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உள்நாட்டு இறைவரித் திணைக்களம்  
INLAND REVENUE DEPARTMENT

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My No: SEC/2021/07

September 17, 2021

**FINANCE ACT, No. 18 of 2021 (PART I)**  
**EXPLANATORY NOTE FOR IMPOSING TAX ON VOLUNTARY**  
**DISCLOSURE**

In terms of the provisions of the Finance Act, No. 18 of 2021 (hereinafter referred to as the “Finance Act”), any person may make a declaration (hereinafter referred to as the “Declarant”) to the Commissioner General of Inland Revenue (CGIR) in respect of his undisclosed taxable supply, income or asset which was required to be disclosed under the provisions of the Value Added Tax Act No. 14 of 2002 (VAT Act), or any of the Inland Revenue Acts (the Act No. 24 of 2017, Act No. 10 of 2006, Act No. 38 of 2000 or Act No, 28 of 1979); as the case may be; for any period or year of assessment ended on or prior to March 31, 2020. Such declaration is required to be made in the specified form on or before March 31, 2022, as set out below.

**1. IMPOSITION**

A tax called “Tax on Voluntary Disclosure” is imposed at 1% on those who opts to make a declaration seeking immunity under section 6 of the Finance Act.

**2. APPLICABLE PERSONS**

This tax is applicable for any person who seeks immunity under Section 6 of the Finance Act, and who -

- (a) has not declared any amount of taxable supplies which is required to be declared in a Value Added Tax (hereinafter referred to as the “VAT”) return furnished for any taxable period ended on or prior to March 31, 2020; or
- (b) has not declared any amount of income or asset which is required to be declared in a return of income furnished for the any year of assessment ended on or prior to March 31,2020.

Such person may have not registered for VAT or income tax, or have not furnished respective returns; as the case may be. However, any person who has collected VAT on the supply of goods or services from customers is not entitled for the immunity on such VAT collected amounts.

The applicable persons may include:

- Resident individuals;
- Non-resident individuals (whether citizens of Sri Lanka or not);
- Resident companies;
- Non-resident companies carrying on business in Sri Lanka;
- Partnerships;
- Trusts or trustees;
- Unit trusts and mutual funds;
- Clubs or societies;
- Funds;
- Non-governmental organizations;
- Charitable institutions;
- Other body of persons.

### **3. EXCLUDED PERSONS AND AMOUNTS**

**3.1** Following **Persons** are excluded and therefore, are not entitled for the immunity granted under Section 6 of the Finance Act.

- (a) any person in relation to whom investigations or legal proceedings are pending on any undisclosed taxable supply, income or asset; or
- (b) any person who has been convicted of an offence in relation to any undisclosed taxable supply, income or asset;

under the provisions of-

- (i) Prevention of Money Laundering Act, No. 5 of 2006,
- (ii) Convention on the Suppression of Terrorist Financing Act, No. 25 of 2005,
- (iii) Bribery Act (Chapter 26),
- (vi) Conventions against Illicit Traffic in Narcotic Drugs and Psychotropic Substances Act, No. 1 of 2008.

**3.2** Any **amount** of undisclosed taxable supply, income or asset held by any person for which assessments have been made under any of the Inland Revenue Acts, VAT Act, Betting and Gaming Levy Act, No. 40 of 1988, Finance Act, No. 11 of 2002, Stamp Duty Act, No. 43 of 1982 or Stamp Duty (Special Provisions) Act, No. 12 of 2006 is also excluded and therefore, is not entitled for the immunity granted under Section 6 of the Finance Act.

### **4. AMOUNTS TO BE DECLARED**

Any amount of undisclosed taxable supply which has not been declared in a VAT Return for any taxable period ended on or prior to March 31, 2020, or income or asset which has not been declared in a return of income for any year of assessment ended on or prior to March 31, 2020 are the amounts qualified to be declared.

In case where a person has collected VAT on the undisclosed taxable supplies made, such person may declare such undisclosed taxable supplies, together with any undisclosed income, or asset, but immunity is granted only on the undisclosed income or asset.

## 5. APPROVED INVESTMENTS

### 5.1 Undisclosed Taxable Supply or Income Held as Money

In terms of section 3 of the Finance Act, any person who seeks the immunity, shall be required to invest the amounts of undisclosed taxable supply, income or asset (money) prior to March 31<sup>st</sup> 2022 in,

- (a) shares issued by a resident company;
- (b) treasury bills or treasury bonds issued by the Central Bank on behalf of the Government of Sri Lanka;
- (c) any quoted debt securities issued by a resident company in Sri Lanka; or
- (d) any movable or immovable property **in Sri Lanka**.

If not, such person may deposit the same amount in a bank account in Sri Lanka prior to March 31, 2022. Further, money held in any foreign currency in or outside Sri Lanka may also be deposited in a bank account in Sri Lanka prior to the declaration.

It is a choice of any Declarant to deposit such foreign currency either in Sri Lankan rupee or in foreign currency, subject to the regulations of the Central Bank of Sri Lanka (CBSL).

Declarants are allowed to submit their declarations, after the above investments or deposits are made.

### 5.2 Undisclosed Taxable Supply or Income Invested in Asset

If any person has invested his amount of undisclosed taxable supply, income or asset prior to September 15, 2021, in,

- (a) shares issued by a **resident company**;
- (b) treasury bills or treasury bonds **issued by the CBSL** on behalf of the Government of Sri Lanka;
- (c) any quoted debt securities issued by a **resident company in Sri Lanka**;
- (d) any movable or immovable property in or outside Sri Lanka; or
- (e) a bank in Sri Lanka as a deposit (in any account maintained in LKR or foreign currency)

Such person is also allowed to make a Declaration under the Finance Act and above investments or deposits could be declared in the Declaration.

## 6. INTERPRETATIONS

“**Asset**” means “money or any **immovable or movable property**, including bank balances, financial instruments, shares, derivatives, treasury bills, fixed deposits, time deposits, bonds or other forms of deposits, money given by way of security or loans, cash, gem or gold in hand, any other monetary right but excluding any intangible asset unless such intangible asset unless such intangible asset has been purchased by the taxpayer (*Declarant*) from any other person.”

“**Immovable property**” includes any building in Sri Lanka or abroad whether constructed or under construction.

**“Movable property”** includes all forms of movable property in Sri Lanka or abroad including gold but does not include money.

Accordingly, trading stocks, trade debtors, loans or other receivable amounts, gems, jewellerys, vehicles, house-hold equipment, machineries and computer equipment are also considered as movable properties and as assets. Money is considered as an asset, but not as a movable property. A confirmation from an approved auditor for a trading stock, confirmation from relevant debtor for trade debtors or receivable amounts, and certification or valuation issued by the National Gem and Jewellery Authority for gems, could be submitted to prove the cost or market value of such assets as the case may be.

If there is any undisclosed asset acquired through a finance lease facility, all lease payments (including any down payment) made as at March 31, 2020 on such finance lease agreement could be declared with a copy of lease agreement and payment confirmation from the lessor.

## **7. CALCULATION OF TAX**

As per section 4 of the Finance Act, a person who seeks the immunity, shall pay 1% of tax called “Tax on Voluntary Disclosure” calculated as follows;

- (a) If the declarant intends to disclose, undisclosed taxable supply, income or asset (Money), then the 1% of tax shall be calculated on such amount invested, or the money deposited.
- (b) If the declarant intends to disclose, any immovable or movable property already invested, then the 1% of tax shall be calculated on the **market value** of such property on the date (or the closer date) of the declaration.

In circumstances, where the money is in foreign currency or the asset is held outside Sri Lanka, valuation should be obtained as follows;

- i. Confirmation of the amount or the valuation of the asset should be obtained in foreign currency from the relevant bank or relevant authority
- ii. Such value should be translated into Sri Lanka Rupees at the buying rate using the exchange rate published by the CBSL at the date of declaration.

The tax paid as above is not a tax credit or an expenditure within the meaning of the Inland Revenue Act, No. 24 of 2017 (IR Act) and not refundable under any circumstances.

## **8. SUBMISSION OF DECLARATION**

Person who has invested or deposited any undisclosed taxable supply, income or asset as specified in section 3 of the Finance Act and has paid Tax on Voluntary Disclosure are the persons who are entitled to submit a declaration under Section 5 of the Finance Act.

Accordingly, a declaration should be submitted in an applicable form specified in the Finance Act after paying the Tax on Voluntary Disclosure on or prior to March 31, 2022. This form could be downloaded from the IRD web-portal via: [Downloads/Forms and Returns/Tax on Voluntary Disclosure \(TVD\)](#)

Declarants are required to refer to the “**Guideline on the manner of payment and filing the declaration for person who pays Tax on Voluntary Disclosure seeking immunity under Section 6 of the Finance Act, No. 18 of 2021**” issued under the reference No. SEC/2021/06 dated September 17, 2021.

## **9. ACCEPTANCE OF DECLARATION**

The declaration, if it is in accordance with the provisions of the Finance Act, is accepted and such acceptance is informed to the declarant within 30 days of the receipt of the declaration.

If the declaration is not in accordance with the provisions of the Finance Act, such declaration is rejected with reasons, and the same will be notified by registered post within 30 days of the receipt of such declaration.

The declaration will be rejected in the following circumstances;

- (a) The declarant has failed to meet the investment or deposit requirements
- (b) The Tax on Voluntary Disclosure has not been paid
- (c) The declaration is not in the applicable specified form
- (d) The declarant has not met respective due dates
- (e) The assessments have been already issued by the IRD in relation to the amount of undisclosed taxable supply, income or asset
- (f) Any other reason communicated by the CGIR

However, a fresh declaration could be submitted in lieu of the rejected declaration within 30 days of the receipt of the rejection letter, if the defects mentioned in the rejection letter can be remedied. Having verified the defect, the fresh declaration will be accepted.

If the acceptance of the declaration or the rejection of the declaration has not been communicated within 30 days, it is deemed that the declaration has been accepted by the CGIR.

All declarations with attachments are kept in the safe custody under the Commissioner General’s supervision.

## **10. SECRECY ON THE INFORMATION PROVIDED IN THE DECLARATION**

In line with Section 7 of the Finance Act, the CGIR or any officer of the Inland Revenue Department shall preserve and aid in preserving official secrecy in respect of the identity of a declarant and any matter contained in the declaration.

Further, rules designed to preserve the taxpayer-privacy under the provisions of Section 100 of the IR Act, together with punishments provided on the breach of such secrecy shall apply for this Act as well.

## 11. IMMUNITY FOR DECLARANTS

Any person whose declaration has been accepted or is deemed to have been accepted by the CGIR shall be entitled to enjoy the full immunity from liability to pay any tax, penalty or interest or from any investigation or prosecution,

- in relation to any year of assessment ended on or prior to March 31, 2020 and in relation to the income or asset disclosed in the declaration under the provisions of Inland Revenue Acts;
- in relation to any period ending on or prior to March 31, 2020 and in relation to the amount of taxable supplies disclosed in the declaration under the provisions of the VAT Act. However, if the declarant has collected VAT on the undisclosed taxable supplies or part thereof, immunity is not granted in relation such undisclosed taxable supply.

In any case where the CGIR finds that the declarant has provided false or incorrect information in the declaration made, the immunity granted as above shall be withdrawn, even though the declaration has been acknowledged or is deemed to have been acknowledged by the CGIR. The provision of the relevant laws shall be applicable in such cases.

Immunity shall not be granted for any year of assessment or period commencing on or after April 1<sup>st</sup> 2020.

## 12. ADJUSTMENTS FOR FINANCIAL STATEMENTS AND RECORDS

A declarant who is entitled for the full immunity should account his/entity's undeclared business assets or other assets in the relevant balance sheet as at March 31, 2021 (if the acceptance of the declaration has been received prior to September 30, 2021), or March 31, 2022 (for other cases).

The corresponding adjustment of the undeclared asset could be credited to the retained earnings of the balance sheet of the respective year (2020/2021 or 2021/2022). However, corresponding adjustments, if any, to **reduce any liability** account is not permitted. In case where the undeclared asset was financed through an undeclared loan, then, net amount [Amount (cost) debited to the asset account – Amount credited to the retained earnings] can be credited to a liability account (such loan) by increasing the same.

An individual declarant who is not required to prepare a balance sheet is allowed to declare undisclosed personal assets for which the immunity have been granted, under the “Statement of Assets and Liabilities” which would be submitted with the return of income for the year of assessment ending on March 31<sup>st</sup>, 2021 (if the acceptance of the declaration has been received prior to September 30, 2021), or March 31, 2022 (for other cases).

Provisions of the IR Act or the VAT Act; as the case may; are applicable in respect of the declared assets in the declaration for any period or year of assessment on or after 01.04.2020.

### 13. FURTHER CLARIFICATIONS

For further clarifications, if any, you may send email via: [tpl@ird.gov.lk](mailto:tpl@ird.gov.lk) or contact any of following officers via following telephone Nos.

Deputy Commissioner General (Tax Policy, Legislation & International Affairs) - 0112135300  
Senior Commissioner (Secretariat) - 0112135410  
Commissioner (Tax Policy & Legislation) - 0112135412  
Senior Deputy Commissioners (Tax Policy & Legislation) - 0112135433/438/434/441/435/432



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