



# Discussion on Inland Revenue Bill

20 July 2017



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# Today's agenda

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- ▶ Losses
- ▶ Qualifying payment
- ▶ Withholding taxes
- ▶ Investment income and capital gains taxation
- ▶ Tax exemptions
- ▶ Tax rates
- ▶ Assessment and Appeal Procedure
- ▶ Authorized representative.
- ▶ Q&A session

# Losses

Item	Current provision	Proposed provision	Change
Losses	<p>Business losses (other than losses from exempt business) can be deducted, subject to the deduction limitation of 35% of assessable income.</p> <p>Unrelieved loss can be carried forward indefinitely.</p> <p>Losses from leasing or life insurance businesses can be set off only against the profit and income from such businesses</p>	<p>A loss can be deducted in full. Balance, if any, can be carried forward up to six years.</p> <p>The loss can be set off against business profits or investment income, subject to certain restrictions.</p>	<p>Losses relating to reduced rate can be deducted from;</p> <ul style="list-style-type: none"> <li>▶ Profits taxable at such rate;</li> <li>▶ Profits taxable at lower rate; and</li> <li>▶ Profits from exempt activities.</li> </ul> <p>Business loss can be deducted from investment income. However, investment loss can be deducted only from investment income.</p> <p>The restriction on deduction of losses from leasing and life insurance businesses will be removed.</p> <p>Losses from long term contracts can be carried back.</p>

# Qualifying payments

- ▶ Deduction for qualifying payments is available for donations made in money to approved charities and for donations made in money or otherwise to the Government and to certain Government Institutions.

Donations made to	Maximum amount deductible	
	Individual	Entity
Approved charities	Lower of; <ul style="list-style-type: none"><li>▶ 1/3 of the <u>taxable income</u> or</li><li>▶ Rs. 75,000</li></ul>	Lower of; <ul style="list-style-type: none"><li>▶ 1/5 of the <u>taxable income</u> or</li><li>▶ Rs. 500,000</li></ul>
Government institutions	100%	100%

- ▶ Unclaimed amount, if any, cannot be carried forward.



# Withholding taxes

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# Withholding taxes on dividends

Item	Current provision	Proposed provision	Change
Basis of taxation	Final WHT	Same (final for residents)	
Definition	<p>Distribution of profit by a company to its shareholders, in the form of;</p> <ul style="list-style-type: none"> <li>▶ Money or of an order to pay money</li> <li>▶ Shares in any other company</li> <li>▶ Debentures in that company or any other company</li> <li>▶ Scrip dividend or dividend in specie</li> <li>▶ The excess of the market value relating to shares buy-back</li> <li>▶ Reduction of capital within six years of a bonus issue.</li> </ul>	<p>Dividend</p> <ul style="list-style-type: none"> <li>a) means a payment derived by a member from a company, whether received as a division of profits, in the course of a liquidation or reconstruction, in a reduction of capital or share buy-back or otherwise;</li> <li>b) Includes a capitalization of profits (bonus share)</li> <li>c) Excludes a payment to the extent to which it is               <ul style="list-style-type: none"> <li>▶ matched by a payment made by the member to the company;</li> <li>▶ debited to a capital, share premium or similar account; or</li> <li>▶ otherwise constitutes a final withholding payment or is included in calculating the income of the member.</li> </ul> </li> </ul>	<p>The coverage of dividend definition broadened</p> <p>Not clear whether the entire buy back price is dividend or the value net of costs is dividend</p>

# Withholding taxes on dividends (cont'd)

Item	Current provision	Proposed provision	Change
Chargeability	The company is liable to pay dividend tax. Such tax can be recovered from the shareholders.	The company has no liability to dividend tax other than as a withholding agent.	
Dividends (resident companies)	Liable @ 10%	Liable @ 14%	Rate increased by 4%
Exemptions	Certain exemptions given under Section 10	Dividend received by a non resident is exempt if the paying company has invested more than US\$ 2,000 Mn on depreciable assets	Certain BOI, SDP exemptions should be granted

# Withholding taxes on dividends (cont'd)

Item	Current provision	Proposed provision	Change
Dividends distributed out of dividends received	Not liable for WHT	Same	
Foreign dividends	Exempt	Liable @ 28% subject to double tax (DTA) relief	May increase the effective rate from 0% to 38%
Dividends distributed out of dividends (foreign) received	Exempt if declared within 3 months	Liable @ 14%	



# Withholding taxes on deposit interest

Item	Current provision	Proposed provision	Change
Individuals – Senior citizens	Exempt	Up to Rs. 1.5 million exempt, any balance liable @ 5%	Rate increased by 5%
Individuals – Others	Liable @ 2.5% (final tax)	Liable @ 5% (final tax)	Rate increased by 2.5%
Body of persons (including clubs & associations)	Liable @ 8% (final tax)	Liable @ 14%	Net income is liable @ 28%, hence the effective rate of 38%
ETF, provident or pension fund and approved termination funds	Liable @ 8% (final tax)	Liable @ 14% (final tax)	Rate increased by 6%

## Withholding taxes on deposit interest (cont'd)

Item	Current provision	Proposed provision	Change
Charitable institutions	Liable @ 2.5% (final tax)	Liable @ 14% (Exempt if such charitable institution is established for the purpose of care of children, elderly or the disabled – No change)	Rate increased by 11.5%
Financial institutions	Liable @ 10%	No WHT	Gross income is liable at 28%
Companies other than financial institutions	Liable @ 10%	Liable @ 14%	Net income is liable @ 28%, hence the effective rate on such part is 38%
Foreign currency accounts maintained by corporates (e.g., FCBU and NRFC)	Exempt	Same rates as applicable for Rupee deposits will apply for both corporates and individuals	

# Withholding taxes on payments to non-residents

Item	Current provision	Proposed provision	Change
Non-resident loans	Exempt	Liable @ 14% subject to DTA rate	Final tax
Royalty payments to non-resident	20% or subject to DTA rate	Liable @ 14% (final tax)	Decreased by 6%
Management fees, technical fees and service fees paid to non-residents	20% subject to DTA rate	Liable @ 14% subject to DTA rate (final tax)	Decreased by 6%

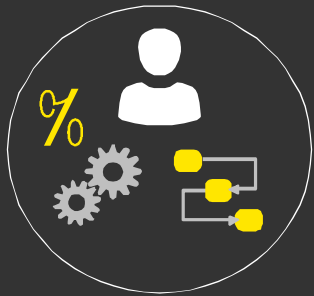


# Investment income and capital gains taxation

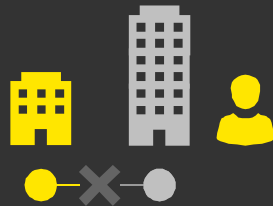
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# Investment income

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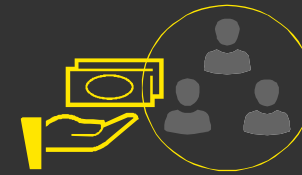
Dividend,  
interest,  
royalties,  
annuities,  
rent etc.



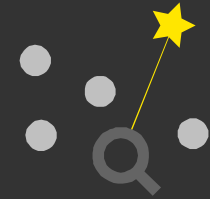
Gains from the  
realization of  
investment  
assets (capital  
gain)



Consideration  
for accepting a  
restriction on  
the investment  
asset



Gifts  
received in  
respect of  
the  
investment



Winnings  
from  
betting and  
gambling

# Gains from realization of investment assets

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- ▶ What is an investment asset
  - ▶ A capital asset held as part of an investment
- ▶ A capital asset is defined to mean
  - ▶ Land or building
  - ▶ A membership interest in a company or partnership
  - ▶ A security or other financial asset
  - ▶ An option, right or other interest in the above assets
  - ▶ But excludes trading stock or a depreciable asset
- ▶ Therefore an investment asset is any of the above assets held as part of an investment and not as an asset connected to the business.

# Realization of investment assets

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- ▶ Realization of an asset means when the owner of that asset parts with the ownership of that asset by
  - ▶ Sale, Transfer, exchange, distribution, cancellation, redemption, destruction, loss, expiry, expropriation or surrender
  - ▶ When a person ceases to exist including the death of an individual there would be a realization of that asset immediately before
  - ▶ This would include gifting of an asset

# Gains from realization of assets

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- ▶ How is the gain computed

$$\text{Gain} = \text{Consideration} - \text{Cost of the asset}$$

- ▶ Applicable tax rate on realization of investment assets - 10%
- ▶ Applicable rate on other assets would be the rate at which the respective company or individual is liable.



# Gains from realization of assets (cont'd)

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- ▶ Cost of the asset includes
  - ▶ Expenditure to acquire
  - ▶ Expenditure on construction
  - ▶ Expenditure in altering, maintaining and repairing
  - ▶ Advertising
  - ▶ Transfer taxes
  - ▶ Duties
  - ▶ Expenditure in preserving or defending title
  - ▶ Service fees for retaining accountants, lawyers for the above purposes

# Gains from realization of assets (cont'd)

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## Consideration

- ▶ Does consideration have to be the market value?
- ▶ The consideration is defined to mean the amount received or receivable for the asset.
- ▶ Only where consideration is given in kind-the market value must be considered.
- ▶ Exempt amounts shall be excluded from the consideration.

# Gains from realization of investment assets (cont'd)

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## Exemptions

- ▶ No tax will be imposed if it's the principle place of residence if it is owned continuously for 3 years before disposal and lived in for at least 2 years.
- ▶ Gains by a resident individual from the realization of investments assets that does not exceed Rs 50,000/- per asset and does not exceed Rs 600,000/= per annum in total.
- ▶ Gains from the realization of investment assets consisting of shares quoted in any official list published by any stock exchange licensed by the SEC Sri Lanka.

# Losses from realization of investment assets

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- ▶ At what point will a capital loss arise?

It will be at the point of the realization of an asset or liability and where the cost of the asset exceeds the consideration received.

# Tax exemptions

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# Proposed exemptions (corporates)

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- ▶ Gain from realization of investment asset consisting of quoted shares
- ▶ Interest income from sovereign bonds denominated in foreign currency
- ▶ Dividend paid out of dividend received



# Tax rates

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# Proposed tax rates

14%

SMEs, exports, education, agriculture, promotion of tourism and IT

28%

Standard rate of 28% for all other industries, including banking, finance, insurance, leasing and related services, trading and unincorporated bodies

40%

Higher rate applicable to betting and gaming, liquor and tobacco

Three tier structure effective from 1 April 2017





**Thank you for your  
participation**