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1st Session 1970-71



Bank Debits Tax Act, No. 27 of 1970

Date of Assent : November 1, 1970

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Bank Debits Tax Act, No. 27 of 1970

L. D.—O. 22/70.

AN ACT TO IMPOSE A TAX ON DEBITS MADE AGAINST CURRENT ACCOUNTS IN COMMERCIAL BANKS AND TO PROVIDE FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

[Date of Assent: November 1, 1970]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and the House of Representatives of Ceylon in this present Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the Bank Debits Tax Act, No. 27 of 1970, and shall come into operation on such date as the Minister may appoint by Order published in the *Gazette*.

Short title and date of operation.

2. (1) Subject to the provisions of section 3, a tax on the total amount of the debits made during each calendar month against each current account shall be charged at the rate of one-tenth of one *per centum* of such amount or at such other rate as may from time to time be determined by resolution passed by the House of Representatives.

Charge of tax on debits against current accounts.

(2) A tax imposed by or under sub-section (1) is hereafter in this Act referred to as the tax.

3. The following debits made against current accounts shall be exempt from the tax:—

Exemptions from the tax.

(a) debits made against any current account of the Government of Ceylon, any foreign Government, the United Nations Organization, any Specialized Agency of that Organization, the Council for Technical Co-operation in South and South-East Asia, or any international or foreign organization approved by the Minister by Order published in the *Gazette*;

(b) debits made against any such current account of the head office in Ceylon of a commercial bank as is maintained in a branch in Ceylon of that bank;

(c) debits made against any such current account of a branch in Ceylon of a commercial bank as is maintained in the head office in Ceylon of that bank;

- (d) debits made against any such current account of a branch in Ceylon of a commercial bank as is maintained in any other branch in Ceylon of that bank;
- (e) debits made against a current account in respect of sums withdrawn from that account for the payment of the tax;
- (f) debits made against a current account in respect of any sums that are withdrawn from that account for the purpose of opening a special current account and are credited to such special current account;
- (g) debits made against a special current account; and
- (h) such other debits or classes of debits made against current accounts as may from time to time be determined by the Minister of Finance by Order published in the *Gazette*.

Liability to
pay the tax.

4. The liability to pay the tax on the debits made during any calendar month against the current account of any person shall commence at the end of that month, and he shall be liable to pay the tax.

Collection and
remittance of
the tax.

5. (1) Within thirty days after the end of each calendar month every commercial bank shall, according to the funds in each current account maintained in that bank, withdraw from that account a sum equal to the tax or part of the tax on the debits made against that account during that month, and shall, after deducting from the total of the sums withdrawn in pursuance of this sub-section the amount of the fee referred to in section 6, remit the balance of such total, with a statement relating thereto in the prescribed form, to the Chief Accountant of the Central Bank of Ceylon to be credited to the Consolidated Fund of Ceylon.

(2) Where any sum is withdrawn and remitted under sub-section (1) from a current account in payment of the tax, such payment shall be deemed to be with the authority of the person for whom such account is maintained and shall be a valid discharge of his liability to pay the amount of the tax so remitted.

(3) Where owing to no funds or inadequacy of funds in a current account the commercial bank in which that account is maintained is unable to collect the tax

or any part of the tax on the debits made against that account during any calendar month. that bank shall, when transmitting the statement under sub-section (1), report in the prescribed form to the Chief Accountant of the Central Bank of Ceylon the name and address of the person for whom that account is maintained, the amount of the tax not collected in respect of that account, and the amount of the debits on which the amount of the tax not collected is due.

(4) Nothing in the preceding provisions of this section shall be deemed to authorize a commercial bank to refuse to pay out of the funds in a current account the whole or a part of an amount of which payment is demanded by cheque, draft, order or other instruction by the person for whom such account is maintained on the ground that the tax or any part of the tax on the debits made against such account has to be paid.

6. Every commercial bank may, as expenses of the collection and remittance of the tax, deduct and retain from the total amount collected in payment of the tax in respect of any calendar month such fee as may be prescribed.

Expenses of collection and remittance of the tax.

7. Where a commercial bank reports under sub-section (3) of section 5 that it is unable to collect any amount of the tax due on the debits made during any calendar month against the current account of any person, an officer of the Central Bank of Ceylon who is authorized in that behalf by the Governor of such Bank shall in writing order such person to pay, within fourteen days after the date of the order, such amount to the Central Bank of Ceylon to be credited to the Consolidated Fund of Ceylon. If such person fails to pay such amount to the Central Bank of Ceylon within such fourteen days, such amount shall be deemed to be in default and shall be a charge on all his assets.

When the tax due from a person is deemed to be in default and is to be a charge on all his assets.

8. Where the tax is in default in respect of any amount, the Deputy Secretary to the Treasury may issue a certificate containing particulars of such amount and the name and last known place of residence or place of business of the defaulter to a Magistrate having jurisdiction in the division in which such place is situate. The Magistrate shall thereupon summon such defaulter before him to show cause why proceedings for the recovery of the amount of the tax in default should not be taken against him, and, if sufficient cause is not shown, the amount of the

Proceedings for recovery of the tax in default.

tax in default shall by order of the Magistrate be recovered as if it were a fine imposed by the Magistrate on such defaulter, and shall, when recovered, be remitted to the Deputy Secretary to the Treasury to be credited to the Consolidated Fund of Ceylon.

Refund of sums paid or recovered as the tax on debits that are exempted from the tax.

9. (1) Where any sum is paid by or on behalf of, or recovered from, any person as the tax on any such debits as are exempted from the tax by or under section 3, such person shall, upon a claim made by him in writing in that behalf to the Deputy Secretary to the Treasury, be entitled to a refund of such sum.

(2) Any sum payable to any person under sub-section (1) shall be paid out of the Consolidated Fund of Ceylon.

Powers conferred on the Central Bank of Ceylon for the purposes of this Act.

10. (1) Any officer of the Central Bank of Ceylon authorized in that behalf by the Governor of that Bank may direct the commercial banks to furnish such returns as may be necessary for the purposes of this Act, and may inspect, and make copies of any entries in, the books, records and all other documents of such banks in order to ascertain whether such banks are complying with the provisions of this Act.

(2) Every commercial bank shall comply with any direction given under sub-section (1) and shall permit and assist any person empowered to do so by sub-section (1) to inspect, and make copies of any entries in, any books, records or other documents of such bank.

(3) Section 45 of the Monetary Law Act relating to the duty to maintain secrecy shall apply in regard to matters coming within the knowledge of any such officer of the Central Bank of Ceylon as is referred to in sub-section (1) in the exercise of his powers under that sub-section.

Procedure for opening a special current account.

11. A commercial bank may open a special current account for a person if he declares in writing that such account is needed by him for the purpose for which alone a current account should be maintained if it is to be a special current account within the meaning of this Act.

12. (1) Any person who makes a false declaration to a commercial bank for the purpose of opening a special current account shall be guilty of an offence and shall, on conviction after summary trial before a Magistrate, be liable to a fine not exceeding five thousand rupees or to imprisonment of either description for a term not exceeding one year or to both such fine and imprisonment.

Punishment for false declaration made for opening a special current account, and recovery of the tax on debits made against that account.

(2) On the conviction of any person under sub-section (1) for making a false declaration for opening a special current account, the court shall, in addition to any other sentence, order him to pay such sum as may be found by the court to represent the tax that would have been payable on the debits made against such account if such account had been a current account and not a special current account, and shall order the commercial bank in which such account is maintained to close such account and such bank shall comply with such order. Any sum ordered to be paid under this sub-section may be recovered by order of the court as if it were a fine imposed by the court and shall, when recovered, be remitted to the Deputy Secretary to the Treasury to be credited to the Consolidated Fund of Ceylon.

13. Where the Minister of Finance is satisfied that any special current account maintained in any commercial bank is not in fact such an account, he may in writing order that bank to close that account, and that bank shall comply with such order.

Closure of a special current account on Minister's order.

14. Where any commercial bank fails to comply with or contravenes any provisions of this Act, the manager or other chief executive officer of such bank shall be guilty of an offence and shall, on conviction after summary trial before a Magistrate, be liable to a fine not exceeding one thousand rupees or to imprisonment of either description for a term not exceeding six months or to both such fine and imprisonment.

Punishment for noncompliance with provisions of this Act by a commercial bank.

15. After the end of every three calendar months an officer of the Central Bank of Ceylon authorized in that behalf by the Governor of such Bank shall, in respect of each commercial bank, in writing certify to such Governor the total amount of such debits made during those months against the current accounts in that commercial bank as are subject to the tax, the

Certificate relating to total amount of debits &c., to be sent to the Deputy Secretary to the Treasury every three months.

total amount of the tax payable on those debits, the amount remitted by that commercial bank in payment of the tax, the amount retained by that commercial bank as its fee for collecting and remitting the tax, and the amount of the tax, if any, that has not been collected. Such certificate shall be transmitted by such Governor to the Deputy Secretary to the Treasury within forty-four days after the end of the three calendar months to which such certificate relates:

Provided that in respect of every outstation branch of the Bank of Ceylon and of the People's Bank, such certificate shall be under the hand of the manager of such branch, and such manager shall send such certificate, together with a copy thereof, to the said Governor before the expiry of thirty days after the end of the three calendar months to which such certificate relates.

In this section, "outstation branch" means a branch situated in Ceylon and outside the area within the administrative limits of the Colombo Municipal Council.

Regulations.

16. (1) The Minister of Finance may make regulations for the purpose of giving effect to the principles and provisions of this Act.

(2) Without prejudice to the generality of the powers conferred by sub-section (1), regulations may be made in respect of any matter which is stated or required by this Act to be prescribed.

(3) Any regulations made under this section shall be published in the *Gazette* and shall come into operation on such date as may be specified in those regulations as the date of operation, and, if no such date is so specified, shall come into operation on the date of such publication.

(4) Every regulation made and published under this section shall be laid, as soon as conveniently may be, on the table of the Senate and the House of Representatives at two successive meetings of the Senate and the House of Representatives and shall be brought before the Senate and the House of Representatives at the next subsequent meeting by a motion that such regulation shall not be disapproved. If such regulation is disapproved by the Senate or

the House of Representatives, such regulation shall be deemed to be rescinded as from the date of such disapproval but without prejudice to anything already done under such regulation. Notice of such disapproval shall be published in the *Gazette*.

17. In this Act unless the context otherwise requires— Interpretation.

“commercial bank” means any commercial bank within the meaning of the Monetary Law Act and includes every branch in Ceylon of a commercial bank; Cap. 422.

“current account” means—

(a) an account (other than a savings account), whether in credit or otherwise, which is maintained in a commercial bank for any person and from which payments are made on demand made by him by cheque, draft, order or other instruction, and

(b) any internal account of a commercial bank from which payments are made for defraying any expenses of that bank, including expenses of a capital nature such as the cost of purchasing any immovable property or constructing any building;

“debits” means entries made against a current account of any person in respect of the withdrawals of funds from that account by cheque, draft, order or other instruction of that person, and include the charges made by a commercial bank in the course of business to a current account maintained in that bank;

“savings account” means an account which is maintained in a commercial bank and the funds deposited in which earn interest and the withdrawals of funds from which can be made only after such intervals as are specified, or subject to such rules as are made, by that bank; and

“special current account” means a current account of any person maintained solely for the purpose of—

(a) depositing in that account funds received by him, in the course of his business, for and on behalf of any other persons for payment to those persons, and

(b) making payments from the funds in that account to those persons.