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The Gazette of the Democratic Socialist Republic of Sri Lanka

EXTRAORDINARY

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PART IV (A) - PROVINCIAL COUNCIL

Provincial Councils Notifications

WESTERN PROVINCE PROVINCIAL COUNCIL

WESTERN PROVINCIAL FINANCIAL (AMENDMENT) STATUTE No. 02 OF 2010

I, Prasanna Ranathunga, Chief Minister and Minister of Finance and Planning, Law and Order, Land, Education, Local Government, Provincial Administration, Manpower and Employment, Economic Promotion, Power and Energy of the Western Province Provincial Council, here by declare that Financial Amendment Statute, No. 02 of 2010 Western Provincial Council, do by this order amend with effect from 08th March, 2010 as Assent by the Honorable Governor of Western Province.

PRASANNA RANATHUNGA

Chief Minister and Minister of Finance and Planning, Law and Order,
Land, Education, Local Government, Provincial Administration,
Manpower and Employment, Economic Promotion, Power and Energy
of the Western Province Provincial Council.

Chief Ministry Office,
Shrawasthi Mandiraya,
Colombo 07,
16th April 2010.

FINANCIAL (AMENDMENT) STATUTE No.02 OF 2010 OF THE WESTERN PROVINCE

*A Statute to amend the Financial Statute No. 06 of 1990 of the Western Province which has been amended
by the Statute No. 02 of 2006*

Be it enacted as follows by the Western Province Provincial Council of the Democratic Socialist Republic
of Sri Lanka:-

1. This Statute is cited as the Financial (Amendment) Statute No. 02 of 2010 of the Western
Province and this Statute shall come into operation on such a date determined by the Minister through an
Order published in the *Gazette Paper* following the signature put on by the Governor.

Short title and
Date of
Operation.

Amendments to Subsection 3(2) of the Main Statute.

2. Sub-section 3(2) of the Main Statute shall be removed and it will be amended by substituting the following Subsection :-

(2) For the purposes of this Chapter “business” means selling by wholesale or retail of any commodity not include sales by a manufacturer of any commodity produced by him.

Amendment to Section 11 of the Main Statute.

3. Section 11 of the Financial Statute No. 06 of 1990 of the Western Province amended by the Statute No. 02 of 2009, is removed and that Section will be amended by substituting the following Section :-

payment of turnover tax.

11 (1) The turnover tax in respect of any quarter shall be paid not later than the fifteenth day of the month following the end of that quarter. However, when the turnover for a previous quarter of a certain business exceeds ten million rupees, the turnover tax paid for the subsequent quarter shall be paid as follows :-

- (a) a sum equals to one third of the turnover tax due to be paid for the previous quarter, shall be paid on or before the fifteenth day of the second month of the subsequent quarter ;
- (b) a sum equals to two thirds of the turnover tax due to be paid for the previous quarter, shall be paid on or before the fifteenth day of the third month of the subsequent quarter ;
- (c) the remaining part of the turnover tax due to be paid for the relevant quarter, shall be paid on or before the fifteenth day of the first month of the above quarter ;

Any tax not paid so shall deemed to be a defaulted tax, when that tax be paid by certain person or establishment, that person or establishment and when it has to be paid by more than one person or by a partnership, by each person or each partner of partnerships shall be considered for the purposes of this Statute as a person who has defaulted the payments.

Charging a Withholding Turnover Tax for the goods transferred to a certain person or institution for the purpose of selling.

(2) Whatever be mentioned in this Statute, at an instance of transferring a particular good by an importer, producer or a seller for the purpose of selling to a particular person or an institution, from the sum received or to be received for that transfer, an amount calculated on the rate of turnover tax equal to the turnover tax determined by the Minister from time to time through *Gazette* Notifications under the subsection 7(1) for the said good shall be charged as a Withholding Turnover Tax.

Registration.

- (3) (a) On or later the date this Statute comes into operation, every individual or an institution engaged in any transaction that can be levied a Withholding Turnover Tax, shall be registered subjected to the provisions of this statute and as ordered by this Statute.
- (b) Every individual or an institution to be registered under the above paragraph (a), shall forward a request for registration to the Commissioner within 30 days from the date of such subjugation.
- (c) The Commissioner may ask at any instance for information related to the transactions that can levied taxes, for registration under Subparagraph (a).

(d) When a request for registration is made by an individual or an institution subjected to be registered under the Paragraph (a) to the Commissioner to get registered under Paragraph (a), the Commissioner shall register that individual or the institution if the Commissioner decides that person or organization be registered under Paragraph (a), Subsequent to the registration of any individual or an institution by the Commissioner —

- (i) a Registration number ; and
- (ii) a Certificate of registration ;

shall be issued to that individual or the institution by the Commissioner.

(e) In the event of any alteration of the —

- (i) business name or the location of the business or the address of the business run by that individual or the institution or
- (ii) nature of the ownership or the entitlement of the taxable transaction carried out or issued by the said individual or the institution.

the Commissioner shall be informed within 14 days of such alternation by every registered individual or institution.

(4) (a) Every importer, producer or a seller marking a deduction of the Withholding Turnover Tax as per the provisions of the Subsection (2) shall issue a voucher to the individual or the institution engaged in the act of transfer with a copy to the Commissioner regarding a transaction of goods transferred for the purpose of sale, indicating —

Issuance of a voucher by levying Withholding Turnover Tax.

- (i) the date and place of transaction, and the category of goods ;
 - (ii) value of the transaction ;
 - (iii) name and address of that individual or institution ;
- and
- (iv) withholding Turnover Tax that can be imputed to that transaction.

Remittance to the Commissioner.

(b) As per provisions of Subsection (2), when a Withholding Turnover Tax has been charged by a certain importer, producer or a seller, to whichever transaction the Turnover Tax has been levied, the amount of the Withholding Turnover Tax retained for the quarter in which the transaction has befallen shall be transferred to the Commissioner within 14 days from the date of such transaction according to the format ordered by the Commissioner along with copy of the voucher issued under Paragraph (a).

(c) In the event of inclusion of an amount received or to be received by selling a certain good that has been levied a Withholding Turnover Tax as per the Provisions made earlier. In the Turnover of any individual or institution subjected to the Turnover Tax, on production of the Voucher issued to him under Paragraph (a) to

Set-off for the Turnover Tax or deduction from the Turnover Tax.

confirm that a Withholding Turnover Tax has been paid under the Subsection (2), the individual or institution is entitled to deduct or to set-off for a due payment the amount indicated in the said voucher as the Withholding Turnover Tax from the Turnover Tax due to be paid for the said quarter by him.

Turnover Tax deductions from the Agreed payments.

- (5) Whether entered into an agreement with regard to a transaction took place within the Western Province Prior or later to the operation of this Statute ; at an instance a payment has been made as per the said agreement in which himself or an institution that has become a party of the said agreement, a sum equal to the Turnover Tax calculated on the rate of Tax determined from time to time through orders published in the *Gazette* paper by the Minister under subsection 7(1), shall be deducted as Withholding Turnover Tax by every individual or institution that makes the said payment at the time of that payment is made. However, if the total amount to be paid to accomplish that agreement does not exceed Rupees Fifty thousand, such deduction shall not be made.

Sending of a certificate regarding the deducted Turnover Tax to the Commissioner as obligatory.

- (6) (a) As per the provisions of subsection (5), at the time of the deduction of the Withholding Turnover Tax, a certificate stating—

- (i) name of the person or institution, if the payment is made to certain such person or institution ;
- (ii) amount of the payment paid thus ;
- (iii) deducted rate of tax and amount of tax ;
- (iv) actual net amount paid ;

regarding that money should be issued to the certain individual or institution, if that deduction is made on the payment made for certain individual or institution by a certain individual or institution involved in deducting that Turnover Tax, with a copy of the Commissioner.

Remitting the Turnover Tax from Agreed payments to the Commissioner.

- (b) To whichever transaction the Withholding Turnover Tax has been deducted by certain individual or institution that deducts Withholding Turnover Tax as per provisions of the subsection (5), the Turnover Tax money retained in lieu of that transaction shall be remitted to the Commissioner with the copy of the certificate that should be issued as per Paragraph (a) and according to the format issued by the Commissioner within 14 days of such transaction.

Setting-off or deducting from the Agreed payments to the Turnover Tax.

- (c) According to the provisions made earlier, in an instance of inclusion of money deducted as Withholding Turnover Tax from Agreed payments of an individual or institution subjected to Turnover Tax, the tax that can be levied on the turnover per quarter from certain individual or institution subjected to Turnover Tax, as per Sub-section (5) on the basis of forwarding to the Commissioner the certificate issued under Paragraph (a) denoting deduction of the Withholding Turnover Tax, the individual or the institution has the right to deduct the amount mentioned in that certificate as the Withholding Turnover Tax from the tax levied as the Turnover Tax for the said quarter or to set-off for a defaulted Turnover Tax.

(7) Under this Section, the provisions of this Statute related to the production of reports that show up the turnover in each quarter, payment of taxes, levying a turnover tax, taking a legal action in an event of default, imposition of penalties and repayment of Turnover Taxes, with necessary changes shall be related similarly to the Withholding Turnover Tax or production of reports, payment of taxes, levying a tax, taking legal action in an event of default, imposition of penalties and repayment of turnover tax with regard to the Withholding Turnover Tax.

Possibility of relating some provisions of the Main Statute.

(8) (a) For all purposes of Sub-section (5) "Agreement" means ;

Interpretations for Section 11.

(i) an agreement related to supplement of goods of any nature ;

(ii) Sub Agreement related to any agreement mentioned in Sub-paragraph (i) ;

However an agreement reached with a service provider regarding provision of his services shall not be interpreted as an agreement for the purposes of this Section.

(b) For the purposes of this Section "Importer" means an individual or institution that imports a certain food and transfer to a certain individual or institution for the purpose of selling.

(c) For the purposes of this Section "Producer" means an individual or institution that transfer any good produced by him to certain individual or institution for the purpose of selling.

(d) For the purposes of this Section "Seller" means an individual or institution that acquires goods for the purpose of selling.

(e) For the purposes of this Section "Transfer" means provision of goods by a certain importer to a non-producer individual or institution, or provision of goods to a certain individual or institution by a certain producer, or, provision of goods to certain individual or institution by a seller for the purpose of selling.

4. The Section 16 of the Main Statute is removed and is amended hereby by substitution of the following Section :-

Amendment to the Section 16 of the Main Statute.

16. Where an Assessor does not accept a return furnished by any individual or institution under Section 10 for any quarter and makes an assessment or additional assessment for that quarter on that individual or the institution under Section 13 or Section 14, he shall communicate to such individual or institution by registered letter sent through the post his reasons for not accepting the return.

Assessor to give reasons for not accepting a return.

5. Subsection 34 (a) of the Main statute is removed and it is hereby amended by the substitution of the following Sub-section :-

Amendment to the Sub-section 34 (a) of the Main Statute.

(a) fails to comply with the provisions of Section 10, Section 11, Section 30 or Section 31 or

6. Subsection 85(2) of the Main Statute amended by the Statute No. 02 of 2009 shall be removed and it is hereby amended by the substitution of following Sub-section :-

Amendment to the Sub-section 85 (2) of the Main Statute.

- (2) The tax required to be paid by any notice under section 4 or under Paragraphs (a), (b) and (c) of Sub-section 11(i) or under Section 13 or 14 or Paragraph (b) of Sub-section 57(1) or under Paragraph (a) of Sub-section 98(5) or shall be paid before the date specified on such notice and the tax not so paid shall be deemed to be in default.

Amendments to the Sub Section 87(2) of the Main Statute.

7. Subsection 87(2) of the Main Statute amended by Statute No. 2 of 2009 shall be removed and it is hereby amended by the substitution of the following Sub Section :-

- (2) If such defaulter has not appealed within the proper time against any assessment or notice under Paragraph (a), (b), and (c) of Sub-section 11(1) of Section 13 or Section 14 or Paragraph (b) of sub-section 57(1) or Paragraph (a) of Sub-section 98(5) he may within thirty days of the date of the notice issued under Sub Section (1) of this Section, make any objection to the tax so charged and the Commissioner shall consider such objections and give his decision there as which shall be final.

Amendment to the Sub Section 87(3) the Main Statute.

8. Subsection 87(3) of the Main Statute amended by Statute No. 2 of 2009 shall be removed and it is hereby amended by the Substitution of the following Sub Section :-

- (3) Notwithstanding whatever mentioned in this Section under Paragraph (a), (b), and (c) of Sub-section 11(1) or Section 13 or Section 14 or Paragraph (b) of Sub-section 57(1) or Paragraph (a) of Sub-section 98(5) and the payment of any tax specified in such notice is held over on the order of the Commissioner and the appellant agrees, during the course of the hearing of that appeal, that a certain sum is due or is likely to be due as tax in respect of that notice, the Commissioner may, by notice in writing given to the appellant, direct the appellant to pay such sum on or before such date as is specified in the notice.

9. Subsections (1) and (2) of the Section 102 of the Main Statute are removed and by Substituting the following Sub-sections that section is amended hereby :-

Amendment to the Sub Section 102(1) and (2) of the Main Statute.

- (1) Except in the performance of his duties under this Statute, every person who is or has been employed in carrying out or in assisting any person in carrying out the permission of this Statute shall preserve, and aid in preserving, secrecy with regard to all matters relating to the officers of any person that may come to his knowledge in the performance of his duties under this Statute, and shall not communicate any such matter to any person other than the person to whom such matter relates or his authorized representative or to the Minister or the Secretary to the Ministry of Finance or and officer properly authorized by the Secretary to the Ministry of Finance nor transfer or permit any person to have access to any records in the possession, custody or control of the Commissioner.

Official Secretary

- (2) Every person employed in carrying out the provisions of this Statute shall before acting under this Statute, take and subscribe before a Justice of the Peace or Commissioner of Oaths an oath of secrecy in the prescribed form and, the Minister and the Secretary to the Ministry of Finance or an Officer properly authorized by the Secretary to the Ministry of Finance shall before acting under this Statute, take and subscribe before a Justice of the Peace or Commissioner of Oaths an oath of secrecy in the prescribed form.

10. Subsequent to the Sub-section 102(5) of the Main Statute, by inserting the following new Subsection, that Section is amended hereby :-

- (6) Whatever is mentioned in this Section, the Commissioner of Revenue can impart information as the Commissioner of Revenue feels as sufficient, regarding a certain matter necessary to the Commissioner General of Inland Revenue related to the turnover included

in the wholesale or retail trade of a particular business conducted by certain individual or institution.

11. The interpretation of the word “value” of the Section 106 of the Main Statute, shall hereby be amended by the inclusion of the following new interpretation :- Interpretations.

For the purposes of this Statute ; any tax calculated under the Section 3(1) is meant by the “Turnover Tax” and also includes the withholding Turnover Tax levied under the Section 11.

Any individual who changes completely the content or native of certain good in the way of manufacturing or chemical process or any other way, is meant by a “producer”.

Any good, thing, agricultural or horticultural products are meant by “goods”.

“Secretary to the Finance Ministry” means the Secretary to the Ministry which purviews the subject of Finance of the Western Province Provincial Council.

For the purposes of Sub-section 102(1) and (2), an officer of the Public Service skilled in the relevant subject and authorized by the Secretary to the Ministry of Finance in writing is meant by an “officer properly authorized”.

12. In case of inconsistency among the texts of Sinhala, Tamil and English of this Statute Sinhala text shall prevail. Sinhala text to prevail in case of inconsistency.

05-137.