

PARLIAMENT OF THE DEMOCRATIC

SOCIALIST REPUBLIC OF

SRI LANKA

VALUE ADDED TAX (AMENDMENT)

ACT, NO. 7 OF 2012

[Certified on 30th March, 2012]

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Value Added Tax (Amendment) 1

Act, No. 7 of 2012

[Certified on 30th March, 2012]

L.D.– O. 9/2012

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

BE it enacted by the Democratic Socialist Republic of Sri

Lanka as follows:-

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

(Amendment) Act, No. 7 of 2012 and shall be deemed to date of operation.

have come into operation on January 1, 2012 unless different

dates of operation are specified therefor, in the relevant

sections.

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

section 2 of the

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

Value Added Tax

amended as follows:- Act, No.14 of

2002.

(1) in subsection (2) of that section:-

(a) by the repeal of item (i) of sub-paragraph

(e) and the substitution therefor of the

following:-

“ (i) a person engaged in any Strategic

Development Project in terms of

subsection (4) of section 3 of the

Strategic Development Projects Act,

No.14 of 2008, as is referred to in

sub-paragraph (i) of paragraph

(f) of Part II of the First Schedule,

during the project implementation

period, or a registered person engaged

in any specific project referred to in

sub-paragraph (ii) of paragraph (f) of

PART II of the First Schedule (effective

from April 1, 2011)”;

2—PL 006653—6,615 (03/2012)

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(2) by the addition immediately after item (iv) thereof,

of the following:-

“(v) any registered person who supplies any

goods or services on or after April 1,

2011, to any registered person referred

to in items (i), (ii), (iii) or (iv) above,

provided that the Commissioner -

General is, on the information available,

satisfied that the value of such supplies

exceeds fifty per-centum of the total

supplies of such registered person who

supplies such goods or services.”;

(3) by the addition immediately after paragraph (c) of

the second proviso to subsection (3) of that section

of the following:-

“(d) plant, machinery or equipment imported

by any enterprise qualified for a tax

exemption under section16D and 17A of

the Inland Revenue Act, No. 10 of 2006,

for the use by such enterprise for the

purposes specified in any agreement

entered into with the Board of

Investment of Sri Lanka established

under the Board of Investment of Sri

Lanka Law, No. 4 of 1978, where any

such agreement provides that tax is

exempted under item (xxxiv) of

paragraph (c) of PART II of the First

Schedule, during the project

implementation period, subject to the

fulfillment of the conditions specified

in the agreement.”.

Amendment of 3. Section 22 of the principal enactment is hereby

section 22 of the amended as follows:-

principal

enactment.

(1) in subsection (1) of that section, by the repeal of

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the first proviso thereof and the substitution

therefor of the following:-

“ Provided that, the amount of tax due on the supply of-

(a) garments within such percentage-

(i) as is permitted for sale locally by the

Board of Investment of Sri Lanka,

established by the Board of Investments

of Sri Lanka Law, No. 4 of 1978 under

any agreement entered into by the

manufacturer of garments for export

under section 17 of the aforesaid law;

or

(ii) as is permitted for sale locally by the

Board of Investment of Sri Lanka,

established by the Board of Investments

of Sri Lanka Law, No. 4 of 1978, by any

other garment manufacturer who

manufactures garments for export under

the supervision of the Department of

Customs ,

shall be rupees twenty five for each such

garment so supplied within Sri Lanka;

(b) fabric within such percentage -

(i) as is permitted for sale locally by the

Board of Investment of Sri Lanka,

established by the Board of Investment

of Sri Lanka Law, No. 4 of 1978, under

any agreement entered into by the

manufacturer of fabric for export under

section 17 of the aforesaid law; or

(ii) as is permitted for sale locally by the

Board of Investment of Sri Lanka,

established by the aforesaid law by any

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other fabric manufacturer who

manufactures fabric for export under the

supervision of the Department of

Customs,

shall be forty rupees per kilogram.”;

(2) in the second proviso to subsection (1), by the

substitution for the words and figures “no other tax

or levy including any duty under the Customs

Ordinance (Chapter 235) or Cess under subsection

(1) of section 14 of Sri Lanka Export Development

Act, No. 40 of 1979, shall be charged or collected

on such sale of garments,” of the words and

figures “no other tax or levy payable at the point of

entry into the country including any duty under

the Customs Ordinance (Chapter 235) or Cess

under subsection (1) of section 14 of Sri Lanka

Export Development Act, No. 40 of 1979, shall be

charged or collected on such sale of garments or

fabric.”;

(3) in paragraph (e) of the second proviso to subsection

(5) of that section by the substitution for all the

words from “there is an excess of input tax” to the

words “taxable supplies of the taxable period” of

the following:-

“there is an excess of input tax including tax

deferred under section 2, of any registered person

who is registered with the Textile Quota Board

established under the Textile Quota Board Act,

No. 23 of 1996, being a supplier of goods or services

to any registered person referred to in paragraph (c)

of subsection (2) of section 2 or any registered person

who is registered with the Export Development

Board, who was subsequently brought under the

deferment scheme administered by the

Commissioner-General under paragraph (e) of

subsection (2) with effect from April 1, 2011, being

a supplier of goods to exporters of goods, referred

to in paragraph (d) of subsection (2) of section 2,

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the value of supplies to suppliers referred to in

paragraph (c), (d) or in the corresponding provisions

of paragraph (e) for the taxable period was more

than fifty per centum.”;

(4) in the third proviso to subsection (5) of that section

by the substitution for all the words from “Provided

further" to the words "shall be carried forward." of

the following:—

“Provided further, in case of a registered

person who imports goods for re-sale without

processing, the excess input tax representing the

tax paid under subsection (3) of section 2 shall not

be refunded, but such input tax including any

excess input tax as at July 31, 2002, under the

Goods and Services Tax Act, No. 34 of 1996 shall

be carried forward except in a case where such

supplies are made to any registered person referred

to in items (i), (ii), (iii) or (iv) of paragraph (e) of

subsection (2) of section 2 of this Act, subject to

the conditions and the limitations specified in the

guidelines published for the purposes of applying

the deferment for the specified period.”;

(5) in subsection (10) of that section:-

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

words and figures “The unabsorbed residue, if

any, as at December 31, 2010 shall be carried

forward and may be claimed by a registered

person for any taxable period not exceeding a

sum equivalent to ten per centum of the

unabsorbed amount for each month, provided

that, such sum does not exceed five per centum

of the net tax payable after deducting

allowable input credit from the output tax by

such person;” of the following:-

“The unabsorbed residue, if any, as at

December 31, 2010 shall be carried

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forward and may be claimed by a registered

person for any taxable period –

(A) commencing on or after January

1, 2011 but prior to January 1,

2012, not exceeding a sum

equivalent to ten percentum of the

unabsorbed amount for each

month, but not exceeding five

per centum of the net tax payable

after deducting allowable input

credit from the output tax payable

by such person;

(B) commencing on or after January

1, 2012, not exceeding a sum

equivalent to ten per centum of the

unabsorbed amount for each

month but not exceeding the net

tax payable after deducting

allowable input credit from the

output tax by such person;”;

(ii) by the repeal of the first proviso to that

subsection and the substitution therefor of the

following:-

“Provided that, in the case of a registered person –

(A) who as at December 31, 2010, has an

unabsorbed input credit, but from and after

January 1, 2011, such person has no

taxable supplies liable to tax under the

provisions of this Act; or

(B) where in respect of each month with effect

from January 1, 2012, the actual set off of

the unabsorbed input credit of such person,

not exceeding ten per centum of the

unabsorbed input credit as at December

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31, 2010, the excess over the amount set

off, as is referred to in sub-paragraph (B)

of paragraph (a) of subsection (10),

may be set off after ascertaining the amount of

the unabsorbed input credit in the folowing

manner:–

(i) for any taxable period commencing on or

after January 1, 2011 but prior to January

1, 2012, in the manner provided for in

either paragraph (a), paragraph (b),

paragraph (c) or (d), as the case may be-

(a) in the case of a registered person who

is an operator of a telecommunication

services licensed under section 17 of

the Sri Lanka Telecommunication

Act, No. 25 of 1991, the set off may

be made as against the sum payable

by him as Telecommunication

Levy payable under the

Telecommunication Levy Act, No. 21

of 2011;

(b) in the case of a registered person who

is liable to pay income tax, the set

off may be made as against the sum

payable by such person as income

tax after January 1, 2011;

(c) in the case of a person to whom the

provisions of either paragraph (a) or

(b) above does not apply, the set off

shall be made against the sum

payable after January 1, 2011, by

such person as tax under any written

law for the time being in force,

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administered by the Commissioner

- General;

(d) in the case of a person to whom the

provisions of either paragraph (a), (b),

or (c) above does not apply, the set

off may be considered against the tax

payable at the point of entry into the

country, by the Director-General of

Customs after July 13, 2011 with the

approval of the Commissioner-

General after considering the facts of

the case;

(ii) for any taxable period commencing

on or after January 1, 2012, against

the tax payable in the manner

provided for in either paragraph (a),

paragraph (b) or paragraph (c) below,

as the case may be:-

(a) in the case of a registered person

who is an operator of a

telecommunication services

licensed under section 17 of the

Sri Lanka Telecommunication

Act, No. 25 of 1991, the set off

may be made as against the sum

payable by him as

Telecommunication Levy

payable under the

Telecommunication Levy Act,

No. 21 of 2011; or

(b) in the case of a registered

person who is liable to pay

any tax administered by the

Commissioner - General of Inland

Revenue, the set off may be made

against the sum payable after

January 1, 2012, by such person

as tax under any written law

for the time being in force,

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administered by the Commissioner

– General; and

(c) in the case of a registered person

to whom the provisions under

paragraph (a) and (b) above do not

apply, the set off may be

considered against the tax payable

at the point of entry into the

country, by the Director-General

of Customs after January 1, 2012

with the approval of the

Commissioner- General after

considering the facts of the case.

The set off for each month, against the tax payable in

terms of this subsection–

(i) where such set off is applicable to any

taxable period from January 1, 2011 but

prior to January 1, 2012 shall not exceed

ten per centum of the unabsorbed input

credit as at December 31, 2010 or five per

centum of the relevant tax liability, which

ever is less;

(ii) where such set off is applicable to any

taxable period commerncing on or after

January 1, 2011 shall not exceed ten per

centum of the unabsorbed input credit as

at December 31, 2010 or the net

unabsorbed balance as at December 31,

2011 after setting off the tax payable

during the period of twelve months from

the total unabsorbed balance as at

December 31, 2010, which ever is less.”.

4. Section 25A of the principal enactment is hereby Amendment

amended in paragraph (iv) of subsection (1) of that section of section

by the substitution for the words and figures “commencing 25A of the

principal

on or after January 1, 2009.” of the words and figures,

enactment.

"commencing on or after January 1, 2009:

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Provided however, the supply of financial services

by a Unit Trust or a Mutual Fund shall not be treated

as a financial service for the purpose of this section.”.

Amendment of 5. The First Schedule to the principal enactment is

the first schedule hereby amended in PART II thereof as follows:-

to the principal

enactment.

(1) in paragraph (a) of that PART :-

(i) by the repeal of item (x) and substitution

therefor of the following item:-

“(x) agricultural machinery,

mammoties, forks, fertilizer

(effective from 01.07.2004),

artemia eggs and peat moss

classified under the Harmonized

Commodity Description and

Coding System Numbers for

Custom proposes;";

(ii) in item (xii), by the substitution for the

words and figures “machinery used for

construction industry imported not later

than December 31, 2010” of the words

and figures “machinery used for the

construction industry,”;

(iii) by the addition immediately after item

(xxi) of the following:-

"(xxii) (i) lorries, trucks, buses, sports

equipments, machinery used

for the production of rubber

or plastic products,

sunglasses, perfumes,

moulding ( steel, glass, rubber

or plastic), photo sensitive

semi conductor devices;

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(ii) raw materials for the

manufacture of spectacles

and spectacle frames ;

(iii) items and spares for the

poultry industry;

(iv) wood (sawn);

(v) fabric for domestic

consumption subject to a

cess at a specific rate in lieu

of chargeability of any

other tax payable on

importation at the point of

entry into the country, as

specified in a Gazette

Notification issued under

the Sri Lanka Export

Development Act, No. 40 of

1979,

classified under the Harmonized

Commodity Description and

Coding System Numbers for

Custom purposes;

(xxiii) goods for any international

event approved by the Minister

of Finance taking into

consideration the economic

benefit to the country, by

conducting such event in Sri

Lanka.”;

(2) in paragraph (b) of that PART:-

(i) in sub-paragraph (A), by the repeal of

item (ii) and the substitution therefor of

the following ;–

“(ii) lorries, tractors or motor

coaches with a seating capacity

of not less than twenty eight

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passenger seats, in respect of any

rental falling due for payment

on or after April 1, 2012.”;

(ii) by the repeal of item (xiii) and the

substitution therefor of the following:-

“( xiii) imported unprocessed timber

logs or ships or any article

subject to the Special

Commodity Levy under Special

Commodity Levy Act, No. 48 of

2007 subject to the condition

that such Nation Building Tax

referred to in paragraph (d) of

subsection (10 ) of section 2 of

the Nation Building Tax Act,

No. 9 of 2009, shall be payable

in respect of such article.”;

(iii) by the addition immediately after item

(xxxv) of the following:-

“(xxxvi) locally manufactured–

(i) hydropower or wind power

machinery and

equipment;

(ii) turbines;

(iii) canned fish or clay

pottery products using

locally produced raw

materials;

(iv) products using locally

procured raw materials for

the required specification

of tourist hotels or airlines;

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(v) specified products to

identified state

institutions replacing

imports,

by the manufacturer in so far

as such products are locally

value added products, as per

the conditions specified in the

guidelines issued for this

purpose;

(xxxvii)(i) locally manufactured

fabric in the domestic

market by any

manufacturer who does not

enjoy any concessions

under any agreement

entered into with the Board

of Investment of Sri Lanka;

(ii) fabric which are subject to

a cess at a specific rate

classified under the

Harmonized Commodity

Description and Coding

System Numbers for

Custom proposes, in lieu of

chargeability of any other

tax on importation at the

point of entry into the

country, by the Director-

General of Customs as

specified in a Gazette

Notification issued under

the Sri Lanka Export

Development Act, No. 40

of 1979;

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(xxxviii) services, being research and

development services provided by the

supplier of such services within the

meaning of the Inland Revenue Act,

No.10 of 2006 for the purposes of

deduction under section 25 of that Act;

(xxxix) painting, at the point of sale, by the

artist thereof;

(xL) services, by the Department of

Commerce, with effect from January 1,

2012, services by the Board of

Investment of Sri Lanka or the Sri Lanka

Ports Authority, with effect from April

1, 2012, in so far as such services are

provided to exporters or to providers of

services which are zero rated services,

for the purposes of tax under this Act;

(xLi) being any sum paid out of the Export

Development Fund as export

development rebate with effect from

October 8, 2009;

(xLii) specific services for any international

event approved by the Minister of

Finance having taken into

consideration the economic benefit to

the country by conducting such an

event in Sri Lanka;

(xLiii) services, which result in the

improvement of quality, character or

value of any fabric or garment with

effect from April 1, 2012;

(xLiv) locally manufactured palm oil, with

effect from April 1, 2012.”;

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(3) in paragraph (c ) of that PART :-

(a) by the repeal of item (xxiii) and the

substitution therefor of the following:-

“(xxiii) goods, for a project identified

as a strategic development

project under the provisions

of the Strategic Development

Project Act, No.14 of 2008,

during the project

implementation period,

subject to the conditions

specified therein or with the

approval of the Minister of

Finance any special project

referred to in paragraph (f);”;

(b) in item (xxviii), by the substitution for

the words “discharge lamps and arc lamp

carbon" of the words and figures

"discharge lamps, arc lamp carbon,

speakers, amplifiers, digital stereo

processors and accessories, cinema

media players and digital readers”;

(c) by the addition immediately after item

(xxx) of the following:-

“(xxxi) pharmaceutical machinery

and spare parts for the

pharmaceutical machinery

which are not manufactured in

Sri Lanka, classified under the

Harmonized Commodity

Description and Coding

System Numbers for Custom

proposes, imported by

pharmaceutical manufacturers

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and recommended by the

Secretary to the Ministry

of Health, including

pharmaceutical machinery or

parts imported after June 1,

2011 under the same

conditions on which Value

Added Tax has been deferred;

(xxxii) machinery for the

manufacture of bio mass

briquettes and pallets so far

as such machinery is imported

by the manufacturer of such

products classified under the

Harmonized Commodity

Description and Coding

System Numbers for Custom

proposes, including such

machinery imported after

June 1, 2011 under the same

conditions on which Value

Added Tax has been deferred;

(xxxiii) green houses, poly tunnels

and materials for the

construction of green houses,

by any grower of agricultural

products or plants of any type,

subject to the condition that

such items are not

manufactured in Sri Lanka,

and approved by the

Director-General, Department

of Fiscal Policy on the

recommendation of the

Secretary to the Ministry of

Agriculture;

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(xxxiv) plant, machinery or

equipment by any enterprise

qualified for a tax exemption

under section 16D and17A of

the Inland Revenue Act, No.

10 of 2006, for the use by such

enterprise for the purposes

specified in the agreement

entered into with the Board of

Investment of Sri Lanka on

which tax is deferred during

the project implementation

period, subject to the

fulfillment of the conditions

specified in the agreement,

during the project

implementation period;

(xxxv) any goods, ( other than motor

vehicles and goods for

personal use) required for

the purpose of provision of

services being international

transportation which is

consigned to Sri Lankan Air

Lines Limited, Mihin Lanka

(Pvt) Ltd. or Air Lanka

Catering Services Ltd. ;

(xxxvi) fabric, specified under the

Harmonized Commodity

Description and Coding

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proposes, for the sale in the

domestic market without any

value addition, subject to

the chargeability of a cess

of rupees seventy five per

kilogram on importation .”.

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Indemnity. 6. Any person who collects the Value Added Tax as

provided for in this Act during any period prior to the date

of coming into operation of this Act, shall be deemed to

have acted with due authority and such collection shall be

deemed 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 7. 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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December each year in respect of the year following.