



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

**TAX AND FOREIGN EXCHANGE AMNESTY
ACT, No. 47 OF 1998**

[Certified on 14 th September , 1998]

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*Tax and Foreign Exchange Amnesty
Act, No. 47 of 1998*

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L.D.—O. 6/98.

AN ACT TO ENABLE THE INVESTMENT IN CERTAIN COMPANIES APPROVED BY THE BOARD OF INVESTMENT OF SRI LANKA, OR THE DEPOSIT IN ANY 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 ANY PERSON OUTSIDE SRI LANKA ; TO REDUCE THE LIABILITY OF PERSONS TO PAY TAX ON SUCH DEPOSITS ; TO INDEMNIFY PERSONS AGAINST LIABILITY TO PAY CERTAIN TAXES AND AGAINST PROSECUTIONS OR PENALTIES FOR OFFENCES IN RELATION TO SUCH TAX LAWS OR EXCHANGE CONTROL LAW, WITH A VIEW TO SECURING FULL COMPLIANCE, IN THE FUTURE, BY SUCH PERSONS, WITH TAX LAWS, AND THE LAW 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. 47 of 1998. Short title.

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

- (a) under 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 or 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 November 6, 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 ; or

(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”.

Persons to whom this Act Applies may invest such moneys in certain specified undertaking or deposit such moneys in a bank.

3. (1) Any person to whom this Act applies and who—

(a) has any relevant moneys ; or

(b) holds any relevant foreign currency may—

(i) invest, after November 5, 1997 but on or before June 30, 1999, such relevant moneys or moneys obtained by the conversion of such relevant foreign currency, in the purchase of any share, other than any existing share, in any company which is engaged only in any specified undertaking ;

(ii) deposit, after November 5, 1997 but on or before December 31, 1998, such relevant moneys or moneys obtained by the conversion of such relevant foreign currency in any Bank, and pay

to the Commissioner General and amount (hereinafter in this Act referred to as the 'amnesty tax') equivalent to fifteen *per centum* of the moneys so deposited.

(2) For the purposes of this section "specified undertaking" means any undertaking for—

- (i) the manufacture or assembly of electronic products or components for such products ;
- (ii) the manufacture of ceramic products or glassware ;
- (iii) the manufacture of rubber products using rubber produced in Sri Lanka ;
- (iv) the manufacture of jewellery ;
- (v) the cutting and polishing of gems or diamonds ;
- (vi) light or heavy engineering ;
- (vii) the construction and sale of houses ; or
- (viii) the manufacture of any articles or goods or the provision of any service, being in either case an industry or a service designated by the Board of Investment of Sri Lanka, as being of a pioneering nature,

carried on by a company with which an agreement has been entered into by the Board of Investment of Sri Lanka under section 17 of the Board of Investment of Sri Lanka Law, No. 4 of 1978.

4. Any person to whom this Act applies and who has—

- (a) made any investment in accordance with the provisions of section 3(1)(b)(i) ; or

Indemnification
from certain
taxes.

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(b) made any deposit in accordance with the provisions of section 3(1)(b)(ii) and paid the amnesty tax, thereon ;

and made the appropriate declaration referred to in section 5, shall not be liable—

(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 or the law for the time being applicable to the imposition of surcharge on income tax, as the case may be, 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 the moneys invested in accordance with the provisions of section 3(1)(b) (i) or deposited in accordance with the provisions of section 3(1)(b) (ii) and in relation to which the amnesty tax has been paid ;
- (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 or the law for the time being applicable to the imposition of surcharge on wealth tax, as the case may be, in respect of such part of his net wealth for any year of assessment ending on or before March 31, 1992, as had been acquired by the utilization of such part of his profits and income as is referred to in sub-paragraph (i) ; or
- (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 part of his turnover as is referred to in sub-paragraph (iii) of paragraph (a) ;
- (iii) the Exchange Control Act, in respect of such part of the moneys so invested or so deposited as consists of moneys obtained by the conversion of any relevant foreign currency.

5. (1) Every person who invests moneys in accordance with the provisions of section 3(1)(b)(i) or deposits moneys in accordance with the provisions of section 3(1)(b)(ii) and pays the amnesty tax thereon may make a declaration in the appropriate form set out in the Schedule to this Act, to the Commissioner-General.

Declaration to be made to the Commissioner-General.

(2) Where any declaration made under subsection (1) discloses that such investment or deposit consists wholly or partly, of moneys obtained by the conversion of any relevant foreign currency, the Commissioner-General shall cause a copy of such declaration to be transmitted to the Controller of Exchange.

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

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

(a) any assessment made under the provisions of—

(i) the laws for the time being in force 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.

Persons to whom this Act applies not to be entitled to certain deductions.

7. Notwithstanding anything to the contrary in any other law, no deductions shall, for the purposes of section 30 of the Inland Revenue Act, No. 28 of 1979, be allowed to any person to whom this Act applies in respect of any investment made by him in accordance with the provisions of section 3 (1)(b)(i).

Maintenance of secrecy.

8. (1) Except in the performance of his duties under this Act and subject to the provisions of subsection (2), every officer or employee of, the Department of Inland Revenue, the Department of Exchange Control and every 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 investment or deposit 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.

(2) Notwithstanding the provisions of subsection (1), the Commissioner-General, the Controller of Exchange, or any Bank, as the case may be, shall, if 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 the competent authority of any country with which Sri Lanka has, under the law for the time being applicable to the imposition of income tax, entered into any agreement for the avoidance of double taxation on income, in accordance with that agreement; or
- (iv) by an order of the Supreme Court, made on application therefor, on the ground that moneys represented by any investment or deposit referred to in section 3 have been, or are being used, in furtherance of an act which constituted an offence under the Prevention of Terrorism (Temporary Provisions) Act, No. 48 of 1979,

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 the Department of Exchange Control or any 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.

9. 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.

Interpretation.

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

“Bank” means any commercial bank licensed or deemed to be licensed under the Banking Act, No. 30 of 1988 or the National Savings Bank, established by the National Savings Bank Act, No. 30 of 1971;

“Commissioner-General”, “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;

“Board of Investment of Sri Lanka” means the Board of Investment of Sri Lanka established by the Board of Investment of Sri Lanka Law, No. 4 of 1978;

“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 Lankan 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 like payment 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 Lankan currency but payable in any currency other than Sri Lankan currency;

“Gem” means a gem within the meaning of the National Gem and Jewellery Authority Act, No. 50 of 1993.

“Jewellery” means Jewellery within the meaning of the National Gem and Jewellery Authority Act, No. 50 of 1993.

“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 any other manner whatsoever;

“relevant money” in relation to a person means any moneys (not being relevant foreign currency), held by such person on March 31, 1996 in or out side Sri Lanka, and which represent accumulated profits or income which arose or accrued to or was derived by such person in 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 any return of income made by him, under the law for the time being applicable to the imposition of, income tax;

“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.

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SCHEDULE

(section 5)

Part I – to be furnished by persons investing in shares Tax and Foreign Exchange Amnesty Act No.....of 1998.

DECLARATION UNDER SECTION 5

Income Tax File No. (if any).....

Turnover Tax File No. (if any).....

National Identity Card Number (if Individual).....

Company/Partnership Registration Number.....

I, Mr./Mrs./Miss./We.....

(full name/names)

of.....being.....

(address)

.....of..... (designation)

(name of company or partnership) declare that I/We have in terms of the Tax and Foreign Exchange Amnesty Act, No.....of 1998, invested a sum of Rupees(Rs.....) consisting entirely of—

(i) Rs.....being other moneys held by me/ by the company/ partnership in Sri Lanka;

(ii) Rs.....obtained by the conversion of relevant foreign currency

in the purchase, on.....of.....shares (other than existing shares) of.....being a company identified by the Board of Investment of Sri Lanka as a specified undertaking and which has on.....entered into Agreement No.....with the Board of Investment of Sri Lanka established under the Board of Investment of Sri Lanka Law, No. 4 of 1978.

.....
Signature/Signatures of
Declarant/Declarants.

Designation if declaration is other than as an individual

Date:

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Part II — to be furnished by persons depositing in banks.

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DECLARATION UNDER SECTION 5

Income Tax File No. (if any).....

Turnover Tax File No. (if any).....

National Identity Card Number (if Individual).....

Company/Partnership Registration Number.....

I, Mr./Mrs./Miss./We.....

(full name/names)

of.....being.....

.....of.....

(designation)

(name of company or partnership)

declare that I/we have in terms of the Tax and Foreign Exchange Amnesty Act, No.....of 1998, deposited a sum of Rupees.....(Rs.....) consisting entirely of—

(i) Rs.....being other moneys held by me/by the company/partnership in Sri Lanka;

(ii) Rs.....obtained by the conversion of relevant foreign currency

in my/our/company's.....Account bearing No.....at the.....branch of....., and that I/we have paid the tax thereon, in terms of section 3 of that Act.

.....
Signature/Signatures of
Depositor/Depositors.

Designation if declaration is other than as an individual

Date:

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