

ADMINISTRATION PROVISIONS

Inland Revenue Act, No. 24 of 2017

Priyanka Dissabandara

Deputy Commissioner

Secretariat

Department of Inland Revenue

New IR Act provides the following

- Repealed the Inland Revenue Act, No. 10 of 2006 and provide transitional provisions
- Simplify the income tax law provisions and make it user-friendly
- Income sources under previous Act have been re-classified into 4 heads. i.e. employment, business, investment and other income
- Tax on capital gains arising on investment assets has been reintroduced
- Carry back losses has been introduced for long term contracts
- Administration provisions are separately specified under part 11 of the Act

Outline

- Rulings
 - Public rulings
 - Private rulings
- Record keeping and information collection
- Objections and appeals
- Interest
- Penalties
- Criminal proceedings

RULINGS

Sections 104 - 111

RULINGS

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graph TD; A[RULINGS] --- B[PUBLIC RULINGS]; A --- C[PRIVATE RULINGS]; B --- D[Section 104 - 106]; C --- E[Sections 107 - 111]
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PUBLIC RULINGS

Section 104 – 106

PRIVATE RULINGS

Sections 107 – 111

Public Rulings

- CGIR may issue public rulings setting out the CGIR's interpretation of the application of this Act;
 - to achieve consistency in the administration
 - to provide guidance to the general public and officers
- A public ruling shall be binding on the CGIR until withdrawn.
- A public ruling shall not be binding on taxpayers.

Making a public ruling

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- The CGIR may issue a public ruling by **publishing** a notice in the **Gazette** and on the **Department's website**.
- A public ruling have a **heading** specifying the subject matter of the ruling by which it can be identified and an **identification number**.
- **Effective date** of the public ruling is
 - from the date specified in the public ruling
 - if no date is specified, from the date the ruling is published in the Gazette and on the Department's website.
- A public ruling shall **set out** the CGIR's **opinion** and shall **not be a decision** of the CGIR.

Withdrawal of a public ruling

- The CGIR may **withdraw** a public ruling, in whole or part, by publishing a notice of the withdrawal in the Gazette and on the Department's website.
- If the public ruling is found to be **inconsistent** in whole or in part **with any law**, such public ruling **shall be withdrawn** in whole or in part by the CGIR to the extent necessary **to overcome such inconsistency**.
- The **withdrawal** of a public ruling, in whole or part, shall have **effect from the date specified** in the notice of withdrawal.

Private Rulings

- ▶ On a **written application** made by a taxpayer, the CGIR issues a private ruling.
- ▶ The application shall contain **full details of the transaction, relevant documents** to the transaction, the **question** on which the ruling is required and **full statement of the opinion** of the applicant as to the application of the Act.
- ▶ The CGIR may **refuse an application** of a taxpayer by giving a written notice.
- ▶ To review the requests , CGIR shall appoint a committee known as the **“Interpretation Committee”**.

Private Rulingscontd.

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- An Interpretation Committee comprise with **senior officers of the Department** as appointed by the CGIR.
- The private ruling shall be issued **Within 90 days** of the application,
- It is an opinion of the CGIR and not a decision for the purpose of this Act or any other law.
- If the taxpayer has given true disclosure of all aspects of the transaction, the private ruling **shall be binding on the CGIR** against the taxpayer.
- private ruling **shall not be binding** on the CGIR against **any other taxpayer.**

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Private Rulingscontd.

- A private ruling is **not binding on a taxpayer.**
- The CGIR may specify **reasonable fees** to be charged in relation to an application for a private ruling.
- The CGIR shall **publish** the private ruling on Dept. website **without referring the applicant.**
- Private ruling shall **not limit on the taxpayers rights** to any assessment served

Making a private ruling

- ▶ CGIR may make a private ruling on the **basis of assumptions** about a **future event** or **other matters** as considered appropriate.
- ▶ A private ruling **shall state** that it is a **private ruling**, set out the **question** ruled on, and identify the following:
 - the taxpayer;
 - the tax period to which the ruling applies;
 - the transaction to which the ruling relates; and
 - any assumptions on which the ruling is based.

Refusing an application for a private ruling

CGIR may refuse an application for a private ruling where

- the CGIR has **already decided** the question
 - by issuing a **notice of a tax assessment**
 - by issuing a **notice or other guidance** that is in force; or
 - a **private ruling published is in force;**
- a question is the **subject of a tax audit** or an **objection lodged** by the applicant
- the application is **frivolous** or **vexatious;**

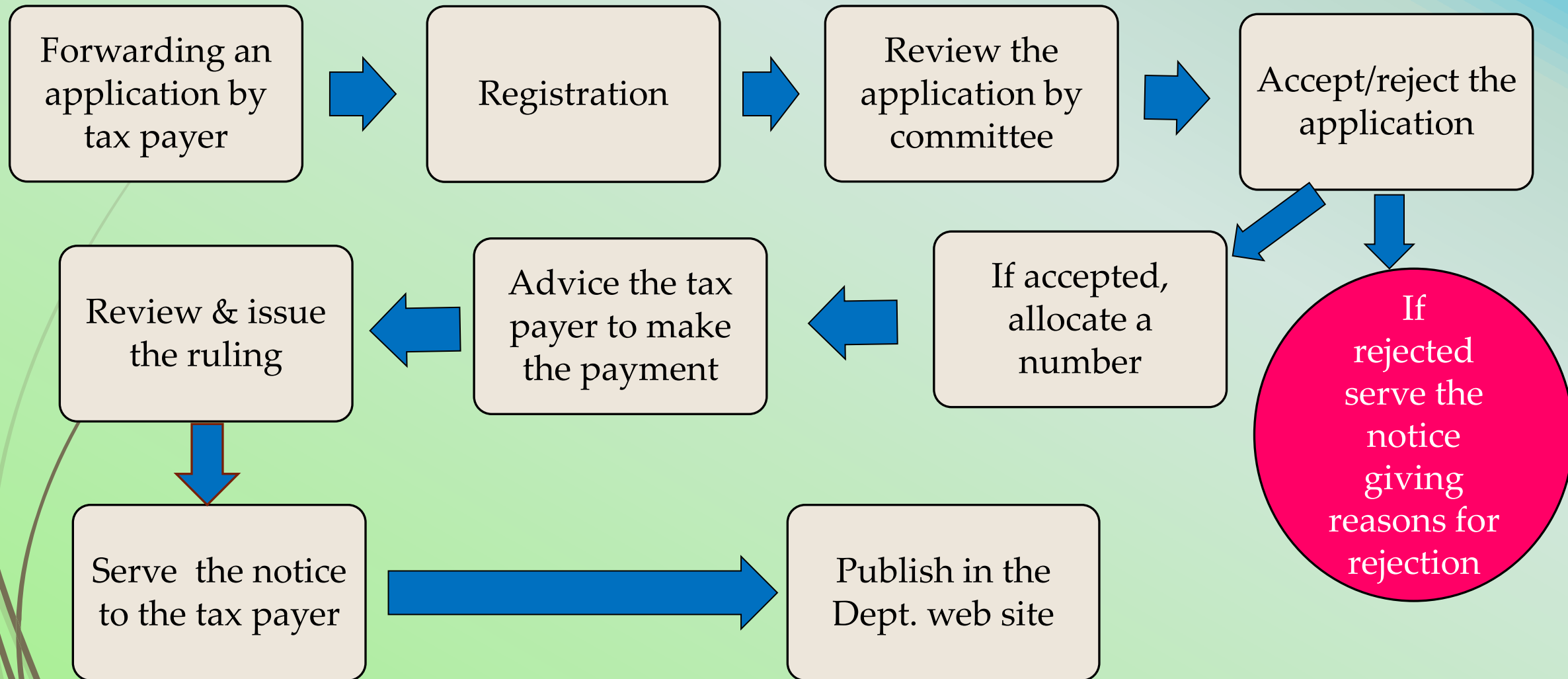
Refusing an application for a private ruling

- the transaction relating to an application **has not been carried out / will not be carried out**
- **sufficient information** to make a private ruling are not provided
- it would be **unreasonable to comply** with the application,
- the making of the ruling involves the **application of a tax avoidance provision.**

The CGIR may refuse an application of a taxpayer by giving a written notice.

Process of issuing a private ruling

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Withdrawal of a private ruling – Section 110

- If the issued private ruling is **found to be inconsistent** in whole or part with any law, such private ruling shall be withdrawn in whole or part by the CGIR to the extent necessary **to overcome such inconsistency**.
- The withdrawal shall have effect from the date **specified in the notice** of withdrawal.
- CGIR shall immediately publish a notice of withdrawal on the Department's website
- The issued ruling shall remain in force until withdrawn .

RECORD KEEPING AND INFORMATION COLLECTION

Section 120 - 125

Record keeping and information collection

- A taxpayer shall keep and maintain **records and accounts** in Sri Lanka.
- An **approved accountant** shall have prepared the accounts and **attest** to the **accuracy and completeness** of the accounts
- Such documents shall be kept at the **place of business or investment activity** unless the CGIR approves to keep at some **other place**.
- A person shall retain such **records for five years or until expiration** of the time limit for assessment or proceedings have been completed.

Record keeping...contd.

- If a person has prepared records in a language other than **Sinhala, Tamil or English**, that person shall at that person's expense, **provide a translation** acceptable to the CGIR.
- Financial statements, invoices, books of original entry, and all written **communications** between the Department and the taxpayer shall be in **Sinhala, Tamil or English**
- **amounts and values** to be provided in **Sri Lankan currency**.

Access to information, assets and land

- ▶ An authorized officer may **enter to a business premises, or other premises open to the public, with or without prior notice**, for an authorized purpose—
 - during normal business hours; or
 - at any time authorized in writing by a Magistrate

Access to information...contd.

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- Documents not provided to the CGIR **shall not be used** for challenging an assessment **in a judicial proceeding**,
- The owner or lawful occupier of the premises shall **provide all reasonable facilities and assistance** to the authorised officer.
- An authorised officer **shall return the documents** to the owner **within fourteen days** of the conclusion of the investigation or related proceedings.
- CGIR may visit any land , inspected, and measured and may call to produce for inspection any map, plan, title deed, instrument of title, or other document in the custody or under the control of that person which relates to the land.

Authorised officer may—

- **make a copy** of a record;
- **seize a record** or other item that appears to be relevant to an authorised purpose;
- **seal records** or other items;
- **question any person** in the premises or dwelling with respect to any matter arising under this Act;
- **open and examine any receptacle** where any book of account, register, record, or other document **may be found** and examine and make an inventory of any materials found therein;
- **operate any computer** and **take a record** of any data stored within; or
- **count and make a record** of any **cash found**.

OBJECTIONS AND APPEALS

Section 137 - 144

Objections and appeals - Section 137 - 144

- Dissatisfied taxpayer with an assessment or other decision may request the CGIR to review the decision.

- A request for review
 - shall be made to the **Commissioner-General in writing**
 - **not later than thirty days** after the taxpayer was notified the decision,
 - shall specify in detail **the grounds** upon which it is made.

- If an objection against an assessment which has been made in the absence of a return, the notice of request shall be sent together with a return duly made.

Objections and appeals contd.

- Appeal to be **acknowledged within 30 days** and the date of submission of appeal is deemed to be the acknowledged date.
- CGIR may **confirm** the assessment or **amend** the assessment (including for a nil amount) or **increase** the assessment.
- CGIR shall **consider** the taxpayer's request and **notify** the taxpayer **in writing** of the CGIR's decision and the reasons for the decision.
- The **burden of proof** shall be on the **taxpayer**

Appeal to the Tax Appeals Commission (TAC)

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- If not satisfied with the decision of CGIR, may **appeal to the TAC**.
- Appeal can be submitted to TAC:
 - When a decision is received from the CGIR, or
 - After 90 days from the date of submitting the appeal
- A taxpayer can appeal the decision of the CGIR within **30 days** of the determination of the CGIR.
- TAC may reduce the amount , increase the amount , confirm the amount or annul the assessment.

Appeal with the Court of Appeal

- Who is dissatisfied with the decision of the TAC may, within one month after being notified of the decision, file a notice of appeal with the **Court of Appeal**;
- An appeal to the Court of Appeal shall not be made unless an appeal request to the TAC has first been made,
 - a **decision has been received** from the TAC or
 - **ninety days have lapsed** since the request for appeal to the TAC was made and no response to the request for appeal has been received from the TAC.
- An appeal from a decision of the TAC to the Court of Appeal shall be made only on a **question of law**.

INTEREST

Sections 156 - 159

PENALTY

Sections 176 – 185

Criminal proceedings

Sections 186 – 193

Interest

- Interest on under payments - 1 ½% per month
- Interest on refundable amounts - ½% per month
- Minister may vary the interest rate by Order published in the Gazette.

Penalty

Reason	Penalty
Failure to register or notify of changes in taxpayer information - Sec. 177	A penalty not exceeding Rs. 50.000
late filing of tax return - Sec. 178	<p>The greater of ;</p> <p>(a) 5% of the tax due, plus a further 1% of the tax due for each month or part of a month during which the failure to file continues, and</p> <p>(b) Rs. 50.000 plus a further Rs. 10,000 for each month or part of a month during which the failure to file continues.</p> <p>However, the penalties cannot exceed Rs. 400,000</p>

Reason	Penalty
fails to pay within 14 days of the due date or by the due date specified in the notice of assessment, if later - Sec. 179(1)	20% of the tax due but not paid
Fails to pay an installment within 14 days of the due date - Sec. 179(2)	10% of the tax due but not paid
negligent or fraudulent underpayment - Sec. 180	<p>(i) If under payment is higher than Rs. 10 mn, or (ii) Higher than the 25% of the persons liability for the period, the penalty will be 75% of the under payment.</p> <p>If this is not applicable, 25% of the under payment</p>

Reason	Penalty
Providing false or misleading statements -Sec. 181	The greater of ; (a) Rs. 50,000/- or (b)The amount by which the tax payable/ refund would have been reduced /increased if it were determined based on such statement.
Failure to maintain documents - Sec. 182	Rs. 1,000/= per day for each day the failure continues
Failure to provide facilities - Sec. 182	not exceeding Rs. 10,000
Failure to comply with third party notice (third party debtors) -Sec. 183	Penalty of 25% of the difference between the amount payable by the third party and the amount paid to the CGIR by the due date specified in the 170 notice.
Failure to comply with third party notice to give information -Sec. 183	Not exceeding Rs.1 mn

Transfer pricing penalties

Reason	Penalty
If required documents have not been maintained;	not exceeding 1% of aggregate value of transactions with associated enterprises
If required documents have not been submitted	not exceeding Rs. 250,000
in case of non-disclosure of any required information;	not exceeding 2% of aggregate value of transactions with its associated enterprises,
If required documents have not been submitted on the specified date	not exceeding Rs. 100,000
(i) concealed the particulars, or furnished inaccurate particulars of such income or (ii) sought to evade by reason of concealment of particulars of his income or the furnishing of inaccurate particulars of such income,	200% of the value of additional tax

Criminal proceedings

Reason	Penalty
willfully evades or attempts to evade – Sec. 189	fine not exceeding Rs. 10 mn. or to imprisonment for a term not exceeding 2 years or to both such fine and imprisonment
willfully impedes or attempts to impede the Department in the administration of this Act - Sec. 190	fine not exceeding Rs. 1mn. or to imprisonment for a term not exceeding 1 year or to both such fine and imprisonment
Failure to preserve secrecy - Sec. 191	fine not exceeding Rs.1 mn. or to imprisonment for a term not exceeding 1 year or to both such fine and imprisonment.

THANK YOU