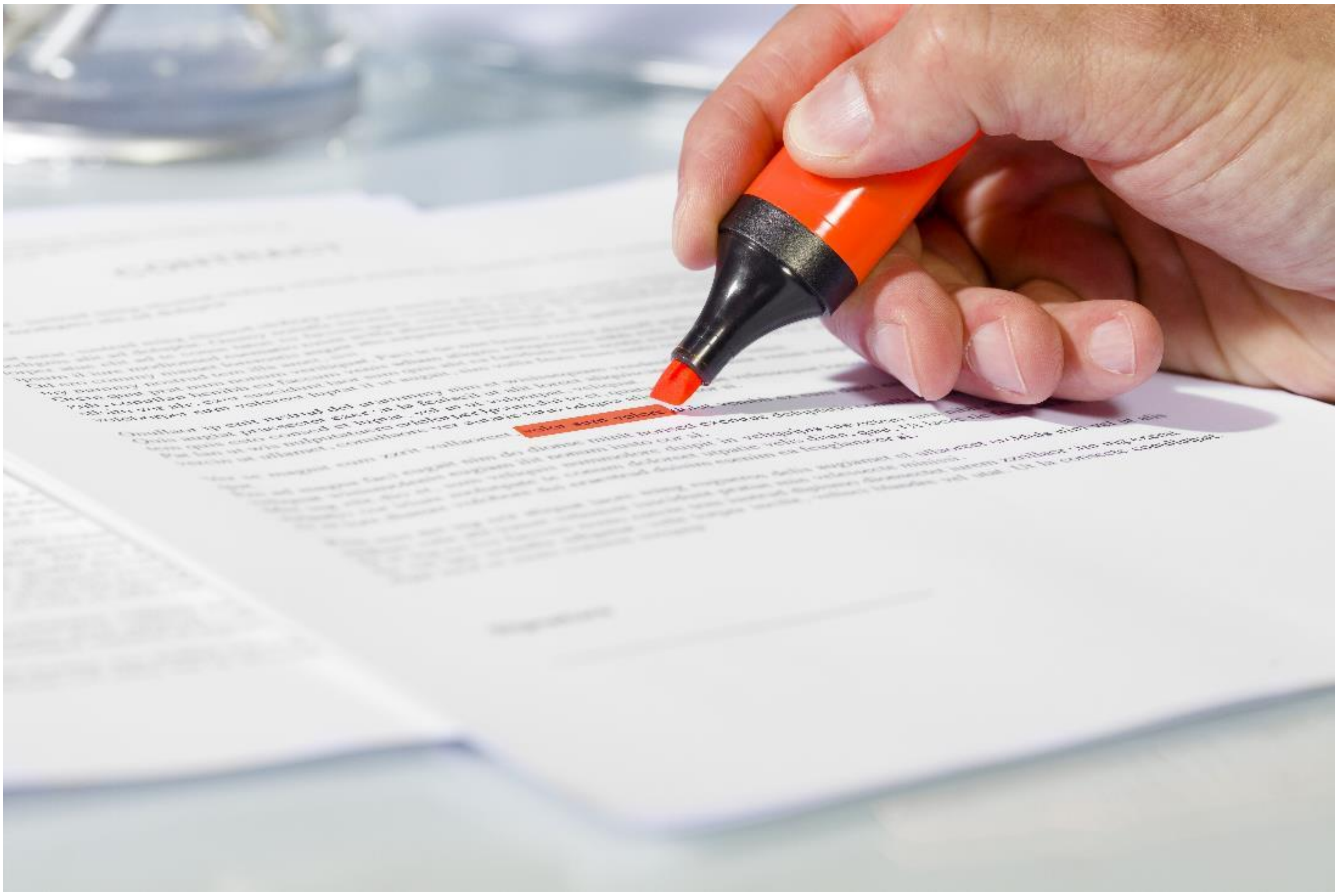
Tax Alert – Deloitte

Sharp Insights

Overview

The Inland Revenue Act No.24 of 2017 came into effect on the 01st of April 2018. Important changes and concepts have been introduced by this act such as capital gains, permanent establishment etc. The IMF stated that the implementation of the new act shall broaden the tax base by removing excess tax incentives; modernize rules related to cross-border transactions to address base erosion and combat tax avoidance; reduce complexity through an improved principles-based drafting style; and strengthen and clarify existing powers of the Inland Revenue Department to improve enforcement.

Important changes were made and introduced by the Inland Revenue Act No.24 of 2017 which came to effect on the 01st of April 2018.



Key Highlights

The sources of income have been compressed and re-directed under the following headings –

- Employment
- Business
- Investment
- Other

- In terms of computation of taxable income, “Statutory Income” has been removed.
- Tax Period -

- 1st of April of any year to 31st March of immediately succeeding year (year of assessment).

- A trust or company can change the year of assessment with the prior approval of the Commissioner General.

Employment Income

- Employment income to be taxed under progressive rates up to 24% and slabs applicable for taxable income of an individual have been revised.

  - The maximum tax rate of 16% on employment income has been removed and individuals who are employed shall fall within the standard progressive tax slabs.

  - The tax free threshold on income from employment has been increased to Rs. 1,200,000 per annum (Rs. 100,000 per month) from Rs.750,000/-.

- Qualifying payment relief on employment income of resident individuals has been increased from Rs. 250,000/- to Rs. 700,000/-.

- Tax free allowance of Rs.500, 000/- shall be available for a resident individual and to a non-resident being a citizen of Sri Lanka.

Business Income

Capital Allowances

- Capital allowance rates have been revised. Enhanced depreciation has been afforded to specified investments, in addition to capital allowance at 100%, 150% and 200% with certain conditions.
- In addition to the depreciation allowance, balancing allowance that is the loss on realization (disposal) of depreciable assets can be deducted in calculating the business profit.
- Assets have been classified as capital assets, depreciable assets and investment assets.

- Depreciable assets –

- Computers, vehicles, office furniture, transportation equipment, public utility plant etc. and other - 20% for 5 years.
- Buildings, structures and similar works of a permanent nature – 5% for 20 years.
- Intangible assets other than good will – actual useful life of such asset or if such asset has indefinite useful life - 5% for 20 years.

Losses

- Losses incurred from business can be set off against income from business and income from investment.
- Losses from investment can be set off only against investment income.
- Excess loss can be carried forward and set off against the future income for subsequent 6 years.

Withholding Tax

- Withholding tax scope has been expanded and tax rates have been revised.
- Certain service fees and rent payments would be liable to withholding tax.
- Distribution of dividends by a resident company are subject to final withholding tax. The WHT rate applicable is 14%. Liability is of the shareholder. The company is only a withholding agent.
  Definition of "dividend" has been revised to include share repurchase and capital reduction.
  Minimum dividend distribution requirements have not been stipulated in the new Act. Deemed Dividend Tax liability will not arise under the new act.
- The WHT rate applicable to interest has been revised to have a single rate at 5%.
- The WHT deducted from interest will be a final withholding for an individual and to a charitable institution.
- Others, including companies must declare the gross interest income and they are entitled to claim tax credit for the WHT deducted.
- No WHT will be deducted from interest or discount on Treasury Bond and Treasury Bill.
- Resident financial institutions are not subject to withholding tax on interest income on ordinary loans and advances provided.
- WHT will be deducted on each partner's Share of any Partnership income allocated to such partner at the rate of 8%.

Non Residents

- A non-resident person who carries on business in Sri Lanka through a permanent establishment (PE), must pay tax on the remitted profits earned within the year of assessment.
- The tax rate will be 14% and is payable within 30 days after making such remittances.
- "Permanent establishment" concept has been introduced to ascertain the business income of a non-resident.

- Provision has been specifically made under the Act for entering into advance transfer pricing agreements between any person and the Commissioner General of Inland Revenue (CGIR) in respect of arm's length price.
- For the determination of arm's length price safe harbor rules may be specified by the CGIR.

Capital Gain

- Capital Gains tax has been reintroduced at the rate of 10%.
    - Capital gains not exceeding Rs.50,000/- per transaction and not exceeding total gains of Rs.600,000 for a year of assessment is exempted.
    - Gain from the sale of principle place of residence is exempted under certain conditions.
    - Gain from sale of quoted shares is exempted.
    - Capital loss on realization of investment asset cannot be set off against any gain.
    - Tax due on the realization of an investment asset must be settled within one month of such realization and the capital gains tax return must also be filed with the Department of Inland Revenue within one month after the realization of the Investment Asset.

Exemptions – General

- Exemptions have been restructured and most of the established exemptions have been removed.
- An individual who is a senior citizen in a year – out of the total interest income derived from a Financial Institution for a year of assessment, up to LKR 1,500,000 will be exempted.
- In the case of a resident individual or partner of a partnership with income earned in foreign currency in Sri Lanka from any service rendered in or outside Sri Lanka to any person to be utilized outside Sri Lanka, Rs.15Mn for each year of assessment, up to a total of such income for the year is exempted.

Administration Provisions

Payments

- Payments by withholding
    - PAYE on employment income and WHT on certain investment return and service fee will be deducted at the time of payment or credit.

- Payment by installment
    - Quarterly installment due date for person closing accounts on 31st March -
        - On or before 15th August, 15th November, 15th February and 15th May of the following year.
    - Any company or trust closing accounts on any other day (other than 31st March) -
      On or before the 15th day after each three months period.
    - An installment payer may estimate the tax payable for the Y/A 2018/19 by increasing 5% of the tax payable for 2017/18.

- Payments on assessment
    - The due date for payment of the tax shown as payable in the return (the balance tax payable after deducting instalment payments and WHT payments) is the return due date. Generally 30th November each year.

- Payments under notice
    - The due date for payment is the date stated in the notice.

Returns due date

- Generally 30th November
- Person who closes accounts on a date other than 31st March should file return of income within 8 months from the end of the year of assessment.

Assessments

- Self-Assessments
    - When a tax payer has filed a self-assessment return it is treated as an assessment of the amount of tax payable has been made, or an assessment of the amount of loss has been made.

- Default Assessment
  - If the return is not filed on due date the Assistant Commissioner (A.C.) may issue a notice of default assessment at any time. (no time limit)

- Advance assessment
  - The A.C. based on such evidence may issue an advance assessment before the return is filed and before the due date to file the return.

- Amended or additional assessment
  - The A.C. may amend an original assessment (self-assessment, default assessment or advance assessment) within 30 months from the date of the return or from the date of the notice served.

Due Dates
When a due date to perform an act (payment, filing return etc.) falls on a holiday, the next succeeding working day will be considered as the due date.

Interest
Interest on under payments

If any amount of tax is not paid on the due date	–	at the rate of 1 ½% per month or part month compounded monthly, till the date tax is paid

Interest on refundable amounts

If the return is not made within 60 days of the claim, interest has to be paid to the tax payer from the later of (i) the due date, or (ii) the date of payment Until the date of refund	–	at the rate of ½% per month or part month compounded monthly

`

For Non Compliance	Penalty
A liable person not registered for Income Tax	Not exceeding Rs.50,000/=
Being a tax payer for not informing change of name, address, nature of trade etc.	Not exceeding Rs.50,000/=
For failure to notify name of the appointed representative of a company	Not exceeding Rs.50,000/=
For not filing return on due date	The greater of a) 5% of the tax payable and 1% of the tax for each month or part month till filing return, and b) Rs.50,000 and Rs.10,000 for each month or part month till filing return. However, the maximum amount is limited to Rs.400,000.

Late Payment	Penalty
Installment payment not paid within 14 days of the due date	10%
Self-assessment payment not paid within 14 days of the due date	20%
On notice of assessment not paid within 14 days of the due date	20%

Further, heavy penalties will be imposed for fraudulent under payment, false statement, failure to maintain documents and failure to comply with notice etc.