PARLIAMENT OF THE DEMOCRATIC

SOCIALIST REPUBLIC OF

SRI LANKA

NATION BUILDING TAX (AMENDMENT)

ACT, No. 10 OF 2011

[Certified on 31st March, 2011]

Printed on the Order of Government

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

Socialist Republic of Sri Lanka of April 01, 2011

PRINTEDAT THEDEPARTMENT OFGOVERNMENTPRINTING,SRILANKA

TO BEPURCHASED AT THEGOVERNMENT PUBLICATIONSBUREAU, COLOMBO 5

Price : Rs. 8.00 Postage : Rs. 10.00

Nation Building Tax (Amendment) 1

Act, No. 10 of 2011

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L. D.—O. 15/2011.

AN ACT TO AMEND THE NATION BUILDING TAX ACT NO. 9 OF 2009

BE it enacted by the Parliament of the Democratic Socialist

Republic of Sri Lanka as follows :—

1. This Act may be cited as the Nation Building Tax Short title.

(Amendment) Act, No. 10 of 2011 and shall be deemed to

have come into operation from January 1, 2011.

2. Section 2 of the Nation Building Tax Act, No. 9 of Amendment of

2009 (hereinafter referred to as the “principal enactment”) is the section 2 of

the Act No. 9 of

hereby amended in subsection (1) of that section, by the

2009.

substitution in substction (c) thereof, for the words “a service

of any description.”, of the following :—

“a service of any description; or

(d) carries on the business of wholesale or retail sale of

any article other than such sale by the manufacturer

of that article being a manufacturer to whom the

provisions of paragraph (b) applies.”.

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

amended as follows:— the section 3 of

the principal

(1) in subsection (1) of that section— enactment.

(a) by the substitution for all the words and figures

from “every person to whom this Act applies,

calculated” to “in the following manner:-”, of

the words “every person to whom this Act

applies, calculated at the appropriate rate

specified in the Second Schedule to this Act, in

the following manner:—”

(b) in paragraph (ii) thereof, by the substitution for

the words and figures “paragraph (b) or (c) of

subsection (1)”, of the words “paragraphs (b),

(c) or (d) of subsection(1)”

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(2) in subsection (2) of that section—

(a) by the substitution in paragraph (i) thereof,

for the words and figures “under section 6 of

the Value Added Tax Act, No. 14 of 2002;” of

the words and figures “under section 6 of the

Value Added Tax Act, No. 14 of 2002, but does

not include the value of any excepted article

referred to in the First Schedule to this Act;”;

(b) by the substitution in paragraph (ii) thereof,

for the words “of every article manufactured

by such person;” of the words “of any article

manufactured by such person, other than any

excepted article referred to in the First Schedule

to this Act;”;

(c) by the substitution in paragraph (iii), for the

words “any service referred to in that

paragraph.”, of the following:—

“any service referred to in that paragraph,

other than any excepted service referred to in

the First Schedule to this Act;

(iv) with reference to any person referred to in

paragraph (d) of subsection (1) of section

2 and to any relevant quarter means the

sum receivable whether received or not

from the sale in that quarter, of any article,

other than—

(1) pharmaceuticals;

(2) any article subject to the Special

Commodity Levy under the Special

Commodity Levy Act, No. 48 of

2007, where such article is

subsequently sold by the importer of

such article; and

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(3) gems or jewellery, if sold on the

payment of foreign currency by any

person authorized by the Central Bank

of Sri Lanka to accept payment in

foreign currency.”.

(3) in subsection (3) of that section—

(a) by the substitution, for the words and figures

“in paragraph (ii) or (iii) of that section” of the

words and figures “in paragraph (ii), (iii) or

(iv) of that section”;

( b) by the addition immediately after paragraph

(iii) thereof, of the following paragraphs:—

“(iv) rebate paid under the Export

Development Rebate in relation to any

international event as be approved by

the Minister of Finance;

(v) any turnover from the supply of any

goods or services in relation to any

international events as approved by

the Minister of Finance (with effect

from May 12, 2010).”.

(4) in subsection (4) thereof,

(a) by the substitution for the words and figures

“paragraph (b) or paragraph (c) of subsection

(1) of section 2”, of the words and figures

“paragraph (b), paragraph (c) or paragraph (d)

of subsection (1) of section 2”;

(b) in paragraph (i), by the substitution for the

words “liable turnover of such person for that

relevant quarter does not exceeds” of the

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words and figures “such quarter is a relevant

quarter which commenced prior to January 1,

2011 and the liable turnover of such person

for that relevant quarter does not exceed;”;

(c) in paragraph (ii) thereof—

(i) by the substitution for the words “that

relevant quarter optional Value Added

Tax” of the words and figures “that relevant

quarter which commenced prior to January

1, 2011, Optional Value Added Tax”;

(ii) by the substitution for the words and

figures “Value Added Tax Act, No. 14 of

2002.” of the following:—

“Value Added Tax Act, No. 14 of 2002;

(d) by the addition immediately after paragraph

(ii) of the following new paragraphs :—

(iii) such relevant quarter is any quarter

commencing on or after January 1, 2011

and the liable turnover of such person from

the supply of any goods or services other

than services referred to in paragraph (iv)

and paragraph (v), does not exceed the

sum of five hundred thousand rupees; and

(iv) such quarter is a quarter commencing on

or after January 1, 2011 and the liable

turnover of such person from—

(a) operating a hotel, guest house,

restaurant or other similar

business;

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(b) the processing of any locally

procured agricultural produce

in the preparation for sale;

(c) providing educational services

by any institution established

locally for that purpose; or

(d) supply of labour (manpower),

and which do not exceed the sum of

twenty five million rupees.”.

4. Section 4 of the principal enactment is hereby Replacement of

repealed and the following section substituted therefor:— the section 4 of

the principal

“Payment of 4. Every person referred to in paragraph enactment.

the tax (b), paragraph (c) or paragraph (d) of subsection

(1) of section 2 to whom this Act applies,shall,

notwithstanding that no assessment has been

made on such person for any relevant quarter,

pay—

(i) the tax payable for the first month of that

quarter on or before the twentieth day of

the second month of that quarter;

(ii) the tax payable for the second month of

that quarter on or before the twentieth

day of the third month of that quarter;

(iii) the balance tax payable for that quarter

on or before the twentieth day of the

month immediately succeeding the end

of the relevant quarter, calculated by

deducting the tax paid under paragraphs

(i) and (ii) from the tax payable for that

quarter,

to the Commissioner-General, in such manner

as may be specified by him in that behalf.”.

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Replacement of 5. Section 6 of the principal enactment is hereby

section 6 of the

repealed and the following section substituted therefor:—

principal

enactment.

“Tax Credits. 6. Where any person to whom this Act

applies, utilizes wholly or partly any goods

purchased from a manufacturer registered for

payment of tax under this Act or imported by

himself, in the manufacture of goods liable to

tax under this Act, such manufacturer shall be

entitled to tax credit in respect or such tax paid

on such goods in proportion to the value of

goods manufactured by such person which are

liable to tax under this Act.”.

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

section 6A in the

immediately after section 6 of the principal enactment and

principal

enactment. shall have effect as section 6A of that enactment :—

“Turnover 6A. (1) The turnover from the business of

from Islamic

Financial any Islamic Financial Transaction shall be

Transactions chargeable to tax in terms of the provisions of

to be this Act.

chargeable to

tax.

(2) The Commissioner - General of Inland

Revenue shall in order to determine the extent

of liability to tax of any particular Islamic

Financial Transaction, issue from time to time,

such rules and guidelines as may be required

for the purpose of -

(a) identifying the circumstances

which would amount to an

Islamic Financial Transaction ;

and

(b) ascertaining the profits and

income arising out of any

Islamic Financial Transaction.”.

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7. Section 10 of the principal enactment is hereby Amendment of

amended as follows: the section 10 of

the principal

enactment.

(1) in the definition of the expression “article”, by the

substitution for the words “any agricultural or

horticultural produce, but does not include any

excepted article”, of the words “any agricultural or

horticultural produce, but for any period ended prior

to January 1, 2011 does not include any excepted

article”;

(2) in the definition of the expression “service”, by the

substitution for the words “does not include any

excepted service”, of the words “for any period

ended prior to January 1, 2011 does not include

any excepted service”,

(3) in the definition of the expression “person”, by the

substitution for the words “any company, body of

persons or any partnership”, of the words “any

company, body of persons or any partnership”.

8. The Schedule to of the principal enactment is hereby Amendment of

amended as follows:— the Schedule to

the principal

enactment.

(1) by the renaming of the “SCHEDULE” hereto as the

“FIRST SCHEDULE”;

(2) in Part I of such Schedule—

(a) in item (xiii), by the substitution for the words

“pharmaceuticals; and”, of the words

“pharmaceuticals;”

(b) in item (xv), by the substitution for the words

“borne by the Goverment” of the words “borne

by the Government ;”

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

thereof of the following items:—

“(xvi) any goods imported or supplied to a

specified project carried on, out of

foreign funds or donations received by

the Goverment,as approved by the

Minister considering the economic

benefit to the country.

(xvii) bitumen classified under HS code

No. 2714 ;

(xviii) any article imported or sold by any

society registered under Co- operative

Societies Act, No. 5 of 1972 or under

the respective statutes enacted by the

Provincial Councils providing for such

registration or Lak Sathosa Limited

registered under the Companies Act,

No. 7 of 2007 ;

(xix) tractors classified under HS codes

8701.10. 10, 8701. 10. 90, 8701. 90. 10

and 8701.90.20 ;

(xx) raw materials or packing materials

imported for the manufacture of

pharmaceuticals subject to the approval

of the relevant authority ;

(xxi) gold imported (effective from March

1, 2010) ;

(xxii) plant, machinery or equipment

imported on temporary basis for the use

of large scale infrastructure

development projects approved by the

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Minister in charge of the subject of

Finance as being of benefical for the

economic development of Sri Lanka,

on condition that goods will be re-

exported after the completion of work

(effective from July 1, 2010);

(xxiii) foreign currency notes imported, being

notes clssified under HS Codes

4907.00.90 (effective from June 1,

2010) ;

(xxiv) raw materials or packing materials

imported for the manufacture of

ayurvedic preparations which belong

to the Ayurveda Pharmacopoeia or

ayurveda preparation subject to the

approval of the relevant authority ;

(xxv) pure-bred breeding animals under HS

0102.10 or HS 0104.20.10, milking

machines under HS 8434.10, dairy

machinery under HS 8434. 20 and spare

parts under HS 8434.90, at the point of

importation. (effective from

18.01.2011);

(xxvi) import of samples in relation to

business which is worth not more than

rupees twenty- five thousand, subject

to which terms and conditions as

prescribed by the Director - General of

Customs.”.

(3) in Part II of that Schedule—

(a) in item (vii), by the substitution for the words

“services of a construction contractor, not

being a sub-contractor, insofar as”, of the

following words and figures:—

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“Services—

(i) prior to January 1, 2011, of a

construction contractor, not being a

sub-contractor; or

(ii) on or after January 1, 2011, of a

construction contractor or sub-

contractor”,

in so far as”;

(b) in item (xii), by the substitution for the words

“operating a hotel, guest house, restaurant or

other similar business”, of the words and

figures “For any period ended prior to January

1, 2011, operating a hotel, guest house,

restaurant or other similar business”;

(c) in item (xiii), by the substitution for the words

“local produce”, of the words “local

produce”;

(d) in item (xxiii), by the substitution for the

words “Act, No. 34 of 2002,”, of the words

“Act, No. 34 of 2002;”;

(e) by the addition, immediately after the item

(xxiii), the following new items:—

(xxiv) the services provided by foreign

consultancies for the large scale

infrastructure development projects

being projects which have been

approved by the Minister of Finance,

as beneficial for the economic

development of Sri Lanka (effective

from July 1, 2010)

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(xxv) services provided to any specific

project carried on, out of foreign funds

or donations received by the

Government, as approved by the

Minister considering the economic

benefit to the country;

(xxvi) services provided to the port or airline

in relation to international

transportation;

(xxvii) services provided in relation to ship

building for the international market

for payments made in foreign

currency;

(xxviii) telecommunication services;

(xxix) supply of locally developed soft ware;

(xxx) services provided by any Government

Department, Ministry or any

undertaking fully owned by the

Government;

(xxxi) services provided by Sri Lankan

Airlines Ltd.;

(xxxii) services provided by Mihin Air (Pvt.)

Ltd.;

(xxxiii) services provided by Air Lanka

Catering Services Ltd.;

(xxxiv) services provided by any society

registered under the Co-operative

Societies Law No. 5 of 1972 or under

any Statute enacted by a Provincial

Council, or Lak Sathosa Limited,

registered under the Companies Act,

No. 7 of 2007;

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Addition of 9. The following new Schedule, as the Second Schedule,

Second is added immediately after the First Schedule:—

Schedule to the

principal

enactment. “SECOND SCHEDULE [Section 3]

Tax Rates of Nation Building Tax payable by any person to

whom this Act applies

PART I

For the period ending on April 30, 2009

on the liable turnover – 01 per centum.

PART II

For the period commencing on May 1, 2009 but

prior to December 31, 2010—

(1) on the liable turnover (other than in respect

of turnover from the sale of rice manufactured

from locally procured paddy for the period

from July 1, 2009 to December 31, 2010)

– 03 per centum.

(2) on the liable turnover from rice manufactured

out of locally procured paddy for the period

from July 1, 2009 to December 31, 2010

– 1.5 per centum.

PART III

For any quarter commencing on or after January 01, 2011–

(1) on the liable turnover (other than any

turnover from the wholesale or retail sale) of

any article

– 02 per centum.

(2) on the liable turnover from wholesale or retail

sale of any article–

(a) three fourth of liable turnover of any

distributor–

Nil

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(b) one half of the liable turnover from

(the wholesale or retail sale of) any

article other than any turnover of a

distributor–

Nil

(c) the balance liable turnover

– 02 per centum.

For the purposes of Part III of the

Second Schedule the expression

“distributor”, shall have the same

meaning as is assigned to it in section

13 of the Economic Service Charge

Act, No. 13 of 2006.”.

10. The Commissioner-General shall transfer 33 1/3 per Apportionment

centum of the total sum collected as Nation Building Tax to of revenue to

the respective Provincial Council within such intervals and the Provincial

Councils,

in such proportions as the Secretary to the Treasury may,

from time to time, taking into consideration the required

budget of each such Council, direct.

11. Any person or partnership carrying on an enterprise, Exemption of

having an annual turnover of a sum not exceeding rupees certain small and

one hundred million who is liable to pay the Nation medium

enterprises from

Building Tax under this Act and who has defaulted in the

the payment of

payment of such Nation Building Tax as is payable by him taxes payable by

under this Act in respect of any taxable quarter ending on or them .

before December 31, 2010 due to the existence generally of

any conflict environment or due to any financial constraints

of such person or partnership shall be exempted from the

payment of such charge as is in default under this Act:

Provided that, the Commissioner - General of Inland

Revenue shall on a request made in that behalf, issue to

such person or partnership a Certificate of Exemption in

respect of the sum in default:

Provided futher, the person or partnership to whom the

Certificate of Exemption is issued shall simultaneously

forward to the Commissioner - General of Inland Revenue,

a written assurance to the effect that such person or

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partnership will be responsible for the payment of all sums

which may become payable by him under this Act, in respect

of any future taxable quarter commencing on or after January

1, 2011.

Indemnity. 12. Where the Commissioner - General of Inland

Revenue or the Director - General of Customs as the case

may be collects under the provisions of section 4 or section

5 respectively of the principal enactment, the levy calculated

at the rate specified in section 3 of this Act, during the period

commencing on January 1, 2011 and ending on the date of

the coming into operation of this Act from a person to whom

the provisions of this Act applies, such collection shall be,

deemed for all purposes to have been, and to be, validly

made, and the Commissioner - General of Inland Revenue

and the Director - General of Customs , as the case may be,

are 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

Sinhala and Tamil texts of this Act, the Sinhala text shall

of an

inconsistency. prevail.

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Annual subscription of English Bills and Acts of the Parliament Rs. 885 (Local), Rs. 1,180

(Foreign), Payable to the SUPERINTENDENT, GOVERNMENT PUBLICATIONS BUREAU, DEPARTMENT OF

GOVERNMENT INFORMATION, NO. 163, KIRULAPONA MAWATHA, POLHENGODA, COLOMBO 05 before 15th

December each year in respect of the year following.