

Tax Alert

The Surcharge Tax Act No 14 of 2022

April 2022



Tax Alert

The Surcharge Tax Act No 14 of 2022 (Act) was certified by the Speaker and published as a Supplement to Part II of the Gazette of the Democratic Socialist Republic of Sri Lanka on 08 April 2022. Following is the synopsis of the provisions of the Act :-

Taxable Person

Surcharge Tax is payable by any individual, partnership, company or each company of a group of companies (holding and subsidiaries) subject to the taxable income threshold specified in the Act.

For the purposes of Surcharge Tax

- “Company” shall have the same meaning assigned to such expression under the Inland Revenue Act, No. 24 of 2017 but does not include any Employees’ Trust Fund, Provident Fund, Pension Fund, Pension Trust Fund, Gratuity or Termination Fund including funds specified in the Act.
- “Group of companies” means a holding company and its subsidiaries
 - “Holding company” means a company which as at the 31st of March 2021, owns more than 50% of the shares with voting rights of another company, directly or indirectly, other than a holding company incorporated outside Sri Lanka and not registered under Chapter XVIII of the Companies Act, No.7 of 2007.
 - “Subsidiary” means a company in which as at the 31st of March 2021, more than 50% of its shares with voting rights were owned by another company, directly or indirectly other than a subsidiary incorporated outside Sri Lanka and not registered under Chapter XVIII of the Companies Act, No.7 of 2007 of a holding company incorporated outside Sri Lanka and not registered under Chapter XVIII of the Companies Act.

Chargeability Threshold

- *Individual (other than partner), partnership or company* – Taxable income exceeding Rs.2 bn for Year of Assessment (Y/A) commencing from 1 April 2020
- *Individual who is a partner* - Taxable income excluding income derived from a partnership which was subjected to Surcharge Tax, exceeding Rs.2 bn for Y/A commencing from 1 April 2020
- *Subsidiaries and the holding company of a group of companies* – Aggregate taxable income of all subsidiaries and holding company (excluding the companies with nil taxable income due to losses or unrelieved losses) exceeding Rs.2 bn for Y/A commencing from 1 April 2020

Definition of Taxable Income

- a. *BOI Company (liable to income tax, after the expiration of its period of tax exemption in terms of the provisions of BOI Agreement)* – **Profit before income tax as per the Audited Financial Statement**
- b. *Individual, partnership, company or subsidiaries and the holding company of a group of companies (other than the companies referred in (a) above)* – **Taxable income calculated as per the Section 3 of the Inland Revenue Act No.24 of 2017**

Rate of tax

- *Individual (other than partner), partnership or company* – 25% on the taxable income of the Y/A commencing from 1 April 2020
- *Individual who is a partner* – 25% on the taxable income excluding income derived from partnership which was subjected to Surcharge Tax for Y/A commencing from 1 April 2020
- *Subsidiaries and the holding company of a group of companies* – 25% on the taxable income of each subsidiary and holding company excluding gains and profits from dividends received from a subsidiary which is part of such taxable income for Y/A commencing from 1 April 2020

Administration & Collection Authority

The Commissioner General of Inland Revenue (CGIR) should collect the Surcharge Tax and remit to the Consolidated Fund within 15 days from the date of collection.

The CGIR has to prescribe the format of the Return, the additional information and the manner of filing the Return.

The provisions of Chapter IX , Chapter X, Chapter XI, Chapter XII, Chapter XIII, Chapter XIV, Chapter XV, Chapter XVI, Chapter XVII, Chapter XVIII of the Inland Revenue Act, No.24 of 2017 shall, mutatis mutandis, be applicable to the administration, record keeping and information collection, tax Returns, Assessments, objections and appeals, liability for and payment of tax, interest, recovery of tax, penalties and criminal proceedings in relation to the Surcharge Tax.

Surcharge Tax Payment

Every person who is liable to pay Surcharge Tax should pay the tax in two equal installments

- 1st installment - on or before 20 April 2022
- 2nd installment – on or before 20 July 2022

Surcharge Tax Return

Every person chargeable with Surcharge Tax should furnish a self-assessment Return as prescribed by CGIR on or before 20 April 2022.

Default in Payment of Surcharge Tax

Every person who fails to pay Surcharge Tax is identified as a defaulter of the tax.

Time bar for raising Assessments

Raising of Assessments will be as per the provisions of the Inland Revenue Act No.24 of 2017. CGIR could raise Default Assessments, Amended Assessments or Additional Assessments on or before 31 December 2024.

Adjustment of Surcharge Tax paid

- Deemed to be an expenditure in the financial statement for Y/A commencing from 1 April 2020.
- No deduction shall be allowed in calculating taxable income for any Y/A.
- No deduction shall be granted in calculating the VAT on Financial Services.

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