

Santa Claus vs The Revenue



Stanley Fernando

Did you know that even Santa Claus has problems with the Revenue? Santa has made available copies of his correspondence with the ‘man with the gift of the grab’ at the Revenue notwithstanding the secrecy provisions of the Inland Revenue Act.

1st January 1997

Dear Mr. Santa Claus

I have already been reliably informed that you are trading in Sri Lanka. However I note that you have no Income Tax File or Turnover Tax File nor have you volunteered to “Save the Nation’, despite your reputed Human Rights record. You are required to complete the enclosed Tax Return and return it to me in an envelope of your own choice. (The new Commissioner-General has decided that official envelopes on ‘State Service’ will not be provided from now on with a view to ‘Saving the Nation’.)

Your Obedient Servant

Grabber

10th February 1997

Dear Mr. Santa Claus

Thank you for the prompt reply to my letter of 1st January 1997 in which you state that you are an artificial or fictitious person and that you do not come within the definition of an individual or person chargeable with Income Tax under Section 2 read with section 163 of the Inland Revenue Act.

Although I am not aware of any judicial precedent applicable to your contention, I am aware that other entities placed in similar circumstances such as Donald Duck, Mickey Mouse and such other persons in the media industry have been subjected to Income Tax. I must also advise you that the Inland Revenue has the jurisdiction in matters of taxation, even if the taxpayer does not recognize such jurisdiction (Lloyd vs. Taylor 46 TC 539). Under the rule laid down in Smeeton vs Attorney-General (12 T.C. 166), the correct procedure is to furnish the information required by the Revenue and to lodge an appeal against the assessment.

Your Obedient Servant

Grabber

1st April 1997

Dear Mr. Santa Claus

Thanks for your letter of 28th February 1997. I have to reply as follows:-

1) I agree that you are domiciled in the North Pole and regard the North Pole as your natural home. However, I cannot agree that you are not resident or ordinarily resident in Sri Lanka. I understand that you have been in Sri Lanka for more than 180 days this year as you have been seen at several super-markets in Colombo and its suburbs for more than 180 days. This makes you a resident in Sri Lanka for Income Tax purposes.

2) I cannot accept that you are a charitable institution since you are not engaged in carrying out a charitable purpose within the meaning of charitable purpose as defined in Section 163 of the Inland Revenue Act. (See the Macnaghten rules in Pemsell’s case). I am of the view that you are carrying on a business in the distribution of toys and gifts and that you are liable to Income Tax as well as Turnover Tax.

3) Sri Lanka does not have a Double Tax Agreement with the North Pole but any North Pole tax you may have paid will qualify for unilateral relief from Sri Lanka Income Tax.

4) An igloo is not a dwelling house or any place of residence in Sri Lanka even if it is located in Sri Lanka. You are therefore requested to submit your Return without further delay.

Your Obedient Servant

Grabber

25th May 1997

Dear Mr. Santa Claus

Your return and accounts have been received in this office. However, I regret that I am reluctantly compelled to reject your return for the following reasons in terms of Section 115(3) of the Inland Revenue Act.

1) The deduction claimed for traveling' cannot be allowed as such traveling seems to include your journeys from the North Pole to Sri Lanka. Traveling from your residence to the place of business is a prohibited deduction under Section 24 of the Inland Revenue Act. Since your place of business is situated in Sri Lanka, traveling expenses incurred in the course of your business in Sri Lanka are deductible.

2) Does Mrs. Santa Claus accompany you on these journeys?

3) Ointment for Rudolph's nose is not deductible. Medical expenses for members of your staff, particularly of this nature are not deductible as they are not related to the work done, but to the physical condition of Rudolph's red nose.

4) Please advise whether the sleigh bells were replacing the existing bells or were intended to improve the quality and life- time of the sleigh.

5) Expenditure claimed on your hood and gown can be considered, but your Wellington boots do not qualify for deduction as they are worn in this country mostly by trendy young people and are very much in fashion. Your Wellington boots appear to be worn for a purely private purpose and not for the purposes of your business. Your attention is drawn to the principle that if you incur some expense partly for business and partly for other reasons, you do not get part of the expense allowed – you will get none of it. (See Mallaline vs Drummond) where a lady barrister claimed the expense of buying and keeping clean the professional attire she was required to wear in court. The professional code of conduct of barristers require that they wear black clothing in court. The Inland Revenue however argued that the lady barrister did not wear her professional attire for complying with the code of conduct of barristers, but also for the private purpose of covering herself and remaining decent. The latter purpose was not a business purpose, but a private purpose.

6) Your laundry bill appears rather excessive. Please produce documentary evidence.

7) Re the claim for legal fees, please furnish a breakdown. I cannot imagine that you could enter into any litigation with anybody in the season of peace and goodwill.

8) Please explain what you mean by “sacking expenses.” Are these “redundancy” payments?

9) Tile replacement expenses. It appears to me that this is the responsibility of your clients with whom you operate.

10) Your accounts indicate that you employ several personnel including reindeer, packers, navigators and understudies. These employees do not appear to have been registered in our Pay As You Earn registers. Please note that as the employer, you are personally responsible for the deduction of their taxes under the P.A.Y.E. Scheme.

11) Re your claim for tax free allowances for 2000 persons, I cannot agree that you represent 2000 Santas. Each Santa will have to claim the tax free allowance in his own tax return, if indeed, there is more than one Santa Claus!

Your Obedient Servant

Grabber

25th June 1997

Dear Santa

I trust that I can now be addressing you as everybody else does. Of course, you too can call me grabber. My replies to your comments on the information sought by me in my previous letter are as follows:- that.

1) Please accept my apologies for not appreciating that there is no Mrs. Santa Claus, notwithstanding Women’s Lib and all

2) I have examined your breakdown of traveling expenses. I am prepared to allow the cost of one return journey to the North Pole as valid travel.

3) Sorry about the problems that Rudolph is having with his nose. But my earlier decision on ointment for Rudolph’s nose cannot be varied.

4) I note that the sleigh bells replaced the existing ones and that the new bells are

loud enough to be heard by Christmas revelers wearing personal stereo systems. This expenditure appears to be for maintenance as well as improvement. I am prepared to allow two-thirds as maintenance expenditure.

5) Your Wellington boots although of an extra thickness are not different from ordinary footwear. I am therefore not inclined to allow the expenditure on the boots.

6) Your laundry bills are too excessive considering the fact that your hood and gown are not worn so frequently.

7) Legal Fees All this expenditure appear to have been for violation of traffic regulations and expenses on parking tickets for the sleighs. I regret that I cannot allow the legal fees claimed as expenses incurred in the production of income.

8) Sacking Expenses Your explanation that these expenses have been incurred for the carriage of toys and gifts is accepted. The deduction is allowed.

9) Tile Replacement I accept your explanation that this expenditure has been incurred with a view to improving customer goodwill. The deduction is allowed.

10) Employees All your employees claim to be self-employed. I cannot accept this. The matter cannot be decided on what is stated in the contracts you have entered into with them, but by the actual working relationship. I note that your employees are taking legal advice on the question whether they are employed or self-employed.

11) I did not answer your previous questions on whether I have been a good boy as I did not see that it was relevant. You still keep on asking whether I have been a good boy and insisting that I will not get any presents unless I say I have been a good boy. I appreciate your concern, but I must advise you that attempting to bribe an Assessor is a serious offence. An assessment will be issued in due course subject to the above variations of your return and accounts.

Merry Christmas!

Your Obedient Servant Grabber

Bethlehem and the Tax Connection

Jesus Christ may have been born in Bethlehem because of the Tax system at the time. The following narratives from the Gospel according to St. Mark seem to suggest so.

1) And it came to pass in those days that there went out a decree from Ceasar Augustus that all the world should be taxed.

2) And this taxing was first made when Cyrenius was Governor of Syria.”

3) And all went to be taxed, everyone into his own city.

4) And Joseph also went up from Galilee, out of the city of Nazareth, into Judea, unto the city of David, which is called Bethlehem, (because he was of the house and Lineage of David).”

5) To be taxed with Mary his espoused wife, being great with child.”

6) ‘And so it was that while they were there the days were accomplished that she should be delivered.”

7) ‘And she brought forth her first-born son and wrapped him in swaddling clothes and laid him in a manger, because there was no room for them in the inn.