

SURCHARGE TAX

Brief analysis of the contents of the Bill issued to provide for the imposition of surcharge tax and for matters connected therewith and incidental thereto.

Who is Chargeable?

Any individual, partnership or company

Any individual, partnership or company whose taxable income calculated in accordance with the provisions of the Inland Revenue Act, No. 24 of 2017, exceeds rupees 2,000 million, for the year of assessment commenced on April 1, 2020.

Provided however, the income of a partner derived from a partnership shall not be taken into account when calculating the taxable income of such partner as an individual under this paragraph, if the tax has been paid by the partnership on such taxable income.

Each company of a group of companies

Each company of a group of companies of which the aggregate of the taxable income of all subsidiaries and the holding company in that group of companies, calculated in accordance with the provisions of the Inland Revenue Act, No. 24 of 2017, exceeds rupees 2,000 million, for the year of assessment commenced on April 1, 2020.

In calculating the aggregate of the taxable income, any subsidiary or any holding company of such group of companies which has a nil amount due to losses or unrelieved losses, shall not be taken into account.

How to Calculate the Tax?

Any individual, partnership or company	Each company of a group of companies
<p>At the rate of 25% on the taxable income of such individual, partnership or company, for the year of assessment commenced on April 1, 2020.</p>	<p>At the rate of 25%, on the taxable income of each such company after deducting the gains and profits from dividends received from a subsidiary which is part of such taxable income of each such company, for the year of assessment commenced on April 1, 2020, notwithstanding that the taxable income of any one of such companies does not exceed rupees 2,000 million.</p>

Taxable Income Definition

BOI company	Taxable income in relation to a company which has entered into an agreement with the Board of Investment of Sri Lanka under section 17 of the Board of Investment of Sri Lanka Law, No. 4 of 1978 and has become liable to income tax determined in accordance with such agreement, after the expiration of its period of tax exemption set out in such agreement means the profit before income tax and the tax levied under this Act of such company as per the audited financial statement.
Individual, a partnership, a company and the subsidiaries and the holding company of a group of companies	Taxable income in relation to individual, a partnership, a company and the subsidiaries and the holding company of a group of companies shall have the same meaning assigned to such expression under section 3 of the Inland Revenue Act, No. 24 of 2017.

Payment of Tax and Tax Returns

Payment of Tax	Tax Return
<p>Every individual, partnership, company and the subsidiaries and the holding company of every group of company liable to pay the tax under this Act, shall pay the tax in two equal installments on or before, March 31, 2022 and June 30, 2022, to the Commissioner General.</p>	<p>Every individual, partnership, company and the subsidiaries and the holding company of every group of company chargeable with the tax under this Act shall on or prior to March 31, 2022, furnish in writing to the Commissioner General, a tax return in the specified form containing such particulars as may be specified by the Commissioner-General.</p>

Default in payment of the tax / Application of the certain provisions of the Inland Revenue Act

Default in payment of the tax

Where any individual, partnership, company or the subsidiaries and the holding company of any group of companies is liable to pay the tax under this Act, fails to pay such tax, as provided for in this Act, such individual, partnership, company or subsidiaries and the holding company of the group of companies shall be deemed to be a defaulter of the tax under the Surcharge Act.

As per the Bill, it shall be lawful for an assessment to be made in the name of the partnership and the amounts thereon shall be recoverable out of the assets of the partnership, or from any partner, or from any agent of the partnership.

Application of the certain provisions of the Inland Revenue Act

Provisions of Chapter IX , Chapter X, Chapter XI, Chapter XII, Chapter XIII, Chapter XIV, Chapter XV, Chapter XVI, Chapter XVII, Chapter XVIII of the Inland Revenue Act, No.24 of 2017 shall, *mutatis mutandis*, be applicable to the administration, record keeping and information collection, tax returns, assessments, objections and appeals, liability for and payment of tax, interest, recovery of tax, penalties and criminal proceedings under the Surcharge Act.

Time Bar Provision

Any default assessment, amended assessment or additional assessment shall not be made in respect of an individual, a partnership, a company or the subsidiaries and the holding company of a group of companies after December 31, 2024.

Miscellaneous Provisions

Accounting period	Where the Commissioner-General has approved an alternative period of twelve months under the provisions of the Inland Revenue Act, No. 24 of 2017, for the purpose of maintaining accounts of any company liable to pay the tax under the Surcharge Act, such approved period shall be deemed to be the year of assessment commenced on April 1, 2020, for the purposes of the Surcharge Act.
Subsequent liquidations	Any subsequent liquidation process of a subsidiary or the holding company of a group of companies shall not indemnify any such company from the liability of paying the tax under the Surcharge Act.
Accounting treatment	Tax levied under this Act shall be deemed to be an expenditure in the financial statement relating to the year of assessment commenced on April 1, 2020;
Deductibility for Income Tax	No deduction shall be granted in calculating the taxable income under the Inland Revenue Act, No. 24 of 2017, for any year of assessment, for the payment of the tax under the Surcharge Act;
Deductibility for VAT on FS	No deduction shall be granted in calculating the Value Added Tax on the supply of financial services under the Value Added Tax Act, No. 14 of 2002, for the payment of the tax under the Surcharge Act.

For Clarifications

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