

PARLIAMENT OF THE DEMOCRATIC

SOCIALIST REPUBLIC OF

SRI LANKA

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VALUE ADDED TAX (AMENDMENT)

ACT, No. 14 OF 2007

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[Certified on 12th April, 2007]

Printed on the Order of Government

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Published as a Supplement to Part II of the Gazette of the Democratic

Socialist Republic of Sri Lanka of April 12, 2007

PRINTEDATTHE DEPARTMENTOFGOVERNMENTPRINTING,SRI LANKA

TOBEPURCHASED ATTHEGOVERNMENTPUBLICATIONSBUREAU,COLOMBO1

Price : Rs. 12.25 Postage : Rs. 7.50

Value Added Tax (Amendment) 1

Act, No. 14 of 2007

[Certified on 12th April 2007]

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AN ACT TO AMEND THE VALUE ADDED TAX ACT, NO. 14 OF 2002

BE it enacted by the Parliament of the Democratic Socialist

Republic of Sri Lanka as follows :—

1. This Act may be cited as the Value Added Tax Short title.

(Amendment) Act, No. 14 of 2007, and shall be deemed to

have come into effect on January 1, 2007.

2. Section 5 of the Value Added Tax Act, No. 14 of 2002

(hereinafter referred to as the “principal enactment”) is hereby

amended in subsection (4) of that section, by the substitution

for the words “of like nature as the case may be.” of the words

“of like nature as the case may be :

Provided however, in the case of a supply of services made

under any lottery , any commission including the Value

Added Tax charged on such commission, paid to any agent

on the sale of a lottery, if any, shall be deducted in addition

to the deductions referred to in this subsection.”.

3. Section 21 of the principal enactment is hereby Amendment of

amended in subsection (1) of that section by the substitution section 21 of

the principal

for the words “after the expiry of each taxable period a return

enactment.

of his supplies” of the words “after the expiry of each taxable

period, a return either in writing or by electronic means, of his

supplies”.

4. Section 22 of the principal enactment is hereby Amendment of

amended as follows :— section 22 of

the principal

enactment.

(1) in the second proviso to subsection (1) of that section,

by the substitution for the words “the Customs

Ordinance shall be charged” of the words and figures

“the Customs Ordinance (Chapter 235) or acess under

subsection (1) of section 14 of Sri Lanka Export

Development Act, No. 40 of 1979, shall be charged”;

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(2) in subsection (3) of that section, by the substitution

in the fourth proviso thereto, for the words “the

purchase of goods or services specified in the Fourth

Schedule (Luxury Rate) by any person which is

allowable under this Act shall be restricted to fifteen

per centum.” of the words “the purchase or

importation of goods or the purchase of services

specified in the Fourth Schedule (Luxury Rate)

which is allowable by any person under this Act

shall be restricted to fifteen per centum other than

in relation to the input tax paid on any goods

imported including any goods received from a

bonded area, by a registered person who imports or

receives such goods, being raw-material to be used

by such person for the purpose of manufacture and

export of goods so manufactured”;

(3) in subsection (5) of that section, by the substitution

for the words “the input tax allowable under this

Act exceeds the amount of the output tax” of the

words and figures “subject to subsection (10), the

input tax allowable under this Act exceeds the

amount of the output tax”;

(4) in subsection (6) of that section—

(a) in paragraph (ii), by the substitution for the

words “not connected with a taxable activity”

of the words “not connected with a taxable

activity or not included in the value of taxable

supply”;

(b) in the second proviso, by the substitution for

the words and figures “such input tax for any

taxable period commencing on or after January

1, 2003” of the words and figures “such input

tax for any taxable period commencing on or

after January 1, 2003 but prior to January 1,

2007.”.

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(5) by the addition immediately after subsection (9) of

that section, of the following new subsection :—

“(10) The amount of input tax allowable under

the preceding provisions of this section for any

taxable period, shall be further restricted to a lesser

amount of eighty five per centum of the output tax

declared for that taxable period or the input tax

allowable under the provisions of this Act. The

residue, if any, of allowable input tax including the

excess input tax as at December 31, 2006, in the case

of a registered person who imports goods for re-sale

without processing referred to in the third proviso to

subsection (5) of section 22 restricted to eighty-five

per centum, shall be deemed to be a part of the input

tax allowable in the subsequent taxable period or

periods, subject however to the same restriction:

Provided however, the above restriction shall not

apply in relation to input tax attributable to—

(i) supplies which are zero rated;

(ii) supplies on which the tax is differed under

this Act, being supplies; made to exporters

registered with Textile Quota Board

established under the Textile Quota Board

Act, No. 33 of 1996 or with the Export

Development Board extablished under the

Export Development Act, No. 40 of 1979, by

a registered person with the Textile Quota

Board or the Export Development Board as

the case may be, referred to in paragraph (c)

of subsection (2) of section 2; and

(iii) project related goods or services during the

project implementation period, incurred by a

person who is registered under subsection (7)

of section 22.”.

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Amendment of 5. Section 25 of the principal enactment is hereby

section 25 of the amended in subsection (1) of that section by the substitution

principal

enactment. for the words “so undercharged or overcharged.” of the words,

“so undercharged or over charged :

Provided however, the adjustment in respect of input tax

under claimed on an original tax invoice shall be made

in respect of a tax debit note or a tax credit note issued

not later than six months after the issue of the original

tax invoice, to which the tax debit note or the tax credit

note relates.”.

Insertion of new 6. The following new Chapter is hereby inserted

Chapter IIIB in immediately after Chapter IIIA of the principal enactment

the principal and shall have effect as Chapter IIIB (sections 25H and 25I) of

enactment.

that enactment :—

“CHAPTER IIIB

Imposition 25H. (1) A tax (hereinafter referred to as

of optional “optional value added tax”) shall be charged

value added on the aggregate turnover from each taxable

tax.

activity carried on, or carried out, in Sri Lanka

by a person or a partnership, if such person or

partnership is registered under this Chapter in

accordance with the provisions of this Chapter

for every quarter commencing on or after

January 1, 2007, at the rate of five per centum.

(2) For the purposes of this Chapter

“turnover” in relation to any taxable activity

means the total amount received or receivable

from transactions entered into in respect of the

taxable activities carried on, or carried out, in

Sri Lanka, other than any supply specified in

the First Schedule, or zero rated supplies

referred to under section 7, or supplies referred

to in section 3 of the Act or to the sale of any

capital assets.

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(3) In this subseciton —

“capital assets” shall have the same meaning as is

given to it in section 25 of the Inland Revenue

Act, No. 10 of 2006.

“quarter’ means the period of three months

commencing on the first day of January, the first

day of April, the first day of July and the first day

of October of each year.

Registration. 25I. (1) A person or a partnership referred to

in subsection (2), may apply for registration

under this Chapter and—

(a) the Commissioner General shall, if he is

satisfied that the conditions specified in

subparagraphs (i) and (ii) of paragraph (a)

of subsection (2) are complied with,

register such person or partnership on a

request made for registration and shall

forthwith assign a registration number to

such person or partnership;

(b) such registration shall be valid for a period

of three years from the date of

commencement of the quarter in which the

registration is obtained or up to the end of

the quarter in which the aggregate turnover

of such person or partnership exceeds

rupees two million and five hundred

thousand per year, whichever occurs first.

(2) (a) the provisions of subsection (1) shall

apply to any person or partnership—

(i) whose agregate turnover from every

taxable activity carried on or carried out,

does not exceed rupees two million and

five hundred thousand per year or six

hundred and twenty five thousand per

quarter; and

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(ii) who or which is not registered under

Chapter II.

(b) Any person or partnership registered

under this Chapter may apply to the

Commissioner-General to cancel such

registration and further request the

Commissioner-General to register him under

Chapter II, at any time during the period in

which registration under this Chapter subsists.

(c) The provisions of Chapters I, II, III or

IIIA shall not apply to a person or partnership

whose registration during the period is

subsisting under this Chapter.”.

Insertion of new 7. The following new section is hereby inserted

section 26A in immediately after section 26 of the principal enactment and

the principal

shall have effect as section 26A of that enactment :—

enactment.

“Deduction 26A. (1) Every Government Agency which

of tax from makes payment in pursuance of a contract to

payments. which such Agency is a party or on behalf of

any other person who is a party to a contract

shall, deduct from such payment one- third of

the tax included in such payment, and the

amount of tax so deducted shall be a debt due

from such Government Agency to the Republic

and shall be recoverable forthwith or may be

assessed and charged upon such Government

Agency in addition to any tax, if any, otherwise

payable by such Government Agency under this

Act :

Provided that no such deduction shall be

made —

(i) where the total consideration for the

performance of such contract does not

exceed five hundred thousand rupees

excluding the Value Added Tax; or

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(ii) where the payment made is an immediate

settlement for the goods supplied on

contract ; or

(iii) where the Commissioner-General is of the

opinion that deduction is impracticable

or inexpedient having regard to all the

circumstances of the case.

(2) Any Government Agency who deducts tax

in accordance with the provisions of subsection

(1) shall —

(a) issue to the person from whose payment

the deduction is made, a Certificate

showing —

(i) the gross amount of payment ;

(ii) the total tax and the amount of

one-third of the tax so deducted ;

and

(iii) the net amount actually paid; and

(b) remit the tax so deducted in any calendar

month on or before the end of the first week

of the subsequent month to the

Commissioner-General together with the

statement showing—

(i) the name and address of the person

to whom the payment was made

and the registration number of such

person ;

(ii) the gross amount of such

payment;

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(iii) the total tax, one-third of the tax

deducted and the amount

actually paid ;

(iv) the name and address of the

Government Agency who made

the payment and the registration

number, if any ; and

(v) details of remittances, the cheque

numbers and the date of payment.

(3) Where the taxable supplies of a person

includes a sum from which tax has been

deducted and remitted in accordance with

subsection (1) and (2), he shall be entitled on

production of the Certificate relating to such

sum issued in accordance with subsection (2),

to set off against the tax payable by him the

amount shown in the Certificate as the amount

of tax deducted.

(4) For the purposes of this section

“contract” means —

(i) any contract in respect of construction

work or services of whatever nature not

being a contract of employment ;

(ii) any contract for the supply of goods or

services in respect of any contract

specified in sub-paragraph (i) ;

(iii) any sub contract in respect of any

contract specified in sub-paragraphs (i)

or (ii); or

(iv) any contract for the provision of

services including a contract for the

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provision of services as an entertainer or

artist other than a contract of

employment.

(5) For the purposes of this section

“Government Agency” means any Ministry,

Department, Government Owned Business

Undertaking, public corporation, Provincial

Council, local authority, University, State bank,

project funded by any Government institution

for which funds are provided from the

Consolidated Fund and the Board of Investment.

(6) Where any person fails to deduct tax in

terms of subsection (1) or fails to remit under

sub section (2) any tax payable to the

Commissioner General, such tax shall be deemed

to be in default and the provision of this Act

relating to the recovery of tax shall accordingly

apply on any such default tax.

(7) Any person who has made any deduction

under subsection (1) or any remittance in

pursuance of subsection (2) shall be deemed to

have acted under the authority of the person by

whom the tax was payable and of all other

persons concerned, and is hereby indemnified

in respect of such deduction or remittances as

the case may be, against all proceedings, civil or

criminal, notwithstanding the provision of any

written law, contract or agreement.

8. Section 76 of the principal enactment is hereby Amendment of

amended, in the third proviso to subsection (1) of that section section 76 of

the principal

by the substitution for the words “ if such supply subsequently enactment.

becomes an exempt supply except in the case of providing

leasing facilities for three wheelers” of the words and figures

“if such supply becomes an exempt supply on or before

December 31, 2006.”.

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Amendment of 9. The First Schedule to the principal enactment is

the First

hereby amended in PART II as follows :—

Schedule to the

principal

enactment. (1) in paragraph (a) of that Schedule —

(a) in item (vi) by the substitution for the words

“aviation fuel and oil for ships ; ” of the

words and figures “aviation fuel, oil for ships

or fuel oil specified under Harmonized of

Commodity Description Number

2710.19.60.”;

(b) in item (vii) by the substitution for the words

“and Braille writing boards” of the words

“Braille writing boards and any other articles

which are used by disabled persons which

are approved by Minister, taking into

consideration the degree of relief requested

by such persons, on an application made for

that purpose.”;

(c) by the addition immediately after item (xiv)

of the following :—

“(xv) prawns.” ;

(2) in paragraph (b) thereof:—

(a) by the addition, immediately after item (xvi)

of the following :—

“(xvii) any film, for distribution or exhibition

(xviii) laboratory facilities for production of

any film ;

(xix) locally manufactured handloom

textiles ;

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(xx) locally manufactured coconut oil ;

(xxi) services being chartering of any

vessel;”;

(b) by the substitution in item (i) (a) for words

“that followed the Government curricula ; and”

of the words “that followed the Government

curricula other than any service not within the

context of educational services or any part of

such educational services not within the

Government curricula;”; and

(c) by the repeal of item (ii) and substitution

therefor of the following :—

“(ii) (a) public passengers transport services

(other than air transport, water

transport or transport of tourists,

excursion tours and taxi

services);or

(b) the provision of leasing facilities

for—

A. such motor coaches with a

seating capacity not less than

twenty eight passenger seats

and used for such public

passenger transport services if

such lease agreement is

entered into prior to January

1, 2004;

B. three wheelers in respect of

rental falling due for payment

on or after January 1, 2005 ;

C. any bus referred to in item (xv)

of paragraph (c).”;

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(d) by the repeal of item (iii) and the substitution

therefor of the following:—

(iii) electricity including distribution.”.

(3) in paragraph (c) thereof, by the addition, immediately

after item (xii) of the following :—

(xiii) any machinery or equipment by the Ceylon

Electricity Board or an Institution which has

entered into an agreement with the Ceylon

Electricity Board to supply electricity required

for the purpose of generating electricity

identified under specified Harmonized

Commodity of Description Numbers for

custom purposes, approved by the Minister ;

(xiv) any film which is produced in Sri Lanka and

sent abroad for further processing or printing,

with the approval of the Chairman of the

National Film Corporation ;

(xv) any bus by the holder of any valid passenger

service permit issued by the National Transport

Commission or any Provincial Road Passenger

Transport Authority for the replacement of a

bus which is being used for the transport of

passengers and which has been so used for

not less than five years at the time of such

import ;

(xvi) machinery identified under the specified

Harmonised of Commodity Description

Numbers for Custom purposes, for

modernization of factories by the factory

owner with the approval of the Commissioner-

General of Inland Revenue ;

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(xvii) poultry keeping machinery, poultry

incubators and brooders, the import of cattle,

buffaloes, poultry, pigs, goats, sheep for

breeding purposes and the seimen and

embryos of such animals for breeding

purposes, under the specified Harrmonised of

Commodity Description Numbers for the

Custom purposes, with the approval of the

Commissioner-General of Inland Revenue ;

(xviii) finished leather to be used for the shoe

manufacturing industry, on the

recommendation of the Secretary to the

Ministry of Industrial Development subject

to approval by the Minister in charge of the

subject of Finance.”.

10. Third Schedule to the principal enactment is hereby Amendment

amended as follows :— of the Third

Schedule to

the principal

(1) by the substitution for the words “the supply or cnactment.

import of-” of the words and figures “(1) The supply

or import of–”;

(2) by the deletion of item (vi), and the renumbering of

item (vii) as item (vi);

(3) by the insertion immediately after item (vi) of the

following new items :—

“(vii) high-tec medical equipment or any

machinery used for the manufacture of ticket

issuing machinery identified, by the

Commissioner-General of Inland Revenue

under the specified Harmonized of

Commodity Description Numbers for

Custom purposes;

(viii) jewellery;”; and

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(4) by the addition immediately after item (viii) of the

following :—

“(2) The import of cine films, cinematographic

films exposed and developed, magnetic cine

sound recorders, cinematographic cameras

and projector, parts and accessories, apparatus

and equipments for cinematographic

laboratories, identified by the Commissioner

General of Inland Revenue under the specified

Harmonized of Commodity Description

Numbers for Custom purposes, with the

approval of the Chairman, National Film

Corporation.”.

Retrospective 11. (1) The amendments made to the principal

effect. enactment by the provisions of this Act, except the

incorporation of the exemption by item (xx) to paragraph (b)

of the First Schedule, shall be deemed for all purposes to

have come into effect on January 1, 2007.

(2) The exemption incorporated in item (xx) to paragraph

(b) shall be deemed for all purposes to have come into effect

on July 1, 2006.

Indemnity. 12. Any person who collects the value added tax as

provided for in this Act, during the period commencing

January 1, 2007 and ending on the date of the coming into

operation of this Act, shall be deemed to have acted with due

authority and such collection shall be deemed for all purposes

to have been, and to be, validly made and such person is

hereby indemnified against all actions civil or criminal in

respect of such collection.

Sinhala text to 13. In the event of any inconsistency between the

prevail in case of Sinhala and Tamil texts of this Act, the Sinhala text shall

inconsistency.

prevail.

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