



Tax update

Finance Act no. 18 of 2021

September 2021

Finance Act no. 18 of 2021

The Finance Act no. 18 of 2021 ("Act") was certified by the Honorable Speaker on 15 September 2021.

This Act provides for the tax amnesty framework in relation to the voluntary disclosure of undisclosed taxable supplies, income, and assets by individuals and entities. In addition, provision has been made for write-off of tax arrears.

The salient features of this Act are mentioned below.

1. Tax on voluntary disclosure

Application of tax amnesty

The tax amnesty provisions will apply to any person who has undisclosed taxable supply, income,¹ or asset² for any period ended on or before 31 March 2020, in respect of Income Tax (IT) and Value Added Tax (VAT). (Reference [Annexure 1](#))

However, the tax amnesty will not apply under the following instances:

- a. To any person for whom an investigation or legal proceedings are pending or who has been convicted of an offence in relation to any undisclosed taxable supply, income, or asset under the following statutes:
 - Prevention of Money Laundering Act, no. 5 of 2006
 - Convention on the Suppression of Terrorist Financing Act, no. 25 of 2005
 - Bribery Act (Chapter 26)
 - Conventions Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances Act, no. 1 of 2008
- b. Where an assessment has been made in respect of the undisclosed taxable supply, income, or asset under the following statutes:
 - Income Tax and VAT (Reference [Annexure 1](#))
 - Betting and Gaming Levy Act, no. 40 of 1988
 - Finance Act, no. 11 of 2002
 - Stamp Duty Act, no. 43 of 1982
 - Stamp Duty (special provisions) Act, no. 12 of 2006

Applicable conditions

Any person to whom the amnesty applies, will have to invest or deposit an amount equivalent to the undisclosed taxable supply, income, or asset in the following categories of investment, after the commencement of this Act (i.e., 15 September 2021) but before 31 March 2022.

- a. Shares issued by a resident company
- b. Treasury bills or treasury bonds issued by the Central Bank on behalf of the Government of Sri Lanka
- c. Any quoted debt securities issued by a resident company in Sri Lanka
- d. Any movable or immovable property in Sri Lanka

However, if an immediate investment cannot be made, an equivalent amount must be deposited in a bank account after 15 September 2021 but before 31 March 2022.

¹ "Income" means any gain, profit, or receipt derived from any source whether in Sri Lanka or other countries.

² "Asset" means money or any immovable or movable property, including bank balances, financial instruments, shares, derivatives, treasury bills, fixed deposits, time deposits, bonds or other forms of deposits, money given by way of security or loans, cash, gem or gold in hand, any other monetary right but excluding any intangible asset unless such intangible asset has been purchased by the taxpayer from any other person.

For the purpose of tax amnesty, any investments made using an amount equivalent to the undisclosed taxable supply, income or asset, before the commencement of this Act, in the above investment categories or any equivalent deposit made in a bank account, may also be considered.

Tax on voluntary disclosure

Before making a declaration provided under the Act, the following tax must be paid on the voluntary disclosure to the Commissioner General of Inland Revenue (CGIR).

However, this tax paid will not be considered as a tax credit or an expenditure under the Inland Revenue Act no.24 of 2017 and is not refundable.

Voluntary disclosure category	Tax rate	Tax base
Any undisclosed taxable supply, income, or asset (excluding immovable and movable property)	1 percent	<ul style="list-style-type: none"> Undisclosed amount or income or Cost of the asset invested or Amount deposited in bank
Immovable or movable property	1 percent	Market value of property on the date of declaration

Amnesty declaration

- The amnesty declaration in relation to any undisclosed taxable supply, income, or asset, must be submitted to the CGIR on or before 31 March 2022, substantially in the relevant formats provided under Schedule V of the Act.
- The declaration must be submitted, along with the documents, to prove the ownership, date of acquisition and cost, or market value of the asset.
- However, before submitting the amnesty declaration, the following conditions must be fulfilled:
 - Investment or deposit of the undisclosed taxable supply, income, or asset
 - Payment of the tax on voluntary disclosure
- The CGIR may issue guidelines (within one week of commencement of this Act), specifying the manner of payment and filing the declaration.
- Where the declaration submitted is in accordance with the Act, the CGIR will accept the declaration in writing, and inform the acceptance to the declarant within 30 days of the receipt of the declaration. However, the granting of immunity is subject to accurate representation of information in the declaration.

The CGIR will reject the declaration if it is not in compliance with the provisions of the Act and the reason for rejection will be informed to the declarant in writing, within 30 days of the receipt of the declaration. In such an instance, the declarant can submit a fresh declaration fixing the defects specified, within 30 days of the receipt of the CGIR decision.

The declaration will be deemed as accepted if the CGIR fails to inform the declarant of either the acceptance or rejection, within 30 days of receipt of the declaration.

Immunity

A declarant whose declaration has been accepted by the CGIR and who has paid the tax on a voluntary disclosure, will be entitled to enjoy full immunity from liability to pay any tax, penalty, or interest from any investigation or prosecution under the respective statutes for IT and VAT ([Reference Annexure 1](#)), in relation to:

- any year of assessment ended on or before 31 March 2020 for IT and
- any period of any year ended before 31 March 2020 for VAT

Notwithstanding the CGIR's acceptance, a declarant will not be entitled to immunity where the declarant provides false or incorrect information in the amnesty declaration.

2. Write-off of tax arrears

Taxes applicable

The Act makes provision for the **CGIR to write-off any tax arrears**, in respect of any period ended on or before **31 December 2020**, under the statutes detailed in Part A of Annexure 2 or the specific provisions of the Value Added Tax no.14 of 2002 detailed in Part B of Annexure 2. (Reference [Annexure 2](#))

Individual taxpayers

The Act makes provision for the **CGIR to write-off any income tax arrears payable by any individual**, as on **31 December 2020**, including arrears under the prior income tax statutes (Reference [Annexure 1](#)), whose **assessable income** under the Inland Revenue Act no. 24 of 2017 (IRA) **does not exceed LKR 3 million for assessment year 2019/2020**.

However, this benefit will not apply to an individual under the following instances:

- a. The assessable income of the relevant individual exceeds LKR 3 million before deducting any loss, including an unrelieved loss, in terms of the IRA.
- b. The assessable income of the relevant individual exceeds LKR 3 million aggregate considering the income from final withholding payments, and the gains and profits exempted from income tax in terms of the IRA.
- c. Annual gross turnover for the year of assessment ended on 31 March 2020, of a business or partnership of which the relevant individual is a partner, exceeds LKR 500 million.
- d. The assessable income of the relevant individual includes income earned from conducting a business of betting and gaming or any business of liquor excluding such income that is merely incidental to another business.

Tax in dispute

Tax arrears in respect of which an assessment has been made (under the respective statutes referred to above), will not be written-off by the CGIR where:

- there is a dispute in respect of such arrears and
- a decision in that regard is pending before or has been made by the Tax Appeals Commission or any court of law, before the commencement date of this Act.

Penalty write-off

Provision has been made for the CGIR to write-off any penalty or interest calculated under the following statutes, where payment has been made on or before 31 March 2022 in respect of any outstanding taxes, due on or before 31 December 2020.

- Income Tax and VAT (Reference [Annexure 1](#))
- Betting and Gaming Levy Act, no. 40 of 1988
- Finance Act, no. 11 of 2002
- Stamp Duty Act, no. 43 of 1982
- Stamp Duty (special provisions) Act, no. 12 of 2006

Tax refunds

- a. Any tax refunds pending payment as on the date of commencement of this Act, for any period before 31 December 2020, duly claimed by the tax payer under the respective statutes, will be set-off against the tax in arrears written-off by the CGIR under the Act.

However, this will not apply to any penalty imposed subsequent to the period in which the refund is due.

- b. The CGIR will communicate in writing the refund amount that can be set-off against tax arrears.
- c. If a person is dissatisfied with the refund amount, a written request must be made to the CGIR within 14 days from the date of CGIR communication, to not set-off such refunds and that the tax in arrears will be settled in full, on or before 31 March 2022.
- d. On the taxpayer's above request, the CGIR may grant approval to settle the tax arrears in full, in accordance with a suitable payment plan.

- e. Where the taxpayer complies with payment plan on or before the approved due dates, any interest of penalty on the tax arrears will be written-off by the CGIR.
- f. The CGIR will set-off the refunds per written communication in the following instances:
 - Taxpayer does not make a request regarding the refunds communicated or
 - Taxpayer does not settle tax arrears per the payment plan as accepted by the CGIR

Annexure 1

1. Inland Revenue Act, no. 28 of 1979
 2. Inland Revenue Act, no. 38 of 2000
 3. Inland Revenue Act, no. 10 of 2006
 4. Inland Revenue Act, no. 24 of 2017
 5. Value Added Tax Act, no. 14 of 2002
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Annexure 2

Part A

1. Wealth tax and gifts tax imposed under Inland Revenue Act, no. 28 of 1979
2. Turnover Tax Act, no. 69 of 1981
3. Surcharge on Wealth Tax Act, no. 25 of 1982
4. Surcharge on Wealth Tax Act, no. 8 of 1989
5. Surcharge on Income Tax Act, no. 26 of 1982
6. Surcharge on Income Tax Act, no. 12 of 1984
7. Surcharge on Income Tax Act, no. 7 of 1989
8. National Security Levy Act, no. 52 of 1991
9. Save the Nation Contribution Act, no. 5 of 1996
10. Goods and Services Tax Act, no. 34 of 1996
11. Surcharge on Income Tax Act, no. 6 of 2001
12. Debits Tax Act, no. 16 of 2002
13. Social Responsibility Levy imposed under Finance Act, no. 5 of 2005
14. Economic Service Charge Act, no. 13 of 2006
15. Nation Building Tax Act, No. 9 of 2009
16. Economic Service Charge imposed under Finance Act, No. 11 of 2004

Part B

1. Optional VAT imposed under section 25H of the Value Added Tax Act, no.14 of 2002
 2. VAT Advance Payment deducted under section 26A of the Value Added Tax Act, no.14 of 2002
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