



## **Withholding Tax (WHT) Payments under the Inland Revenue Act No.24 of 2017**



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Pursuant to the implementation of the new Inland Revenue Act No.24 of 2017 ("IRA") with effect from 1 April 2018, the Department of Inland Revenue has issued guidelines to withholding agents under Circular No. SEC/2018/06 dated 18 April 2018.

We highlight below the salient guidelines enumerated under the circular, on the deduction of WHT on payments to residents and non-residents under Section 84 and Section 85 of the IRA.

### Payments covered for WHT deduction

#### Section 84

##### WHT on Investment returns:

WHT on investment returns should be deducted from any payment or allocation which has a **source in Sri Lanka** and is made by a person, i.e., a WHT agent) to **any resident or non-resident person**.

- a. Payment of dividends, interest, discount, charges, natural resource payments, rent, royalty, premium or retirement payment;
- b. Winnings from lottery, reward, betting or gambling;
- c. A partner's relevant share of partnership income of the Partnership;
- d. Sales price payable to the seller of any gem sold at an auction conducted by the National Gem and Jewelry Authority.

## Section 85

### Payments to a resident individual:

- e. Service fee and contract payments as detailed below, paid by a person (i.e., the withholding agent) with a source in Sri Lanka **to a resident individual** who is not an employee of the payer:
- Teaching, lecturing, examining, invigilating, or supervising an examination;
  - Commission or brokerage to a resident insurance, sale or canvassing agent;
  - Endorsement fee;
  - Supply of any article on a contract basis through tender or quotation;
  - Any service provided in the capacity of independent service providers such as doctors, engineers, accountants, lawyers, software developers, researchers, academics or any other similar service \*;
  - Any service of construction work, security service, janitorial service, consultation work of any kind, organizing of events, catering, designers, dress makers, tour guidance, entertainment, agency functions or any similar services or connected work where such services are provided under an agreement or otherwise \*;
  - Any management service \*;
  - Any type of vocational services provided as an independent service provider\*.

**\* Extraordinary Gazette notification no.2064/51<sup>1</sup> dated 01<sup>st</sup> April 2018 has been issued in respect of these services.**

### Payments to a non-resident person:

- f. Service fee or insurance premium with a source in Sri Lanka paid by a person to **a non-resident person**  
g. Payments for Land, sea or air transport or telecommunication services as detailed below paid by a resident person to a **non-resident person**:

#### Land, sea, air transport

- The carriage of passengers who embark or cargo, mail or other moveable tangible assets that are embarked in Sri Lanka, other than a result of transshipment; or
- Rental of containers and related equipment which are supplementary or incidental to carriage referred to above.

#### Telecommunication services

- Payments received by a person who conducts a business of transmitting messages by cable, radio, optical fibre or satellite or electronic communication in respect of transmission of messages by apparatus established in Sri Lanka, whether or not such messages originate in Sri Lanka.

### Time of Deduction of WHT

Tax should be deducted at the time:

- The payment is made to any person; or
- Credited to a bank account on behalf of recipient; or
- Allocation of partner's relevant share of partnership income;
- The service fee or contract payment is paid to any person.

### Circumstances for non-deduction of WHT

- a. Payments by employers to employees subject to PAYE;
- b. Payments made by individuals, unless made in conducting a business;
- c. Interest paid to a resident financial institution on the ordinary loans and advances provided by it;
- d. Interest or discount paid to any person on Security or Treasury Bond or Treasury Bill;
- e. Payments or allocations exempt under section 9 of the IRA \*\*\*;
- f. Payments of a service fee in respect of which ESC is payable by withholder \*\*\*.

**\*\*\* Note: The withholding agent must seek from the withholder a certificate issued by the Commissioner General of Inland Revenue confirming that the withholder is qualified for this exemption. Such Certificate can be obtained from the Business Consultation Unit or any Regional Office by making a request.**

<sup>1</sup> Extraordinary Gazette notification no.2064/51 : [http://www.ird.gov.lk/en/publications/Gazette\\_Documents/2018\\_2064-51\\_E.pdf](http://www.ird.gov.lk/en/publications/Gazette_Documents/2018_2064-51_E.pdf)

### Rates of deduction

- WHT on investment returns to resident and non-resident persons\*

	WHT rate %
Interest paid to a senior citizen – on amounts exceeding Rs.1.5 Mn <sup>2</sup>	5
Interest or discount paid to a person (other than to a senior citizen)	5
Rent paid to a resident person	10
Allocation of Partnership income	8
Sale of gems through gem auctions	2.5
All other cases of investment returns	14

- WHT on payments to resident individuals and non-resident persons\*

	WHT rate %
Service fees paid to resident individuals, covered under section 85 paragraph (e) referred to above: (on amounts exceeding LKR 50,000 per month)	5
Service fees paid to non-resident persons*	14
Insurance premiums paid to non-resident persons*	14
Payments in respect of land, sea or air transportation and telecommunication services to a non-resident person*	2

\* **Note: When the payment is to a non-resident person and the rate under the IRA is higher than the tax rate specified in the Double Tax Avoidance Agreement (DTAA), the rate under the DTAA should be applied. In such instances, a confirmation from the International Tax Branch of the Department of Inland Revenue should be obtained.**

### Registration as a WHT Agent

For the purposes of deducting WHT from any withholdee, all WHT agents must obtain a registration number from the **Tax Type Registration** Unit of the Department of Inland Revenue.

A WHT agent, must first obtain a Tax Payer Identification (TIN) number from the **Primary Registration Unit** or **relevant regional office** as a pre-requisite for registration as a WHT agent.

### Calculation of WHT

The WHT deduction should be made on the gross invoice value (inclusive of all taxes except VAT).

### Certificate of WHT Deduction

The withholding agent must issue a Certificate of Tax Deduction covering a calendar month, to every withholdee within 30 days after the end of the month, in respect of each deduction in the format specified under **Annexure 1(a), (b) or (c)**<sup>3</sup> of the Circular.

Where it is a computer generated certificate the following phrase should be included: **"This is a computer generated certificate. Therefore no signature is required."**

### Payments of tax withheld or treated as withheld

- Every withholding agent must pay to the Commissioner General **within 15 days after the end of each calendar month**, any tax that has been withheld during the month. The monthly payment of the relevant tax,

<sup>2</sup> Senior citizens must make a declaration as per Annexure 1 of Circular No. SEC/2018/01 issued on 16.03.2018 : [http://www.ird.gov.lk/en/publications/Circulars\\_Circulars/SEC\\_2018\\_01\\_E.pdf](http://www.ird.gov.lk/en/publications/Circulars_Circulars/SEC_2018_01_E.pdf)

<sup>3</sup> Refer circular for relevant annexures : [http://www.ird.gov.lk/en/publications/Circulars\\_Circulars/SEC\\_2018\\_06\\_E.pdf](http://www.ird.gov.lk/en/publications/Circulars_Circulars/SEC_2018_06_E.pdf)

should be credited to the People's Bank Account No. 014-1002-6-9026620 through the paying-in- slip issued by the Department of Inland Revenue.

- b. A withholding agent, who fails to withhold tax in accordance with the provisions in the IRA, does not absolve the agent from the requirements under the IRA. Accordingly, the withholding agent must pay the tax that should have been withheld in the same manner and at the same time as tax that is withheld.

### **Submission of returns and schedules**

#### **Returns**

All registered withholding agent must file an annual statement specified Commissioner General of Inland Revenue within 30 days from the end of each year (on or before 30 April), even in instances where no tax is payable

#### **Schedules<sup>4</sup>**

The following schedules must be furnished along with the annual WHT statement as applicable:

- Payments on which WHT is deducted – schedule formats as per **Annexure 2 (a), (b), (c)**
- Payments where WHT has not been deducted – schedule format as per **Annexure 3**

**Note: Schedules are required to be furnished in (Excel csv format) electronic form.**

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<sup>4</sup> Refer circular for relevant annexures : [http://www.ird.gov.lk/en/publications/Circulars\\_Circulars/SEC\\_2018\\_06\\_E.pdf](http://www.ird.gov.lk/en/publications/Circulars_Circulars/SEC_2018_06_E.pdf)



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