



PARLIAMENT OF THE DEMOCRATIC
SOCIALIST REPUBLIC OF
SRI LANKA

SURCHARGE ON INCOME TAX
ACT, No. 7 OF 1989

[Certified on 11th May, 1989]

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Surcharge on Income Tax Act, No. 7 of 1989

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L.D.—O. 12/89.

AN ACT TO IMPOSE A SURCHARGE ON EVERY PERSON CHARGEABLE WITH INCOME TAX FOR THE YEARS OF ASSESSMENT COMMENCING RESPECTIVELY ON APRIL 1, 1989, AND ON APRIL 1, 1990, BY REFERENCE TO THE INCOME TAX PAYABLE BY SUCH PERSON FOR EACH SUCH YEAR OF ASSESSMENT; AND TO PROVIDE FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

BE it enacted by the Parliament of the Democratic Socialist Republic of Sri Lanka as follows:—

1. This Act may be cited as the Surcharge on Income Tax Act, No. 7 of 1989.

Short title.

2. Every person who, under the Inland Revenue Act, is chargeable with income tax for any year of assessment commencing on or after April 1, 1989, but ending not later than March 31, 1991, (hereinafter in this Act referred to as "a relevant year") shall, notwithstanding anything contained in any other written law, be liable to pay a surcharge on the income tax payable by him for a relevant year (hereinafter in this Act referred to as "the surcharge"), calculated at the rate of fifteen *per centum* of the income tax payable by such person for that relevant year.

Imposition of the surcharge on income tax.

3. Every person who is liable to pay a surcharge under this Act, shall notwithstanding that no assessment has been made on him, pay to the Commissioner-General—

Dates for payment of the surcharge.

(i) (a) not less than fifty *per centum*, on or before August 15, 1989, and

(b) the balance on or before November 15, 1989, of the amount of the surcharge payable by him for the relevant year commencing on April 1, 1989, and

(ii) (a) not less than fifty *per centum*, on or before August 15, 1990, and

(b) the balance on or before November 15, 1990, of the amount of the surcharge payable by him for the relevant year commencing on April 1, 1990.

4. Every employer who employs any employee from whose remuneration income tax for any relevant year is deductible, in accordance with the provisions of Chapter XV

Employer to deduct the surcharge.

of the Inland Revenue Act (not being an employee who is deemed by subsection (7) of section 67 of that Act, to be a non-resident) shall also deduct—

(a) for the relevant year commencing on April 1, 1989,—

(i) from the remuneration payable to such employee for the month of July 1989, $7\frac{1}{2}$ per centum, and

(ii) from the remuneration payable to such employee for the month of October 1989, $7\frac{1}{2}$ per centum,

of the total income tax deductible from the remuneration of that employee for that year; and

(b) for the relevant year commencing on April 1, 1990,—

(i) from the remuneration payable to such employee for the month of July 1990, $7\frac{1}{2}$ per centum, and

(ii) from the remuneration payable to such employee for the month of October 1990, $7\frac{1}{2}$ per centum,

of the total income tax deductible for that year from the remuneration of that employee, as the surcharge payable under this Act.

Where however, the aggregate of the deductions made under this section by any employer, from the remuneration payable to any employee in his employment, for the months of July and October in any relevant year, is less than fifteen per centum of the income tax deducted from the remuneration of such employee for that relevant year, the employer shall deduct a further amount equal to the amount of the deficit, from the remuneration payable to that employee for the month of March in that relevant year.

5. (1) Where an instalment of the surcharge payable for a relevant year or a part of such instalment is not paid on or before the dates specified in section 3 for the payment of that instalment, such instalment of the surcharge or part thereof, shall be deemed to be in default and—

(a) where the surcharge is payable by one person, such person; and

(b) where the surcharge is payable by more than one person or by a partnership, each of such persons or each partner in such partnership,

shall be deemed to be a defaulter for the purposes of this Act.

Surcharge in default and sums added thereto.

(2) Where any surcharge payable by any person for a relevant year is in default, the defaulter shall, in addition to the surcharge in default, pay as a penalty—

(a) a sum equal to five *per centum* of the amount in default; and

(b) where any amount in default is not paid before the expiry of thirty days after it has begun to be in default, a further sum equivalent to five *per centum* of the amount in default in respect of each further period of three months or part of such period during which it is in default:

Provided that—

(i) the total amount payable as a penalty under the preceding provisions of this section shall in no case exceed fifty *per centum* of the surcharge in default;

(ii) where any person who is liable to pay the surcharge under this Act for a relevant year pays as such surcharge—

(a) for the relevant year commencing on April 1, 1989,—

(i) not less than $7\frac{1}{2}$ *per centum* on or before August 15, 1989, and

(ii) not less than $7\frac{1}{2}$ *per centum* on or before November 15, 1989,

of the income tax payable by him under the Inland Revenue Act, for the year of assessment commencing on April 1, 1988; and

(b) for the relevant year commencing on April 1, 1990,—

(i) not less than $7\frac{1}{2}$ *per centum* on or before August 15, 1990, and

(ii) not less than $7\frac{1}{2}$ *per centum* on or before November 15, 1990,

of the income tax payable by him under the Inland Revenue Act for the year of assessment commencing on April 1, 1989,

such person shall not be liable to any penalty under this section, in respect of the payments he is required to make under section 3 if he pays the

excess of the surcharge payable by him for that relevant year over the amount paid by him, on or before—

November 30, 1990, in the case of the relevant year commencing on April 1, 1989, and

November 30, 1991, in case of the relevant year commencing on April 1, 1990,

(iii) the Commissioner-General may reduce or waive any penalty payable under this section if it appears to him that such reduction or waiver is just and equitable in all the circumstances of the case.

Certain provisions of the Inland Revenue Act to apply.

6. The provisions of Chapter XIII and Chapter XV to Chapter XIX and Chapters XXI to XXVI of the Inland Revenue Act, relating to the furnishing of returns relating to income tax payable under that Act, the deduction of income tax, assessment, appeals against assessment, payment, recovery and refund of such tax shall, *mutatis mutandis*, apply to the furnishing of returns relating to a surcharge payable under this Act, and the deduction, assessment, appeals against assessment, payment, recovery and refunds, of such surcharge subject to the following modifications:—

(a) the requirement imposed by this Act, on any person to furnish a return of the surcharge payable by him under this Act, for any relevant year shall be deemed to have been sufficiently complied with if such person furnishes a return of his income for that year under section 92(1) or section 92(2) of the Inland Revenue Act;

(b) where an Assessor makes an assessment or an additional assessment on any person, of the income tax payable by such person under the Inland Revenue Act for any relevant year, the Assessor may, at the same time and in the same form, make an assessment or additional assessment, as the case may be, of the surcharge payable by such person for that year under this Act. The assessments or additional assessments, as the case may be, shall be deemed to be separate assessments issued under the respective Acts;

- (c) where notice of assessment is given to any person under section 116 of the Inland Revenue Act stating the amount of income tax charged on such person under the Inland Revenue Act, for any relevant year, such notice may also include the amount of the surcharge charged on such person under this Act, for that year. The notices shall be deemed to be separate notices issued under the respective Acts ;
- (d) where an appeal is made against an assessment of income tax payable under the Inland Revenue Act for any relevant year, such appeal shall be deemed to include an appeal against the surcharge payable under this Act, for that year and shall be determined accordingly ; and
- (e) where under Chapter XXI of the Inland Revenue Act, a certificate is issued to a Magistrate or a notice, statement or certificate is issued to any person, such notice, statement or certificate, as the case may be, may also include the particulars of any surcharge in default under this Act. The notices, statements of certificates, as the case may be, shall be deemed to be separate notices, statements or certificates issued under the respective Acts.

7. In the event of any inconsistency between Sinhala and Tamil texts of this Act, the Sinhala text shall prevail.

Sinhala text to prevail in case of inconsistency.

8. In this Act, unless the context otherwise requires—

Interpretation.

“ assessable income ”, “ Assessor ”, “ Commissioner-General ”, “ non-resident company ” “ person ”, “ profits and income ”, “ resident company ”, and “ year of assessment ” have the respective meanings assigned to them in the Inland Revenue Act ;

“ employer ”, “ employee ” and “ remuneration ” have the respective meanings assigned to them in Chapter XV of the Inland Revenue Act ;

“ income tax ” in section 2 and with reference to any person and any relevant year—

- (i) in relation to a resident company, means the income tax payable, under section 33(1) (a) of the Inland Revenue Act, by that company for that relevant year ;

(ii) in relation to a non-resident company means the income tax payable, under the Inland Revenue Act, by that company for that relevant year less any income tax payable by that company for that year, under sub-paragraph (i) or sub-paragraph (ii) of paragraph (b) of subsection (1) of section 34 of that Act ;

(iii) in relation to a resident individual whose profits and income for that relevant year include any profits from employment referred to in paragraph (c) of section 4 of the Inland Revenue Act, means such income tax as would have been payable, under the Inland Revenue Act, by such individual had such profits from employment not formed part of his profits and income for that relevant year ;

(iv) in relation to an individual who is deemed by subsection (7) of section 67 of the Inland Revenue Act to be a non-resident, means such income tax as would have been payable, under the Inland Revenue Act, by such individual had his profits from employment in Sri Lanka for that relevant year not formed part of his profits and income for that year ;
and

(v) in relation to any other person, means the income tax payable, under the Inland Revenue Act, by that person for that relevant year ;
and

“Inland Revenue Act” means the Inland Revenue Act, No. 28 of 1979.