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SOCIALIST REPUBLIC OF
SRI LANKA**

Part II of March 27, 2015

SUPPLEMENT

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NATION BUILDING TAX (AMENDMENT)

A

BILL

to amend the Nation Building Tax Act, No. 9 of 2009

Ordered to be published by the Minister of Finance

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STATEMENT OF LEGAL EFFECT

Clause 2 : This clause amends section 3 of the Nation Building Tax Act, No. 9 of 2009 (hereinafter referred to as the “principal enactment”) and the legal effect of the section as amended is -

- (a) to introduce a fresh calculation method for the payment of tax, in respect of the supply of financial services;
- (b) to impose liability on a person engaged in the business of real estate and development to pay tax for the income arising from such business; and
- (c) to exempt certain articles from the liability of the payment of tax.

Clause 3 : This clause amends section 6 of the principal enactment and the legal effect of the section as amended is to exclude a person other than a manufacturer to be entitled for tax credit under this Act.

Clause 4 : This clause inserts a new section 6B in the principal enactment and facilitates the use of electronic communications or electronic records.

Clause 5 : This clause amends section 10 of the principal enactment and the legal effect of the section as amended is to replace the definition of ‘service’.

Clause 6 : This clause amends the First Schedule to the principal enactment and the legal effect of the said Schedule as amended is to revise the present criteria of exemption relating to certain articles.

Clause 7 : This clause specify dates on which certain provisions come into force.

Clause 8 : This validates the acts performed by the Commissioner-General of Inland Revenue or the Director-General of Customs, in respect of the collection of tax during the period commencing from January 1, 2015 and ending on the date of operation of this Act.

Nation Building Tax (Amendment)

L.D.—O. 14/2015

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. (1) This Act may be cited as the Nation Building Tax (Amendment) Act, No..... of 2015, and shall be deemed to have come into operation from January 1, 2015, unless different dates of operation are specified hereunder. Short title and date of operation.

(2) The provisions of section 6B shall come into operation on such date as the Minister may appoint by Order published in the *Gazette*.

2. Section 3 of the Nation Building Tax Act, No. 9 of 2009 (hereinafter referred to as the “principal enactment”) as last amended by Act, No. 10 of 2014 is hereby further amended as follows:- Amendment of section 3 of Act, No. 9 of 2009.

(1) in subsection (2) of that section –

(a) in paragraph (iii) thereof by the repeal of the first proviso and substitution therefor of the following:-

”Provided that, the liable turnover from the supply of any financial service in Sri Lanka, by any person carrying on the business of providing financial services shall, notwithstanding anything to the contrary in any other provisions of this Act, be –

(a) for any quarter ending on or before September 30, 2014 and the period commencing on October 1, 2014 and ending on October 24, 2014, the value

5 addition attributable to such financial service, calculated for the purposes of applying the attributable method referred to in subsection (4) read with subsection (5) of section 25C of the Value Added Tax Act, No. 14 of 2002, for the payment of Value Added Tax on the supply of financial services; and

10 (b) for the period commencing from October 25, 2014 and ending on December 31, 2014 and for any quarter commencing on or after January 1, 2015, the value of supply referred to in subsection (2) of section 25A of the Value Added Tax Act, No. 14 of 2002:

20 Provided however, the value addition attributable to such financial services shall be computed for the payment of tax on the business of financial services for the purpose of this Act by applying the attributable method referred to in subsection (4) read with subsection (5) of section 25C of the Value Added Tax Act, No. 14 of 2002.”;

(b) by the insertion immediately after paragraph (iii) thereof, the following new paragraph:-

30 “(iiiA) For the purposes of paragraph (iii), with reference to any person referred to in paragraph (c) of subsection (1) of section 2 arising from the business of real estate and improvement thereon, means the value of that service ascertained for the purpose of Value Added Tax Act under subsection (7) of section 5 of the Value Added Tax Act, No. 14 of

2002, but does not include the value of any excepted service referred to in PART II of the First Schedule.”;

(c) in paragraph (iv) of that subsection-

5 (i) by the substitution in subparagraph (9) for the words “foreign currency; and” of the words “foreign currency;”;

(ii) by the repeal of subparagraph (10) and substitution therefor of the following new subparagraphs:-
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“(10) LP Gas;

(11) any motor vehicle identified under Harmonized Commodity Description and Coding Numbers for Custom purposes and liable to Excise Duty under the Excise (Special Provisions) Act, No. 13 of 1989, on the importation, including such motor vehicles remain unsold as at October 25, 2014 which would have been otherwise liable to such Excise duty on the importation, if they were imported after October 25, 2014, insofar as, such vehicles are sold by the importer himself;
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(12) cigarettes identified under Harmonized Commodity Description and Coding Numbers for Custom purposes and liable to Excise Duty under the Excise (Special Provisions) Act, No. 13 of 1989 and Cess under Sri Lanka Export Development Act, No. 40 of 1979, on the importation, including
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5 cigarettes in the stocks remain unsold as at October 25, 2014 which would have been otherwise liable to such Excise Duty and Cess on the importation if they were imported after October 25, 2014 insofar as, such cigarettes are sold by the importer himself.; and

10 (13) liquor identified under the Harmonized Commodity Description and Coding Numbers for Custom purposes and liable to Custom Duty under the Revenue Protection Act, No. 19 of 1962 and Cess under the Sri Lanka
15 Export Development Act, No. 40 of 1979 on the importation, including liquor imported prior to October 25, 2014 remain unsold as at October 25, 2014 which would have been otherwise
20 liable to such Custom Duty and Cess on the importation, if they were imported after 25th October, 2014 insofar as, such liquor is sold by the importer himself.”.

25 (2) in subsection (4) thereof, by the repeal of paragraph (iii) and the substitution therefor of the following:-

30 “(iii) the liable turnover of such person from the supply of any goods or services other than services referred to in paragraph (iv) and which does not exceed-

(a) the sum of five hundred thousand rupees if such relevant quarter is any quarter commencing on or after January 1, 2011 but prior to January 1, 2013;

(b) the sum of three million rupees if such relevant quarter is any quarter commencing on or after January 1, 2013 but prior to January 1, 2015; and

5 (c) the sum of three million seven hundred and fifty thousand rupees if such relevant quarter is any quarter commencing on or after January 1, 2015;”.

10 **3.** Section 6 of the principal enactment as last amended by Act, No. 9 of 2012 is hereby further amended in the end of the proviso thereof, by the substitution for the words commencing from “for the quarter immediately” to the end of that section, of the following:-
Amendment of section 6 of the principal enactment.

15 “for the quarter immediately succeeding that relevant quarter:

20 Provided further, in no circumstance, the excess shall be deemed to be an advance payment of tax paid under section 4 by any person other than such manufacturer and the set off shall not extend the liability to tax on the turnover from the business of manufacturing of any article.”.

4. The following new section is hereby inserted immediately after section 6A of the principal enactment, and shall have effect as section 6B of that enactment:-
Insertion of new section 6B in the principal enactment.

25 “Use of electronic communications or electronic records.
30 **6B.** The Minister may, on the recommendation of the Commissioner General of Inland Revenue, make regulations for the purposes of authorizing or facilitating the use of electronic communications or electronic records for matters specified in section 8 of the Electronic Transactions Act, No. 19 of 2006.”.

5. Section 10 of the principal enactment as last amended by Act, No.10 of 2011, is further amended, by the repeal of the definition of expression “service” and substitution therefor of the following new definition:-

Amendment of section 10 of the principal enactment.

5 “service” includes any business of real estate and improvement thereon, but for any period ended prior to January 1, 2011, does not include any excepted service specified in Part II of the First Schedule to this Act; and”.

10 6. The First Schedule to the principal enactment as last amended by Act, No. 10 of 2014, is hereby amended as follows:-

Amendment of First Schedule to the principal enactment.

(1) In PART I of that Schedule:-

15 (a) by the substitution for item (xxvi) thereof, of the following new item:-

“(xxvi) samples imported in relation to a business worth not more than-

20 (a) rupees twenty five thousand, where such samples were imported prior to January 1, 2015; and

(b) rupees fifty thousand where such samples are imported on or after January 1, 2015;

25 subject to such terms and conditions as may be set out by the Director-General of Customs;”;

(b) by the substitution for the item (XLV) thereof, of the following new item:-

- 5 “(XLV) any machinery or equipment imported or purchased locally for the purpose of generating electricity by the Ceylon Electricity Board established under the Ceylon Electricity Board Act, No. 17 of 1969 or any institution which has entered into an agreement with the Ceylon Electricity Board to supply electricity, being machinery or equipment classified under Harmonized Commodity Description Coding Numbers for Customs purposes and approved by the Minister of Finance;”;
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- (c) by the substitution in item (XLVI), for the words, “commencing from January 1, 2014.” of the words “commencing from January 1, 2014;”;and
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- (d) by the insertion immediately after item (XLVI), of the following new items :-”
- (XLVII) any machinery, equipment or spare parts imported by Sri Lanka Ports Authority to be used exclusively within its ports;
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- (XLVIII) any motor vehicle identified under Harmonized Commodity Description and Coding Numbers for Custom purposes and liable to Excise duty under the Excise (Special Provisions) Act, No. 13 of 1989, on the importation or any motor vehicle liable to the same Duty on manufacture of any such vehicle, including such
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manufactured motor vehicles remain unsold and in the possession of the manufacturer as at October 25, 2014;

5 (XLIX) cigarettes identified under the Harmonized Commodity
Description and Coding Numbers for Custom purposes and liable to
Excise Duty under the Excise (Special Provisions) Act, No. 13 of
10 1989 and Cess under Sri Lanka Export Development Act, No. 40 of
1979 on the importation or on the manufacture of the same, as the case
may be, including such
15 manufactured cigarettes in stock remain unsold as at October 25,
2014 which would have been otherwise liable to the same Duty
on manufacture, if the same is
20 manufactured after October 25, 2014; and

(XLX) liquor identified under the
25 Harmonized Commodity Description and Coding Numbers for
Custom purposes and liable to Custom Duty under the Revenue
Protection Act, No.19 of 1962 and Cess under Sri Lanka Export
Development Act, No. 40 of 1979
30 on the importation, or Excise Duty under the Excise Ordinance
(Chapter 52) on the manufacture, as the case may be, including such
35 manufactured liquor in the stock remain unsold as at October 25,
2014, which would have been otherwise liable to the same Duty, if
manufactured after October 25, 2014.”.

(2) in PART II of that Schedule:-

(a) by the substitution for item (vi) thereof, of the following new item:-

5 “(vi) the provision of finance leasing facilities in respect of any movable properties on any financial leasing agreement entered into prior to October 25, 2014;”;

10 (b) by the substitution for the item (vii) thereof, of the following new item:-

“(vii) service-

(a) prior to January 1, 2011, of a construction contractor, not being a subcontractor; or

15 (b) on or after January 1, 2011, of a construction contractor or subcontractor,

20 insofar as such services are in respect of constructing any building, road, bridge, water supply, drainage or sewerage system, harbor, airport or any infrastructure project in telecommunication or electricity;”;

(c) by the substitution for the item (xiii) thereof, of the following new item:-

25 “(xiii) the services of an auctioneer, broker, insurance agent or commission agent of any local produce to the extent of the brokerage receivable of an auctioneer or broker or commission
30 receivable by such insurance agent or commission agent, as the case may be;”;

(d) by the substitution for the item (xxviii) thereof, of the following new item:-

5 “(xxviii) telecommunication services liable to the telecommunication levy under the Telecommunication Levy Act, No. 21 of 2011, and the services specially excluded from such liability in defining the telecommunication services in that Act.(effective from January 1, 2014)”

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(e) by the substitution in item (xxxvi) for the words, “of the Government; and”, of the words “of the Government;”;

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(f) by the substitution in item (xxxvii) for the words, “for payment in foreign currency.”, of the words “for payment in foreign currency; and”; and

20 (g) by the addition immediately after item (xxxvii) of the following new item:-

25 “(xxxviii) The business of real estate and improvement thereon, being construction and sale of residential accommodation, insofar as the value of the construction project relating to the supply of such residential accommodation is less than ten million United States dollars or its equivalent any other currency”.

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7. Paragraphs (11), (12) & (13) of section 3 (2) (iv) and items (XLVIII), (XLIX) and (XLX) of the PART I of the First Schedule shall be deemed, for all purposes, to have come into force on October 25, 2014, and item (xxviii) of the PART II of the First Schedule shall deemed to have come into effect from January 1, 2014.

Retrospective effect.

8. 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 tax calculated considering the provisions of this Act, during the period commencing from January 1, 2015 and ending on the date on which the certificate of the Speaker is endorsed in respect 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:

Validation.

Provided that the aforesaid provisions of this section shall not affect any decision or order made by any court or any proceeding pending in any court in respect of any tax collected during the aforesaid period.

9. 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 an inconsistency.

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