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Circular No: SEC/2022/E/06 (Revised)

March 17, 2023

To all Licensed Commercial Banks and Authorized Dealers Engaged in Outward Remittances and Persons who make Outward Remittances

REQUIREMENT OF TAX CLEARANCE FOR FOREIGN OUTWARD REMITTANCES AND RELATED PROCEDURE

1. Introduction

In terms of Section 83A, 84, 84A and 85 of the Inland Revenue Act, No. 24 of 2017 (IRA) as amended by the Inland Revenue (Amendment) Act, No. 10 of 2021 and Inland Revenue (Amendment) Act, No. 45 of 2022, Withholding Tax including Advance Personal Income Tax and Advance Income Tax (herein after referred to as WHT) is imposed on payments for employment, investment returns, service fees and contact payments.

Further, as per Section 6(3) and 7(6) of the Foreign Exchange Act No. 12 of 2017, authorized dealers of Foreign Exchange shall request from the persons requiring foreign exchange for such transactions to provide such information or to produce such documents or to make such declarations as is reasonably necessary in order to satisfy himself that the requirement in relation to current or capital transactions and are is in **conformity with any other laws regulating such transactions**. Further, Section 6(4) and 7(7) of the same Act states that the Authorized dealers **shall refuse to deal in foreign exchange** for a transaction where the request for information, documents or declaration in terms of subsection 3 relating to such transaction is not complied with or where the dealer is satisfied that the current or capital transactions are not conformity with any other laws **regulating** such transactions.

In pursuant to those statutory provisions, withholding agents who make such payments to persons outside Sri Lanka, all licensed commercial banks and authorized dealers shall comply with this circular with effective from January 1, 2023. **However, with effect from April 1st, 2023, items No. xviii, xix, xx and xxi are added to the negative list.**

2. Requirement of a Tax Clearance

Due WHT imposed in terms of the Section 83A, 84A and 85 of the IRA (as amended) on payments to a non-resident person shall be collected by the Commissioner General of Inland Revenue (CGIR) and issue a tax clearance certificate for the purpose of relevant outward remittances.

However, a tax clearance certificate is **not required** in relation to the outward remittances mentioned in the **Negative List** (item 3 below). A tax clearance certificate shall be obtained from the CGIR for all other payments not mentioned in the Negative List.

3. Negative List

- (i) Remittances for import of any tangible goods
- (ii) Remittances of sale proceeds of **quoted shares** owned by non-residents in any company resident in Sri Lanka
- (iii) Remittances for foreign investments made by resident companies of Sri Lanka in line with the guidelines issued by the Central Bank of Sri Lanka (CBSL)
- (iv) Remittances of payments receivable by a non-resident person who conducts a relevant transport business in respect of–
 - a. carriage of passengers who disembark (in respect of inbound air travelers) or
 - b. carriage of cargo, mail or other moveable tangible assets that are disembarked in Sri Lanka (in respect of imports of tangible articles)
- (v) Pension payment remittances, received from the Government of Sri Lanka or from Government Department (other than in the case of pensioners who have left Sri Lanka permanently on or after 01.11.2015)
- (vi) Remittances by export companies in respect of registration of trademarks outside Sri Lanka
- (vii) Remittances in relation to annual subscription for membership of professional bodies, or periodical subscriptions for journal, magazines and other publications
- (viii) Remittances in relation to course fees, examination fees, enrolment fees, living expenses and payments of similar nature in respect of students
- (ix) Remittances in respect of visa expenses, medical expenses, air travel expenses and expenses on hotel accommodation abroad
- (x) Remittances of capital repayments or interest payments to any person outside Sri Lanka, in respect of any loan granted to any person in Sri Lanka
- (xi) Remittances for payments relating to participation in foreign seminars, conferences and delegations including registration fees
- (xii) Remittances made through Personnel Foreign Currency Accounts (PFC Accounts)
- (xiii) Remittances for payment of interest, discount or realization of any gain on any sovereign bonds denominated in local or foreign currency issued by or on behalf of the Government of Sri Lanka or interest or discount from Sri Lanka Development Bonds issued by or on behalf of the Government of Sri Lanka
- (xiv) Remittances of interest earned in any foreign currency on or after 01.01.2020 from foreign currency account opened and maintained by the recipient (deposit holder) of outward remittances in any commercial bank or in any specialized bank with the approval of the CBSL.
- (xv) Remittances of interest earned on or after April 8, 2020 (in foreign currency or local currency) from a term deposit titled as “Special Deposit Account” opened and maintained by the recipient (deposit holder) of outward remittances, with an authorized dealer (licensed commercial banks or national savings bank) in Sri Lanka and as prescribed in regulations made by the Minister of Finance under section 29 read with section 7 of the Foreign Exchange Act, No. 12 of 2017 (excluding the subsequently renewed accounts)
- (xvi) Remittances for payment of laboratory services or for standards certification services (in respect of service payment on or after 01.01.2020).
- (xvii) Remittances of payment made by the Sri Lankan Airlines Limited to any non-resident person for an air craft, software licenses or for other related services
- (xviii) Remittances of income derived by any **diplomatic staff** members (excludes local staff) recognized by the Foreign Ministry by providing a Special Identity Card (in which the tax exemption is specified), to the extent that such privileges are being provided in terms of the provisions of –

- (a) a diplomatic immunities law or a similar law; or
 - (b) an Act giving effect to the Convention on the Privileges and Immunities of the United Nations and the Convention on the Privileges and Immunities of the Specialized Agencies of the United Nations
- (xix) Remittances by an **international organization** to the extent specified under a diplomatic immunities law or a similar law or an agreement between the organization and the Government of Sri Lanka, provided that the exemption provided under the agreement shall be broader than that provided under diplomatic immunities law or a similar law
- (xx) Remittances by the Government of a foreign country of foreign territory (**Diplomatic Mission**) to the extent specified under a diplomatic immunities law or a similar law
- (xxi) Remittances of remuneration payments of employees (including remunerations of directors whether such remunerations received or derived by them as cash or non-cash benefits from the employment in Sri Lanka), if such remuneration is subjected to APIT scheme and Certificate of Income Tax Deduction (T-10) is issued by the relevant employer (employer can issue a T-10 certificate to such employee for the employment income from the commencement of the year of assessment to the date of the certificate, which can be used only for this purpose)

4. Procedure of Obtaining a Tax Clearance

A person who makes outward remittance in respect of payments other than payments mentioned under negative list (item 3), shall obtain a “Tax Clearance Certificate” from the CGIR. On behalf of the CGIR, such certificate will be issued by the Commissioner of Business Consultation Unit (2nd Floor, Inland Revenue Department, Sir Chittampalam A Gardiner Mawatha, Colombo 02) (Telephone: +94112134204 email: bc@ird.gov.lk).

You may forward your request only in the specified format for such cases with copies of invoices, agreements and other related documents. The Specified format (Form No: - Sec/2018/03_Form 01) could be downloaded from the IRD Web portal via www.ird.gov.lk [Downloads:: Forms and Returns:: Application Form for Tax Clearance (Outward Remittances)]

5. General Information

- (i) Applicable WHT rate will be decided based on the provisions of the IRA as amended, but subject to the provisions of the respective Double Tax Avoidance Agreement.
- (ii) The person who makes the remittance shall pay the due WHT liability by applying the tax rate on the gross amount (gross amount of the invoice) and only the net amount is allowed to be remitted. In a case where the person wants to remit the total amount of any invoice, the invoiced amount should be treated as the net amount and the relevant withholding tax should be calculated based on the grossed-up amount
- (iii) The person is required to apply the currency rate (selling rate) published in the Website of the CBSL on the date of remittance to convert foreign currency amount into rupee amount
- (iv) Relevant WHT shall be paid to the CGIR before the remittance. Only the balance amount is allowed to be remitted after the payment of tax

6. Procedure for Licensed Commercial Banks and Authorized Dealers Engaged in Outward Remittances

Licensed commercial banks and authorized dealers are not required to seek a tax clearance certificate from persons who make the outward remittance in respect of payments mentioned in the Negative List (item 3). However, required information shall be collected to provide the information to be submitted to the CGIR as mentioned under item 7.

For all other outward remittances, every licensed commercial bank and authorized dealer shall request a valid tax clearance certificate issued by the CGIR, prior to the outward remittances. The licensed commercial bank or authorized dealer shall not collect the due WHT of their customers in any circumstances.

7. Requirement of Record Keeping and Submission of Information

- (i) As provided in Section 121 of the IRA, a bank or financial institution shall keep records of all transactions with a client, including the client’s identity. Accordingly, all commercial banks and authorized dealers who have authority to engage in the foreign outward remittances shall maintain the records in following schedule in respect of all outward remittances (including payments in the Negative List), except for remittances for import of any tangible goods.

Schedule of Outward Remittances

Name of the Bank/ Authorized Dealer

.....

Branch: Contact Number:

Month: Year:

Period: From To.

Serial Number	Remitters' Name	Remitters' TIN/ Tax File No. (if any)	Recipients' Name	Remitted Country	Date of Remittance	Invoice Number	Invoiced Amount	Remitted Amount	Amount of WHT tax paid to the CGIR by the remitter	Tax Clearance Certificate Reference No.	Purpose of Remittance (If Tax Clearance is not produced)

Name of the Authorized Officer.....

Designation of the Authorized Officer.....

Signature.....

Date.....

- (ii) The licensed commercial bank or authorized dealer shall submit the monthly schedule by e-mail attachment in Excel format to bc@ird.gov.lk on or before 10th Day of the subsequent month. The Commissioner of Business Consultation Unit will forward a reply mail to confirm the receipt of the schedule to the respective person.
- (iii) As provided in Section 123(1) of the IRA, a Commissioner of Inland Revenue may require to furnish information from any other person (it includes information concerning another person). Further, extending the requirements of subsection 1, subsection (3) of the same section requires furnishing of information, production of documents and giving of evidence to the Commissioner of Inland Revenue in respect of the payment of income by any person to a non-resident. Accordingly, Commercial Banks or Authorized Dealer shall consider that the above information requirement is an information request of a Commissioner of Inland Revenue. A person who fails to comply with said information request within the specified time shall be liable for a penalty under Section 185 of the IRA (Not exceeding One Million Rupees)
- (iv) Withholding agents are required to declare the relevant payment details in the Annual Statement of Withholding Tax/Advance Income Tax of the respective year of assessment

8. For any clarifications

Officer	Telephone and E-Mail
Commissioner/ Business Consultation Unit	0112134204 bc@ird.gov.lk
Senior Commissioner Customer Supporting & Promotion	0112134250
Deputy Commissioner General Customer Service & Promotion, CPU & CDMU	0112135404

9. Circular and Notices Issued Prior to this Circular

Circular No. SEC/2018/03 issued on 29.03.2018 and all Notices issued for the same purpose prior to this circular are terminated with effect from the effective date of this circular.



D.R.S. Hapuarachchi
Commissioner General of Inland Revenue
Inland Revenue Department
Sri Chittampalam A. Gardiner Mawatha
Colombo 02.

D.R.S. Hapuarachchi
 Commissioner General of Inland Revenue

Copies to:

1. Secretary to the Ministry of Finance and Planning
2. Controller of Exchange, Department of Exchange Control
3. Director, Banks Supervision Branch
4. Secretary, Sri Lanka Banks' Association (Guarantee) Limited. } for circulation to all commercial banks and authorized dealers
5. Auditor General, Auditor General's Department
6. Secretary, Ministry of Foreign Affairs