARGE TAX

A

BILL

**to provide for the imposition of surcharge tax and for matters connected
therewith and incidental thereto**

Presented by the Minister of Finance on 22nd of February, 2022

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Surcharge Tax

L.D.-O. 2/2022

AN ACT TO PROVIDE FOR THE IMPOSITION OF SURCHARGE TAX AND
FOR MATTERS CONNECTED THEREWITH AND 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 Tax Act, No. of Short title
2022.

5 2. (1) There shall be levied, subject to the succeeding Imposition
provisions of this Act, a tax to be called Surcharge Tax of Surcharge
(hereinafter referred to as “the tax”) from – Tax

10 (a) any individual, partnership or company, whose
taxable income calculated in accordance with the
provisions of the Inland Revenue Act, No. 24 of
2017, exceeds rupees two thousand million, for the
year of assessment commenced on April 1, 2020, at
the rate of twenty five *per centum* on the taxable
15 income of such individual, partnership or company,
for such year of assessment:

20 Provided however, the income of a partner derived
from a partnership shall not be taken into account
when calculating the taxable income of such partner
as an individual under this paragraph, if the tax has
been paid by the partnership on such taxable income;
and

25 (b) each company of a group of companies, of which
the aggregate of the taxable income of all
subsidiaries and the holding company in that group
of companies, calculated in accordance with the
provisions of the Inland Revenue Act, No. 24 of
2017, exceeds rupees two thousand million, for the
year of assessment commenced on April 1, 2020, at
the rate of twenty five *per centum*, on the taxable

income of each such company after deducting the gains and profits from dividends received from a subsidiary which is part of such taxable income of each such company, for such year of assessment, notwithstanding that the taxable income of any one of such companies does not exceed rupees two thousand million.

(2) In calculating the aggregate of the taxable income under paragraph (b) of subsection (1), any subsidiary or any holding company of such group of companies which has a nil amount due to losses or unrelieved losses, shall not be taken into account.

(3) Where the Commissioner-General has approved an alternative period of twelve months under the provisions of the Inland Revenue Act, No. 24 of 2017, for the purpose of maintaining accounts of any company liable to pay the tax under this Act, such approved period shall be deemed to be the year of assessment commenced on April 1, 2020, for the purposes of this Act.

(4) Every individual, partnership, company and the subsidiaries and the holding company of every group of company liable to pay the tax under this Act, shall pay the tax in two equal installments on or before, the thirty first day of March and thirtieth day of June of 2022, to the Commissioner-General.

(5) The tax shall be collected by the Commissioner-General and shall be remitted to the Consolidated Fund within fifteen days from the date of collection.

(6) Any subsequent liquidation process of a subsidiary or the holding company of a group of companies shall not indemnify any such company from the liability of paying the tax under this Act.

(7) Notwithstanding any provision to the contrary in any other written law, –

- 5 (a) the tax levied under this Act shall be deemed to be an expenditure in the financial statement relating to the year of assessment commenced on April 1, 2020;
- (b) no deduction shall be granted in calculating the taxable income under the Inland Revenue Act, No. 24 of 2017, for any year of assessment, for the payment of the tax under this Act;
- 10 (c) no deduction shall be granted in calculating the Value Added Tax on the supply of financial services under the Value Added Tax Act, No. 14 of 2002, for the payment of the tax under this Act.

(8) For the purpose of this section “taxable income”–

- 15 (a) in relation to a company which has entered into an agreement with the Board of Investment of Sri Lanka under section 17 of the Board of Investment of Sri Lanka Law, No. 4 of 1978 and has become liable to income tax determined in accordance with such
- 20 agreement, after the expiration of its period of tax exemption set out in such agreement means the profit before income tax and the tax levied under this Act of such company as per the audited financial statement;
- 25 (b) in relation to an individual, a partnership, a company and the subsidiaries and the holding company of a group of companies other than the companies referred to in paragraph (a), shall have the same meaning assigned to such expression under section
- 30 3 of the Inland Revenue Act, No. 24 of 2017.

3. (1) Every individual, partnership, company and the subsidiaries and the holding company of every group of company chargeable with the tax under this Act shall on or prior to March 31, 2022, furnish in writing to the Commissioner-General, a tax return in the specified form containing such particulars as may be specified by the Commissioner-General. Tax return shall be furnished

(2) The Commissioner-General may specify –

(a) the form for tax returns;

(b) the information to be furnished on the tax return and attachments if any, required to be filed with the tax return; and

(c) the manner of filing.

(3) For the purpose of this Act, a tax return furnished under subsection (1) shall be treated as a “tax return” under the provisions of the Inland Revenue Act, No. 24 of 2017 and shall result in a self-assessment.

4. (1) Where any individual, partnership, company or the subsidiaries and the holding company of any group of companies is liable to pay the tax under this Act, fails to pay such tax, as provided for in this Act, such individual, partnership, company or subsidiaries and the holding company of the group of companies shall be deemed to be a defaulter of the tax under this Act. Default in payment of the tax

(2) It shall be lawful for an assessment to be made in the name of the partnership and the amounts thereon shall be recoverable out of the assets of the partnership, or from any partner, or from any agent of the partnership.

5. (1) Subject to the provisions of subsections (2) and (3), the provisions of Chapter IX, Chapter X, Chapter XI, Chapter XII, Chapter XIII, Chapter XIV, Chapter XV, Chapter XVI, Chapter XVII, Chapter XVIII of the Inland Revenue Act, No.24 of 2017 shall, *mutatis mutandis*, be applicable to the administration, record keeping and information collection, tax returns, assessments, objections and appeals, liability for and payment of tax, interest, recovery of tax, penalties and criminal proceedings under this Act.

Application of the certain provisions of the Inland Revenue Act, No.24 of 2017

(2) Every reference to income tax in any such provisions of the Inland Revenue Act, No.24 of 2017, shall be deemed to be a reference to the tax charged and levied in terms of the provisions of this Act.

(3) Any default assessment, amended assessment or additional assessment shall not be made in respect of an individual, a partnership, a company or the subsidiaries and the holding company of a group of companies after the thirty first day of December, 2024.

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

Interpretation

“Commissioner-General” shall have the same meaning assigned to such expression under the Inland Revenue Act, No. 24 of 2017;

“Company” shall have the same meaning assigned to such expression under the Inland Revenue Act, No. 24 of 2017;

“group of companies” means a holding company and its subsidiaries;

“holding company” means a company which owns more than fifty *per centum* of the shares with voting rights of another company, directly or indirectly, other than a holding company incorporated

outside Sri Lanka and not registered under Chapter XVIII of the Companies Act, No.7 of 2007;

5 “partnership” shall have the same meaning assigned to such expression under the Inland Revenue Act, No. 24 of 2017;

“tax return” shall have the same meaning assigned to such expression under the Inland Revenue Act, No. 24 of 2017;

10 “subsidiary” means a company in which more than fifty *per centum* of its shares with voting rights are owned by another company, directly or indirectly other than a subsidiary incorporated outside Sri Lanka and not registered under Chapter XVIII of the Companies Act, No.7 of 2007 of a holding
15 company incorporated outside Sri Lanka and not registered under Chapter XVIII of the Companies Act;

20 “year of assessment” shall have the same meaning assigned to such expression under section 20 of the Inland Revenue Act, No. 24 of 2017.

7. 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

