

Introduction

The Department of Inland Revenue issued instructions to tax payers by Extraordinary Gazette Notice No.1907/26 dated 25th March, 2015, on details to be submitted pertaining to transactions with associated undertakings. This was in addition to the existing Extraordinary Gazette Notice No. 1823/05 dated 12th August, 2013 on initial guidelines of transfer pricing regulations in Sri Lanka.

Who should comply?

The following persons are required to submit the details on transactions with the associated undertakings :

- A quoted public Company or a Company within a group, where one or more of the Companies are listed.
- Any Company deriving an annual turnover. Rs. 250 Mn or net profit. Rs. 100Mn.
- Any partnership or any person other than a Company deriving an annual turnover. Rs. 50 Mn or distributable profit. RS. 25 Mn.
- Any person transacting with a non - resident.

Effective Date

Effective date for reporting on compliance is 01st April, 2015.

Reporting requirement

- **All transactions with associated undertakings**
Accountant's report on transactions with all associated undertakings shall be filed along with the return of income.
- **International transactions**
Confirmation in the Director's report included in the annual accounts to shareholders certifying that transactions with associated undertakings are on arm's length terms.

How we can help you?

Please contact our Tax Partner, Nadeeka Suranjana for any assistance.



Nihal Hettiarachchi & Co.,
"RNH House", No. 622B, Kotte Road, Kotte.



+94 114 975 999



+94 114 511 473



nadeeka@nh-co.lk

Appendix I

Determination of an Associated Undertaking

Two undertakings shall be deemed to be associated undertakings, if, at any time during the previous year,—

- one enterprise holds, directly or indirectly, shares carrying not less than fifty per cent of the voting power in other undertaking ; or
- any person or enterprise holds, directly or indirectly, shares carrying not less than fifty per cent of the voting power in each of such undertaking ; or
- loans advanced by one undertaking to the other undertaking constitutes not less than fifty-one per cent of the book value of the total assets of the other undertaking ; or
- one undertaking guarantees not less than twenty five per cent of the total borrowings of the other undertaking ; or
- more than half of the board of directors or members of the governing board, or one or more executive directors or executive members of the governing board of one undertaking, are appointed by the other undertaking ; or
- more than half of the board of directors or members of the governing board, or one or more of the executive directors or members of the governing board, of each of the two undertakings are appointed by the same person or persons ; or
- the manufacture or processing of goods or articles or business carried out by one undertaking is wholly dependent on the use of know-how, patents, copyrights, trade-marks, licences, franchises or any other business or commercial rights of similar nature, or any data, documentation, drawing or specification relating to any patent, invention, model, design, secret formula or process, of which the other undertaking is the owner or in respect of which the other undertaking has exclusive rights ; or
- ninety per cent or more of the raw materials and consumables required for the manufacture or processing of goods or articles carried out by one undertaking, are supplied by the other undertaking, or by persons specified by the other undertaking, and the prices and other conditions relating to the supply are influenced by such other undertaking ; or
- where one undertaking is controlled by an individual or jointly by such individual and his relative, and the other undertaking is controlled by such individual or his relative or jointly by such individual and his relative
- or jointly by relatives of such individual ; or
- where one undertaking is a firm, association of persons or body of individuals, the other undertaking holds not less than ten per cent interest in such firm, association of persons or body of individuals ; or
- there exists between the two undertakings, any relationship of mutual interest, as may be prescribed.

Appendix II

Certificate of the Director Principal Officer, on transfer pricing

The Director's Report to the members shall contain a certificate in the following format :

To the Members

It is certified that the company has complied with the Transfer Pricing Regulations issued under Section 104 of the Inland Revenue Act, No. 10 of 2006. The information pursuant to these Regulations is given under certificate produced under Section 107(2)(a) of the said Act. We believe that the record of transactions entered into with related parties during the period from to are at arm's length and not prejudicial to the interests of the company. The transactions are entered into on the basis of a transfer pricing policy adopted by the company. All transactions have been submitted to the independent auditors for audit. [No adverse remarks have been made in their report on the audit of such transactions] / [The auditors have qualified their report and the audit report is attached].

Place :

For and on behalf of the Board of Directors.

Appendix III

Content of the Accountant's Report

- Details of the Tax payer.
- List of associated undertakings with whom the Tax payer has entered into transactions.
- Details of goods purchased/sold, services procured/ provided, assets purchased, cost reimbursements made, royalty fee paid etc.
- Terms of the transaction.
- Consideration and Arm's length price.
- Method/s used for determining the arm's length price.
- Accountant's confirmation on :

I/We have examined the accounts and records of (name of the Taxpayer with Tax Payer Identification Number) relating to the transactions entered into with associated undertakings by the Taxpayer during the year of assessment ending on 31st March,

In my/our opinion proper information and documents as prescribed have been kept/have not been kept by the Taxpayer in respect of the transaction(s) entered into so far with associated undertakings as appears from my/our examination of the records of the Taxpayer.

The particulars required to be furnished under Regulation 9 of Gazette Extraordinary No. 1823/5 of 12.08.2013 are stated in this certificate. In my/our opinion and to the best of my/our information and according to the explanations given to me/us, I/we certify that all material information and particulars have been given.