



**PARLIAMENT OF THE DEMOCRATIC  
SOCIALIST REPUBLIC OF  
SRI LANKA**

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**DEFAULT TAXES (SPECIAL PROVISIONS)  
(AMENDMENT)**

**A**

**BILL**

**to amend the Default Taxes (Special Provisions) Act, No. 16 of 2010**

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*Presented by the Prime Minister and Minister of Buddha Sasana and  
Religious Affairs on 21st March, 2014*

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*Ordered by Parliament to be printed*

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**[Bill No. 299]**

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**STATEMENT OF LEGAL EFFECT**

*Clause 2* : This Clause amends section 10 of the Default Taxes (Special Provisions) Act, No. 16 of 2010 (hereinafter referred to as the “principal enactment”) by the addition of new subsection (2) in that section and the legal effect of the section as amended is to make provision to enable the Commissioner-General of Inland Revenue to take steps stipulated under sections 10A, 10B, 10C, 10D, 10E, 10F and 10G of the principal enactment instead of instituting action in the High court of the Province for the recovery of taxes in default.

*Clause 3* : This clause inserts sections 10A, 10B, 10C, 10D, 10E, 10F and 10G in the principal enactment and the legal effect of the amendment is to make provision—

- (a) to enable the Commissioner-General to take steps where immediate action for the recovery of tax in default is necessary;
- (b) in the case of a default made by a body corporate or by an unincorporated body of persons, for the recovery of tax in default from a manager, secretary, any director or principal officer of such body corporate or a partner or office bearer of such unincorporated body of persons;
- (c) to enable the Commissioner-General to recover tax in default by seizure and sale;
- (d) to recover the tax in default by proceedings before a Magistrate;
- (e) to recover the tax in default out of debts to be paid back to a defaulter;
- (f) to recover the tax in default by way of transfer of immovable property instead of paying in cash; and
- (g) to recover the tax in default out of the remuneration of the defaulter.

*Default Taxes (Special Provisions)*  
(Amendment)

L. D- O. 12/2014

AN ACT TO AMEND THE DEFAULT TAXES (SPECIAL PROVISIONS) ACT,  
NO. 16 OF 2010

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

**1.** This Act may be cited as the Default Taxes (Special Provisions) (Amendment) Act, No. of 2014 . Short title.

5 **2.** Section 10 of the Default Taxes (Special Provisions) Act, No. 16 of 2010 (hereinafter referred to as the “principal enactment”) is hereby amended as follows:- Amendment of section 10 of Act, No. 16 of 2010.

(1) by re-numbering section 10 of that section as subsection (1) thereof ; and

10 (2) by the addition immediately after re- numbered subsection (1) , of the following subsections :-

15 “(2) Where the Commissioner - General is satisfied that immediate action is necessary for the recovery of a tax in default, he may, instead of instituting an action under subsection (1), take the steps stipulated in sections 10A, 10B, 10C, 10D, 10E, 10F and 10G of this Act.”.

20 **3.** The following new sections are inserted immediately after section 10 of the principal enactment and shall have effect as sections 10A, 10B, 10C, 10D, 10E, 10F and 10G of that enactment:- Insertion of Sections 10A, 10B, 10C, 10D, 10E , 10F and 10G in the principal enactment.

25 “Where immediate action for recovery of tax in default is necessary. 10A.(1) Where the Commissioner- General decides to take steps in terms of subsection (2) of section 10, to recover any tax in default he shall within fourteen days of the date on which he takes such steps , issue a notice to the

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defaulter stating the particulars of the tax in respect of which such steps have been taken and the nature of the steps taken.

5            (2) Where there is an appellate procedure against the assessment or assessments made under the relevant law, under which the tax in default is charged and the defaulter has not appealed within the proper time under that law against such assessment or assessments, he may within thirty days of the notice issued under subsection (1), make any objection to the tax so charged and the Commissioner-General shall, consider such objection and give his decision thereon which shall be final:

15            Provided that, where the Commissioner-General is satisfied that owing to illness, absence from Sri Lanka or other reasonable cause, the defaulter was prevented from objecting within thirty days of the notice issued under subsection (1), he shall grant an extension of time for preferring such objections.

25            (3) Where the tax recovered as a result of any steps taken under subsection (1) is in excess of the amount of tax determined under subsection (2), to be payable by the defaulter in respect of any year of assessment, such excess shall be refunded to the defaulter:

30            Provided that, no refund under this subsection shall exceed the tax recovered as a result of steps taken under subsection (1).

35            Recovery of tax from principal officers and others.      10B. (1) Where a body corporate has not paid any tax on or before the due date, as required by the relevant law under which such tax in default is charged, it shall be lawful for

5 the Commissioner-General to proceed under  
section 10A, 10B, 10C, 10D, 10E, 10F or 10G of  
this Act against the manager, secretary, any  
director or any other principal officer of such  
body corporate, as if such manager, secretary,  
director or principal officer, as the case may  
be, is responsible for such default, unless such  
manager, secretary, director or principal  
10 officer, as the case may be, proves the contrary  
to the satisfaction of the Commissioner-  
General, notwithstanding anything in any other  
written law relating to such body corporate.

15 (2) Where an unincorporated body of  
persons has not paid any tax on or before the  
due date, as required by the relevant law under  
which the tax in default is charged, it shall be  
lawful for the Commissioner-General to  
proceed under section 10A, 10B, 10C, 10D,  
20 10E, 10F or 10G of this Act against any partner  
or office bearer of such unincorporated  
body of persons as if he is responsible for  
such default, unless such partner or office  
bearer, as the case may be, proves the contrary  
to the satisfaction of the Commissioner-  
25 General, notwithstanding anything in any  
other written law.

Recovery  
of tax by  
seizure  
and sale.

10c. (1) The Commissioner-General may  
appoint persons to be tax collectors under this  
Act .

30 (2) (a) Where any tax is in default under  
section 2 of this Act, the Commissioner-General  
may issue a certificate to a Government Agent,  
Assistant Government Agent, Fiscal, Deputy  
Fiscal or tax collector, containing particulars  
35 of such tax and the name of the defaulter and  
the officer to whom such certificate is issued



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5 charges within the five days, the  
Government Agent, Assistant  
Government Agent, Fiscal,  
Deputy Fiscal or tax collector  
shall cause such property to be  
sold by public auction, or where  
such property is a negotiable  
instrument or a share in any  
10 corporation or public company,  
to be sold through a broker at the  
market rate of the day.

(d) The sum realized by a sale  
referred in sub-paragraph (iii) of  
paragraph (c ) shall be applied -

15 (i) firstly, in payment of the  
costs and charges of  
seizing, keeping and  
selling of property; and

20 (ii) secondly, in satisfaction of  
the tax in default, and any  
balance shall be paid to the  
owner of the property  
seized.

25 (e) It shall be lawful for any officer  
to recover from any defaulter,  
reasonable expenses incurred by  
him in proceeding against such  
defaulter under this section,  
notwithstanding that no seizure  
30 of property was effected.

(f) In this subsection the expression  
“movable property” includes any  
plant or machinery affixed to the  
ground of a factory.

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                  *(Amendment)*

5                            (3) Where any tax is in default and the  
                                 Commissioner-General is of the opinion that  
                                 the recovery by the means provided in  
                                 subsection (2) is impracticable or inexpedient,  
10                           he may issue a certificate to a District Court  
                                 having jurisdiction in any district where the  
                                 defaulter resides or in which any property,  
                                 movable or immovable, owned by the defaulter  
                                 is situated, containing particulars of such tax  
15                           and the name or names of the person or persons  
                                 by whom the tax is payable, and the courts  
                                 shall thereupon direct a writ of execution to  
                                 issue to the Fiscal, authorizing and requiring  
                                 him to seize and sell all or any of the property,  
20                           movable and immovable, of the defaulter, or  
                                 such part thereof as he may deem necessary for  
                                 recovery of the tax, and the provisions of  
                                 sections 226 to 297 of the Civil Procedure Code  
                                 (Chapter 101) shall, *mutatis mutandis*, apply  
                                 to such seizure and sale.

25                           (4) Wherever the Commissioner-General  
                                 issues a certificate under this section, he shall  
                                 at the same time issue to the defaulter, whether  
                                 resident or non-resident, a notification thereof  
                                 by personal service, registered letter sent  
                                 through the post or telegraph; but the non-  
                                 receipt of such notification by the defaulter  
                                 shall not invalidate proceedings under this  
                                 section.

30 Proceedings            10D. (1) Where the Commissioner-General  
for recovery            is of the opinion in any case that recovery of  
before                    tax in default by seizure and sale is  
Magistrate.            impracticable or inexpedient, or where the full  
                                 amount of the tax has not been recovered by  
35                           seizure and sale, he may issue a certificate  
                                 containing particulars of such tax and the name  
                                 and last known place of business or residence



5 of the defaulter, to a Magistrate having jurisdiction in the division in which such place is situated. The Magistrate shall thereupon summon such defaulter before him to show cause why further proceedings for the recovery of the tax should not be taken against him, and in default of sufficient cause being shown the tax in default shall be deemed to be a fine imposed by a sentence of the Magistrate on such defaulter for an offence punishable with fine only or not punishable with imprisonment, and the provisions of subsection (1) of section 291 (except paragraph (a), (d) and (i) thereof) of the Code of Criminal Procedure Act, No. 15 of 1979 relating to default of payment of a fine imposed for such an offence shall thereupon apply, and the Magistrate may make any direction which, by the provisions of that subsection, he could have made at the time of imposing such sentence.

25 (2) The correctness of any statement in a certificate issued by the Commissioner-General for the purposes of subsection (1), shall not be called in question or examined by the Magistrate in any proceeding under this section and accordingly, nothing in that subsection shall be read and construed as authorizing a Magistrate to consider, or decide the correctness of any statement in such certificate or to postpone or defer such proceeding for a period exceeding thirty days, by reason only of the fact that an appeal is pending against the assessment, in respect of which the tax in default is charged.

35 (3) Nothing in subsection (2) to (5) of section 291 of the Code of Criminal Procedure Act, No. 15 of 1979, shall apply in any case referred to in subsection (1) of this section.

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  (4) In any case referred to in subsection (1)  
 in which the defaulter is sentenced to  
 imprisonment in default of payment of the  
 fine deemed by that subsection to have been  
 5 imposed on him, the Magistrate may allow time  
 for the payment of the amount of that fine or  
 direct payment of that amount to be made in  
 instalments.

  (5) The Court may require bail to be given  
 10 as a condition precedent to allowing time under  
 subsection (1) for showing cause as therein  
 provided, or under subsection (4) for the  
 payment of the fine; and the provisions of  
 Chapter XXXIV of the Code of Criminal  
 Procedure Act, No. 15 of 1979, shall apply,  
 15 where the defaulter is so required to give bail.

  (6) Where a Magistrate directs under  
 subsection (4) that payment be made in  
 20 instalments and default is made in the payment  
 of any one instalment, proceedings may be  
 taken as if default had been made in payment  
 of all the instalments then remaining unpaid.

  (7) In any proceeding under subsection  
 25 (1), the Commissioner-General's certificate  
 shall be sufficient evidence that the tax has  
 been duly assessed and is in default, and any  
 plea that the tax is excessive, incorrect, or under  
 appeal, shall not be entertained.

  (8) Where the tax default referred to in this  
 30 section is made by a body corporate , or an  
 unincorporated body of persons, the manager,  
 secretary, any director or any other principal  
 officer of such body corporate, or any partner  
 or office bearer of such unincorporated body  
 35 of persons, as the case may be, in addition to a

5 fine imposed by a sentence of the Magistrate under this section, shall be liable on conviction after summary trial before the Magistrate, to an imprisonment of either description for a period not exceeding three months:

10 Provided that, the Magistrate may allow such manager, secretary, any director or any other principal officer of such body corporate, or any partner or office bearer of such  
15 unincorporated body of persons, as the case may be, to show cause that he is not responsible for such default or that he has taken all necessary steps within his power to avoid the default of such tax.

20 Recovery of tax out of debts & c. 10E. (1) Where tax payable by any person under any of the laws specified in the Schedule to this Act is in default and the Commissioner-General is of the opinion that recovery of tax in default in terms of sections 10A, 10B, 10C and 10D is impracticable or inexpedient and it also appears to him to be probable that any other person –

25 (a) owes or is about to pay money to the defaulter or his agent;

(b) holds money for or on account of the defaulter or his agent;

30 (c) holds money on account of some other person for payment to the defaulter or his agent; or

(d) has authority from some other person to pay money to the defaulter or his agent,

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                  *(Amendment)*

5            the Commissioner-General may give to such  
                  other person notice in writing (a copy of which  
                  shall be sent by post to the defaulter) requiring  
                  him to pay any such moneys not exceeding  
10            the amount of the tax in default, to the officer  
                  named in such notice. The notice shall apply  
                  to all such moneys which are in his hands or  
                  due from him at the date of receipt of such  
                  notice, or come into his hands or become due  
                  from him or are about to be paid by him at any  
                  time within a period of three months, after the  
                  date of such notice.

15            (2) Where a person holds money for or on  
                  account of the defaulter and any other person  
                  or persons jointly (in this section referred to  
                  as the “joint account holder or holders”) the  
                  Commissioner-General may give a notice  
20            under subsection (1) to such person, requiring  
                  him to pay the amount of the tax in default or  
                  part thereof to the officer named in such notice,  
                  out of the monies or such part of such moneys  
                  in the joint account which the Commissioner-  
                  General is satisfied is attributable to the  
25            contributions made by the defaulter, and is so  
                  certified by the Commissioner-General:

                  Provided that –

30            (a) every person remitting money in  
                  compliance with a notice issued  
                  under subsection (1), shall intimate  
                  such fact to every other joint account  
                  holder;

35            (b) every joint account holder other than  
                  the defaulter may, within two weeks  
                  of the date on which he received an  
                  intimation under paragraph (a),

5                   make a claim to the Commissioner-General in respect of any part of such remittance which represents his net contribution to the balance in such joint account as at the date of notice issued by the Commissioner-General, and the Commissioner-General shall consider such claim and make his order thereon;

10                   (c) every joint account holder who is aggrieved by the order of the Commissioner-General made under paragraph (b), may institute an action in the District Court seeking  
15                   an order for the recovery of such money or part of such money which he claims to be attributable to the contributions made by him.

20                   (3) Notwithstanding any provision in the Prescription Ordinance (Chapter 68), no action shall be instituted for the recovery of such money or part of such money after the expiration of three months from the date of notice issued by the Commissioner-General.

25                   (4) Any person who has made any payment in pursuance of this section shall be deemed to have acted under the authority of the defaulter, and of all other persons concerned, and hereby indemnified in respect  
30                   of such payment against all proceedings, civil or criminal, notwithstanding the provisions of any written law, contract or agreement.

35                   (5) Any person to whom a notice has been given under subsection (1), who is unable to comply therewith owing to the fact

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5                            that no moneys referred to in that subsection  
                                 have come into his hands or that no such  
                                 moneys have become due from him within the  
                                 period referred to in that subsection, shall  
                                 within fourteen days of expiration thereof, give  
                                 notice in writing to the Commissioner-General  
                                 apprising him of the facts.

10                           (6) Where any person to whom a notice  
                                 has been given under subsection (1), is unable  
                                 to comply therewith and has failed to give  
                                 notice to the Commissioner-General as  
                                 provided in subsection (5), or where such  
                                 person has deducted or could have deducted  
                                 the tax to which the notice relates or any part  
15                           thereof, and has not paid over, as required by  
                                 the Commissioner-General the amount of such  
                                 tax or part thereof within fourteen days after  
                                 the expiration of the period referred to in  
                                 subsection (1), such person shall, if he is an  
20                           individual be liable, or where such person is a  
                                 company or body of persons whether corporate  
                                 or unincorporated, the secretary, manager or  
                                 other principal officer of such company or  
                                 body shall be personally liable, for the whole  
25                           of the tax which such person has been required  
                                 to deduct, and such tax may be recovered from  
                                 such individual, secretary, manager or other  
                                 principal officer, as the case may be, by any of  
                                 the means provided in this Act.

30                           (7) For the purpose of this section, the  
                                 expression "defaulter" shall be deemed to  
                                 include the agent of a person who is in default  
                                 and the provisions of this section shall apply  
                                 in any case where the tax which would have  
35                           been payable by any person if he were alive is

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in default; and for the purposes of the application of those provisions in any such case, the expression “defaulter” in subsection (1) means -

5 (a) the executor or administrator of a deceased person;

(b) any person who takes possession of or intermeddles with, the property of a deceased person; or

10 (c) any person who has applied or is entitled to apply to a District Court for the grant or resealing of a probate or letters of administration, in respect of the estate of a deceased person .

15 Transfer of immovable property to Government in lieu of payment of tax in cash. 10F. (1) Any person liable to pay tax in default under any of the laws specified in the Schedule to this Act , may apply to the Commissioner-General to transfer any immovable property owned by such person to the Government, in lieu of payment of such tax in cash at such value as is placed on such property by agreement between such person and the Commissioner-General, and the Commissioner-General may allow such application having regard to the feasibility of managing such property after it is transferred to the Government.

25  
30 (2) Where the Commissioner-General allows an application made under subsection (1), and the amount agreed to in accordance with the provisions of that subsection as the value of the property in respect of which the application is made, exceeds the amount of tax payable by the applicant, the excess shall

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                  be deemed to be a donation within the meaning  
                  of paragraph (b) of subsection (2) of section 34  
                  of the Inland Revenue Act, No. 10 of 2006,  
5               made to the Government of Sri Lanka by the  
                  applicant.

                  Tax in               10G. (1) The Commissioner-General may,  
                  default to be       by notice in writing given to any employer of  
                  recovered         an employee or to the person responsible for  
                  from               the payment of remuneration of an employee,  
                  remuneration     direct such employer or person to deduct during  
10           of           such period as may be specified in such notice,  
                  employees.       from the remuneration of such employee, the  
                           amount of tax in default payable by such  
                           employee , in such number of monthly  
                           instalments as may be specified in such notice.  
15                     The amount so deducted in each month from  
                           the remuneration of an employee shall be paid  
                           to the Commissioner-General by such employer  
                           or such person, as the case may be.

20               (2) Where any tax is deducted under  
                  subsection(1) from the remuneration of an  
                  employee by his employer or by the person  
                  responsible for the payment of such  
                  remuneration, such employee shall for the  
25           purposes of this Act, be deemed to have paid  
                  such tax or part thereof on the date on which  
                  the deduction is made.

                  (3) The Commissioner-General may at any  
                  time after he has made a direction under  
30           subsection (1), withdraw such direction wholly  
                  or partly by notice given in writing to the  
                  employer or the person responsible for the  
                  payment of the remuneration of the employee,  
                  if the employee has made arrangements to the  
35           satisfaction of the Commissioner-General, for  
                  the payment of his tax in default.



5 (4) Where any employee from whose remuneration any tax in default is to be deducted under the preceding provisions of this section by his employer or the person responsible for the payment of such remuneration, is about to leave or leaves his employment, the employer or such person shall deduct the whole amount of such tax or any balance thereof which he has been directed to deduct by the notice given to him by the Commissioner-General, from all or any payments payable by him to such employee, after he becomes aware that such employee is leaving, or has left, his employment.

15 (5) Where a direction for the deduction of any tax from the remuneration of an employee is given under subsection(1) to his employer or to the person responsible for the payment of such remuneration, and such employer or person is unable to deduct the whole or any part of such tax for the reason that such employee has left his employment or for any other reason, such employer or person shall forthwith give notice in writing to the Commissioner-General apprising him of the facts of the matter, and any tax which such employer or person has not deducted or cannot deduct, shall immediately become payable by the employee and be recovered by any of the means provided under this Act.

35 (6) Where the employer or the person responsible for the payment of remuneration to an employee has failed to deduct from such remuneration any tax which he has been directed to deduct under subsection (1), and such employer or person has failed to give notice to the Commissioner-General as required

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5 by subsection (5), within fourteen days of the  
date on which such deduction should have been  
made, or where such employer or person has  
deducted or could have deducted tax in any  
month from such remuneration in accordance  
with a direction under subsection (1), but has  
not paid the amount of such tax to the  
Commissioner-General by the fifteenth day of  
the following month, such employer or person,  
10 if he is an individual, shall be liable, or where  
such employer or person is a company or a  
body of persons, whether corporate or  
unincorporated, the secretary, manager or other  
principal officer of such company or body shall  
15 be personally liable, for the whole of the tax  
which such employer or such person has been  
directed to deduct under this section, and such  
tax may be recovered from such individual,  
secretary, manager or other principal officer  
20 by any of the means provided in this Act, and  
such tax shall be deemed to be in default.

(7) Every employer or other person who  
deducts tax from the remuneration of any  
employee in accordance with a direction under  
25 subsection (1), shall on request made by such  
employee, issue to him a certificate in such  
form as is specified by the Commissioner-  
General, of the amount of tax deducted.”.

30 **4.** 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.

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