

INCOME TAX ALERT – JANUARY 2025

TAX CLEARANCE ON OUTWARD REMITTANCES



The Commissioner General of Inland Revenue has, by extraordinary gazette No. 2414/14 dated 3rd January 2025, specified the requirements to obtain the Tax Clearance Certificates (TCC) for outward remittances for Withholding agents, Licensed Commercial Banks and Authorized Dealers and new negative list.

The gazette notification has been summarized below and the complete list is annexed to this newsletter.

PREAMBLE

Withholding agents (WHA) who make payments to persons outside Sri Lanka and all licensed commercial banks and authorized dealers engaged in outward remittances the procedure summarized below.

Government institutes under the Government of Sri Lanka are also required to comply with this procedure when a payment made to a non-resident person.

A Tax Clearance Certificate (TCC) is required to be obtained by the WHA when making such a payment to a non-resident. Exclusions from this requirement are listed in the negative list specified. The negative list has been published via circular SEC/2022/E/06 dated 17th March 2023 and the same is revised in this Gazette.

NEGATIVE LIST

The gazette includes the following new additions and has removed two items from the existing negative list which was issued via the circular SEC/2022/E/06. Payments on this list do not require a tax clearance certificate.

New Inclusions	Exclusions
Remittances of dividends to relevant shareholders if such dividend is subjected to Advance Income Tax at the rate of 15% or such dividend is exempt from income tax (To substantiate the 15% tax deduction, a withholding certificate must be utilized as proof for outward remittance purposes).	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)
If TCC for opening an Outward Investment account (hereinafter referred to as "OIA") has been already obtained from the CGIR, then outward remittances from such OIA opened by the eligible resident person with an authorized dealer in Sri Lanka, subject to the limitations and terms and conditions stipulated in the regulations made under the provisions of the Foreign Exchange Act, No. 12 of 2017.	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 bank or national savings bank) in Sri Lanka and as prescribed regulations made by the Minister of Finance under Section 29 read with Section 7 of the Foreign Exchange Act No 12 of 2017 (excluding subsequently renewed accounts)

Authorized Dealers and Licensed commercial banks who have the authority to engage in foreign outward remittances are **not required to obtain TCC**. They are required to retain information in the specified format. The format must include all outward remittances including payments in the negative list except for import of any tangible goods.



Requirement and Procedure for obtaining the Tax Clearance Certificate

	Withholding Agent	Licensed Commercial Banks and Authorized Dealers
Requirement	Tax Clearance Certificate (TCC) is required to be obtained by the WHA when making payments to a non-resident payment. Exclusions from this requirement are listed in the negative list specified above.	Authorized Dealers and Licensed commercial banks who have the authority to engage in foreign outward remittances are not required to obtain TCC.
Procedure	A person who makes outward remittances other than payments specified under the negative list shall obtain a TCC. Applicants are required to request through specified format along with copies of Invoices, agreements and other related documents. The specified format is available to be downloaded from www.ird.gov.lk The TCC will be issued by the Commissioner of Clearance and Direction Unit (2nd Floor Inland Revenue Department)	
WHT Rate Determination	The rate will be determined according to the provisions of the IRA as amended subject to the provisions of the respective Double Tax Avoidance Agreement (DTAA) The Tax Residency Certificate of the withholder has to be submitted to claim benefits of the applicable DTAA.	
WHT Calculation	Method 1: Net Calculation If a person requires to remit the net amount to the recipient, the WHT shall be imposed on the gross invoice value	

	Method 2: Gross Calculation If a person requires the recipient to receive the total amount of the invoice, the invoice amount should be treated as the net amount and the relevant WHT should be calculated based on the grossed-up amount	
Foreign Currency conversion	Selling rate published in the website of CBSL on the date of remittance must be used in conversion	
Subsequent reporting Requirements	WHA's are required to declare the relevant payment details in the annual statement of Withholding Tax/advance Income Tax of the respective year of assessment.	Required to retain information in the specified format. The format must include all outward remittances including payments in the negative list except for import of any tangible goods. The licensed commercial bank or authorized dealer shall submit the monthly schedule (in specified format) by e-mail attachment in excel format to cd@ird.gov.lk on or before 10th day of the subsequent month. The Commissioner of Clearance and Direction Unit will forward a reply mail to confirm the receipt of the schedule to the respective person.

Should you require any assistance please feel free to contact us.

BDO Tax Team

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The Gazette of the Democratic Socialist Republic of Sri Lanka

EXTRAORDINARY

අංක 2414/14 - 2024 දෙසැම්බර් මස 11 වැනි බදාදා - 2024.12.11
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PART I : SECTION (I) — GENERAL

Government Notifications

INLAND REVENUE ACT, No. 24 OF 2017

Regulations under Section 86 (7)

I, Wijesingha Arachchige Sepalika Chandrasekara, Commissioner General of Inland Revenue, do by this order under the Sub-section (7) of Section 86 of the Inland Revenue Act, No. 24 of 2017, as amended by the Inland Revenue (Amendment) Act, No. 04 of 2023, specify the procedure of withholding the tax from any payment made to a non-resident person under the Division II of Chapter VIII of the Inland Revenue Act, No. 24 of 2017 in Schedule hereto. Every Licensed Commercial Banks and Authorized Dealers Engaged in Outward Remittances and withholding agents who make Outward Remittances shall comply with such procedure.

These regulations shall come into effect from January 01, 2025.

WIJESINGHA ARACHCHIGE SEPALIKA CHANDRASEKARA,
Commissioner General of Inland Revenue.

Inland Revenue Department,
Colombo 02,
December 10, 2024.



SCHEDULE

1. Persons to be Complied with these Procedure

In terms of Sections 83A, 84, 84A and 85 of the Inland Revenue Act, No. 24 of 2017 (hereinafter referred to as “IRA”) as amended, withholding agents (hereinafter referred to as “WHA”) who make payments to persons outside Sri Lanka and all licensed commercial banks and authorized dealers engaged in outward remittances shall comply with this procedure. Government institute under the Government of Sri Lanka shall also be complied with this procedure in the case of a payment made to a non-resident person other than a payment derived through a Sri Lankan permanent establishment.

2. Requirement of a Tax Clearance

Due Withholding tax (hereinafter referred to as “WHT” and it includes Advance Income Tax) imposed in terms of the Sections 83A, 84, 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 (hereinafter referred to as “CGIR”) and issue a Tax Clearance Certificate (hereinafter referred to as “TCC”) for the purpose of relevant outward remittances to the WHA.

However, a TCC is not required in relation to the outward remittances mentioned in the Negative List (item 3 below). A TCC 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 of dividends to relevant shareholders if such dividend is subjected to Advance Income Tax at the rate of 15% or such dividend is exempt from income tax (To substantiate the 15% tax deduction, a withholding certificate must be utilized as proof for outward remittance purposes).
- (iv) If TCC for opening an Outward Investment Account (hereinafter referred to as “OIA”) has been already obtained from the CGIR, then outward remittances from such OIA opened by the eligible resident person with an Authorized Dealer in Sri Lanka, subject to the limitations and terms and conditions stipulated in the regulations made under the provisions of the Foreign Exchange Act, No. 12 of 2017.
- (v) 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 travellers) or
 - b. carriage of cargo, mail or other moveable tangible assets that are disembarked in Sri Lanka (in respect of imports of tangible articles).
- (vi) 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).
- (vii) Remittances by export companies in respect of registration of trademarks outside Sri Lanka.
- (viii) Remittances in relation to annual subscription for membership of professional bodies, or periodical subscriptions for journal, magazines and other publications.
- (ix) Remittances in relation to course fees, examination fees, enrolment fees, living expenses and payments of similar nature in respect of students.

- (x) Remittances in respect of visa expenses, medical expenses, air travel expenses and expenses on hotel accommodation abroad.
- (xi) 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.
- (xii) Remittances for payments relating to participation in foreign seminars, conferences and delegations including registration fees.
- (xiii) Remittances made through Personnel Foreign Currency Accounts (PFCA).
- (xiv) 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.
- (xv) 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 Central Bank of Sri Lanka (hereinafter referred to as “CBSL”).
- (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 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.
- (xviii) 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.
- (xix) 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.
- (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 Advance Personal Income Tax 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 TCC

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

Applicant may forward the request only in the specified format for such cases with copies of invoices, agreements and other related documents. The Specified format (Item 9) could be downloaded from the Inland Revenue Department Web portal via www.ird.gov.lk.

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 (hereinafter referred to as “DTAA”) in place between Sri Lanka and the other country. The Tax Residency Certificate of the withholder has to be submitted to seek benefits of the applicable DTAA.
- (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 Sri Lanka Rupee amount.
- (iv) Relevant WHT shall be paid to the CGIR and 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 TCC issued by the CGIR, prior to the outward remittances.

The licensed commercial bank or authorized dealer shall not collect the due WHT of the WHA in any circumstances.

7. Requirement of Record Keeping and Submission of Information

- (i) 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 (in above format) by e-mail attachment in Excel format to cd@ird.gov.lk on or before 10th Day of the subsequent month. The Commissioner of Clearance and Direction Unit will forward a reply mail to confirm the receipt of the schedule to the respective person.
- (iii) WHAs' are required to declare the relevant payment details in the Annual Statement of Withholding Tax/Advance Income Tax of the respective year of assessment.

- ## Tax Clearance Application
- Registration
Number
-
- Details Of**
Remitter
- Local Company
Name :
- Address :
- TIN :
- Details Of**
Remitter
- Foreign
Company Name :
- Country :
- Tax File Number (If
Available)
-
-
-
- Details of**
Remittance
- Nature of
Remittance :
- Invoice Numbers :
- Total Invoice
Value
-
- Remittance
Amount
-
- Currency
-

3

**Tax Calculation (Applicable for tax
Liable Cases Only)**

*If <u>Net</u> Amount Remit (Invoice Amount) X (Applicable Tax Rate) 100 Currency Tax Amount	* If <u>Gross</u> Amount Remit (Invoice Amount) X (Applicable Tax Rate) 100 Currency Tax Amount
Applicable Exchange Rate & date Tax Paid Amount (LKR) 	

4

Remarks (If Available) :

*** Please Attach Copy of Invoices, Copy of Agreement (If Available), Copy of TRC (for the Benefits of DTAA) & Copy of paying-in-slip**

Authorized Signature

Name : _____

Designation & Contact Number - _____

For Office Use Only

Officer name

Signature

Direction: