



Countering Tax Fraud

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உள்ளநாட்டு இறைவரித் திணைக்களம்
Inland Revenue Department



OUTLINE

- Introduction
- Current Tax System in Sri Lanka
- Provisions in the Inland Revenue Act to counter tax fraud
- Recent Changes
- Going Forward





INTRODUCTION

- Tax fraud is a form of deliberate evasion of tax
- Tax fraud occurs when a person or an entity willfully and intentionally falsifies information on a tax return in order to limit the amount of tax liability
- Tax fraud essentially entails cheating on a tax return in an attempt to avoid paying the entire tax obligation
- To avoid such unethical practices tax authorities has imposed penalties as well as prosecution mechanisms





CURRENT TAX SYSTEM IN SRI LANKA

- Sri Lanka has a self-assessment tax system
- Inland Revenue Department (IRD) is the main tax administration body in the country
- Types of taxes in Sri Lanka

Income tax

VAT

Nation Building Tax (NBT)

Economic Service Charge

other





CURRENT TAX SYSTEM CONT..

- Sri Lanka too have identified tax fraud as an offence in the Tax Statute
- However litigation provisions in the legislation are rarely used. IRD satisfies only with collecting default taxes due to the difficulty in proving the intention of fraud
- IRD takes actions mainly under Section 172 which imposes penalties by CGIR





ADDITIONAL TAXES COLLECTED BY THE DEPARTMENT

Comparative Analysis of Revenue under Self Payment and Collection on Assessment (in LKR billion)						
	2013		2014		2015	
	Self	Assessment	Self	Assessment	Self	Assessment
Income Tax	189.66	9.41	181.98	9.98	256.43	11.54
VAT(Excluding VAT on Imports)	117.62	3.47	129.74	5.89	130.51	4.69
NBT(Excluding NBT on Imports)	35.84	1.11	39.80	1.79	41.42	1.45
Others	15.85	0.54	143.49	1.49	113.91	0.48
Total	358.97	14.54	495.01	19.15	542.27	18.15
% to the Total Revenue	96%	4%	96%	4%	97%	3%





Legal Framework Inland Revenue Act (IRA) No: 10 of 2006



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PENALTY IMPOSED BY CGIR

Making an incorrect Return- Section 172

Offences

- Fraud or wilful neglect involved in the disclosure of income or any claim for any deduction or relief made by a person in a return

Penalty

- Penalty not exceeding 2,000 LKR and a sum equal to twice the difference between the amount payable and amount paid.





OFFENCES UNDER IRA cont..

Failure to make returns/making incorrect returns- S. 202

Every person who

- Fails to make returns
- Making incorrect returns
- Non compliance on assessments issued
- Failure to answer the questions lawfully put to him without sufficient cause





OFFENCES UNDER IRA cont..

•Penalty

- Liable on conviction after summary trial before a magistrate;
 - In the case of a failure to submit a return to a fine not exceeding 50,000 LKR, and
 - In any other case, to a fine not exceeding 7,500 LKR





OFFENCES UNDER IRA cont..

Every employer fails to –

- Deduct income tax from employees
- File returns

•*Penalty*

- Liable on conviction after summary trial before a magistrate, a fine not exceeding 10,000 LKR or to imprisonment of either not exceeding six months, or to both





OFFENCES UNDER IRA cont..

Every employee fails -

- Inform on untaxed salary to CGIR

Penalty

- Liable on conviction after summary trial before a magistrate, to a fine not exceeding 7,500 LKR





OFFENCES UNDER IRA cont..

Every person who without reasonable excuse -

- Makes/furnishes incorrect return by omitting/ understating any income, makes an incorrect statement in connection with a claim for a deduction or allowance
- Gives an incorrect information affecting his own liability





OFFENCES UNDER IRA cont..

Penalty

- Liable on conviction after summary trial before a magistrate;
 - To a fine consisting of a sum equal to the amount of tax which had been undercharged and a sum not exceeding 10,000 LKR, or
 - To imprisonment of either description for a term not exceeding six months, or to both





OFFENCES UNDER IRA cont..

Every person who being an employer –

- Makes an incorrect declaration by omitting/understating the tax of any employee

Penalty

- Liable on conviction after summary trial fine not exceeding 10,000 LKR or imprisonment not exceeding six months, or to both





OFFENCES UNDER IRA cont..

employee makes an incorrect statement

Penalty

- Liable on conviction after summary trial fine not exceeding 10,000 LKR or to imprisonment of either description for a term not exceeding six months, or to both





OFFENCES UNDER IRA cont..

Time bar for litigation- Five years

The CGIR may compound any offence under this section and may before judgment, stay or compound any proceedings thereunder





OFFENCES UNDER IRA cont..

Penal provisions relating to fraud- Section 204

Any person who –

- Makes any false statement / omits from a return signs any statement /return without reasonable grounds for believing the same to be true
- Gives any false answer, whether verbally/ in writing
- Prepares/maintains/authorizes - the preparation or maintenance of false books of account /other records
- Makes use / authorizes of any fraud, art or contrivance whatsoever





OFFENCES UNDER IRA cont..

Penalty

Evader/other person assisted, liable on conviction after summary trial, to fine consisting of –

- Sum equal to tax evaded /attempted
- Sum not exceeding 10,000 LKR / imprisonment not exceeding six months, or to both

The CGIR may compound any proceedings subject to the recovery of a one third of the fine and shall be credited to the Consolidated Fund





OFFENCES UNDER IRA cont..

Penal provision relating to misinterpretation of provisions of any Act administered by the CGIR by auditors and tax practitioners -Section 204A

Penalty

- Liable for conviction after summary trial to a fine not exceeding 50,000 LKR or to imprisonment not exceeding six months or to both





RECENT MEASURES

MOU with the Financial Intelligence Unit (FIU) by the IRD

- IRD has entered into a MOU with The Financial Intelligence Unit (FIU) of Sri Lanka (under Central Bank) in October 2016
- to co-operate in the fight against money laundering and terrorist financing, including tax evasion





RECENT MEASURES cont..

• *Introducing penal provisions for tax practitioners*
Section 204A -2013

• To prevent misinterpretation of provisions of any Act administered by the CGIR or regulation, rule or order made thereunder by Auditors and tax practitioners





RECENT MEASURES cont..

- *Implement a criminal investigation unit -2017*





GOING FORWARD

- Automated tax system (RAMIS)
- New IRA with provisions to cover fraud
- Strengthen CID Unit





THANK YOU



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