



Tax Implications on Construction Industry & Real Estate Development

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Registration

Every person who carries on a **taxable activity** should register for VAT, if the value of the **taxable supply** exceeds or likely to exceed the threshold stipulated in section 10 or can request to register voluntarily under section 12

- Submission of Application for Tax Type Registration with relevant documents to tax registration Unit of the Head office or any Regional Office
- E-Service of the IRD Web Portal
- Registration for SVAT – only from the head office

Registration certificate containing name, address and other relevant details of the taxable person, registration number and the date from which registration takes effect is issued

Obligations of a Registered Person

- Display the certification of registration at a clearly visible place in the business premises
- Issue tax invoices (to other registered person)
- Keep accounts for relevant periods
- Pay tax and furnish returns on or before due dates
- Inform the IRD any change in the Name, Address, Ownership or Nature of Business without delay

Tax Invoices

A registered person who makes a taxable supply to another registered person is required to issue a tax invoice within 28 days of such supply

Tax invoices in electronic form also could be acceptable if the following conditions are fulfilled, then such invoice could be acceptable for Value Added Tax purposes

- All characters specified in section 20 of the Value Added Tax Act, No. 14 of 2002 should have been included.
- The original invoice should not repeatedly be printable by the recipient
- Must be able to produce in hard form to the Inland Revenue by the recipient of the invoice if it is required.

This content must be brought to the notice of the recipient of the invoice prior to issuing the invoice in electronic form

Tax Invoices

VAT schedules are unmatched due to

- Minor mistakes of the invoice number (Omit some part of the invoice number, Add incorrect symbols and add additional characters ...)
- Long Numeric invoice numbers convert to scientific numbers in excel automatically

Proposed to include provisions enabling the Commissioner General of Inland Revenue to specify the format of tax invoice and unique VAT invoice numbering system.

Record Keeping

- Registered persons are required to keep sufficient records to enable the assessors to assess the person's VAT liability

Extraordinary Gazette Notification No. 2042/21 dated October 26, 2017 and Extraordinary Gazette Notification No. 2228/33 dated May 20, 2021

- Records in respect of goods and services made as any taxable supply, deemed taxable supply, excluded supply or exempt supply as defined in the Value Added Tax Act
- The original document should be preserved at least for 5 years in the form that is originated

Record Keeping

- **Invoice Basis**

VAT is payable on invoice basis (accrual basis)

Registered persons are required to keep accounts for VAT on invoice basis

The output tax should be declared as per the time of supply referred to in section 4

- **Payment Basis**

Payment basis (cash basis) can be adopted only if the approval is obtained from the Commissioner General under section 23 of the VAT Act

Output tax is declared in the taxable period in which the payment is received

Persons registered under cash basis are not permitted to issue tax invoices until the payments are received

The Time of Supply

- The time of supply is the earliest of –
 - the service was performed; or
 - a payment is received for the services rendered or for future services; or
 - a payment is due for the services rendered or for future services; or
 - an invoice is issued in respect of the services rendered

where an invoice is issued in respect of services supplied, within ten days from the date of performance of such service, the time of supply of such service shall be deemed to be the time at which the invoice was issued

The Time of Supply

- Where the Commissioner-General directs any registered person to account for the tax on a payment basis under section 23, the time of supply of goods and services supplied by such person shall be the time at which the payment in respect of such supply is received
- where a supply is made under an agreement entered into, on or after April 1, 1998, other than a hire purchase agreement, which provides for periodical payments, when the payment is due or when the payment is received, whichever is earlier

Advance Payments

If an advance is received **prior to 01.01.2024**,

- the time of supply of such advance is the time of receipt of the advance
- VAT is liable at 15% and such part

Eg:

An Agreement is entered into in **December 2023 for construction contract**, total construction Value is Rs.10,000,000/- and 20% of the total value is received as an advance payment in the same month. Value of completion of contract in January 2024 is Rs. 3,000,000.

Advance Payments

Advance received in December 2023	2,000,000
(20% x 10,000,000)	
VAT @ 15%	<u>300,000</u>
Total invoiced	<u>2,300,000</u>

Month of January 2024 Progress Payment	3,000,000
VAT @ 18%	<u>540,000</u>
Total invoiced	<u>3,540,000</u>

Making Payments

- on or before 20th day of the subsequent month
 - to any Bank of Ceylon Branch
 - through online payment platform

Late payments will impose penalty

- 10 percent on any amount of tax not paid by the due date
- 2 percent on any outstanding tax for every period of one month or part of such period for which the tax remains unpaid after the lapse of one month after the due date

Up to 100 percent of the tax in default

Submission of Returns

- On or before the last day of the subsequent month of the end of a taxable period
- Return should be together with relevant schedules

Schedule 01 - Output Schedule

Schedule 02 - Input Schedule for Local Purchases

Schedule 03 - Input Schedule for imports

Schedule 04 - Schedule for tax credit notes and tax debit notes

Schedule 06 - Export of Goods

Schedule 07 - Export of Services

Significant Amendments from 01.01.2024

With effect from 01.01.2024

- Change of VAT Rate
- Removal of Exemptions
- Amend the registration threshold

Change of VAT Rate

Tax rate is revised to 18% from 15% with effect from 01/01/2024

Tax Fraction – 9/59

(Extraordinary Gazette Notification No. 2363/22 dated December 19, 2023)

Removal of Exemptions

First Schedule to the Value Added Tax Act, No. 14 of 2002 has been amended by the VAT (Amendment) Act No. 32 of 2023

- Terminate Part II of the First Schedule w.e.f. 31.12.2023
- Introduce Part III of the First Schedule w.e.f. 01.01.2024

Registration

Required to register for VAT when the total value of the taxable supplies of goods or services or goods and services is exceeds or is likely to exceed on or after 01.01.2024

- for a taxable period Rs. 15 Mn or
- for the succeeding twelve months period 60 Mn



Important facts applicable for Construction Industry

Construction Contracts

- Time of supply
 - At which a claim for a progress payment is made based on the work measurement statement
 - Contractor should issue tax invoice as agreed upon in respect of the progress payment
- Retention Money and Advanced Payments

VAT is charged at the rate prevailing at the time of payment

Supplies to Government Projects

- VAT payments to suppliers are settled through vote transfers
- Suppliers are required to issue tax invoice and declare the supply in VAT returns based on the time of supply
- Submit a separate schedules on supplies to such projects and purchases relevant for such projects
- Relevant Government institution issues a certificate in respect of such supply
- Penalty on delay of vote transfer will be write off

Deferment Facility & Credit vouchers

- Circumstances where the Director General of Customs may, defer the payment of the VAT due on any goods imported, including any goods received from Customs Bonded area, are stipulated in item (i) to (vii) of second proviso to subsection (3) of section 2 of the VAT Act
- Persons eligible to deferment facility
 - Exporters – (BOI or TIEP)
 - Persons registered under section 22(7)
- VAT deferred at the customs should be correctly declared in the VAT return and schedule 3 as per Asycuda system
- If the refund due is less than the amount of VAT deferred, Credit Voucher could be issued once the balance amount (excess of the deemed refund due) of the deferred tax is paid

Deferment Facility & Credit vouchers

- Deferment is provided for import of **plant, machinery or equipment which are imported to be used in projects and re-exported after the completion of the project,**
- Registered person is required to submit a schedule on imports at time of registration
- Return should be correctly filled (cage I I)

Imports under Temporary VAT Certificate

- Every person who is an importer of goods into Sri Lanka shall notify the Commissioner General not later than fourteen days prior to the clearing of such goods that he has imported such goods and obtain an identification number for the clearing of such goods
- Identification number issued under section 11 of the VAT Act is referred as temporary registration and used only for the purpose of clearing of goods and not be treated as a registration for VAT purposes

Specified Projects/ Strategic Development Projects

As per Value Added Tax (Amendment) Act, No. 32 of 2023 “PART III

The supply of-

- Goods or services to any project identified as a Strategic Development Project in terms of section 3(4) of the Strategic Development Project Act, No. 14 of 2008,
- Goods or services to any specified project identified by the Minister, taking into consideration the economic benefit to the country, on which the tax is borne by the Government; or
- Goods or services to any infrastructure development project funded through foreign loans or donations directly to the Ministries of the Government of Sri Lanka, approved by the Minister on the recommendation of the Secretary of the respective Ministry;

are exempted with effect from 01-01-2024

Specified Projects/ Strategic Development Projects

- The import of-
 - goods for any specified project identified by the Minister,
 - goods, for a project identified as a strategic development project
 - goods for any infrastructure development project funded through foreign loans or donations directly to any Ministry

are exempted with effect from 01-01-2024 [item (v) of Part III of First Schedule to the VAT Act]

- Exemption & Deferment of VAT on temporary importation of capital goods which are re-export after the completion of the project [paragraph (b) of the second proviso to subsection (3) of section 2 & item (ii) of Paragraph (c) of Part III of First Schedule to the VAT Act]

Specified Projects/ Strategic Development Projects

- Value of the supply of the suppliers for the specified project or strategic project shall be deemed to be a taxable supply on which the output tax is computed [section 22(10)]
- Allowed to claim the input tax on the purchase of goods or services connected to supply of goods or services made to such projects
- Grant the registration as RIP under SVAT system

Calculation of VAT for supplies to Specified Projects

Output VAT (Deemed Taxable Supply) = XX, XXX

Less: Input VAT (Tax on Imports + Local Purchases) = (X, XXX)

VAT Payable = X, XXX

Less: Deemed Tax Credit = (XX, XXX)

Refund = (X, XXX)

Disallowable Input Tax (Section 22)

- Not connected to a taxable activity on which tax is charged
- CUSDEC not claimed before expiry of 24 month or
- Tax invoice not claimed before expiry of 12 months
To the end date of the taxable period by submitting the return
- Restriction : 100% of the output tax and the balance is carried forward

Registration for SVAT

Circular No.: SEC/2024/E/01 dated 04.04.2024

- Any person registered for VAT can be registered as a RIS under SVAT Scheme
- Any person who supplies more than 50% of his supplies to an exporter or any person who supplies to registered specified projects or Strategic Development projects, is eligible to register as a RIP



Important facts applicable for Real State Development

Calculating the Value of Supply of sale of residential apartments or commercial areas

- Since this is an outright sale the value of supply is to be ascertained based on subsection (7) of section 5 of the VAT Act. The supply is a land and the improvement thereon the formula of the calculation of the value of supply is as set out below.

- Sale price of the apartment

xxxx

Less: Market value of the bare land at the time of sale

(xx)

- Value of supply for VAT

xx

(Note: If there is improvements as at March 31, 1998 can be claimed)

Removal of Exemptions

- With effect from January 1, 2023, exemption was granted to sale of residential accommodation, other than any lease or rent of residential accommodation or supply of any condominium residential accommodation.
- However, the sale of residential accommodation is also made liable with effect from 01.01.2024 and the existing liability will be continued for sale of condominium residential accommodation and leasing and renting residential accommodations



Applicable Provisions of SSCL Act

Social Contribution Levy (SSCL)

- The Social Security Contribution Levy (SSCL) is imposed with effect from October 1, 2022, as per the Social Security Contribution Levy Act, No. 25 of 2022
- The SSCL Act was amended as,
Social Security Contribution (Amendment) Act, No. 15 of 2023
Social Security Contribution (Amendment) Act, No. 15 of 2024

Taxable Person (section 2)

- The provisions of this Act shall apply to every person (in this Act referred to as a “taxable person”) who:
 - (a) imports any article
 - (b) carries on the business of manufacture of any article;
 - (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 including importation and sale of such article

Liable Turnover

- Land and improvements thereon – as per section 5(7) of the VAT Act
- Other services – on the amounts receivable or received 100% of the turnover is liable turnover

Other than exempt services as the case may be referred to in PART II of in the First Schedule

- Rate – 2.5% on the liable turnover

Exempted Articles for Specified/infrastructure Development Project

- Any article which is imported, is proved to the satisfaction of the Commissioner- General, that such article is imported to Sri Lanka for
 - the temporary use in Sri Lanka in any project approved by the Minister in terms of item 4(b) of Part IA of First Schedule
- Exemption of any article for the use in any project approved by the relevant Minister, in terms of item 14 of Part IA of First Schedule to SSCL Act
- Exemption & Deferment of the payment of SSCL in terms of item 17 of Part IA of First Schedule to SSCL Act on temporary importation of plant, machinery or equipment

Exempted Services

- 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 in terms of item 17 of Part II of First Schedule
- 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 in terms of item 21 of Part II of First Schedule
- ;

Registration

- Registration is not required for importation of an article – No threshold , the liability arises on the importation based on the article (other than exempt articles)
- Other taxable persons :
for any period commencing on or after January 1, 2024
- (a) If the aggregate turnover for a quarter exceeds or is likely to exceed Rs.15 million rupees
- (b) If aggregate of the turnover for a period of consecutive four quarters exceeds or likely to exceed 60 million rupees



Applicable Provisions of IR Act

Long Term Contracts

“long-term contract” means a contract –

- (a) for manufacture, installation or construction or, in relation to each, the performance of related services; and
- (b) which is not completed within twelve months of the date on which work under the contract commences.

Amounts to be included or deducted in calculating the person's income that relate to a long-term contract shall be taken into account on the basis of the percentage of the contract completed during each year of assessment.

CIT Rate

- Gains and profits providing construction services
- with effect from January 1, 2020 but prior to April 1, 2022 and for the first six months of the year of assessment commencing on April 1, 2022- 14% (up to September 30,2022)
- with effect from October 1, 2022 shall be taxed at the rate of 30%.

New Tax Exemptions

- Profits of an Authorized Person carrying on a business of Strategic Importance approved under the Colombo Port City Act. (w.e.f.27/05/2021)
- Foreign grant funded Government projects carried out by non-residents will be exempted from income tax. (w.e.f.01/04/2023)



Thank You