



PARLIAMENT OF THE DEMOCRATIC
SOCIALIST REPUBLIC OF
SRI LANKA

FOREIGN EXCHANGE (AMNESTY)
ACT, No. 32 OF 1993

[Certified on 11th August, 1993]

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Foreign Exchange (Amnesty) Act, No. 32 of 1993

[Certified on 11th August, 1993]

L.D.—O. 96/92.

AN ACT TO PROVIDE FOR TAX CONCESSIONS TO PERSONS WHO REMIT OR BRING TO SRI LANKA ANY FOREIGN CURRENCY HELD BY SUCH PERSONS OUTSIDE SRI LANKA AND WHICH REPRESENTS UNDISCLOSED PROFITS AND INCOME OR TURNOVER, OR WHICH HAS NOT BEEN DECLARED TO THE CONTROLLER OF EXCHANGE, WITH A VIEW TO SECURING FULL COMPLIANCE, IN THE FUTURE, BY SUCH PERSONS WITH TAX LAWS AND LAWS RELATING TO EXCHANGE CONTROL; TO INDEMNIFY SUCH PERSONS AGAINST PROSECUTIONS FOR OFFENCES IN RELATION TO SUCH LAWS; AND TO PROVIDE FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THEREOF.

BE it enacted by the Parliament of the Democratic Socialist Republic of Sri Lanka, as follows:—

1. This Act may be cited as the Foreign Exchange (Amnesty) Act, No. 32 of 1993. Short title.

2. (1) This Act shall, subject to the provisions of subsection (2), apply to any person who holds any relevant foreign currency outside Sri Lanka and who— Persons to whom this Act applies.

(a) (i) remits, through a commercial bank, such currency to Sri Lanka on or after November 12, 1991, but on or before December 31, 1993; or

(ii) brings such currency to Sri Lanka upon his entering Sri Lanka at an approved Port of entry, on or after November 12, 1991, but on or before March 5, 1993, and makes a declaration in respect of such currency under the Customs Ordinance; and

(b) deposits the currency so remitted or brought, in a designated foreign currency, in any foreign currency account, opened in his name in any commercial bank in Sri Lanka.

(2) This Act shall not apply to any person in relation to whom any investigation was pending on November 12, 1991, for—

(i) any alleged or suspected evasion of any tax payable under the law for the time being applicable to the imposition of income tax or the Finance Act, No. 11 of 1963 or the Turnover Tax Act, No. 69 of 1981, in

respect of any profits and income or turnover, as the case may be, which arose or accrued to, or was derived, by such person on or before November 12, 1991; or

- (ii) any alleged or suspected violation, of any provision of the Exchange Control Act or the Prevention of Terrorism (Temporary Provisions) Act, No. 43 of 1979.

(3) Every person referred to in subsection (1), not being a person referred to in subsection (2), shall, hereafter in this Act, be referred to as "a person to whom this Act applies".

Indemnification.

3. A person to whom this Act applies shall not be liable—

(a) to pay—

- (i) for any year of assessment ending on or before March 31, 1992, any income tax or surcharge on income tax payable, respectively, under the law for the time being applicable to the imposition of income tax or the law for the time being applicable to the imposition of surcharge on income tax, in respect of such part of the aggregate of—

(A) the amount of the relevant foreign currency lying to his credit on December 31, 1993, in any account referred to in section 2(1) (b); and

(B) such part of the relevant foreign currency deposited by him in any foreign currency account referred to in section 2(1) (b) as has been converted by him, on or before December 31, 1993, to Sri Lanka currency; and

(C) such part of the relevant foreign currency deposited by him in any foreign currency account referred to in section 2(1) (b) as has been remitted by him outside Sri Lanka on or before December 31, 1993, with the written approval of the Controller of Exchange.

as represents his profits and income ;

(ii) for any year of assessment ending on or before March 31, 1992, any wealth tax or surcharge on wealth tax payable, respectively, under the law for the time being applicable to the imposition of, wealth tax or of surcharge on wealth tax, in respect of such part of his net wealth for the acquisition of which such part of his profits and income as is referred to in sub-paragraph (i), had been, utilized ; or

(iii) for any quarter ending on or before December 31, 1991, any business turnover tax payable under the Finance Act, No. 11 of 1963 or any turnover tax payable under the Turnover Tax Act, No. 69 of 1981, in respect of such part of the turnover from which such part of his profits and income as is referred to in sub-paragraph (i) arose or was derived ; or

(b) to a prosecution or to a penalty for any offence under—

(i) the law for the time being applicable to the imposition of, income tax or surcharge on income tax, or wealth tax or surcharge on wealth tax, in relation to any year of assessment ending on or before March 31, 1992, in respect of, or in connection with, such part of his profits and income as is referred to in paragraph (a) (i) or such part of his net wealth as is referred to in paragraph (a) (ii) ; or

(ii) the Finance Act, No. 11 of 1963 or the Turnover Tax Act, No. 69 of 1981, in relation to any quarter ending on or before December 31, 1991, in respect of such part of his turnover as is referred to in paragraph (a) (iii) ; or

(iii) the Exchange Control Act, in respect of the whole or any part of the relevant foreign currency deposited by him in a foreign currency account referred to in section 2(1) (b), in respect of which no return has been furnished by him or which has not been disclosed in any return furnished by him under the Exchange Control Act.

Preceding provisions of this Act, not to be construed as authorizing the revision of any assessment previously made.

4. Nothing in the preceding provisions of this Act, shall be read or construed as authorizing the revision of—

(a) any assessment made under the provisions of—

(i) the law for the time being relating to the imposition of, income tax or surcharge on income tax or wealth tax or surcharge on wealth tax; or

(ii) the Finance Act, No. 11 of 1963, the Turnover Tax Act, No. 69 of 1981;

(b) any requirement imposed before November 12, 1991, on any person to whom this Act applies and in relation to any violation by him of any provision of the Exchange Control Act; or

(c) any other matter,

which has become final and conclusive under the provisions of any such law.

Maintenance of secrecy.

5. (1) Subject to the provisions of subsection (2), every officer or employee of the Department of Inland Revenue, or of any commercial bank or of the Central Bank of Sri Lanka, shall preserve, and aid in preserving, secrecy with regard to all matters that may come to his knowledge in the administration of this Act and shall not give, divulge or reveal any information whatsoever regarding a foreign currency account referred to in section 2(1) (b) to any individual, corporation, bank, court, institution, entity, department, official, agent, representative of the Government of Sri Lanka or to any other legal or natural person.

(2) Notwithstanding the provisions of subsection (1), the Commissioner-General or the Controller of Exchange, or an officer or employee of a commercial bank, as the case may be, shall if he is required to do so—

(i) by the person to whom such matter or information relates;

(ii) by any provision of any law giving effect to an international convention on narcotics or hijacking in any criminal proceedings instituted under that law, in any court;

(iii) by an order of the Supreme Court, made on application therefor, on the ground that moneys in any account referred to in section 2 (1) (b) have been or are being used in furtherance of an act which constitutes an offence under the Prevention of Terrorism (Temporary Provisions) Act, No. 48 of 1979 ; or

(iv) by an order of court in any legal proceedings instituted by or against a commercial bank, or by or against the holder of an account referred in section 2 (1) (b) relating to a banking transaction arising from such account,

communicate to such person or court any matter or information which has come to his knowledge in the administration of this Act.

(3) Any officer or employee of the Department of Inland Revenue, or of the Central Bank of Sri Lanka or of any commercial bank, who acts in contravention of the provisions of subsection (1) shall be guilty of an offence under this Act, and shall, on conviction after summary trial before a Magistrate, be liable to a fine not exceeding one hundred thousand rupees or to imprisonment for a term not exceeding one year or to both such fine and imprisonment.

6. In the event of any inconsistency between the Sinhala and Tamil texts of this Act, the Sinhala text shall prevail.

Sinhala text to prevail in case of inconsistency.

7. In this Act, unless the context otherwise requires—

Interpretation.

“commercial bank” means a licensed commercial bank within the meaning of the Banking Act, No. 30 of 1988 ;

“Commissioner-General”, “foreign currency”, “net wealth”, “profits and income”, “year of assessment” shall have the respective meanings assigned to them by the Inland Revenue Act, No. 28 of 1979 ;

“Controller of Exchange” means the Controller of Exchange appointed under the Monetary Law Act ;

“designated foreign currency” means any of the following foreign currencies, that is to say, the United States Dollar, Sterling Pound, Deutsche Mark, Swiss Franc, Japanese Yen, Australian Dollar, Singapore Dollar, French Franc, Canadian Dollar, Danish Kroner, Netherland Guilder, Swedish Kroner and Hongkong Dollar and includes any other foreign currency approved in writing by the Controller of Exchange ;

“Exchange Control Act” means the Exchange Control Act (Chapter 423) ;

“foreign currency account” means an account in the Domestic Banking Unit of any commercial bank in Sri Lanka opened in accordance with the rules made by the Central Bank of Sri Lanka but does not include an account opened in the foreign currency banking unit of a commercial bank ;

“person” includes a company, a body of persons or a partnership ;

“relevant foreign currency” in relation to a person means foreign currency held on November 12, 1991 by such person outside Sri Lanka or foreign currency into which any movable or immovable property held by such person on November 12, 1991 outside Sri Lanka, has been converted and—

(A) being, or being attributable to, profits and income—

(i) were derived by such person, or arose or accrued to him, during any period ending before November 12, 1991 ; and

(ii) in respect of which no return has been furnished by him or has not been disclosed in any return furnished by him or has not been assessed to income tax, under the law for the time being applicable to the imposition of income tax ; and

(iii) were chargeable with income tax under the law for the time being applicable to the imposition of income tax,

but not including—

- (a) any amount receivable in foreign currency for any exports made by him from Sri Lanka, under any permit issued by the Controller of Exchange ;
 - (b) any amount receivable in foreign currency for services rendered by him in or outside Sri Lanka and declared in a return furnished by him under the provisions of the Inland Revenue Act, No. 28 of 1979 or the Exchange Control Act ;
 - (c) any amount due in foreign currency on any decree or writ of any court of law outside Sri Lanka for the recovery of any debt or the enforcement of any civil liability ; or
- (B) not being profits and income or attributable to profits and income, is attributable to property acquired by him outside Sri Lanka, by way of gift, donation, inheritance or otherwise, and in respect of which, no return has been furnished by him or has not been disclosed in any return furnished by him, under the Exchange Control Act ;
- “ the law for the time being applicable to the imposition of income tax ” means the Inland Revenue Act, No. 28 of 1979 ;
- “ the law for the time being applicable to the imposition of surcharge on income tax ” means the Surcharge on Income Tax Act, No. 26 of 1982, the Surcharge on Income Tax Act, No. 12 of 1984 and the Surcharge on Income Tax Act, No. 7 of 1989 ;
- “ the law for the time being applicable to the imposition of wealth tax or surcharge on wealth tax ” means the Inland Revenue Act, No. 28 of 1979, the Surcharge on Wealth Tax Act, No. 25 of 1982 and the Surcharge on Wealth Tax Act, No. 3 of 1989 ;
- “ turnover ” and “ quarter ” shall have the respective meanings assigned to them by the Turnover Tax Act, No. 69 of 1991.

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