

Nation Building Tax Act, No. 9 of 2009
[Incorporating Amendments up to 31st March 2011]

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[Certified on 11th March, 2009]

L.D. – O. 48/2008

AN ACT TO PROVIDE FOR THE IMPOSITION AND COLLECTION OF A TAX TO BE CALLED THE NATION BUILDING TAX ON THE LIABLE TURNOVER OF EVERY PERSON TO WHOM THIS ACT APPLIES; AND TO PROVIDE FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

Acts Nos
9 of 2009
32 of 2009
10 of 2011

[Act No 9 of 2009 – 11th March 2009]

[Act No 32 of 2009 – 18th May 2009]

[Act No 10 of 2011 – 31st March 2011]

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

1. This Act may be cited as the Nation Building Tax Act, No 9 of 2009 and shall come into operation on February 1, 2009.

Short Title.

2. (1) The provisions of this Act shall apply to every person who –

Person to whom this Act applies.

(a) imports of any article, other than any article comprised in the personal baggage of the passenger, into Sri Lanka, [“baggage” shall have the same meaning as in section 107A of the Customs Ordinance (Chapter 235)]; or

(b) carries on the business of manufacture of any article; or

(c) carries on the business of providing a service of any description: or

(d) carries on the business of wholesale or retail sale of any article other than such sale by the manufacturer of that article being a manufacturer to whom the provisions of paragraph (b) applies.

[S 2 of 10 of 2011]¹

(2) Every person referred to in subsection (1) shall, hereafter in this Act, be referred to as “person to whom this Act applies”.

3. (1) A tax to be called the “Nation Building Tax” (hereinafter referred to as “the Tax”) shall, subject to the provisions of this Act, be charged from

Imposition of a Nation Building Tax.

every person to whom this Act applies calculated at the appropriate rate specified in the Second Schedule to this Act, in the following manner-

[s 2 of 32 of 2009]
[s 3 of 10 of 2011]

¹ With effect from January 1, 2011

- (i) in the case of a person referred to in paragraph (a) of subsection (1) of section 2, who imports any article into Sri Lanka on or after January 1, 2009 the tax shall be chargeable in respect of the liable turnover of such person arising from the importation into Sri Lanka of such article; and
- (ii) in the case of a person referred to in paragraph (b) (c) or (d) of subsection (1) of section 2, for every quarter commencing on or after January 1, 2009 (hereinafter referred to as “relevant quarter”, the tax shall be chargeable in respect of the liable turnover of such person for such relevant quarter. [s3 of 10 of 2011]²

(2) In this section “liable turnover”

- (i) with reference to any person referred to in paragraph (a) of subsection (1) of section 2 arising from the importation of any article, means the value of that article ascertained for the purpose of Value Added Tax under section 6 of the Value Added Tax Act, No. 14 of 2002, but does not include the value of any excepted article referred to in the First Schedule to this Act; [s3 of 10 of 2011]³
- (ii) with reference to any person and to any relevant quarter referred to in paragraph (b) of subsection (1) of section 2, means the sum receivable whether received or not from the sale in Sri Lanka, in that quarter, of every article manufactured by such person , other than any excepted article referred to in the First Schedule to this Act; [s3 of 10 of 2011]⁴
- (iii) with reference to any person referred to in paragraph (c) of subsection (1) of section 2 and to any relevant quarter means the sum receivable, whether received or not, from the provision in Sri Lanka of any service referred to in that paragraph other than any excepted service referred to in the First Schedule to this Act; [s3 of 10 of 2011]⁵
- (iv) with reference to any person referred to in paragraph (d) of subsection (1) of section 2 and to any relevant quarter means the sum receivable whether received or [s3 of 10 of 2011]⁶

² With effect from January 1, 2011

³ With effect from January 1, 2011

⁴ With effect from January 1, 2011

⁵ With effect from January 1, 2011

⁶ With effect from January 1, 2011

not from the sale

in that quarter, of any article, other than—

- (1) pharmaceuticals;
- (2) any article subject to the Special Commodity Levy under the Special Commodity Levy Act, No. 48 of 2007, where such article is subsequently sold by the importer of such article; and
- (3) gems or jewellery, if sold on the payment of foreign currency by any person authorized by the Central Bank of Sri Lanka to accept payment in foreign currency.

(3) Notwithstanding the provisions of subsection (2), the liable turnover for any relevant quarter of any person to whom this Act applies, referred to in paragraph (ii), (iii) or (iv) of that section shall not include - [s3 of 10 of 2011]⁷

- (i) any bad debt incurred by such person in that quarter;
- (ii) any value added tax under the Value Added Tax Act, No. 14 of 2002 paid in that relevant quarter;
- (iii) any excise duty under the Excise Duty (Special Provisions) Act, No. 13 of 1989, paid in that quarter;
- (iv) rebate paid under the Export Development Rebate in relation to any international event as be approved by the Minister of Finance; [s3 of 10 of 2011]⁸
- (v) any turnover from the supply of any goods or services in relation to any international events as approved by the Minister of Finance (with effect from May 12, 2010).”.

Provided however, any bad debt recovered in any relevant quarter, shall be included in the relevant turnover of that relevant quarter.

(4) Notwithstanding the provisions of subsection (1), the tax

⁷ With effect from January 1, 2011

⁸ With effect from January 1, 2011

shall not be chargeable from any person referred to in paragraph (b) , paragraph (c) or paragraph (d) of subsection (1) of section 2, for any relevant quarter if -

- (i) such quarter is a relevant quarter which commenced prior to January 1, 2011 and the liable turnover of such person for that relevant quarter does not exceed the sum of six hundred and fifty thousand rupees; [s3 of 10 of 2011]
- (ii) such person has paid for that relevant quarter which commenced prior to January 1, 2011 optional Value Added Tax under Chapter IIIB of the Value Added Tax Act, No. 14 of 2002;
- (iii) such relevant quarter is any quarter commencing on or after January 1, 2011 and the liable turnover of such person from the supply of any goods or services other than services referred to in paragraph (iv) and paragraph (v), does not exceed the sum of five hundred thousand rupees; and [s3 of 10 of 2011]
- (iv) such quarter is a quarter commencing on or after January 1, 2011 and the liable turnover of such person from —
 - (a) operating a hotel, guest house, restaurant or other similar business;
 - (b) the processing of any locally procured agricultural produce in the preparation for sale;
 - (c) providing educational services by any institution established locally for that purpose; or
 - (d) supply of labour (manpower),

and which do not exceed the sum of twenty five million rupees.

- 4 Every person referred to in paragraph (b), paragraph (c) or paragraph (d) of subsection (1) of section 2 to whom this Act applies ,shall, notwithstanding that no assessment has been made on such person for any relevant quarter, pay— [s 4 of 10 of 2011]⁹ Payment of the Tax.

⁹ The original section was repealed and the new provisions are applicable w.e.f.1.1.2011

- (i) the tax payable for the first month of that quarter on or before the twentieth day of the second month of that quarter;
- (ii) the tax payable for the second month of that quarter on or before the twentieth day of the third month of that quarter;
- (iii) the balance tax payable for that quarter on or before the twentieth day of the month immediately succeeding the end of the relevant quarter, calculated by deducting the tax paid under paragraphs (i) and (ii) from the tax payable for that quarter,

to the Commissioner-General, in such manner as may be specified by him in that behalf.

5. (1) The Director General of Customs shall collect from every person referred to in paragraph (a) of subsection (1) of section 2, the tax chargeable from such person in respect of every article imported by such person, at the time such article is imported, and shall make an endorsement on the import invoice relating to such article specifying the amount so collected.

Collection of the Tax by the Director General of Customs.

(2) Any amount collected by the Director General of Customs in accordance with the preceding provisions of this section in relation to any article imported by any person to whom this Act applies shall be deemed to be the Tax chargeable in respect of the liable turnover arising from the importation of such article and shall be deemed to have been paid by such person to the Commissioner-General on the day on which such amount was so collected.

(3) Any amount collectible under subsection (1) shall for the purpose of collection and recovery of such amount and notwithstanding anything to the contrary in this Act, be deemed to be customs duty chargeable under the Customs Ordinance and accordingly, the provisions of the Customs Ordinance shall apply to the collection and recovery of such amount.

- (4) Where any article imported into Sri Lanka is sold
 - (i) by the Director General of Customs for the recovery of any duty, levy or any charge collectible under the Customs Ordinance; or
 - (ii) by the Sri Lanka Ports Authority established by the Sri Lanka Ports Authority Act, No. 51 of 1979, for the recovery of any dues collectible under that Act; or

(iii) by the Commissioner General,

the purchaser of such article shall be deemed to be a person referred to in paragraph (a) of subsection (1) of section 2, and the provisions of this Act shall apply to him accordingly.

6. Where any person to whom this Act applies, utilizes wholly or partly any goods purchased from a manufacturer registered for payment of tax under this Act or imported by himself, in the manufacture of goods liable to tax under this Act, such manufacturer shall be entitled to tax credit in respect or such tax paid on such goods in proportion to the value of goods manufactured by such person which are liable to tax under this Act.

Tax Credits

[s 5 of 10 of 2011]

6A. (1) The turnover from the business of any Islamic Financial Transaction shall be chargeable to tax in terms of the provisions of this Act.

Turnover from Islamic Transactions to be chargeable to tax

(2) The Commissioner - General of Inland Revenue shall in order to determine the extent of liability to tax of any particular Islamic Financial Transaction, issue from time to time, such rules and guidelines as may be required for the purpose of –

[s6 of 10 of 2011]¹⁰

- (a) identifying the circumstances which would amount to an Islamic Financial Transaction; and
- (b) ascertaining the profits and income arising out of any Islamic Financial Transaction.

7. Every person to whom this Act applies, being a person referred to in paragraph (b) or paragraph (c) of subsection (1) of section (2) whose liable turnover for any relevant quarter exceeds the sum referred to in subsection (4) of section 3, shall give notice in writing to the Commissioner General, of his chargeable to the tax for that quarter, not later than the fifteenth day of the last month of that relevant quarter. The notification shall disclose the name, the postal address, the taxpayer identification number if any, or the income tax file number if any, and such other information as the Commissioner General may specify by order published in the Gazette.

Notice of chargeability

¹⁰ With effect from January 1, 2011

8 The provisions in sections 106, 107, 108 and 112 of Chapter XII relating to Returns etc., Chapter XXII relating to Assessments, Chapter XXIII relating to Appeals, Chapter XXIV relating to Finality of Assessments and Penalty for Incorrect Returns, Chapter XXV relating to Tax in Default and Sums Added Thereto, Chapter XXVI relating to Recovery of Tax, Chapter XXVII relating to Miscellaneous, Chapter XXIX relating to Penalties and Offences, Section 209 of Chapter XXX relating to Administration and Chapter XXXI on General matters, of the Inland Revenue Act, shall *mutatis mutandis* apply to the furnishing of returns, assessments, appeal against assessments, finality of assessments and penalty for incorrect returns, tax in default and sums added thereto, recovery of tax, miscellaneous, penalties and offences, administration and general matters under this Act subject to the following modifications:-

Certain provisions of the Inland Revenue Act to apply.

- (a) every reference to the year of assessment in any such provision of the Inland Revenue Act, shall be deemed to be a reference to the “relevant quarter” in this Act;
- (b) every reference to assessable income or taxable income in any such provision of the Inland Revenue Act, shall be deemed to be a reference to the “liable turnover” in this Act; and
- (c) every reference to income tax in any such provision of the Inland Revenue Act, shall be deemed to be a reference to the tax charged and levied in terms of the provisions of this Act.
- (d) return for any relevant quarter under this Act shall be furnished on or before the twentieth day of the month commencing immediately after the expiry of such quarter.

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

Sinhala text to prevail in case of inconsistency.

10. In this Act, unless the context otherwise requires, -

Interpretation.

“article” includes any goods, material or any agricultural or horticultural produce, but for any period ended prior to January 1,2011 does not include any excepted article specified in Part I of the Schedule to this Act;

[s 7 of 10 of 2011]

“body of persons”, “business”, “Commissioner General” and “company” shall have the same respective meanings which they have in the Inland Revenue Act;

“Inland Revenue Act” means the Inland Revenue Act, No. 10 of 2006;

“manufacture” means any process for –

- (i) making an article;
- (ii) assembling or joining any article whether by chemical process or otherwise;
- (iii) adapting for sale any article;
- (iv) packaging, bottling, putting into boxes, cutting into pieces, cleaning, polishing, wrapping, labeling, or in any other way whatsoever preparing for sale any article otherwise than in a retail stores for the purpose of sale in such store exclusively and directly to the consumer;

“person” includes any company, body of persons or any partnership ; [s 7 of 10 of 2011]

“quarter” means the period of three months commencing on the first day of January, April, July or October of any year:

Provided that the quarter which commences on the first of February 2009 shall comprise two months;

“service” for the period prior to January 1, 2011, does not include any excepted service specified in Part II of the Schedule to this Act; and [s7 of 10 of 2011]

“year” means a calendar year.

FIRST SCHEDULE

[s8 of 10 of 2011]

PART I

EXCEPTED ARTICLES

- (i) any article exported by the manufacture of such article;
- (ii) any article not being plant, machinery or fixtures imported by any person exclusively for use in, or for, the manufacture of any article for export;
- (iii) any article sold by any person to whom this Act applies to any exporter, if the Commissioner General is satisfied on the production of any documentary evidence that- [s 4 of 32 of 2009]

- (i) such article; or
- (ii) any other article manufactured, of which such article is a constituent part,

has in fact been exported from Sri Lanka;

- (iv) any article which is imported, is proved to the satisfaction of the Commissioner General of Inland Revenue, that such article is imported to Sri Lanka for –
 - (i) display at an exhibition;
 - (ii) the temporary use in Sri Lanka in any project approved by the Minister;
 - (iii) for the purposes of repairs to that article to be carried out in Sri Lanka; or
 - (iv) any other similar purpose, and is to be re-shipped, within a period of one year from the date of importation of such article to Sri Lanka;
- (v) any article imported, if proved to the satisfaction of the Director General of Customs, that such article was, prior to its importation, taken out of Sri Lanka for repairs;
- (vi) any cinematographic film or teledrama produced in Sri Lanka and taken out of Sri Lanka for further processing or printing with the approval of the National Film Corporation;
- (vii) any spare part imported by any airline or shipping company, if proved to the satisfaction of the Commissioner-General, that such spare part is to be used for the maintenance of any aircraft of ship, used in international traffic and owned or chartered by such airline or shipping company;
- (viii) any article sold, to the United Nations Organization or to any specialized agency of such organization or to the diplomatic mission of any foreign Government or to any member of the diplomatic staff of such mission or to any other person approved by the Minister on the recommendation of the Minister of Foreign Affairs as being of the status of a diplomatic mission;
- (ix) any article imported if such article is subject to the Special Commodity Levy charged under the Special Commodity Levy Act, No. 48 of 2007;
- (x) Fertilizer;

- (xi) Petroleum and Petroleum products;
- (xii) L.P.Gas;
- (xiii) Pharmaceuticals;
- (xiv) Tea supplied by the Manufacturer being a manufacturer registered with the Sri Lanka Tea Board established by the Sri Lanka Tea Board Law, No. 14 of 1975, to any registered broker for sale at the Colombo Tea Auctions
- (xv) Any article for the use in any project approved by the relevant Minister and by the Minister in charge of the subject of Finance taking into consideration the economic benefit to the country and where the tax in respect of such project is borne by the Government; [s 4 of 32 of 2009]
[s8 of 10 of 2011]
- (xvi) any goods imported or supplied to a specified project carried on, out of foreign funds or donations received by the Government, as approved by the Minister considering the economic benefit to the country.
- (xvii) bitumen classified under HS code No. 2714 ;
- (xviii) any article imported or sold by any society registered under Co-operative Societies Act, No. 5 of 1972 or under the respective statutes enacted by the Provincial Councils providing for such registration or Lak Sathosa Limited registered under the Companies Act, No. 7 of 2007 ;
- (xix) tractors classified under HS codes 8701.10. 10, 8701. 10. 90, 8701. 90. 10 and 8701.90.20 ;
- (xx) raw materials or packing materials imported for the manufacture of pharmaceuticals subject to the approval of the relevant authority ;
- (xxi) gold imported (effective from March 1, 2010) ;
- (xxii) plant, machinery or equipment imported on temporary basis for the use of large scale infrastructure development projects approved by the Minister in charge of the subject of Finance as being of beneficial for the economic development of Sri Lanka, on condition that goods will be re exported after the completion of work (effective from July 1, 2010);
- (xiii) foreign currency notes imported, being notes classified under HS Codes 4907.00.90 (effective from June 1, 2010);

- (xxiv) raw materials or packing materials imported for the manufacture of ayurvedic preparations which belong to the Ayurveda Pharmacopoeia or ayurveda preparation subject to the approval of the relevant authority;
- (xxv) pure-bred breeding animals under HS 0102.10 or HS 0104.20.10, milking machines under HS 8434.10, dairy machinery under HS 8434. 20 and spare parts under HS 8434.90, at the point of importation. (effective from 18.01.2011);
- (xxvi) import of samples in relation to business which is worth not more than rupees twenty- five thousand, subject to which terms and conditions as prescribed by the Director - General of Customs. .

PART II

EXCEPTED ARTICLES

the following services –

- (i) the business of Banking or Finance;
- (ii) supply of electricity;
- (iii) medical services;
- (iv) supply of water;
- (v) transport of goods or passengers
- (vi) leasing of movable properties;
- (vii) service –
 - (i) prior to January 1, 2011, of a construction contractor, not being a sub- contractor; or
 - (ii) on or after January 1, 2011, of a construction contractor or subcontractor insofar as such services are in respect of constructing any building, road, bridge, water supply, drainage or sewerage system, harbour, airport or any infrastructure project in telecommunication or electricity;
- (viii) services provided to any exporter of any article, being

[s 8 of 10 of 2011]

services directly related to improving the quality and character of such article;

- (ix) the services of sewing garments provided to any exporter of such garments;
- (x) services of a freight forwarder, shipping agent licensed under the Licensing of Shipping Agents Act, No. 10 of 1972 or courier insofar as such services are in respect of the exporter of any article from Sri Lanka;
- (xi) services provided by a public corporation, insofar as such services are in respect of the export of any article from Sri Lanka;
- (xii) for any period ended prior to January 1, 2011, operating a hotel, guest house, restaurant or other similar business, if such hotel, guest house, restaurant or other similar business if such business is registered with the Ceylon Tourist Board; [s 8 of 10 of 2011]
- (xiii) the services of an auctioneer, broker, insurance agent or commission agent of any local produce; [s 8 of 10 of 2011]
- (xiv) the services of a travel agent in respect of inbound tours, if such person is registered with the Ceylon Tourist Board;
- (xv) services of a computer software developer in respect of software developed by such person for use wholly outside Sri Lanka and for which payment is received in foreign currency through a bank;
- (xvi) services provided over the Internet, using custom-built software, by an enterprise, exclusively for the provision of such services being services enabling or facilitating the sale of goods, or for the provision of services, by a person in foreign currency;
- (xvii) client support services provided over the internet or telephone, by an enterprise, exclusively for the provision of such services, to one or more identified clients outside Sri Lanka, for payment in foreign currency;
- (xviii) the business of life insurance;
- (xix) distribution or production and supply, of any cinematographic films primarily for exhibition in cinemas;
- (xx) exhibiting films in a cinema;

- (xxi) any service provided to the United Nations Organization or to any specialized agency of such organization or to the diplomatic mission of any foreign Government or to any member of the diplomatic staff of such mission or to any other person approved by the Minister of the recommendation of the Minister of Foreign Affairs as being of the status of a diplomatic mission; and
- (xxii) any service rendered in or outside Sri Lanka to any person or partnership outside Sri Lanka for payment in foreign currency if such foreign currency is remitted to Sri Lanka through a bank
[s 4 of 32 of 2009]
- (xxiii) the services of any “general Sales Agent” registered under the Civil Aviation Authority of Sri Lanka Act, No. 34 of 2002;
[s 8 of 10 of 2011]
- (xxiv) the services provided by foreign consultancies for the large scale infrastructure development projects being projects which have been approved by the Minister of Finance, as beneficial for the economic development of Sri Lanka (effective from July 1, 2010)
- (xxv) services provided to any specific project carried on, out of foreign funds or donations received by the Government, as approved by the Minister considering the economic benefit to the country;
- (xxvi) services provided to the port or airline in relation to international transportation;
- (xxvii) services provided in relation to ship building for the international market for payments made in foreign currency;
- (xxviii) telecommunication services;
- (xxix) supply of locally developed software;
- (xxx) services provided by any Government Department, Ministry or any undertaking fully owned by the Government;
- (xxxi) services provided by Sri Lankan Airlines Ltd.;

- (xxxii) services provided by Mihin Air (Pvt.) Ltd.;
- (xxxiii) services provided by Air Lanka Catering Services Ltd.;
- (xxxiv) services provided by any society registered under the Co-operative Societies Law No. 5 of 1972 or under any Statute enacted by a Provincial Council, or Lak Sathosa Limited, registered under the Companies Act, No. 7 of 2007;

SECOND SCHEDULE [Section 3]

Tax Rates of Nation Building Tax payable by any person to whom this Act applies [s9 of 10 of 2011]

PART I

For the period ending on April 30, 2009
on the liable turnover— - 01 per centum

PART II

For the period commencing on May 1, 2009 but
prior to December 31, 2010—

- (1) on the liable turnover (other than in respect of turnover from the sale of rice manufactured from locally procured paddy for the period from July 1, 2009 to December 31, 2010) - 03 per centum.
- (2) on the liable turnover from rice manufactured out of locally procured paddy for the period from July 1, 2009 to December 31, 2010 - 1.5 per centum.

PART III

For any quarter commencing on or after January 01, 2011—

- (1) on the liable turnover (other than any turnover from the wholesale or retail sale) of any article - 02 per centum.
- (2) on the liable turnover from wholesale or retail sale of any article—

- (a) three fourth of liable turnover of any distributor– Nil
- (b) one half of the liable turnover from (the wholesale or retail sale of) any article other than any turnover of a distributor– Nil
- (c) the balance liable turnover 02 *per centum*

For the purposes of Part III of the Second Schedule the expression “distributor”, shall have the same meaning as is assigned to it in section 13 of the Economic Service Charge Act, No. 13 of 2006.

Section 10 of 10 of 2011	The Commissioner-General shall transfer 33 1/3 <i>per centum</i> of the total sum collected as Nation Building Tax to the respective Provincial Council within such intervals and in such proportions as the Secretary to the Treasury may, from time to time, taking into consideration the required budget of each such Council, direct.	Apportionment of revenue to the provincial councils [10 of 10 of 2011] ¹¹
Section 11 of 10 of 2011	<p>Any person or partnership carrying on an enterprise, having an annual turnover of a sum not exceeding rupees one hundred million who is liable to pay the Nation Building Tax under this Act and who has defaulted in the payment of such Nation Building Tax as is payable by him under this Act in respect of any taxable quarter ending on or before December 31, 2010 due to the existence generally of any conflict environment or due to any financial constraints of such person or partnership shall be exempted from the payment of such charge as is in default under this Act:</p> <p>Provided that, the Commissioner - General of Inland Revenue shall on a request made in that behalf, issue to such person or partnership a Certificate of Exemption in respect of the sum in default:</p> <p>Provided further, the person or partnership to whom the Certificate of Exemption is issued shall simultaneously forward to the Commissioner - General of Inland Revenue, a written assurance to the effect that such person or partnership will be responsible for the payment of all sums which may become</p>	Exemption of certain small and medium enterprises from the payment of taxes payable by them [s 11 of 10 of 2011] ¹²

¹¹ w e.f. January 1, 2011

¹² This provision has not been incorporated to the main Act.

	payable by him under this Act, in respect of any future taxable quarter commencing on or after January 1, 2011.	
Section 12 of 10 of 2011		