



**PARLIAMENT OF THE DEMOCRATIC  
SOCIALIST REPUBLIC OF  
SRI LANKA**

---

**INLAND REVENUE ACT, No. 24 OF 2017**

---

**[Certified on 24th of October, 2017]**

*Printed on the Order of Government*

---

Published as a Supplement to Part II of the **Gazette of the Democratic  
Socialist Republic of Sri Lanka** of October 27, 2017

---

PRINTED AT THE DEPARTMENT OF GOVERNMENT PRINTING, SRI LANKA  
TO BE PURCHASED AT THE GOVERNMENT PUBLICATIONS BUREAU, COLOMBO 5

**Price : Rs. 250.00**

**Postage : Rs. 85.00**

*This Act can be downloaded from [www.documents.gov.lk](http://www.documents.gov.lk)*



## ARRANGEMENT OF SECTIONS

<i>Section</i>	<i>Title</i>	<i>Page</i>
1.	Short title and the effective date of the Act.	1
<b>PART I</b>		
<b>CHAPTER I</b>		
IMPOSITION OF INCOME TAX		
2.	Charging provision.	1
<b>CHAPTER II</b>		
INCOME TAX BASE		
<b>Division I: Taxable Income</b>		
3.	Taxable income.	2
<b>Division II: Assessable Income</b>		
4.	Assessable income.	2
5.	Employment income.	3
6.	Business income.	5
7.	Investment income.	6
8.	Other income.	7
<b>Division III: Exempt Amounts</b>		
9.	Exempt amounts.	7
<b>Division IV: Deductions</b>		
10.	General Deduction.	8
11.	Main deduction.	9
12.	Interest expense.	9
13.	Allowance for trading stock.	10
14.	Repairs and improvements.	11
15.	Research and development expenses and agricultural start up expenses.	11
16.	Capital allowances and balancing allowances.	12
17.	Losses on realisation of business assets and liabilities.	13

<i>Section</i>	<i>Title</i>	<i>Page</i>
18.	Deductible amount of financial cost.	14
19.	Business or investment losses.	15

### CHAPTER III CALCULATION OF THE INCOME TAX

#### **Division I: Method of Accounting**

20.	Change in the year of assessment.	16
21.	Method of accounting.	17
22.	Cash basis accounting.	18
23.	Accrual basis accounting.	18
24.	Reverse of amounts including bad debts.	20

#### **Division II: Long Term Contracts**

25.	Long-term contracts.	21
26.	Foreign currency and financial instruments.	22
27.	Quantifying a payment or amount.	24
28.	Indirect payments.	24
29.	Jointly owned investments.	25
30.	Compensation and recovery payments.	25
31.	Annuities, instalment sales and finance leases.	25
32.	Islamic financial transactions.	27
33.	Arm's length standard and arrangements between associates.	27
34.	Income splitting.	28
35.	Tax avoidance schemes.	29

### CHAPTER IV ASSETS AND LIABILITIES

#### **Division I: Calculation of Gains and Losses**

36.	Calculating gains and losses.	31
37.	Cost of an asset.	31
38.	Consideration received.	32
39.	Realisation.	33
40.	Liabilities.	34
41.	Reversal, quantification and compensation of amounts.	35

<i>Section</i>	<i>Title</i>	<i>Page</i>
<b>Division II: Realization of assets</b>		
42.	Cost of trading stock and other fungible assets.	36
43.	Realisation with retention of asset.	37
44.	Transfer of asset to spouse or former spouse.	37
45.	Transfer of asset on death.	38
46.	Transfer of asset to an associate or for no consideration.	38
47.	Involuntary realisation of asset with replacement.	40
48.	Realisation by separation.	41
49.	Transfer by way of security, finance lease or instalment sale.	41
50.	Payment of Tax on gains from realisation of an Asset.	42
51.	Apportionment of costs and consideration received.	42
<b>CHAPTER V</b>		
<b>TYPES OF PERSONS</b>		
<b>Division I: Individuals and Entities</b>		
52.	Qualifying payments and reliefs.	43
<b>Division II: Partnerships</b>		
53.	Partnerships.	43
54.	Partnership income or loss.	45
55.	Taxation of partners.	45
56.	Cost of and consideration received for partnership interest.	46
<b>Division III: Trusts and Unit Trusts</b>		
57.	Taxation of trusts.	47
58.	Taxation of beneficiaries.	49
59.	Taxation of unit trusts.	49
<b>Division IV: Companies</b>		
60.	Taxation of companies.	50
61.	Taxation of shareholders.	51
62.	Remittance tax.	51

<i>Section</i>	<i>Title</i>	<i>Page</i>
<b>Division V: Entities</b>		
63.	Asset dealings between entities and members.	52
64.	Change in control.	52
CHAPTER VI		
SPECIAL INDUSTRIES		
<b>Division I: Petroleum Operations</b>		
65.	Petroleum operations.	53
<b>Division II: Financial Institutions and Insurance Entities</b>		
66.	Banking business.	54
67.	Insurance business.	55
<b>Division III: Non-Governmental Organizations and Charitable Institutions</b>		
68.	Non-Governmental organizations and charitable institutions.	56
CHAPTER VII		
INTERNATIONAL		
<b>Division I: Residence and Sources</b>		
69.	Resident persons.	57
70.	Change of residence.	59
71.	Source of income and quarantining of foreign losses.	59
72.	Source directly to be included and amounts to be deducted.	61
73.	Source of payments.	61
74.	Foreign Source.	65
<b>Division II: Double Taxation Agreements and Mutual Administrative Assistance Agreements</b>		
75.	Double taxation agreements and mutual administrative assistance agreements.	65

<i>Section</i>	<i>Title</i>	<i>Page</i>
<b>Division III: Transfer Pricing</b>		
76.	Profits and income or loss from international transactions between associates.	66
77.	Profits and income or loss from transactions between associates.	71
78.	Dispute resolution panel.	74
79.	Head office expenditure.	75
<b>Division IV: Relief From Double Taxation</b>		
80.	Foreign tax credit.	75
81.	Calculation of Foreign tax credit.	76
CHAPTER VIII		
TAX PAYMENT PROCEDURE		
<b>Division I: Methods and Time for Payments</b>		
82.	Methods and time for payment.	77
<b>Division II: Tax Payable by Withholding</b>		
83.	Withholding by employers.	78
84.	Withholding from investment returns.	78
85.	Withholding from service fees and contract payments.	80
86.	Statements and payments of tax withheld or treated as withheld.	81
87.	Withholding certificates.	82
88.	Final withholding payments.	83
89.	Credit for non-final withholding tax.	84
<b>Division III: Tax Payable by Instalment</b>		
90.	Payment of tax by quarterly instalment.	85
91.	Statement of estimated tax payable.	87
92.	Statement of estimated tax payable not required.	88

<i>Section</i>	<i>Title</i>	<i>Page</i>
<b>Division IV: Tax Payable on Assessment</b>		
93.	Return of income and capital gains.	89
94.	Return of income not required.	91
95.	Assessment.	91
96.	Payment of tax on realisation of investment assets by partnerships and trusts.	92
<b>PART II</b>		
<b>CHAPTER IX</b>		
ADMINISTRATION PROVISIONS		
<b>Division I: Administration of this Act</b>		
97.	Officers.	92
98.	Delegation of powers.	93
99.	Inland Revenue Incentive Fund.	94
100.	Confidentiality.	95
101.	Informants.	97
<b>Division II: Taxpayer Registration and Taxpayer Identification Numbers</b>		
102.	Registration.	97
103.	Taxpayer identification number.	98
<b>Division III: Public Rulings</b>		
104.	Binding Public Rulings.	99
105.	Making a Public Ruling.	99
106.	Withdrawal of a Public Ruling.	100
<b>Division IV: Private Rulings</b>		
107.	Private Rulings.	100
108.	Refusing an Application for a Private Ruling.	101
109.	Making a Private Ruling.	102
110.	Withdrawal of a Private Ruling.	103
111.	Publication of Private Rulings.	104

<i>Section</i>	<i>Title</i>	<i>Page</i>
<b>Division V: Communications, Forms and Notices</b>		
112.	Communications with taxpayers and other persons.	104
113.	Application of electronic tax system.	105
114.	Forms and notices.	106
115.	Authorized representatives.	107
116.	Defect does not affect validity.	107
117.	Rectification of mistakes.	108
118.	Taxpayer's right to information.	108
119.	Due dates.	108
 <b>CHAPTER X</b>		
<b>RECORD KEEPING AND INFORMATION COLLECTION</b>		
120.	Accounts and records.	109
121.	Obligations of Financial Institutions.	110
122.	Access to information, assets and land.	110
123.	Notice to obtain information.	113
124.	Search and seizure with warrant.	115
125.	Execution of a search and seizure with warrant and search without warrant.	116
 <b>CHAPTER XI</b>		
<b>TAX RETURNS</b>		
126.	Tax returns.	118
127.	Notice to require filing.	119
128.	Return deemed to be furnished by due authority.	120
129.	Information Returns.	120
130.	Extension of time to file returns.	120
131.	Tax return duly filed.	120
 <b>CHAPTER XII</b>		
<b>ASSESSMENTS</b>		
132.	Self-assessments.	120
133.	Default assessments.	121
134.	Advance assessments.	122
135.	Amended or additional assessments.	124
136.	Application for making an amendment to a self-assessment.	126



<i>Section</i>	<i>Title</i>	<i>Page</i>
<b>CHAPTER XIII</b> <b>OBJECTIONS AND APPEALS</b>		
137.	Objections.	127
138.	The Act to prevail.	127
139.	Administrative Review.	128
140.	Appeal from Administrative Review.	129
141.	Burden of proof.	130
142.	Appeals do not suspend collection of amounts.	130
143.	Finality of assessment.	130
144.	Appeal from a decision of the Tax Appeals Commission.	130
<b>CHAPTER XIV</b> <b>LIABILITY FOR AND PAYMENT OF TAX</b>		
145.	Liability of taxpayer and due date.	131
146.	Liability and obligations of representatives.	132
147.	Officers of unincorporated bodies.	136
148.	Liability for tax following winding-up.	136
149.	Managers of entities.	137
150.	Refundable amounts.	138
151.	Extension of time for payment.	138
152.	Default in payment.	139
153.	Priority of tax.	140
154.	Order of payment of tax debts.	141
155.	Currency.	141
<b>CHAPTER XV</b> <b>INTEREST</b>		
156.	General.	141
157.	Interest on underpayments.	142
158.	Interest on refundable amounts.	142
159.	Interest rate.	142
<b>CHAPTER XVI</b> <b>RECOVERY OF TAX</b>		
160.	General.	143

<i>Section</i>	<i>Title</i>	<i>Page</i>
161.	Period of limitations for collection.	143
162.	Extinguishment of uncollectible amounts.	143
163.	Court proceedings.	143
164.	Lien.	144
165.	Execution against taxpayer's property.	145
166.	Sale of seized property.	146
167.	Departure Prohibition Order.	149
168.	Priority in bankruptcy.	150
169.	Offset against payments.	151
170.	Third party debtors.	151
171.	Compliance with notice.	153
172.	Preservation of assets.	154
173.	Non-arm's length transferees.	156
174.	Transferred tax liabilities.	156
175.	Receivers.	156

## CHAPTER XVII

### PENALTIES

176.	Penalties.	158
177.	Failure to register or notify of changes in taxpayer information.	159
178.	Late filing of tax return.	159
179.	Late payment.	160
180.	Negligent or fraudulent underpayment.	160
181.	False or misleading statements.	161
182.	Failure to maintain documents or provide facilities.	162
183.	Failure to comply with third party notice.	163
184.	Transfer pricing penalties.	163
185.	Failure to comply with notice to give information.	164

## CHAPTER XVIII

### CRIMINAL PROCEEDINGS

186.	Criminal proceedings.	164
187.	Aiding and abetting.	165
188.	Period of limitations.	165
189.	Tax evasion.	166
190.	Impeding tax administration.	166

<i>Section</i>	<i>Title</i>	<i>Page</i>
191.	Failure to preserve secrecy.	167
192.	Offences by tax officials.	167
193.	Compounding of offences.	168
CHAPTER XIX REGULATIONS		
194.	Regulations.	169
CHAPTER XX INTERPRETATION		
195.	Interpretation.	170
196.	Associated persons.	191
197.	Domestic expenditure.	192
198.	Financial instruments.	193
CHAPTER XXI SPECIAL PROVISIONS		
199.	Implementation of Mutual Administrative Assistance Agreements.	195
200.	Sinhala text to prevails in case of inconsistency	196
CHAPTER XXII TEMPORARY CONCESSIONS AND TRANSITIONAL PROVISIONS		
201.	Temporary Concessions.	196
202.	Repeal and Savings.	197
203.	Transitional Provisions.	198
SCHEDULES		
FIRST SCHEDULE		
	Tax Rates	200
SECOND SCHEDULE		
	Investment Incentives	207

<i>Title</i>	<i>Page</i>
THIRD SCHEDULE	
Exempt Amounts	210
FOURTH SCHEDULE	
Capital Allowances, Balancing Allowances and Assessable Charges	214
FIFTH SCHEDULE	
Qualifying Payments and Reliefs	217
SIXTH SCHEDULE	
Temporary Concessions	219

*Inland Revenue Act, No. 24 of 2017*

[Certified on 24th of October, 2017]

L.D.—O. 23/2017

AN ACT TO PROVIDE FOR THE IMPOSITION OF INCOME TAX

BE it enacted by the Parliament of the Democratic Socialist Republic of Sri Lanka as follows:-

1. This Act may be cited as the Inland Revenue Act, No. 24 of 2017 and comes into operation on April 1, 2018.
- Short title and the effective date of the Act.

PART I

CHAPTER I

IMPOSITION OF INCOME TAX

2. (1) Income tax shall be payable for each year of assessment by –
- Charging provision.

- (a) a person who has taxable income for that year; or
- (b) a person who receives a final withholding payment during that year.

(2) The amount of income tax payable by a person for any year of assessment shall be the total of the amounts payable under subsection (1).

- (3) The income tax payable by a person under paragraph (a) of subsection (1) shall be calculated by –

- (a) applying the relevant rates of income tax set out in the First Schedule to this Act to that person's taxable income;
- (b) deducting any foreign tax credit claimed by and allowed to the person for the year under section 80 of this Act; and

- (c) deducting any other tax credit granted or allowed to the person for the year under this Act.

(4) The income tax payable by a person under paragraph (b) of subsection (1) shall be calculated by applying the relevant rate set out in the First Schedule to this Act to each final withholding payment.

## CHAPTER II

### INCOME TAX BASE

#### Division I: Taxable Income

Taxable income. **3.** (1) Subject to subsection (2), the taxable income of a person for a year of assessment shall be equal to the total of the person's assessable income for the year from each employment, business, investment and other sources.

(2) In arriving at taxable income of a year of assessment qualifying payments and reliefs for that year under section 52 shall be deducted.

(3) The taxable income of each person and the assessable income from each source shall be determined separately.

#### Division II: Assessable Income

Assessable income. **4.** The assessable income of a person for a year of assessment from employment, business, investment or other source shall be equal to –

- (a) in the case of a resident person, the person's income from employment, business, investment or other source for that year, wherever the source arises; and
- (b) in the case of a non-resident person, the person's income from the employment, business, investment

or other source for that year, to the extent that the income arises in or is derived from a source in Sri Lanka.

5. (1) An individual's income from an employment for a year of assessment shall be the individual's gains and profits from the employment for that year of assessment. Employment income.

(2) In calculating an individual's gains and profits from an employment for a year of assessment the following amounts received or derived by the individual during the year of assessment from the employment shall be included:-

- (a) payments of salary, wages, leave pay, overtime pay, fees, pensions, commissions, gratuities, bonuses and other similar payments;
- (b) payments of personal allowance, including any cost of living, subsistence, rent, entertainment or travel allowance;
- (c) payments providing discharge or reimbursement of expenses incurred by the individual or an associate of the individual;
- (d) payments for the individual's agreement to conditions of employment;
- (e) payments for redundancy or loss or termination of employment;
- (f) subject to paragraph (f) of subsection (3), retirement contributions made to a retirement fund on behalf of the employee and retirement payments received in respect of the employment;
- (g) payments or transfers to another person for the benefit of the individual or an associate person of the individual;

- (h) the fair market value of benefits received or derived by virtue of the employment by an individual or an associate person of the individual;
- (i) other payments, including gifts received in respect of the employment; and
- (j) the market value of shares at the time allotted under an employee share scheme, including shares allotted as a result of the exercise of an option or right to acquire the shares, reduced by the employee's contribution for the shares.

(3) In calculating an individual's gains and profits from an employment for a year of assessment the following shall be excluded:-

- (a) exempt amounts and final withholding payments;
- (b) a discharge or reimbursement of expenses incurred by the individual on behalf of the employer;
- (c) a discharge or reimbursement of the person's dental, medical or health insurance expenses where the benefit is available to all full-time employees on equal terms;
- (d) payments made to or benefits accruing to employees on a non-discriminatory basis that, by reason of their size, type and frequency, are unreasonable or administratively impracticable for the employer to account for or to allocate to the individual;
- (e) the value of a right or option to acquire shares at the time granted to an employee under an employee share scheme (referred to in paragraph (j) of subsection (2)); and



- (f) subject to conditions as may be specified by the Commissioner-General, contributions made by an employer to an employee's account with a pension, provident or savings fund or savings society approved by the Commissioner - General.

6. (1) A person's income from a business for a year of assessment shall be the person's gains and profits from conducting the business for the year. Business income.

(2) In calculating a person's gains and profits from conducting a business for a year of assessment the following amounts derived by the person during the year of assessment from the business shall be included–

- (a) service fees;
- (b) consideration received in respect of trading stock;
- (c) gains from the realisation of capital assets and liabilities of the business as calculated under Chapter IV;
- (d) amounts required to be included by the Second or Fourth Schedule to this Act on the realisation of the person's depreciable assets of the business;
- (e) amounts derived as consideration for accepting a restriction on the capacity to conduct the business;
- (f) gifts received by the person in respect of the business;
- (g) amounts derived that are effectively connected with the business and that would otherwise be included in calculating the person's income from an investment; and

- (h) other amounts required to be included under this Act.

(3) In calculating a person's gains and profits from conducting a business for a year of assessment the following shall be excluded:-

- (a) exempt amounts and final withholding payments; and
- (b) amounts that are included in calculating the person's income from an employment.

**Investment  
income.**

7. (1) A person's income from an investment for a year of assessment shall be the person's gains and profits from that investment for the year.

(2) In calculating a person's gains and profits from an investment derived or received during a year of assessment the following amounts received or derived by the person during the year of assessment from the investment shall be included:-

- (a) dividends, interest, discounts, charges, annuities, natural resource payments, rents, premiums and royalties;
- (b) gains from the realisation of investment assets as calculated under Chapter IV;
- (c) amounts derived as consideration for accepting a restriction on the capacity to conduct the investment;
- (d) gifts received by the person in respect of the investment;
- (e) winnings from lotteries, betting or gambling; and
- (f) other amounts required to be included under this Act.

(3) In calculating a person's gains and profits from an investment for a year of assessment the following shall be excluded:-

- (a) exempt amounts and final withholding payments; and
- (b) amounts that are included in calculating the person's income from an employment or business.

8. (1) A person's income from other sources for a year of assessment shall be that person's gains and profits from any source whatsoever for the year, not including profits of a casual and non-recurring nature. Other income.

(2) In calculating a person's gains or profits from any source whatsoever, the following shall be excluded:-

- (a) exempt amounts and final withholding payments; and
- (b) amounts that are included in calculating the person's income from an employment, business or investment.

### **Division III: Exempt Amounts**

9. (1) The amounts referred to in the Third Schedule to this Act shall be exempt from the payment of tax. Exempt amounts.

(2) Notwithstanding any law to the contrary, an exemption of any person or amount from tax imposed by this Act shall not be provided and an agreement that affects or purports to affect the application of this Act shall not be entered into, except as provided for in this Act.

(3) Subsection (2) shall not apply to a provision in another law or an agreement that is in force on date of commencement of this Act.

**Division IV: Deductions**

General  
Deduction.

**10.** (1) (a) No deduction shall be made in calculating a person's income from employment.

(b) The following deductions shall not be made in calculating a person's income:-

- (i) domestic expenses incurred by the person (section 197);
- (ii) tax payable under this Act;
- (iii) interest, penalties and fines payable to a government or a political subdivision of a government of any country for breach of any written law;
- (iv) expenditure to the extent incurred by a person in deriving exempt amounts or final withholding payments;
- (v) retirement contributions, unless they are included in calculating the income of an employee or consist of a contribution by an employer to a pension, provident or savings fund or a savings society, which is approved by the Commissioner-General subject to any specified conditions;
- (vi) dividends of a company;
- (vii) outlays or expenses for entertainment;
- (viii) an amount that a person has transferred, in his financial accounts, to a reserve or provision for expenditures or losses not yet incurred but expected to be incurred in a future year of assessment;

- (ix) amounts incurred on lotteries, betting or gambling, other than amounts incurred from conducting a business of lotteries, betting or gambling; or
- (x) taxes or other levies specified by the Commissioner-General.

(2) Where a person is allowed a deduction for a payment from which the person is required to withhold tax under Division II of Chapter VIII, the deduction shall not be allowed until the tax withheld has been paid to the Commissioner-General.

(3) No deduction shall be allowed except as expressly permitted by this Act.

(4) Where more than one deduction applies, the most specific deduction shall be applied even if that results in the denial of a deduction.

**11.** (1) In calculating a person's income from a business or investment for a year of assessment, expenses to the extent they are incurred during the year by the person and in the production of income from the business or investment, shall be deducted.

Main  
deduction.

(2) No deduction shall be allowed under subsection (1) for an expense of a capital nature.

(3) In this section, "expense of a capital nature" includes an expense that secures a benefit capable of lasting longer than twelve months.

**12.** For the purposes of section 11, the interest incurred by a person during a year of assessment under a debt obligation of the person shall be deemed to be incurred in the production of income to the extent that –

Interest expense.

- (a) where the debt obligation was incurred in borrowing money, the money is used during the

year or was used to acquire an asset that is used during the year in the production of income; and

- (b) in any other case, the debt obligation was incurred in the production of income.

Allowance for trading stock.

**13.** (1) For the purposes of calculating a person's income from a business for a year of assessment, in respect of trading stock of the business, the allowance calculated under subsection (2) shall be deducted.

(2) The allowance shall be calculated as –

- (a) the opening value of trading stock of the business for the year of assessment; plus
- (b) expenses incurred by the person during the year that are included in the cost of trading stock of the business; less
- (c) the closing value of trading stock of the business for the year.

(3) The opening value of trading stock of a business for a year of assessment shall be the closing value of trading stock of the business at the end of the previous year of assessment.

(4) The closing value of trading stock of a business for a year of assessment shall be the lower of –

- (a) the cost of the trading stock of the business at the end of the year; or
- (b) the market value of the trading stock of the business at the end of the year.

(5) Where the closing value of trading stock is determined in accordance with paragraph (b) of subsection (4), the cost of the trading stock shall reset to that value.

**14.** (1) Expenses for the repair or improvement of depreciable assets and meeting the requirements of subsection (1) of section 11 of a person for any year of assessment shall be deducted irrespective of whether they are of a capital nature or not.

Repairs and improvements.

(2) The deductions referred to in subsection (1) granted for a year of assessment with respect to a depreciable asset of a person –

(a) shall not exceed –

- (i) in the case of repair or improvement to a Class 4 depreciable asset, five percent of the written down value of the asset at the end of the previous year (paragraph 4(3) of the Fourth Schedule);
- (ii) in all other cases, twenty percent of the written down value of the asset at the end of the previous year (paragraph 4(3) of the Fourth Schedule); and

(b) shall be allowed in the order in which the expenses are incurred.

(3) Excess expense for which a deduction shall not be allowed as a result of the limitation in subsection (2) shall be added to the depreciation basis of the asset year (paragraph (3) of the Fourth Schedule).

**15.** (1) Research and development expenses and agricultural start up expenses meeting the requirements of subsection (1) of section 11 may be deducted irrespective of whether they are of a capital nature or not.

Research and development expenses and agricultural start up expenses.

(2) In this section –

“agricultural start up expenses” means expenses incurred by the person in –

- (a) opening up any land for cultivation or for animal husbandry;

- (b) cultivating land referred to in paragraph (a) with plants;
- (c) the purchase of livestock or poultry to be reared on land referred to in paragraph (a); or
- (d) maintaining tanks or ponds or the clearing or preparation of any inland waters for the rearing of fish and the purchase of fish to be reared in such tank, pond or inland waters, as the case may be;

“research and development expenses” means expenses incurred by the person in –

- (a) carrying on any scientific, industrial, agricultural or any other research for the upgrading of the person’s business through any institution in Sri Lanka (or for any innovation or research relating to high value agricultural products, by the person or through any research institution in Sri Lanka); or
- (b) the process of developing the person’s business and improving business products or process,

which shall be beneficial to Sri Lanka, but shall exclude expenses incurred that are otherwise included in the cost of an asset under this Act.

Capital allowances and balancing allowances.

**16.** (1) For the purposes of calculating a person’s income from a business for a year of assessment –

- (a) the Capital allowances referred to in subsection (2) shall be deducted; and
- (b) the balancing allowances referred to in subsection (4) shall be deducted;



(2) Capital allowances are –

- (a) granted in respect of depreciable assets owned and used by a person at the end of a year of assessment in the production of the person's income from a business; and
- (b) calculated in accordance with the provisions of the Second or Fourth Schedule to this Act.

(3) Capital allowances granted with respect to a particular year of assessment shall be taken in that year and shall not be deferred to a later year of assessment.

(4) Balancing allowances are –

- (a) made in respect of depreciable assets -
  - (i) realised during a year of assessment; and
  - (ii) in respect of which Capital allowances have been granted in that year or an earlier year; and
- (b) calculated in accordance with the provisions of the Second or Fourth Schedule to this Act.

**17.** (1) For the purposes of calculating a person's income from a business for a year of assessment, a loss of the person from the realisation during the year of assets and liabilities referred to in subsection (2) shall be deducted. The loss shall be calculated under Chapter IV.

Losses on  
realisation of  
business assets  
and liabilities.

(2) The assets and liabilities are –

- (a) capital assets of a business to the extent to which the assets were used in the production of income from the business; and

- (b) liabilities of a business to the extent to which –
  - (i) in the case of a liability that is a debt obligation incurred in borrowing money, the money was used or an asset purchased with the money was used in the production of income from the business; and
  - (ii) in the case of any other liability, the liability was incurred in the production of income from the business.

Deductible  
amount of  
financial cost.

**18.** (1) The amount of financial costs deducted in calculating an entity's income, other than a financial institution from conducting a business or investment for a year of assessment shall not exceed the amount of financial costs attributable to financial instruments within the limit referred to in subsection (2).

(2) The limit shall be computed according to the following formula:-

$$A \times B$$

Where:

'A' is the total of the issued share capital and reserves of the entity; and

'B' is –

- (a) in the case of a manufacturing entity, the number 3; and
- (b) in the case of an entity other than a manufacturing entity, the number 4.

(3) Financial costs for which a deduction is denied as a result of subsection (1), may be carried forward and treated

as incurred during any of the following six years of assessment, but only to the extent of any unused limitation in subsection (2) for the year.

(4) The Commissioner-General may specify the circumstances in which losses on financial instruments may only be set against gains on financial instruments.

(5) In this section, “reserves” exclude reserves arising from the revaluation of any asset.

**19.** (1) In calculating the income of a person from a business for a year of assessment, the following shall be deducted:—

Business or investment losses.

- (a) an unrelieved loss of the person for the year from any other business; and
- (b) an unrelieved loss of the person for any of the previous six years of assessment from the business or any other business.

(2) The person may choose the income calculation or calculations in which an unrelieved loss or part of the loss is deducted. However, where a loss can be deducted under subsection (1) it shall be deducted.

(3) Notwithstanding the provisions of subsections (1) and (2), where a person makes a loss and if the loss were a profit it would be taxed at a reduced rate, the loss shall be deducted only in calculating income taxed at the same reduced rate, a lower reduced rate or exempt amounts. If the loss were a profit and the profit would be exempt, the loss shall be deducted only in calculating exempt amounts.

(4) The provisions of subsections from (1) to (3) shall subject to the provisions in subsection (5), apply to

calculating income from an investment and unrelieved losses from an investment so that –

- (a) unrelieved losses from a business may be deducted in calculating income from an investment;
- (b) unrelieved losses from an investment shall be deducted only in calculating income from an investment.

(5) Subject to section 194, a gain from the realisation of an investment asset shall not be reduced by any loss on the disposal of another investment asset.

(6) In this section –

“loss” of a person for a year of assessment from a business or investment shall be calculated as the excess of amounts deducted in accordance with this Act (other than under this section or subsection (5) of section 25) in calculating the person’s income from the business or investment over amounts included in calculating that income; and

“unrelieved loss” means the amount of a loss that has not been deducted in calculating a person’s income under this section or subsection (5) of section 25.

### CHAPTER III

#### CALCULATION OF THE INCOME TAX

##### **Division 1: Method of Accounting**

Change in the year of assessment.

**20.** (1) The year of assessment means the period of twelve months commencing on the first day of April of any year and ending on the thirty first day of March in the immediately succeeding year.

(2) A trust or company may apply to the Commissioner-General for a change to its year of assessment and the Commissioner-General may, on such terms and conditions as the Commissioner-General thinks fit, approve the change. The Commissioner-General may revoke an approval if a trust or company fails to comply with a term or condition attached to the approval.

(3) A change in a trust or company's year of assessment shall result in altering the time at which the trust or company shall pay tax by instalments and on assessment under Chapter VIII.

**21.** (1) Unless otherwise provided by this Act, the timing of inclusions and deductions in calculating a person's income shall be made according to generally accepted accounting principles.

Method of  
accounting.

(2) An individual shall account for income tax purposes on a cash basis in calculating the individual's income from an employment or investment.

(3) An individual or entity conducting business shall account for income tax purposes on an accrual basis.

(4) A person shall account for income tax purposes the income from sources other than the sources referred to in subsections (2) and (3) on either a cash or accrual basis, whichever properly computes the person's income.

(5) Subject to subsections (2) and (3), the Commissioner-General may by written notice require a person to use a particular method of accounting or may approve an application of a person to change the person's method of accounting. The Commissioner-General shall be satisfied that the new method is necessary to properly compute the person's income.

(6) Where a person's method of accounting changes, adjustments shall be made in the year of assessment following

the change so that no item is omitted or taken into account more than once.

Cash basis  
accounting.

**22.** (1) Under the cash basis of accounting, a person –

- (a) derives an amount when payment is received by or made available to the person; and
- (b) incurs an expense or other amount when it is paid by the person.

(2) For the purpose of this section, payment received in relation to an amount shall include –

- (a) used on behalf of the person either at the instruction of the person or under any law;
- (b) reinvested, accumulated or capitalised for the benefit of the person;
- (c) credited to an account, or carried to any reserve, or a sinking or insurance fund for the benefit of the person; or
- (d) constructive receipt.

Accrual basis  
accounting.

**23.** (1) Under the accrual basis of accounting, a person –

- (a) derives an amount when it is receivable by the person; and
- (b) incurs an expense or other amount when it is payable by the person.

(2) An amount shall be receivable by a person when the person becomes entitled to receive it, even if the time for discharge of the entitlement is postponed or the entitlement is payable by instalments.

(3) An amount shall be treated as payable by the person when all the events that determine liability have occurred and the amount of the liability can be determined with reasonable accuracy, but not before economic performance with respect to the amount occurs.

(4) For the purposes of subsection (3), economic performance occurs –

- (a) with respect to the acquisition of services or assets, at the time the services or assets are provided;
- (b) with respect to the use of an asset, at the time the asset is used; and
- (c) in any other case, at the time the person makes payment in full satisfaction of the liability.

(5) Where in calculating income on an accrual basis an inaccuracy referred to in subsection (6) or (7) occurs –

- (a) appropriate adjustments shall be made at the time the payment is received or made to remedy the inaccuracy, or at the time of the deemed inaccuracy; and
- (b) the Commissioner-General may require the person to include the appropriate adjustment in the year of assessment in which the inaccuracy originally occurred notwithstanding the time limits specified in Part II of this Act for the amendment of assessments.

(6) An inaccuracy occurs –

- (a) when a person is calculating for a payment of a particular quantity to which the person is entitled or that the person is obliged to make; and

- (b) subsequently that entitlement or obligation being satisfied by a payment received or made by the person, as the case requires, of a different amount, including by reason of a change in currency valuations.

(7) An inaccuracy is deemed to occur when –

- (a) a person is calculating for a payment of a particular quantity that the person is obliged to make; and
- (b) subsequently that obligation is not satisfied by a payment being made by the person within three years of the obligation arising.

Reverse of  
amounts  
including bad  
debts.

**24.** (1) Where a person deducts an expense in calculating the person's income and the person later recovers the expense, the person shall, at the time of recovery, include the amount recovered in calculating the person's income.

(2) Where a person includes an amount in calculating the person's income, because of a legal obligation to do so, and the person later refunds the amount, the person shall, at the time of refund, shall deduct the amount refunded in calculating the person's income.

(3) Where, in calculating income on an accrual basis, a person deducts an expense that the person is obliged to make and the person later disclaims an obligation to incur the expense, the person shall, at the time of disclaimer, include the amount disclaimed in calculating the person's income.

(4) Subsection (5) shall be applicable where, in calculating income on an accrual basis, a person includes an amount to which the person is entitled and the person later –

- (a) disclaims an entitlement to receive the amount; or



- (b) in the case where the amount constitutes a debt claim of the person, the person writes off the debt as bad.

(5) Subject to the provisions of subsection (6), the person may, at the time of disclaimer or write off, deduct the amount disclaimed or written off in calculating the person's income.

(6) Subject to section 66 (banking business activities), a person cannot disclaim the entitlement to receive an amount or write off a debt claim as bad unless the person has taken reasonable steps in pursuing payment and the person reasonably believes that the entitlement or debt claim will not be satisfied.

#### **Division II: Long Term Contracts**

**25.** (1) This section shall apply to a person who conducts a business, accounts for income tax purposes on an accrual basis with respect to that business and is a party to a long-term contract.

Long-term contracts.

(2) Amounts to be included or deducted in calculating the person's income that relate to a long-term contract shall be taken into account on the basis of the percentage of the contract completed during each year of assessment.

(3) The percentage of completion shall be determined by comparing the total expenses allocated to the contract and incurred before the end of a year of assessment with the estimated total contract expenses as determined at the time of commencement of the contract.

(4) Subsection (5) shall apply where a long-term contract is completed and the person has an unrelieved loss attributable to that contract for the year of assessment in which the contract ended or any earlier year of assessment. An unrelieved loss of a business for a year of assessment shall be attributable to a long-term contract to the extent that there is a loss from the contract for the year.

(5) The Commissioner-General may allow the unrelieved loss to be carried back and treated as an unrelieved loss of an earlier year of assessment for the purpose of section 19. The amount carried back shall be limited to the profit, if any, from the contract for the year of assessment to which the loss is carried back.

(6) A profit or a loss from a long-term contract for a year of assessment shall be determined by comparing amounts included in income under the contract with deductions under the contract for that year.

(7) In this section –

“long-term contract” means a contract –

- (a) for manufacture, installation or construction or, in relation to each, the performance of related services; and
- (b) which is not completed within twelve months of the date on which work under the contract commences.

“unrelieved loss”, with respect to a business, shall have the meaning given in section 19.

Foreign  
currency and  
financial  
instruments.

**26.** (1) Subject to subsections (4) and (5), this section shall apply to a person who is a financial institution where, under the provisions in Division II or IV of Chapter II, that person shall include an amount or may deduct an amount in relation to a financial instrument in calculating income from a business or investment.

(2) The time at which the amount is to be included or deducted shall be determined in accordance with generally accepted accounting principles. Those principles also determine to whom the amount shall be allocated, its quantum and its character.

(3) In particular, generally accepted accounting principles apply even if they require the inclusion or deduction of an amount on a fair value accounting (mark-to-market) basis irrespective of –

- (a) the other provisions of this Division;
- (b) whether or not the amounts have yet been derived, incurred or realised; and
- (c) whether or not the amounts are of a capital or revenue nature.

(4) With the prior written approval of the Commissioner-General a person may include an amount or deduct an amount in relation to a financial instrument in calculating income from a business or investment –

- (a) when realised;
- (b) using a specified treatment relating to the character and timing of the amount, including where the financial instrument has been entered into for hedging purposes; and
- (c) where the amount is in a currency other than Sri Lankan Rupees, using a specified translation method such as requiring that the amount must be translated to Sri Lankan Rupees at the exchange rate applying between the foreign currency and Sri Lankan Rupees on the date the amount is taken into account for the purposes of this Act.

(5) The Commissioner-General may specify the extent to which this section applies to another person or class of persons.

(6) In the absence of an applicable specification by the Commissioner-General under subsection (5), an amount taken

into account under this Act shall be expressed in Sri Lankan Rupees and, if an amount is in a currency other than Sri Lankan Rupees, the amount shall be translated to Sri Lankan Rupees at the Central Bank of Sri Lanka exchange rate applying between the foreign currency and Sri Lankan Rupees on the date the amount is taken into account for the purposes of this Act.

Quantifying a payment or amount.

**27.** (1) A payment or amount to be included or deducted in calculating income of a person shall be quantified in the amount, as specified by the Commissioner-General or, in any other case, according to market value.

(2) The amount of a payment shall be quantified without reduction for any tax withheld from the payment under Division II of Chapter VIII of this Act.

(3) Market value shall be determined –

- (a) with due regard for the arm's length standard referred to in section 33; but
- (b) in the case of an asset, without regard to any restriction on transfer of the asset or the fact that the asset is not otherwise convertible into a payment of money or money's worth.

Indirect payments.

**28.** (1) Subsection (2) shall apply where a person may indirectly benefit from a payment or direct who is to be the payee of a payment and the payer intends the payment to benefit the person.

(2) The Commissioner-General may, by notice in writing served on the person –

- (a) treat a person as the payee of the payment;
- (b) treat a person as the payer of the payment; or

- (c) treat the person as the payee of the payment and as making an equal payment to the person who would be considered the payee of the payment.

(3) In this section, an intention of the payer of a payment includes an intention of an associate of the payer or a third person under an arrangement with the payer or with an associate of the payer.

**29.** (1) In calculating a person's income from an investment that is jointly owned with another person, amounts to be included and deducted shall be apportioned among the joint owners in proportion to their interests in the investment. Jointly owned investments.

(2) Where the interests of joint owners cannot be ascertained they shall be treated as equal.

**30.** Where a person or an associate of the person derives an amount which compensates for or represents recovery of – Compensation and recovery payments.

- (a) income or an amount to be included in calculating income, which the person expects or expected to derive; or
- (b) a loss or an amount to be deducted in calculating income, which the person has incurred or which the person expects or is expected to incur,

subject to section 24, the compensation amount shall be included in calculating the income of the person and takes its character from the amount compensated for.

**31.** (1) Payments made by a person under a finance lease or in acquiring an asset under an instalment sale shall be treated as interest and a repayment of capital under a loan made by the lessor or seller to the lessee or buyer, as the case requires. Annuities, instalment sales and finance leases.

(2) Payments made to a person under an annuity shall be treated as interest and a repayment of capital under a loan made by the person to the payer of the annuity.

(3) The interest and repayment of capital under subsections (1) and (2) shall be calculated as if the loan were a blended loan with interest compounded six-monthly or such other period as the Commissioner-General may specify.

(4) Section 49 provides further provisions regarding transfers under finance leases and instalment sales.

(5) The Commissioner-General may specify any other forms of financing that relates to interest substitutes.

(6) For the purposes of this section –

“annuity” does not include an amount payable –

- (a) under an order of court by way of payment of alimony or maintenance; or
- (b) to a spouse under a duly executed deed of separation;

“blended loan” means a loan –

- (a) under which payments by the borrower represent in part a payment of interest and in part a repayment of capital;
- (b) where the interest part is calculated on capital outstanding at the time of each payment; and
- (c) where the rate of interest is uniform over the term of the loan;

“finance lease” means a lease where –

- (a) the lease agreement provides for transfer of ownership following the end of the lease term or the lessee has an option to acquire the asset after expiry of the lease term for a fixed or presupposed price;

- (b) the lease term exceeds seventy five *per cent* of the useful life of the asset;
- (c) the estimated market value of the asset after expiry of the lease term is less than twenty *per cent* of its market value at the start of the lease;
- (d) in the case of a lease that commences before the last twenty five percent of the useful life of the asset, the present value of the minimum lease payments equals or exceeds ninety *per cent* of the market value of the asset at the start of the lease term; or
- (e) the asset is custom-made for the lessee and after expiry of the lease term the asset will not be of practical use to any person other than the lessee;

“instalment sale” excludes a sale that provides for commercial periodic interest payable on sales proceeds outstanding; and

“lease term” includes an additional period for which the lessee has an option to renew a lease.

**32.** Income arising from any Islamic financial transaction shall be subject to tax in a similar manner as equivalent in substance to non-Islamic financial transactions.

Islamic financial transactions.

**33.** (1) Where an arrangement exists between associated persons, the persons shall calculate their income and tax payable according to the arm’s length standard.

Arm’s length standard and arrangements between associates.

(2) The arm’s length standard requires associated persons to quantify, characterise, apportion and allocate amounts to be included or deducted in calculating income to reflect arrangements that would have been made between independent persons.

(3) The Commissioner-General may by publication in the *Gazette* specify the manner in which arm's length agreements may be entered into for the purpose of determining the arm's length price.

(4) Where, in the opinion of the Commissioner-General, a person fails to comply with subsection (1), the Commissioner-General may make adjustments in compliance with subsection (1) and the Commissioner-General may –

- (a) re-characterise an arrangement made between associated persons, including re-characterising debt financing as equity financing;
- (b) re-characterise the source and type of any income, loss, amount or payment; and
- (c) apportion and allocate expenditure, based on turnover.

Income splitting.

**34.** (1) Where a person attempts to split income with another person, the Commissioner-General may prevent any reduction in tax payable by issuing a notice in writing.

(2) A notice referred to in subsection (1) may contain amounts to be included or deducted in calculating the income of each person or re-characterise the source and type of any income, loss, amount or payment.

(3) A reference to a person attempting to split income includes a reference to an arrangement between associated persons –

- (a) for the transfer of an asset (directly or indirectly), including the transfer of an amount to be derived;
- (b) where the transferor retains any legal or implicit right to benefit (currently or in the future) from the asset; and



- (c) where one of the reasons for the transfer is to lower tax payable by any person.

(4) Where a spouse receives income for services rendered in any business carried on or exercised –

- (a) by the other spouse; or
- (b) by a partnership of which that other spouse is a partner,

the income shall be included in the income of the spouse who carries on the business or that partnership of which that other spouse is a partner.

**35.** (1) This section shall apply where the Commissioner-General is satisfied that –

Tax avoidance schemes.

- (a) a scheme has been entered into or carried out;
- (b) a person has obtained a tax benefit in connection with the scheme; and
- (c) having regard to the substance of the scheme, it can be concluded that a person, or one of the persons, who entered into or carried out the scheme did so for the sole or dominant purpose of enabling the person referred to in paragraph (b) to obtain a tax benefit.

(2) Notwithstanding anything in this Act, the Commissioner-General may determine the tax liability of the person who obtained the tax benefit as if the scheme had not been entered into or carried out, or as if a reasonable alternative to entering into or carrying out the scheme would have instead been entered into or carried out, or that any transaction which reduces or would have the effect of

reducing the amount of tax payable by any person is artificial or fictitious and can make compensating adjustments to the tax liability of any other person affected by the scheme.

(3) Where a determination or adjustment is made, the Commissioner-General shall issue an assessment giving effect to the determination or adjustment.

(4) The assessment made under subsection (3) shall be served within five years from the last day of the year of assessment to which the determination or adjustment relates.

(5) For the purposes of this section -

“scheme” includes any course of action, trust, grant, agreement, arrangement, understanding, promise, plan, proposal or undertaking, whether express or implied and whether or not enforceable;

“tax benefit” means –

- (a) a reduction in a liability to pay tax, including on account of a deduction, credit, offset or rebate;
- (b) a postponement of a liability to pay tax;
- (c) any other advantage arising because of a delay in payment of tax; or
- (d) anything that causes –
  - (i) an amount of gross revenue to be exempt income or otherwise not subject to tax; or
  - (ii) an amount that would otherwise be subject to tax not to be taxed.

## CHAPTER IV

## ASSETS AND LIABILITIES

**Division I: Calculation of Gains and Losses**

**36.** (1) A person's gain from the realisation of an asset or liability shall be the amount by which the sum of the consideration received for the asset or liability exceeds the cost of the asset or liability at the time of realisation.

Calculating gains and losses.

(2) The loss of a person from the realisation of an asset or liability shall be the amount by which the cost of the asset or liability exceeds the sum of the consideration received for the asset or liability at the time of realisation.

(3) A gain made by a person on the realisation of an investment asset shall be reduced by any part of the gain that is included in calculating the person's income from an employment or business.

(4) Where an asset or liability owned by a person is used in the production of two or more sources of income, the cost of and consideration received for the asset shall be apportioned between each source according to the market value of the parts used to produce each source.

**37.** (1) Subject to this Act, the cost of an asset of a person shall be the sum of –

Cost of an asset.

- (a) expenditure incurred by the person in acquiring the asset including, where relevant, expenditure on construction, manufacture or production of the asset;
- (b) expenditure incurred by the person in altering, improving, maintaining or repairing the asset;
- (c) incidental expenditure incurred by the person in acquiring and realising the asset; and

(d) income amounts referred to in subsection (2).

(2) An income amount shall be –

- (a) an amount required by Division II of Chapter II to be directly included in calculating the person's income or that is an exempt amount or final withholding payment of the person;
- (b) where the treatment in paragraph (a) results from the person acquiring the asset or another person incurring expenditure of the type mentioned in paragraph (b) or (c) of subsection (1) on behalf of the person.

(3) The cost of an asset shall not include consumption expenditure, excluded expenditure and expenditure to the extent to which it is deducted in calculating a person's income or included in the cost of another asset.

(4) In this section, “incidental expenditure” incurred by a person in acquiring or realising an asset shall include –

- (a) advertising expenditure, transfer taxes, duties and other expenditure of transfer;
- (b) expenditure of establishing, preserving or defending ownership of the asset; and
- (c) remuneration for the services of an accountant, agent, auctioneer, broker, consultant, legal advisor, surveyor or valuer relating to expenditure referred to in paragraph (a) or (b).

Consideration  
received.

**38.** (1) Subject to this Act, consideration received for an asset of a person at a particular time shall be –

- (a) amounts received or receivable by the person for the asset, including the fair market value of any

consideration in kind determined at the time of realisation;

- (b) amounts derived by the person in respect of owning the asset including –
  - (i) amounts derived from altering or decreasing the value of the asset; and
  - (ii) amounts derived from the asset including by way of covenant to repair or otherwise; and
- (c) amounts derived by the person or an entitlement for the person to derive an amount in the future in respect of realising the asset.

(2) The consideration received for the realisation of an asset shall include the consideration for the grant of an option in relation to the asset, only if the person has not been subject to tax in respect of any income or gain made on the grant of the option.

(3) The consideration received for an asset shall not include an exempt amount, a final withholding payment or, other than in the case of trading stock, an amount to be directly included in calculating the person's income under Division II of Chapter II.

**39.** Subject to this Act, a person who owns an asset shall be treated as realising the asset – Realisation.

- (a) when that person parts with ownership of the asset, including when the asset is sold, exchanged, transferred, distributed, cancelled, redeemed, destroyed, lost, expired, expropriated or surrendered;
- (b) in the case of an asset of a person who ceases to exist, including by reason of the death of an

individual, immediately before the person ceases to exist;

- (c) in the case of an asset other than trading stock or a depreciable asset, where the sum of consideration received from owning the asset exceeds the cost of the asset;
- (d) in the case of an asset that is a debt claim owned by a person, the person reasonably believes the debt claim will not be satisfied, where the person has taken reasonable steps in pursuing the debt claim and the person writes the debt off as bad;
- (e) in the case of trading stock, a depreciable asset, a capital asset of a business or an investment asset, immediately before the person begins to employ the asset in such a way that it ceases to be an asset of any of those types; and
- (f) in the circumstances referred to in section 70 (change of residence).

Liabilities.

**40.** (1) The costs of and consideration received for a liability of a person shall be determined in accordance with sections 37 and 38 as though –

- (a) a reference to an asset were a reference to a liability;
- (b) expenditure incurred in realising the liability is included in the costs of the liability; and
- (c) amounts derived in respect of incurring the liability are included in the consideration received for the liability.

(2) Subject to this Act, a person who owes a liability shall be treated as realising the liability –

- (a) when the person ceases to owe the liability, including when the liability is transferred, satisfied, cancelled, released or expired;

- (b) in the case of a liability of a person who ceases to exist, including by reason of the death of an individual, immediately before the person ceases to exist; and
- (c) in the circumstances referred to in section 70 (change of residence).

(3) Subject to any regulations, the provisions of Division II shall apply, with any necessary adaptations, to liabilities in a manner similar to that in which they apply to assets.

**41.** (1) Subject to section 24, where a person includes expenditure in the cost of an asset or liability and later recovers the expenditure, the person shall include the amount recovered in the consideration received for the asset or liability, as the case requires.

Reversal,  
quantification  
and  
compensation of  
amounts.

(2) Subject to section 24 where a person includes an amount derived as consideration received for an asset or liability and, later refunds the amount, the person may include the amount refunded in the cost of the asset.

(3) Where a person or an associate of a person derives an amount which compensates for or represents –

- (a) recovery of actual or expected costs or expected but not received consideration for an asset or liability; or
- (b) a loss in value of an asset or increase in a liability,

subject to any other adjustment made under this Act, the compensation amount shall be included in the consideration received for the asset or liability, as the case requires.

**Division II: Realisation of assets**

Cost of trading stock and other fungible assets.

**42.** (1) For the purposes of determining the cost of trading stock of a business of a person –

- (a) no amount shall be included in respect of the repair, improvement or depreciation of depreciable assets; and
- (b) subject to the provisions of paragraph (a), the absorption-cost method shall be used for amounts that are eligible to be included in the cost of the trading stock (section 37).

(2) The owner of an asset referred to in subsection (3) may elect for the cost of the asset to be determined according to the first-in-first-out method or the average-cost method. Once chosen, the method shall only be changed with the written permission of the Commissioner-General.

(3) The assets referred to in subsection (2) shall be trading stock or any other type of asset specified by the Commissioner-General that are fungible and not readily identifiable.

(4) In this section –

“absorption-cost method” means the generally accepted accounting principle under which the cost of trading stock is the sum of direct asset costs, direct labour costs and factory overhead costs;

“average-cost method” means the generally accepted accounting principle under which costs are allocated to fungible assets of a particular type owned by a person based on a weighted average cost of all assets of that type owned by the person;



“direct labour costs” means expenditure incurred by a person on labour that directly relates to the production of trading stock;

“direct asset costs” means expenditure incurred by a person in acquiring any asset or assets that constitutes trading stock or becomes an integral part of trading stock produced;

“factory overhead costs” means all expenditure incurred by a person in producing trading stock except direct labour and direct asset costs; and

“first-in-first-out method” means the generally accepted accounting principle under which costs are allocated to a fungible asset of a particular type owned by a person based on the assumption that assets of that type owned by the person are realised in the order of their acquisition.

**43.** Where a person realises an asset in any of the manners set out in paragraphs (c) to (f) of section 39 – Realisation with retention of asset.

- (a) the person shall be treated as having parted with ownership of the asset and deriving an amount in respect of the realisation equal to the market value of the asset at the time of the realisation; and
- (b) the person shall be treated as reacquiring the asset and incurring expenditure of the amount referred to in paragraph (a) in the acquisition.

**44.** Where on death or as part of a divorce settlement or *bona fide* separation agreement an individual transfers, an asset to a spouse or former spouse and an election for this section to apply is made by the spouse or former spouse in writing – Transfer of asset to spouse or former spouse.

- (a) the individual shall be treated as deriving an amount in respect of the realisation equal to the net cost of the asset immediately before the realisation; and

- (b) the spouse or former spouse shall be treated as incurring expenditure of the amount referred to in paragraph (a) in acquiring the asset.

Transfer of asset  
on death.

**45.** Where an individual realises an asset on death by way of transfer of ownership of the asset to another person –

- (a) the individual shall be treated as deriving an amount in respect of the realisation equal to the net cost of the asset at the time of realisation; and
- (b) the person who acquires ownership of the asset shall be treated as incurring expenditure of the amount referred to in paragraph (a) in the acquisition.

Transfer of asset  
to an associate  
or for no  
consideration.

**46.** (1) Subject to this section and sections 44 and 45, where a person realises an asset by way of transfer of ownership of the asset to an associate of the person or by way of transfer to any other person by way of gift –

- (a) the person shall be treated as deriving an amount in respect of the realisation equal to the greater of the market value of the asset or the net cost of the asset immediately before the realisation; and
- (b) the person who acquires ownership of the asset shall be treated as incurring expenditure of the amount referred to in paragraph (a) in the acquisition.

(2) Where an individual realises an asset by way of transfer of ownership of the asset to an associate of the individual or a charitable institution and the requirements of subsection (3) are met –

- (a) the individual shall be treated as deriving an amount in respect of the realisation equal to the net cost of the asset immediately before the realisation; and
- (b) the associate or the charitable institution shall be treated as incurring expenditure of the amount referred to in paragraph (a) in acquiring the asset.

(3) The requirements specified in subsection (2) shall be—

(a) in the case of a transfer to an associate—

(i) the associate in relation to the individual is the individual's child by marriage or adoption, spouse, parent, grandparent, grandchild, sibling, aunt, uncle, nephew, niece or first cousin; and

(ii) the asset is an interest in land or a building situated in Sri Lanka; or

(b) in the case of a transfer to a charitable institution, the transfer occurs by way of gift.

(4) Where a person realises an asset, being trading stock, a depreciable asset, an investment asset or a capital asset of a business, by way of transfer of ownership of the asset to an associate of the person and the requirements of subsection (5) are met —

(a) the person shall be treated as deriving an amount in respect of the realisation equal to the net cost of the asset immediately before the realisation; and

(b) the associate shall be treated as incurring expenditure of the amount referred to in paragraph (a) in acquiring the asset.

(5) The requirements specified in subsection (4) are —

(a) the person or the associate is an entity;

(b) the asset or assets are trading stock, depreciable assets, investment assets or capital assets of a business of the associate immediately after transfer by the person;

(c) at the time of the transfer –

(i) the person and the associate are residents; and

(ii) the associate or, in the case of an associate partnership, none of its partners is exempt from income tax; and

(d) there is continuity of underlying ownership in the asset of at least fifty *per cent*.

Involuntary  
realisation of  
asset with  
replacement.

**47.** (1) Where a person involuntarily realises an asset in any manner set out in paragraph (a) of section 39 and acquires a replacement asset of the same type within six months before or within one year after the realisation and elects in writing for this subsection to apply, that person shall be treated as –

(a) deriving an amount in respect of the realisation equal to the aggregate of –

(i) the net cost of the asset immediately before the realisation; and

(ii) the amount, if any, by which amounts derived in respect of the realisation exceed expenditure incurred in acquiring the replacement asset; and

(b) incurring expenditure in acquiring the replacement asset equal to the aggregate of –

(i) the amount referred to in paragraph (a)(i); and

(ii) the amount, if any, by which expenditure incurred in acquiring the replacement asset exceeds amounts derived in respect of the realisation.

(2) The Commissioner-General may specify the circumstances in which the replacement of one security in a company with another security in the same company or a different company (including as a result of merger, demerger or reconstruction) constitutes an involuntary realisation.

**48.** (1) Subject to section 49 where rights or obligations with respect to an asset owned by one person are assigned to another person, including by way of lease of an asset or part thereof, then –

Realisation by separation.

- (a) where the rights or obligations are permanent, the one person shall be treated as realising part of the asset, but shall not be treated as acquiring any new asset or liability; and
- (b) where the rights or obligations are temporary or contingent, the person shall not be treated as realising part of the asset or liability, but as acquiring a new asset or incurring a new liability, as the case requires.

(2) Rights or obligations shall be considered permanent when they are likely to last for more than fifty years.

**49.** (1) Where a person grants a mortgage (legal or equitable) or similar form of security over an asset to secure a debt owed to another person –

Transfer by way of security, finance lease or instalment sale.

- (a) the first person shall not be treated as realising the asset or any part of it, but shall be treated as still owning the asset and as having incurred a liability being the secured debt; and
- (b) the other person shall not be treated as acquiring the asset or any part of it, but shall be treated only as owning the secured debt.

(2) Where an asset is leased under a finance lease, the lessor shall be treated as transferring ownership of the asset to the lessee.

(3) Subject to section 46 where a person transfers an asset under an instalment sale or, under a finance lease under subsection (2) –

- (a) the person shall be treated as deriving an amount in respect of the transfer equal to the market value of the asset immediately before the transfer; and
- (b) the person who acquires the asset shall be treated as incurring expenditure of the amount referred to in paragraph (a) in acquiring the asset.

(4) Where a lessee under a finance lease returns the asset to the lessor before ownership passes to the lessee (except the transaction referred to in subsection (2)) the lessee shall be treated as transferring ownership of the asset back to the lessor.

(5) In this section, “finance lease” and “instalment sale” shall have the same meaning as in section 31.

Payment of tax on gains from realisation of an asset.

**50.** The manner and the procedure relating to the payment of tax on the gain from realisation of an asset may be specified by the Commissioner- General.

Apportionment of costs and consideration received.

**51.** (1) Where a person acquires one or more assets by way of transfer at the same time or as part of the same arrangement, the expenditure incurred in acquiring each asset shall be apportioned between the assets according to their market values at the time of acquisition.

(2) Where a person realises one or more assets by way of transfer at the same time or as part of the same arrangement, the amounts derived in realising each asset shall be apportioned between the assets according to their market values at the time of realisation.

(3) Where a person who owns an asset realises part of it, the net cost of the asset immediately before the realisation

shall be apportioned between the part of the asset realised and the part retained according to their market values immediately after the realisation.

## CHAPTER V

### TYPES OF PERSONS

#### **Division I: Individuals and Entities**

**52.** (1) In arriving at the taxable income of an individual or entity for a year of assessment under section 3, the aggregate qualifying payments referred to in the Fifth Schedule to this Act shall be deducted.

Qualifying  
payments and  
reliefs.

(2) In arriving at the taxable income of an individual who is resident in Sri Lanka for a year of assessment under section 3, the aggregate reliefs referred to in the Fifth Schedule to this Act shall be deducted.

(3) In arriving at the taxable income of an individual who is not resident in Sri Lanka for a year of assessment but is a citizen of Sri Lanka under section 3, the relief referred to in paragraph 2(a) of the Fifth Schedule to this Act shall be deducted.

#### **Division II: Partnerships**

**53.** (1) Subject to subsection (2), a partnership shall not be liable to pay income tax with respect to its taxable income and shall not be entitled to any tax credit with respect to that income, but shall be liable to pay income tax with respect to withholding payments.

Partnerships.

(2) The provisions of subsection (1) shall not apply to a partnership to the extent that the partnership's taxable income includes a gain from the realisation of an investment asset.

(3) Partnership income or a partnership loss of a partnership shall be allocated to the partners in accordance with this Division.

(4) Amounts derived and expenditure incurred in common by partners shall be treated as amounts derived or expenditure incurred by the partnership and not by the partners.

(5) Assets owned and liabilities owed in common by partners shall be treated as assets owned or liabilities owed by the partnership and not by the partners and shall be treated as –

- (a) in the case of assets, acquired when they begin to owe such assets in that way;
- (b) in the case of liabilities, incurred when they begin to owe such liabilities in that way; and
- (c) realised when they cease to be so owned or owed in that way.

(6) Subject to this Act, all business activities of a partnership shall be treated as conducted in the course of a single partnership business.

(7) Subject to this Act, arrangements between a partnership and its partners shall be recognised in instances other than the following, which shall be taken into account in determining a partner's share under subsection (5) of section 55:-

- (a) loans made by a partner to a partnership and any interest paid with respect thereto; and
- (b) services provided by a partner to a partnership (including by way of employment) and any service fee or income from employment payable with respect thereto.



(8) Subject to any consequences under section 63, where there is a change of partners in a partnership at least two existing partners continue with the partnership, the partnership shall be treated as the same entity both before and after the change.

(9) The precedent partner or in the absence of such partner in Sri Lanka, an agent of the partnership in Sri Lanka, shall withhold tax in accordance with section 84 and at the rate provided for in paragraph 10 of the First Schedule to this Act on each partner's share of any partnership income of the relevant partnership year, excluding the share of any partnership income that includes a gain from the realisation of an investment asset in respect of which tax is payable on assessment by the partnership.

**54.** (1) Partnership income of a partnership for a year of assessment shall be the partnership's income from its business or investment for that year of assessment (sections 6 and 7).

Partnership  
income or loss.

(2) A loss incurred by a partnership for a year of assessment shall be the partnership's loss from its business or investment for the year (subsection (5) of section 19).

**55.** (1) For the purposes of calculating a partner's income from a partnership for a year of assessment of the partner, the partner's share of any partnership income shall be included or the partner's share of any partnership loss of the relevant partnership year shall be deducted. The relevant partnership year is the year of assessment of the partnership ending on the last day of or during the year of assessment of the partner.

Taxation of  
partners.

(2) Gains on disposal of an interest of a partner in a partnership shall be treated as income from a business and included in calculating the income of the partner from the partnership and shall be calculated under Chapter IV subject to the adjustments in section 56.

(3) Partnership income or a partnership loss allocated to partners under subsection (1) –

- (a) shall retain its character as to type and source;
- (b) shall be treated as an amount derived or expenditure incurred, respectively, by a partner at the end of the partnership's year of assessment; and
- (c) shall be allocated to the partners proportionately to each partner's share, unless the Commissioner-General, by notice in writing and for good cause, directs otherwise.

(4) Tax paid under the provisions of this Act and foreign income tax paid or treated as paid by the partnership with respect to the partnership income shall be allocated to the partners, proportionately to each partner's share, and shall be treated as paid by them. The allocation occurs at the time partnership income is treated as derived by the partners under paragraph (b) of subsection 3.

(5) For the purposes of this section and subject to subsection (7) of section 53, a "partner's share" shall be equal to the partner's percentage interest in any income of the partnership as set out in the partnership arrangement.

Cost of and consideration received for partnership interest.

**56.** (1) The following shall be included in the cost of a partner's membership interest in a partnership:-

- (a) amounts included in calculating the partner's income, under subsection (1) of section 55 at the time of the inclusion; and
- (b) the partner's share (subsection (5) of section 55) of exempt amounts and final withholding payments derived by the partnership, at the time the amount or payment is derived.

(2) The following shall be included in the consideration received for a partner's membership interest in a partnership:-

- (a) amounts deducted in calculating the partner's income, under subsection (1) of section 55 at the time of deduction;
- (b) distributions made by the partnership to the partner, at the time of distribution; and
- (c) the partner's share (subsection (5) of section 55) of domestic or excluded expenditure incurred by the partnership, at the time the expenditure is incurred.

### **Division III: Trusts and Unit Trusts**

**57.** (1) Subject to subsection (2), a trust shall be liable to tax separately from its beneficiaries, and –

Taxation of trusts.

- (a) a trust shall be taxed as an entity, except a trust of an incapacitated individual (not being a minor), which shall be taxed as though it were an individual; and
- (b) amounts derived and expenditure incurred by a trust or a trustee (other than as a bare agent or for an absolutely entitled beneficiary) shall be treated as derived or incurred by the trust and not any other person, regardless of whether or not the amount is derived or incurred on behalf of another person and whether or not any other person is entitled to such an amount or income constituted by such an amount.

(2) A beneficiary of a trust (instead of the trust) shall be liable to tax on the income of the trust to which that beneficiary is presently entitled for the relevant year of

assessment of the trust ending on the last day of or during the year of assessment and –

- (a) amounts derived and expenditure incurred by a trust or a trustee shall be treated as derived or incurred by the beneficiary and not the trust or trustee or any other person;
- (b) each amount shall retain its character as to type and source;
- (c) each amount shall be treated as an amount derived or expenditure incurred, respectively, by the beneficiary at the end of the year of assessment of the trust;
- (d) each amount shall be allocated to the beneficiaries proportionately to each beneficiary's share, unless the Commissioner-General, by notice in writing and for good cause, directs otherwise; and
- (e) tax paid under this Act and foreign income tax paid or treated as paid by the trust with respect to the trust income shall be allocated to the beneficiaries at the time trust income is treated as derived by the beneficiaries under paragraph (c) proportionately to each beneficiary's share, and treated as paid by them.

(3) For the purposes of subsection (2) –

- (a) a beneficiary shall be presently entitled to the income of a trust if the beneficiary has a vested and indefeasible interest in the income and an immediate right to demand payment of the income from the trustee of the trust; and
- (b) provisions of subsection (2) shall not apply to a trust to the extent that the trust's taxable income include a gain from the realisation of an investment asset.

(4) Assets owned and liabilities owed by a trust or a trustee (other than as a bare agent or for an absolutely entitled beneficiary) shall be treated as owned or owed by the trust and not any other person.

(5) Separate calculations of income shall be made for separate trusts regardless of whether they have the same trustees.

(6) Subject to the provisions of this Act, arrangements between a trust and its trustees or beneficiaries shall be recognised.

**58. (1) Distributions –**

Taxation of  
beneficiaries.

- (a) of a resident trust shall be exempt in the hands of the trust's beneficiaries; and
- (b) of a non-resident trust shall be included in calculating the income of the beneficiaries of the trust, except to the extent that the distribution represents an amount that is subject to tax to the trust or trustee under subsection (1) of section 57 or a beneficiary under subsection (2) of section 57.

(2) Gains on disposal of the interest of a beneficiary in a trust shall be included in calculating the income of the beneficiary.

**59. (1)** For the purposes of this Act, every unit trust or every mutual fund that does not conduct an eligible investment business shall be deemed to be a company resident in Sri Lanka and the provisions of this Act relating to companies resident in Sri Lanka shall apply.

Taxation of unit  
trusts.

(2) Without prejudice to the generality of the provisions of subsection (1) –

- (a) a “unit” in any unit trust or a mutual fund shall be deemed to be a share in that company;

- (b) a unit holder in any unit trust or mutual fund shall be deemed to be a shareholder in that company;
- (c) the income derived by or which arose from or accrued to the benefit of, the trustee of any unit trust or the custodian of any mutual fund from any property subject to that unit trust or mutual fund or from any business carried on by such trustee or such custodian for or on behalf of, that unit trust or mutual fund shall be deemed to be the income of that company;
- (d) any distribution, in any manner whatsoever, of the income of any unit trust or mutual fund to its unit holders shall be deemed to be a dividend distributed to the shareholders of that company; and
- (e) the paid up value of any unit in any unit trust or mutual fund shall be deemed to be the paid up value of any share in that company.

(3) Any sum appropriated or paid by way of remuneration to the manager or the trustee of any unit trust or to the manager or custodian of any mutual fund out of the funds of that unit trust or mutual fund shall, for the purposes of section 11 be deemed to be an expense incurred by that company in the production of its income.

(4) Where this section applies, section 57 shall not apply.

#### **Division IV: Companies**

Taxation of  
companies.

**60.** (1) A company shall be liable to tax separately from its shareholders.

(2) Subject to the provisions of this Act, all business activities of a company shall be treated as conducted in the course of a single company business.

(3) Subject to the provisions of this Act, arrangements between a company and its managers or shareholders shall be recognised.

**61.** (1) Dividends –

Taxation of shareholders.

(a) distributed by a resident company shall be taxed on the company's shareholders; and

(b) distributed by a non-resident company shall be included in calculating the income of the shareholders.

(2) Gains on disposal of shares in a company shall be included in calculating the income of the shareholder.

**62.** (1) A non-resident person who carries on business in Sri Lanka through a Sri Lankan permanent establishment shall pay tax on the remitted profits earned within the year of assessment.

Remittance tax.

(2) A non-resident person who has earned remitted profits under subsection (1) shall pay a final tax on the gross amount of the remitted profits to the Commissioner-General in accordance with the rate set out in the First Schedule to this Act on or before the thirtieth day succeeding the date of making such remittances.

(3) In this section, "remitted profits" means amounts remitted or retained abroad out of the profits and income of the non-resident person that are subject to income tax in Sri Lanka, and any amount received outside Sri Lanka by or on behalf of the non-resident person from conducting business in Sri Lanka that is subject to income tax in Sri Lanka, excluding dividends paid by a resident company to the non-resident person.

**Division V: Entities**

Asset dealings  
between entities  
and members.

**63.** Subject to section 46, where an asset is realised by way of transfer of ownership of the asset by an entity to one of its members or *vice versa* –

- (a) the transferor shall be treated as deriving an amount in respect of the realisation equal to the market value of the asset immediately before the realisation; and
- (b) the transferee shall be treated as incurring expenditure of the amount referred to in paragraph (a) in the acquisition.

Change in  
control.

**64.** (1) When the underlying ownership of an entity changes by more than fifty percent as compared with that ownership at any time during the previous three years, the entity, after the change, shall not be permitted to –

- (a) deduct financial costs carried forward under subsection (3) of section 18 that were incurred by the entity prior to the change;
- (b) deduct a loss under subsection (1) of section 19 that was incurred by the entity prior to the change;
- (c) in a case where the entity has, prior to the change, included an amount in calculating income in terms of subsections (2), (4) or (5) of section 24, claim a deduction under those provisions after the change; or
- (d) carry back a loss under subsection (5) of section 25 that was incurred after the change to a year of assessment before the change.

(2) Where a change in ownership of the type referred to in subsection (1) occurs during a year of assessment of an entity, the parts of the year of assessment before and after the change shall be treated as separate years of assessment.



(3) This section shall not apply to a partnership or company that conducts the same business after a change as it conducted before the change for a period of two years after the change.

## CHAPTER VI

### SPECIAL INDUSTRIES

#### **Division I: Petroleum Operations**

**65.** (1) Any individual or entity who or which has entered into an agreement as a contractor or sub-contractor under the Petroleum Resources Act, No. 26 of 2003 shall be deemed to be resident in Sri Lanka over the term of such contract or sub contract, as the case may be, for the purposes of this Act.

Petroleum operations.

(2) The turnover from exports and local sales of petroleum exploited under any Petroleum Resources Agreement referred to in subsection (1), shall be determined on the basis of accepted commercial practices and be subject to any specific provisions in the Petroleum Resources Agreements, entered into under the Petroleum Resources Act, No. 26 of 2003.

(3) The income, gains and profits from the business of petroleum exploitation under any Petroleum Resources Agreement referred to in subsection (1), shall be ascertained after allowing the following deductions in addition to other allowable deductions under the provisions of this Act, and shall notwithstanding anything to the contrary in any other provision of this Act, be chargeable with income tax at the appropriate rate set out in the First Schedule to this Act, provided that the same item of expenditure shall not be deducted more than once:-

- (a) payments made to service sub-contractors for conducting petroleum operations;

- (b) one hundred percent of the cost of acquisition of any plant, machinery or equipment used for the recovery of petroleum resources, instead of the capital allowances under section 16. Any proceeds realised on the sale of such assets shall be considered as a receipt from such business;
- (c) interest expenses;
- (d) royalty paid on petroleum resources recovered under any Petroleum Resources Agreement;
- (e) all expenses on the development and production of petroleum, including capital expenses, where a deduction under paragraph (b) above has not been granted;
- (f) in the year of first commercial production, all costs incurred by any contractor in the exploration for unsuccessful wells in exploration blocks under any Petroleum Resources Agreement, up to and including such year of first commercial production;
- (g) any costs incurred by any contractor in the exploration for unsuccessful wells in exploration blocks under any Petroleum Resources Agreement in any year of assessment, after the first commercial production.

## **Division II: Financial Institutions and Insurance Entities**

Banking  
business.

**66.** (1) For the purposes of this Act, a person's activities in conducting a banking business shall be treated as a business separate from any other activity of the person and the person's income or loss from the business for a year of assessment shall be calculated separately.

(2) Where a person conducting a banking business makes specific provision for a debt claim in accordance with the

relevant directives made by the Central Bank of Sri Lanka, the Commissioner-General may specify the extent to which that provision shall be deductible, but a person shall not deduct such provision unless such directives are complied with.

(3) In this section, “banking business” means the banking business of a financial institution.

**67.** (1) In the case of a person engaged in the business of life insurance, whether mutual or proprietary, the gains and profits from the business on which tax is payable shall be ascertained by taking the aggregate of—

Insurance  
business.

- (a) the surplus distributed to share holders from the life insurance policy holders fund as certified by the Appointed Actuary functioning within the Regulation of the Insurance Industry Act, No. 43 of 2000; and
- (b) the investment income of the share holder fund less any expenses incurred in the production of such income,

subject to the deductions claimable under section 19 in arriving at the income from the business.

(2) For the purpose of subsection (1), the surplus distributed to a life insurance policy holder who shares the profits of a person engaged in the business of life insurance in a given year, as provided in the Regulation of Insurance Industry Act, No. 43 of 2000, shall be deemed as gains and profits of that person from the business and subject to tax accordingly.

(3) The profits of a non-resident company whether mutual or proprietary, from the business of insurance (other than life insurance) shall be ascertained by taking the gross

premiums from insurance business in Sri Lanka (less any premiums returned to the insured and premiums paid on reinsurance) and deducting therefrom a reserve from unexpired risks at the percentage adopted by the company in relation to its operations as a whole for such risks at the end of the period for which the profits shall be ascertained, and adding thereto a reserve similarly calculated for unexpired risks outstanding at the commencement of such period, and from the net amount so arrived at, deducting the actual losses (less the amount recovered in respect thereof under reinsurance), the agency expenses in Sri Lanka and a fair proportion of the expenses of the head office of the company, due account being taken in each case by set-off against such expenses, of any income or profits other than premiums.

(4) Where the Commissioner-General is satisfied that by reason of the limited extent of the business transacted in Sri Lanka by a non-resident insurance company, it would be unreasonable to require the company to furnish the particulars necessary for the application of subsections (1) and (2), the Commissioner-General may notwithstanding the provisions of such subsections, permit the profits of the company to be ascertained by reference to such proportion of the total profits and income of the company as is equal to the proportion which its premiums from insurance business in Sri Lanka bears to its total premiums, or on any other basis considered equitable in all the circumstances of the case.

### **Division III: Non-Governmental Organizations and Charitable Institutions**

Non-Governmental organizations and charitable institutions.

**68.** (1) A non-government organization shall pay additional tax of three percent on amounts received in each year of assessment by way of grant, donation or contribution or in any other manner at the rate set out in the First Schedule.

(2) Where the Commissioner-General is satisfied that any non-governmental organization is engaged, in any year of assessment, in –

- (a) rehabilitation and the provision of infrastructure facilities and livelihood support to displaced persons in any area identified by the Government for the purposes of such rehabilitation and provision; or
- (b) any other activity approved by the Minister as being of humanitarian in nature, taking into consideration the nature and gravity of any disaster and the magnitude of relief required to be provided consequently,

the Commissioner-General may reduce or remove the tax payable by such non-governmental organization for that year of assessment if it appears that such reduction is just and equitable in all the circumstance of the case.

(3) Where any charitable institution provides in any year of assessment institutionalized care for the sick or the needy and where the Commissioner-General is satisfied that the cost of provision of such care is borne by such charitable institution, the Commissioner-General may, subject to specified conditions, grant a tax credit against the tax payable on the charitable institution's taxable income for the year of assessment, provided it appears to the Commissioner-General that such reduction or remission is just and equitable in all the circumstances of the case.

## CHAPTER VII

### INTERNATIONAL

#### **Division I: Residence and Sources**

**69.** (1) An individual shall be a resident in Sri Lanka for a year of assessment if the individual –

Resident persons.

- (a) resides in Sri Lanka;

- (b) is present in Sri Lanka during the year and that presence falls within a period or periods amounting in aggregate to one hundred and eighty three days or more in any twelve month period that commences or ends during the year;
- (c) is an employee or an official of the Government of Sri Lanka and his spouse is posted abroad during the year; or
- (d) is an individual who is employed on a Sri Lanka ship, within the meaning of the Merchant Shipping Act, during the period the individual is so employed.

(2) A partnership shall be resident in Sri Lanka for a year of assessment if –

- (a) it was formed in Sri Lanka; or
- (b) at any time during the year the management and control of the affairs of the partnership are exercised in Sri Lanka.

(3) A trust shall be resident in Sri Lanka for a year of assessment if –

- (a) it was established in Sri Lanka;
- (b) at any time during the year a trustee of the trust is resident in Sri Lanka; or
- (c) at any time during the year a person resident in Sri Lanka directs or may direct senior managerial decisions of the trust, whether the direction is made alone or jointly with other persons or directly or through one or more interposed entities.

(4) A company shall be resident in Sri Lanka for a year of assessment if –

- (a) it is incorporated or formed under the laws of Sri Lanka;
- (b) it is registered or the principal office is in Sri Lanka;  
or
- (c) at any time during the year the management and control of the affairs of the company are exercised in Sri Lanka.

**70.** (1) An individual who is resident in Sri Lanka only by reason of paragraph (c) of subsection (1) of section 69, shall be so resident from the start of the one hundred and eighty three day period. Otherwise, a person who is resident in Sri Lanka during a year of assessment shall be treated as a resident for the whole of the year.

Change of residence.

(2) Subject to subsection (4), where a non-resident person becomes resident in Sri Lanka, the net cost of an asset held by the person immediately before becoming resident shall be equal to the market value of the asset at that time.

(3) Subject to subsection (4), when a person resident in Sri Lanka ceases to be resident in Sri Lanka, the person shall be treated as having immediately before the person ceases to be so resident realised all assets owned by the person and deriving in respect of each an amount equal to the market value of the asset at the time of the realisation.

(4) Provisions of subsections (2) and (3) shall not apply to an asset that is a domestic asset of the person immediately before becoming a resident or after ceasing to be a resident, respectively.

**71.** (1) Income of a person from an employment that has a source in Sri Lanka shall be calculated separately from income from that employment that has a foreign source.

Source of income and quarantining of foreign losses.

(2) Income or loss of a person from a business or investment that has a source in Sri Lanka shall be calculated separately from income or loss from that business or investment that has a foreign source.

(3) A person's income from an employment, business, investment or other source shall be treated as a source in Sri Lanka to the extent to which –

- (a) the amounts directly included in calculating the income that has a source in Sri Lanka, exceed;
- (b) the amounts directly deducted in calculating that income that has a source in Sri Lanka.

(4) A person's loss from a business or investment shall have a source in Sri Lanka to the extent to which the amounts referred to in paragraph (b) of subsection (3) exceed those referred to in paragraph (a) of subsection (3).

(5) A person's income from a foreign source from an employment shall be calculated as the person's worldwide income from that employment (calculated notwithstanding subsection (1)) less any income with a source in Sri Lanka from that employment.

(6) A person's foreign source of income or loss from a business or investment shall be calculated as the person's worldwide income or loss from that business or investment (calculated notwithstanding subsection (2)) –

- (a) less any income with a source in Sri Lanka from that business or investment; or
- (b) plus any loss with a source in Sri Lanka from that business or investment.

(7) For the purposes of section 19, a person may deduct an unrelieved loss –

- (a) in the case of a foreign source loss from an investment, only in calculating the person's foreign source income from an investment; and



- (b) in the case of a foreign source loss from a business, only in calculating the person's foreign source income from a business or investment.

**72.** (1) An amount directly included in calculating the income shall be a source in Sri Lanka where it consists of –

Source directly to be included and amounts to be deducted.

- (a) consideration received, a gain or an amount, referred to in paragraph (b), (c) or (d) of subsection (2) of section 6 or paragraph (b) of subsection (3) of section 7 to the extent to which a domestic asset or domestic liability is involved; and
- (b) subject to paragraph (a), a payment that has a source in Sri Lanka.

(2) An amount directly deducted in calculating income shall have a source in Sri Lanka where it consists of –

- (a) to the extent to which it relates to domestic assets, an allowance referred to in subsection (1) of section 13 or section 16 or expenditure referred to in subsection (1) of section 14;
- (b) a loss from the realisation of a capital asset or liability of a business or an investment asset where the asset or liability involved shall be a domestic asset or domestic liability; and
- (c) subject to paragraphs (a) and (b), a payment that has a source in Sri Lanka.

**73.** (1) The following payments shall have a source in Sri Lanka:-

Source of payments.

- (a) payments received in respect of employment –
  - (i) to the extent derived in respect of employment in Sri Lanka, wherever paid; or

- (a) if paid by, or on behalf of, the Government of Sri Lanka, wherever the employment is;
- (b) dividends paid by a resident company;
- (c) interest, charges, annuities, a royalty, technical service fee, or similar payment if –
- (i) paid by a resident person, other than as an expenditure of a business carried on by the resident person through a permanent establishment outside Sri Lanka; or
  - (ii) paid by a non-resident person as an expenditure of a business carried on by the non-resident person through a Sri Lankan permanent establishment;
- (d) winnings from lottery, betting, or gambling relating to a game of chance held in Sri Lanka;
- (e) natural resource payments made in respect of or calculated by reference to natural resources taken from land or the sea situated within Sri Lanka or its territorial waters;
- (f) rent paid for the use of, right to use or forbearance from using an asset situated in Sri Lanka;
- (g) premiums for general insurance paid to and proceeds from general insurance paid by a person in respect of the insurance of any risk in Sri Lanka;
- (h) payments received by a person who conducts a relevant transport business in respect of –
- (i) the carriage of passengers who embark or cargo, mail or other moveable tangible assets that are embarked in Sri Lanka, other than as a result of transshipment; or

- (ii) rental of containers and related equipment which are supplementary or incidental to carriage referred to in subparagraph (i);
- (i) payments received by a person who conducts a business of transmitting messages by cable, radio, optical fibre or satellite or electronic communication in respect of the transmission of messages by apparatus established in Sri Lanka, whether or not such messages originate in Sri Lanka;
- (j) payments, including service fees, of a type not mentioned in paragraph (c), (h) or (i) for or attributable to service rendered or a forbearance from rendering service –
  - (i) in Sri Lanka, regardless of the place of payment; or
  - (ii) where the payer is the Government of Sri Lanka, irrespective of the place of exercise, rendering or forbearance;
- (k) proceeds of life insurance and retirement, termination and pension payments not falling within paragraph (a) if –
  - (i) paid by a resident person, other than as an expenditure of a business carried on by the resident person through a permanent establishment outside Sri Lanka;
  - (ii) paid by a non-resident person as an expenditure of a business carried on by the non-resident person through a Sri Lankan permanent establishment; or
  - (iii) paid by, or on behalf of, the Government of Sri Lanka;

- (l) gifts and other ex gratia payments to the extent received in respect of business or investment conducted with domestic assets; and
- (m) payments not mentioned in the above paragraphs –
  - (i) made in respect of the acquisition of a domestic asset, incurring of a domestic liability or realisation of such an asset or liability;
  - (ii) received in respect of activity conducted or a forbearance from conducting activity in Sri Lanka –
    - (iia) except, in relation to a resident person, to the extent attributable to a foreign permanent establishment; and
    - (iib) in relation to a non-resident person, to the extent attributable to a Sri Lankan permanent establishment or any other activity (including sales in Sri Lanka of goods and merchandise) of the same or similar kind as that conducted by the non-resident person through a Sri Lankan permanent establishment; or
  - (iii) made to any foreign entertainer or artist for activity relating to Sri Lanka.

(2) In this Section –

“relevant transport business” means a business of land, sea or air transport operator or charterer carrying passengers, cargo, mail or other moveable tangible assets; and

“technical service fee” means a service fee for managerial, technical, or consultancy services, including a fee for the provision of services of technical or other personnel.

**74.** An amount shall be treated as foreign sourced to the extent that it does not have a source in Sri Lanka. Foreign Source.

**Division II: Double Taxation Agreements and Mutual Administrative Assistance Agreements**

**75.** (1) The Minister may give effect to any double taxation agreement or mutual administrative assistance agreement with a foreign government or governments that has been approved by Parliament and published in the *Gazette*. Double taxation agreements and mutual administrative assistance agreements.

(2) Subject to the provision of subsection (3), where there is any conflict between the terms of a double taxation agreement having legal effect in Sri Lanka and the provisions of this Act, the double taxation agreement prevails.

(3) Subject to the provision of subsection (4), where a double taxation agreement provides that any income from a Sri Lankan source is exempt or excluded from tax, or the application of the agreement results in a reduction in the rate of Sri Lankan tax, the benefit of that exemption, exclusion, or reduction shall not be available to a body that, for the purposes of the agreement, is a resident of the other contracting state when fifty percent or more of the underlying ownership or control of that body is held by an individual or individuals who are not residents of that other contracting state for the purposes of the agreement.

(4) Provision of subsection (3) shall not apply if the resident of the other contracting state is a company listed on a stock exchange in that other contracting state.

(5) In this section –

“double taxation agreement” means an international agreement relating to the avoidance of double taxation and the prevention of fiscal evasion; and

“mutual administrative assistance agreement” means a tax information exchange agreement or other international agreement for mutual administrative assistance in relation to taxation matters.

### **Division III: Transfer Pricing**

Profits and  
income or loss  
from  
international  
transactions  
between  
associates.

**76.** (1) Any income, gains and profits arising in, derived or accruing from, or any loss incurred by any person in Sri Lanka engaged in any international transaction entered into with its associated enterprises shall be ascertained having regard to the arm's length price.

(2) For the purpose of this section –

(a) any business organization that has a permanent establishment in Sri Lanka shall be deemed to be a person for the ascertainment of the income, gains or profits arising in or derived from or any loss incurred in Sri Lanka from such permanent establishment;

(b) “permanent establishment” –

(i) in relation to a country with which an agreement has been entered into on avoidance of double taxation means, a permanent establishment defined in an agreement for the relief of double taxation where an agreement is in force between the government of Sri Lanka and the government of any territory in

which any person and their agencies, branches or establishments in Sri Lanka is resident; or

- (ii) in relation to a country with which an agreement has not been entered into on avoidance of double taxation, includes any business connection or a fixed place of business through which the business of the enterprise is wholly or partly carried out irrespective of the number of days of such business carried out in Sri Lanka;
- (c) any income, gains or profits arising, derived or accruing from, or any loss incurred in any transaction between a permanent establishment and its head office or other related branches in Sri Lanka, in which case the permanent establishment shall be treated as a distinct and separate entity from its head office and related branches, shall be ascertained having regard to the arm's length price; and
- (d) "international transaction" means a transaction between two or more associated enterprises, either one or both of whom are non-residents, in the nature of purchase, sale or lease of tangible or intangible property, or provision of services, lending or borrowing of money or any other transaction having a bearing on the income, gain or profits, losses or assets of such associated enterprises, and includes any allocation or apportionment of, or any contribution to any cost or expense incurred or to be incurred in connection with a benefit, service or facility provided or to be provided to any one or more of such associated enterprises under any mutual agreement or arrangement between two or more such associated enterprises.

Any transaction entered into by an enterprise with a person, other than an associated enterprise shall, for the purposes of subsection (1) be deemed to be an international transaction entered into between two associated enterprises, if there exists a prior agreement between such enterprises and other person and, by which the terms of such transaction are determined in substance between such enterprises and other person which results in the reduction of or would have the effect of reducing the amount of tax payable.

Without prejudice to the generality of the provision of this subsection, the allowance for any expense or interest arising from an international transaction shall also be determined having regard to the arm's length price.

(3) (a) Where it appears to the Transfer Pricing Officer that the income, gain or profits or the loss referred to in subsection (1), have not been ascertained having regard to the arm's length price, he may initiate a transfer pricing audit.

(b) Where it appears to an Assistant Commissioner in the course of his audit that the income, gain, profits or the loss referred to in subsection (1) have not been ascertained having regard to the arm's length price he shall refer to the Transfer Pricing Officer for the determination of arm's length price and if the Transfer Pricing Officer decides to proceed with a transfer pricing audit he shall initiate such transfer pricing audit.

(c) When determining the arm's length price, the Transfer Pricing Officer may in writing addressed to the person referred to in subsection (1) require him to prove to the satisfaction of the Transfer Pricing Officer, that such income, gain or profits or such loss, as the case may be, has in fact been ascertained having regard to the arm's length price. Where such person fails to so prove, the Transfer Pricing Officer may determine, the arm's length price.



(d) For the purposes of subsection (1), a Transfer Pricing Officer may give notice in writing to any person requiring him to furnish within the period specified in such notice, information in relation to any transactions between such person and any other persons.

(e) The arm's length price shall be determined in accordance with the arm's length principle and on the basis of the application of the most appropriate method as specified for that purpose.

(f) After determining arm's length price of the cases initiated under paragraph (a) or (b) of subsection (2), Transfer Pricing Officer shall prepare a preliminary order determining the arm's length price and refer to the Technical Review Committee which is appointed by the Deputy Commissioner-General of the subject of transfer pricing, for review.

(g) The Technical Review Committee shall review the determined arm's length price in the preliminary order and shall confirm, reduce or enhance the arm's length price and refer to the Transfer Pricing Officer –

- (i) a final order, if all the members of the Committee are in agreement; or
- (ii) an interim order in any other circumstances where all the members of the Committee are not in agreement.

(h) Transfer Pricing Officer shall communicate the final order or the interim order as the case may be to such person.

(i) A person, who is dissatisfied with the interim order may communicate his dissatisfaction to the Dispute Resolution Panel referred to in section 78 of this Act and the Dispute Resolution Panel shall issue a final order under subsection (4) of section 78.

(j) Where person or partner of a partnership has not communicated their dissatisfaction on an interim order received to the Dispute Resolution Panel, the interim order shall be deemed to be a final order.

(k) The Transfer Pricing Officer shall, subject to the provisions of section 135, assess the amount of income, gain or profits and issue assessment in accordance with the final order of the Technical Review Committee or the Dispute Resolution Panel as the case may be.

(l) Such person or partner of a partnership who is aggrieved by such assessment made based on the final order, may within thirty days of the notice of assessment make an appeal to the Commissioner-General under Chapter XIII.

(4) The provisions of this section shall not apply in a case where the computation of income under subsection (2) has the effect of reducing the income, gain or profits chargeable to tax or increasing the loss, as the case may be, computed on the basis of entries made in the books of account in respect of any year of assessment in which the international transaction was entered into.

(5) Notwithstanding anything to the contrary in any other section of this Act or any other law, no exemption or tax benefit provided under any of the provisions of this Act or any other law, shall be granted in respect of the amount of income, gain or profits by which the total income, gain or profits of the associated enterprises is increased after the computation of income, gain or profits under this section and in accordance with the arm's length price.

(6) An advance pricing agreement may be entered into between any person and the Commissioner-General in respect of arm's length price for the purposes of this section in the manner that may be specified.

(7) The determination of arm's length price referred to in subsection (1) may be subject to safe harbor rules specified by the Commissioner-General.

**77.** (1) Any income, gain or profits arising in, derived or accruing from, or any loss incurred in by any person in Sri Lanka engaged in any transaction, other than transactions referred to in subsection (1) of section 76 entered into with its associated enterprises shall be ascertained having regard to the arm's length price.

Profits and  
income or loss  
from  
transactions  
between  
associates.

- (2)(a) Where it appears to the Assistant Commissioner in the course of his audit, the income, gains or profits or the loss referred to in subsection (1), have not been ascertained having regard to the arm's length price, he may initiate a transfer pricing audit.
- (b) When determining the arm's length price the Assistant Commissioner may in writing address to the person, referred to in subsection (1) and require him to prove to the satisfaction of the Assistant Commissioner, that such profits and income or such loss, as the case may be, has in fact been ascertained having regard to the arm's length price. Where such person fails to so prove, the Assistant Commissioner may determine, the arm's length price.
- (c) For the purposes of subsection (1), the Assistant Commissioner may give notice in writing to any person requiring him to furnish within the period specified in such notice, information in relation to any transaction between such person and any other person.
- (d) The arm's length price shall be determined in accordance with the arm's length principle and on the basis of application of the most appropriate method, as specified for that purpose.

- (e) After determining arm's length price, the Assistant Commissioner shall prepare a preliminary order and refer to the Technical Review Committee, for review.
- (f) The Technical Review Committee shall review the determined arm's length price in the preliminary order and shall confirm, reduce or enhance the arm's length price and refer to the Assistant Commissioner -
  - (i) a final order, where all the members of the Committee are in agreement; or
  - (ii) a interim order in any other circumstances where all the members of the Committee are not in agreement.
- (g) Assistant Commissioner shall communicate the final order or the interim order as the case may be to such person or partner of such partnership.
- (h) A person, who is dissatisfied with the interim order may communicate his dissatisfaction to the Dispute Resolution Panel and the Dispute Resolution Panel shall issue a final order under subsection (4) of section 78.
- (i) Where a person has not communicated his dissatisfaction on an interim order, the interim order is deemed to be a final order.
- (j) The Assistant Commissioner shall subject to the provisions of section 135 assess the amount of income, gain or profits and issue assessment in accordance with the final order of the Technical Review Committee or the Dispute Resolution Panel as the case may be.

- (k) If such a person who is aggrieved by such assessment made based on the final order, may, within thirty days of the notice of assessment make an appeal to the Commissioner-General.

(3) The provisions of this section shall not apply in a case where the computation of income, gain or profits under subsection (2) has the effect of reducing the income, gain or profits chargeable to tax or increasing the loss, as the case may be, computed on the basis of entries made in the books of account in respect of any year of assessment in which the transaction was entered into.

(4) Notwithstanding anything in any other section of this Act or any written law, no exemption or tax benefit provided under any of the provisions of this Act or any written law, shall be granted in respect of the amount of income, gain or profits by which the total income, gain or profits of the associated enterprises is increased after the computation of income, gain or profits under this section and in accordance with the arm's length price.

(5) The determination of arm's length price referred to in subsection (1) may be subject to safe harbor rules.

For the purpose of sections 76 and 77 –

- (a) “a person” –
  - (i) shall be an associated enterprise of another enterprise, if one person participates directly or indirectly or through one or more intermediaries in the management, control or capital of the other person; or
  - (ii) shall be deemed to be an associated enterprise of another person if one person participates directly or indirectly or through one or more intermediaries in

the management, control or capital, in such manner or to such extent as may be specified;

- (b) a person referred to in paragraph (a) shall include a permanent establishment;
- (c) “Transfer Pricing Officer” means any officer of the Inland Revenue Department designated by the Commissioner-General as a Transfer Pricing Officer;
- (d) “safe harbor” means circumstances in which the Commissioner-General may propose a simplification measure that shall accept the transfer price declared by a person under certain conditions;
- (e) “Arm’s Length Price” means for the purpose of ascertaining income, gain or profits arising in, derived or accruing from or losses incurred in any transaction, operation or scheme entered into between two associated enterprises calculated in accordance with the arm’s length principle, as that where a connected transaction is carried out taking into account the terms and conditions that would have been used in comparable independent transactions.

Dispute  
Resolution  
Panel.

**78.** (1) There shall be a Dispute Resolution Panel (hereinafter referred to as “the Panel”) for the purpose of resolution of disputes on interim order. The Panel shall consist of a Chairman and four members and a Secretary appointed by the Commissioner-General. Every member of the Panel so appointed shall hold office for a term not exceeding two years, but shall be eligible for reappointment.

(2) At the request of the Chairman, the Secretary to the Panel shall summon a meeting of the Panel. The quorum of a meeting shall consist of three members.

(3) Any person who is dissatisfied with the interim order made by the Transfer Pricing Officer or Assistant Commissioner may communicate in writing or by electronic mean by himself or by his authorized representative to the Commissioner-General, his dissatisfaction with such interim order. Every such communication shall be made to the Secretary to the Panel within fourteen days from the date of receipt of such interim order.

(4) Where such person has communicated his dissatisfaction with the interim order in terms of section 76 or 77 as the case may be, to the Commissioner-General, the Dispute Resolution Panel shall, within six months of the date of such communication of dissatisfaction on such interim order, make a final order and shall transmit such order in writing or by electronic mean to such person. A copy of such final order shall be sent to the Transfer Pricing Officer or to the Assistant Commissioner, as the case may be, for him to issue the assessment.

(5) A person who is aggrieved by the amount of an assessment made under section 135, may make an appeal to the Commissioner-General within thirty days of the notice of assessment and thereupon Chapter XIII of this Act shall apply.

**79.** No deduction shall be allowed for an amount incurred by a non-resident person as an expenditure of a business carried on by the non-resident person through a Sri Lankan permanent establishment that represents head office expenditure where the amount would exceed ten *per cent* of the person's assessable income.

Head office  
expenditure.

#### **Division IV: Relief From Double Taxation**

**80.** A resident person (other than a partnership to which subsection (1) of section 53 applies or trust to which

Foreign tax  
credit.

subsection (2) of section 57 applies) may claim a foreign tax credit for a year of assessment for any foreign income tax paid by the person and to the extent to which the foreign income tax is paid with respect to the person's assessable foreign income for the year.

Calculation of foreign tax credit.

**81. (1) Foreign tax credits** claimed under section 80 –

- (a) shall be calculated separately for each year of assessment and separately for assessable foreign income from each employment, business, investment or other source and further separately for each gain from the realisation of an investment asset; and
- (b) with respect to each calculation, shall not exceed the average rate of Sri Lankan income tax of the person for the year applied to the person's assessable foreign income.

(2) A foreign tax credit shall be allowed under this section only if the foreign income tax is paid within two years after the end of the year in which the foreign income to which the tax relates was derived by the resident person or within such further time as the Commissioner-General may allow.

(3) Any foreign tax credit or part of a foreign tax credit allowed under this section for a year that is not credited under paragraph (b) of subsection (3) of section 2 shall not be refunded, carried back to the preceding year or carried forward to the following year and, in the case of the realisation of an investment asset, shall not be credited in relation to the realisation of another investment asset.

(4) For the purposes of this section –

“average rate of Sri Lankan income tax” of a resident person for a year of assessment means the percentage that tax payable by the person under



paragraph (a) of subsection (1) of section 2 (calculated under subsection (3) of section 2 without any deduction for any foreign tax credit) is of the taxable income of the person for the year; and

“assessable foreign income” means foreign source income included in the assessable income of a resident person for a year of assessment from an employment, business, investment or other source as the case requires.

## CHAPTER VIII

### TAX PAYMENT PROCEDURE

#### Division I: Methods and Time for Payments

**82.** (1) Tax imposed under section 2 shall be payable by withholding under Division II, by instalment under Division III or on assessment under Division IV. Methods and time for payment.

(2) Tax shall be payable-

- (a) in the case of tax payable by withholding, at the time provided for in section 86;
- (b) in the case of tax payable by instalment, on the date by which the instalment is to be paid under section 90;
- (c) in the case of tax payable on assessment –
  - (i) on the date on which the capital gains tax return shall be filed under section 93 for a person with taxable income consisting of a gain from the realisation of an investment asset; or
  - (ii) on the date that is six months after the end of the year of assessment for which

a return of income shall be filed under section 93 in relation to tax payable on assessment not covered by subparagraph (i); and

- (d) in any other case not stated in subsection (1), on the date stated in a notice for payment.

### Division II: Tax Payable by Withholding

Withholding by employers.

**83.** (1) The Commissioner-General may specify the circumstances in which an employer shall withhold tax from a payment that is to be included in calculating the taxable income of an employee.




(2) The obligation of an employer to withhold tax under subsection (1) shall not be reduced or extinguished when –

- (a) the employer has a right or is under an obligation to deduct and withhold any other amount from the payment; or
- (b) any other law provides that an employee's income from employment shall not be reduced or subject to attachment.

Withholding from investment returns.

**84.** (1) Subject to subsection (3), a person shall withhold tax at the rate provided for in paragraph 10 of the First Schedule to this Act where –

- (a) such person –
  - (i) pays a dividend, interest, discount, charge, natural resource payment, rent, royalty, premium or retirement payment or pays amounts as winnings from a lottery, reward, betting or gambling; or

- (ii) being the precedent partner or in the absence of such partner in Sri Lanka, the agent of the partnership in Sri Lanka, at the time that each partner's relevant share of any partnership income of the partnership year under subsection (9) of section 53 has been allocated; and 

(b) the payment or allocation has a source in Sri Lanka.

(2) The National Gem and Jewellery Authority established by the National Gem and Jewellery Authority Act, No. 50 of 1993 shall withhold tax at the rate provided in paragraph 10 of the First Schedule, from the sale price of any gem sold at an auction conducted by it, from the sum payable to the seller of such gem and at the time of such sum is paid to the seller.

(3) This section shall not apply to –

- (a) payments subject to withholding under section 83;
- (b) payments made by individuals, unless made in conducting a business;
- (c) interest paid to a financial institution on the ordinary loans and advances provided by it; or
- (d) interest or discount paid to any person on Security or Treasury Bond under the Registered Stocks and Securities Ordinance (Chapter 420) or Treasury Bill under the Local Treasury Bills Ordinance (Chapter 417); or
- (e) payments or allocations that are exempt amounts under section 9.

Withholding  
from service  
fees and contract  
payments.

**85.** (1) Subject to subsection (3), a person shall withhold tax at the rate provided for in paragraph 10 of the First Schedule to this Act where such person –

- (a) pays a service fee with a source in Sri Lanka to a resident individual who is not an employee of the payer –
  - (i) for teaching, lecturing, examining, invigilating or supervising an examination;
  - (ii) as a commission or brokerage to a resident insurance, sales or canvassing agent;
  - (iii) as an endorsement fee;
  - (iv) in relation to the supply of any article on a contract basis through tender or quotation; or
  - (v) for such other matters as may be prescribed by regulation; or
- (b) pays a service fee or an insurance premium with a source in Sri Lanka to a non-resident person.

(2) Subject to the provisions of subsection (3), regulations may be made prescribing –

- (a) that a resident person shall withhold tax when the person makes a payment to a non-resident person of a type referred to in paragraph (h) or (i) of section 73 (land, sea or air transport or telecommunication services); and
- (b) the rate at which the tax referred to in paragraph (a) shall be withheld.

(3) This section shall not apply to –

- (a) payments subject to withholding under section 83;

- (b) payments made by individuals, unless made in conducting a business;
- (c) payments that are exempt amounts; or
- (d) payments of specified fees in respect of which a certificate is presented by the recipient person confirming that the payments are chargeable with the Economic Service Charge under the Economic Service Charge Act, No. 13 of 2006.



**86.** (1) Every withholding agent shall pay to the Commissioner-General within fifteen days after the end of each calendar month any tax that has been withheld in accordance with this Division during the month.

Statements and payments of tax withheld or treated as withheld.

(2) Every withholding agent shall file with the Commissioner-General within thirty days after the end of each year ending on the thirty first day of March an annual statement setting out the following:—

- (a) payments made by the agent during the period that are subject to withholding under this Division;
- (b) the name, address and tax identification number of the withholder;
- (c) tax withheld from each payment; and
- (d) any other information that the Commissioner-General may specify.

(3) A withholding agent who fails to withhold tax in accordance with this Division shall however pay the tax that should have been withheld in the same manner and at the same time as tax that is withheld.


(4) Where a withholding agent fails to withhold tax from a payment as required by this Division –

- (a) the withholdee shall be jointly and severally liable with the withholding agent for the payment of the tax to the Commissioner-General; and
- (b) the tax shall be payable by the withholdee within fifteen days after the end of the calendar month in which the payment is received.

(5) A withholding agent who withholds tax under this Division and pays the tax to the Commissioner-General shall be treated as having paid the amount withheld to the withholdee for the purposes of any claim by the withholdee for payment of the amount withheld.

(6) A withholding agent who fails to withhold tax under this Division but pays the tax that should have been withheld to the Commissioner-General in accordance with subsection (3) shall be entitled to recover an equal amount from the withholdee.

Withholding  
certificates.

 **87.** (1) A withholding agent shall prepare and serve on a withholdee a withholding certificate –

- (a) separately for each period referred to in subsections (3) and (4);
- (b) at the time referred to in those subsections; and
- (c) in the form specified.

(2) A withholding certificate shall set out the amount of payments made to the withholdee during the period and tax withheld by the withholding agent from those payments under this Division.

(3) Subject to subsection (4) a withholding certificate shall cover a calendar month and shall be served within thirty days after the end of the month.

(4) In the case of tax withheld under section 83, a withholding certificate-

- (a) shall cover the part of the year during which the employee is employed; and
- (b) shall be served not later than the thirtieth day of April of that year or, where the employee has ceased employment with the withholding agent during the year, no more than thirty days from the date on which the employment ceased.

(5) A resident company paying a dividend to a member shall also prepare and serve a certificate on that member (whether or not combined with or forming part of, a withholding certificate) setting out the amount of the dividend that is attributable to or derived from, another dividend received by that resident company that either was subject to withholding under section 84 to withholding tax or in respect of which another certificate was received by the resident company under this subsection.

**88.** (1) For the purposes of this Act, the following shall be the final withholding payments:-

Final  
withholding  
payments.

- (a) dividends paid by a resident company to a resident person;
- (b) interest paid to or treated as being derived by-
  - (i) a resident individual (other than such amount of interest paid to a senior citizen falling within the relief threshold in paragraph 2 (d) of the Fifth Schedule to this Act);
  - (ii) a charitable institution;
- (c) amounts paid as winnings from a lottery, reward, betting or gambling, other than amounts received

in conducting a business consisting of betting and gaming; and

- (d) payments made to non-resident persons that are subject to withholding under this Division, or would be so subject if paragraph (b) of subsection (2) of section 84 and paragraph (b) of subsection (3) of section 85 were disregarded, other than payments derived through a Sri Lankan permanent establishment.

(2) The following shall relieve a withholder's tax liability under paragraph (b) of subsection (1) of section 2:-

- (a) tax withheld from a final withholding payment under this Division; and
- (b) tax paid with respect to a final withholding payment in accordance with subsection (3) or (4) of section 86.

(3) Where a final withholding payment is not subject to withholding (whether by reason of paragraph (b) of subsection (2) of section 84 or paragraph (b) of subsection (3) of section 85 or that the payer is a non-resident) the recipient's tax liability under paragraph (b) of subsection (1) of section 2 with respect to the payment shall be payable by way of instalment and assessment. For the purposes of applying Divisions III and IV, the liability shall be treated as a liability under paragraph (a) of subsection (1) of section 2.

Credit for non-final withholding tax.

**89.** (1) The withholder of a payment that is not a final withholding payment shall be treated as having paid any tax –

- (a) withheld from the payment under this Division; or
- (b) paid with respect to the payment in accordance with subsection (3) or (4) of section 86.



(2) A withholderee shall be entitled to a tax credit in an amount equal to the tax treated as paid under subsection (1) for the year of assessment in which the payment is derived.

### **Division III: Tax Payable by Instalment**

**90.** (1) A person who is an “instalment payer” shall pay tax by quarterly instalments if he derives or expects to derive assessable income during a year of assessment –

Payment of tax  
by quarterly  
instalment.

- (a) from a business or investment; or
- (b) from an employment where the employer is not required to withhold tax under section 83.

(2) An instalment payer shall pay instalments of tax-

- (a) in the case of a person whose year of assessment is a twelve month period ending on the thirty first day of March, on or before the fifteenth day respectively of August, November and February in that year of assessment and the fifteenth day of May of the next succeeding year of assessment; or
- (b) in any other case, on or before the fifteenth day after each three-month period commencing at the beginning of each year of assessment and a final instalment on or before the fifteenth day after the end of each year of assessment, unless it coincides with the end of one of the three-month periods.

(3) Subject to subsections (4) and (5), the amount of each instalment of tax payable by an instalment payer for a year

of assessment shall be calculated according to the following formula:—

$$\frac{A - C}{B}$$

where ‘A’ is the current estimated tax payable under section 91 or 92 by the instalment payer for the year of assessment;

‘B’ is the number of instalments remaining for the year of assessment including the current instalment; and

‘C’ is the sum of any –

- (a) tax paid during the year of assessment, but prior to the due date for payment of the instalment, by the person by previous instalment under this section;
- (b) tax withheld under Division II during the year, but prior to the due date for payment of the instalment, from payments received by the person that are included in calculating the person’s income for the year; and
- (c) tax paid in accordance with subsection (3) or (4) of section 86 that is paid to the Commissioner-General by a withholding agent or the person as withholder during the year but prior to the due date for payment of the instalment.

(4) The Commissioner-General may specify by a *Gazette* Notification -

- (a) that a particular class of persons shall pay tax by instalments otherwise than or in substitution for instalments payable under this section;
- (b) that a particular class of organised association or recognized occupational group shall collect from its members tax payable by those members by instalment under this section;
- (c) the terms and conditions on which the tax shall be collected; and
- (d) the terms and conditions on which the association or group shall account to the Commissioner-General for the tax.

(5) An instalment payer shall be entitled to a tax credit for a year of assessment in an amount equal to the tax paid by way of instalment for the year.

**91.** (1) Every person who is an instalment payer for a year of assessment under section 90 shall file with the Commissioner-General by the date for payment of the first tax instalment an estimate of tax payable for the year.

Statement of  
estimated tax  
payable.

(2) The estimate under subsection (1) shall, subject to any instructions by the Commissioner-General to the contrary –

- (a) be in the specified manner and form and state–
  - (i) the person's assessable income for the year of assessment from each employment, business and investment and the source of that income;
  - (ii) the person's taxable income for the year and the tax payable with respect to that income

under paragraph (a) of subsection (1) of section 2; and

(iii) any other information that the Commissioner-General may specify; and

(b) have attached to it any other information that the Commissioner-General may specify.

(3) Subject to subsection (6) of this section and subsection (3) of section 92, the tax referred to in subparagraph (ii) of paragraph (a) of subsection (2) shall be the person's estimated tax payable for the year of assessment.

(4) In estimating tax payable for a year of assessment under subparagraph (ii) of paragraph (a) of subsection (2), a person may take into account a foreign tax credit to be claimed under section 80. However, in doing so a person may take account of foreign income tax only if the person has paid the tax or the person reasonably estimates that the tax will be paid during the year.

(5) An instalment payer's estimate under subsection (1) shall remain in force for the whole of the year of assessment unless the person files a revised estimate with the Commissioner-General.

(6) A revised estimate filed by a person under subsection (5) shall be the person's estimated tax payable for the year of assessment, but only for the purposes of calculating instalments payable under section 90 after the date the revised estimate is filed with the Commissioner-General.

Statement of  
estimated tax  
payable not  
required.

**92.** (1) The Commissioner-General may specify by notice in writing that an instalment payer or class of instalment payers is not required to submit an estimate under section 91.

(2) Where an instalment payer is not required to submit an estimate by reason of subsection (1), the Commissioner-General shall –

- (a) make an estimate of the person's estimated tax payable for the year of assessment, which may be based on the tax payable for the previous year of assessment with an uplift; and
- (b) serve on the instalment payer a written notice stating the Commissioner-General's estimate and the manner in which it is calculated.

(3) Where the Commissioner-General serves a notice under subsection (2), for the purpose of section 90 the estimated tax payable by the person for the year of assessment shall be the amount estimated by the Commissioner-General.

#### **Division IV: Tax Payable on Assessment**

**93.** (1) Subject to section 94 and subsection (2), every person shall file with the Commissioner-General not later than eight months after the end of each year of assessment a return of income for the year.

Return of  
income and  
capital gains.

(2) A return of income of a person for a year of assessment shall subject to any instructions by the Commissioner-General–

- (a) be in the manner and form specified by the Commissioner-General and furnishing the following details :–
  - (i) the person's assessable income for the year from each employment, business and investment and the source of that income;
  - (ii) the person's taxable income for the year and the tax payable with respect to that income

under paragraph (a) of subsection (1) of section 2;

- (iii) any tax paid by the person for the year by withholding, instalment or assessment for which a tax credit is available under section 89 or 90;
  - (iv) the amount of tax remaining to be paid for the year calculated as the sum of the tax referred to in subparagraph (ii) less the tax already paid referred to in subparagraph (iii); and
  - (v) any other information that the Commissioner-General may specify;
- (b) have attached to it –
- (i) any withholding certificates supplied to the person under section 87 with respect to payments derived by the person during the year; and
  - (ii) any other information that the Commissioner-General may specify.

(3) Every person with taxable income consisting of a gain from the realisation of an investment asset shall file with the Commissioner-General a capital gains tax return not later than one month after that realisation.

(4) A capital gains tax return of a person shall, subject to any instructions by the Commissioner-General to the contrary be in the manner and form specified by the Commissioner-General setting out the following :–

- (i) the person's assessable income consisting of the gain from the realisation of the investment asset, including the calculation of that gain;

- (ii) the person's taxable income with respect to that gain and the tax payable on it under paragraph (a) of subsection (1) of section 2;
- (iii) any tax paid by the person for the year by instalment attributable to the gain for which a tax credit is available under section 90; and
- (iv) any other information that the Commissioner-General may specify.

**94.** (1) Subject to subsection (2), a return of income for a year of assessment shall not be required under section 93 from – Return of income not required.

(a) a resident individual –

- (i) who has no tax payable for the year under paragraph (a) of subsection (1) of section 2; or
- (ii) whose tax payable for the year under paragraph (a) of subsection (1) of section 2 relates exclusively to income from employment subject to withholding under section 83; or

(b) a non-resident person who has no tax payable for the year under paragraph (a) of subsection (1) of section 2.

(2) Notwithstanding subsection (1), the Commissioner-General may serve a notice in writing on a person requiring the person to file a return.

(3) Notwithstanding subsection (1) a person may elect to file a return even though the person is not required to, where that person ceased an employment during the year.

**95.** A return of income or capital gains tax return filed under section 93 shall result in a self-assessment. Assessment.

Payment of tax on realisation of investment assets by partnerships and trusts.

**96.** (1) Each trustee of a trust shall be responsible for performing any duties or obligations imposed by this Act on the trust in relation to its taxable income consisting of a gain from the realisation of an investment asset, including the payment of tax on that gain.

(2) Each partner in a partnership shall be responsible for performing any duties or obligations imposed by this Act on the partnership in relation to its taxable income consisting of a gain from the realisation of an investment asset, including the payment of tax on that gain.

(3) When a trust has more than one trustee, the duties and obligations imposed under this section on the trustee of the trust shall apply jointly and severally to the trustees but may be discharged by any of them.

(4) The duties and obligations imposed under this section on the partners in a partnership shall apply jointly and severally to the partners but may be discharged by any of them.

(5) The executor shall be responsible for performing any duties or obligations imposed by this Act in respect of a deceased person in relation to their taxable income consisting of a gain from the realisation of an investment asset, including the payment of tax on that gain.

## **PART II**

### **CHAPTER IX**

#### **ADMINISTRATION PROVISIONS**

##### **Division I: Administration of this Act**

Officers.

**97.** (1) For the purposes of this Act, there shall be appointed a Commissioner-General of Inland Revenue, such number of Deputy Commissioner-Generals of Inland



Revenue, Senior Commissioners of Inland Revenue, Commissioners of Inland Revenue, Senior Deputy Commissioners of Inland Revenue, Deputy Commissioners of Inland Revenue and Assistant Commissioners of Inland Revenue.

(2) A tax official exercising or performing or discharging any power, duty or function conferred or imposed on or assigned to the Commissioner-General by any provision of this Act, shall be deemed for all purposes to be authorized by the Commissioner-General to exercise, perform or discharge that power, duty or function until the contrary is proved.

(3) The Commissioner-General or an officer of the Department authorised by the Commissioner-General to perform any functions under this Act shall not be personally liable in civil proceedings in connection with any act done by the person in good faith in the discharge of those functions.

(4) The Commissioner-General may specify such forms as the Commissioner-General considers appropriate for the purposes of this Act.

**98.** (1) The Commissioner-General may delegate to a tax official of the Department a power or duty conferred or imposed on him by this Act.

Delegation of powers.

(2) The Commissioner-General may delegate a power or duty to a specific individual tax official within the Department.

(3) Subject to such conditions as the Commissioner-General may specify the Commissioner-General may provide that any information, declaration, or document required to be furnished to the Commissioner-General is to be supplied to tax officials as the Commissioner-General may nominate.

(4) A delegation under this section shall not prevent the Commissioner-General from performing a delegated power, duty, or function.

(5) A tax official shall not exercise a power, or perform a duty or function under this Act; that –

(a) relates to a person in respect of which the tax official has or had a personal, family, business, professional, employment, or financial relationship; or

(b) otherwise presents a conflict of interest.

(6) A tax official exercising or performing or discharging any power, duty or function conferred or imposed on or assigned to the Commissioner-General by any provision of this Act, shall be deemed for all purposes to be authorised to exercise, perform or discharge that power, duty or function until the contrary is proved.

(7) A Commissioner and Senior Deputy Commissioner may exercise any power conferred on any Deputy Commissioner or Assistant Commissioner by any provision of this Act.

Inland Revenue  
Incentive Fund.

**99.** (1) The Minister in charge of the subject of Finance shall establish the Inland Revenue Incentive Fund (hereinafter referred to as the “Fund”).

(2) There shall be paid into the Fund in respect of each year, such sums as may be appropriated annually by Parliament for the purpose of the Fund.

(3) There shall be paid out of the Fund –

(a) all sums required for the welfare of officers of the Department, in accordance with any scheme approved by the Minister; and

- (b) group incentive allowances to any class or category of officers of the Department, in accordance with such scheme as may be approved by the Minister, to ensure efficiency in the administration of any Act administered by the Commissioner-General.

(4) The Commissioner General or any tax official specially authorised by him in that behalf, shall administer the Fund in accordance with the procedure prescribed by the regulations.

**100.** (1) Except as provided for in subsection (3), (4), (5) or (7) every person having a duty under this Act or being employed in the administration of this Act, shall regard as secret and confidential all information and documents the person has received in an official capacity in relation to a specific taxpayer, and may disclose that information only to the following persons:-

Confidentiality.

- (a) the employees of the Department and of the Customs Department in the course, and for the purpose, of carrying out their duties;
- (b) the Minister in charge of the subject of Finance in the course, and for the purpose, of carrying out supervision of the Department;
- (c) the Auditor-General or any person authorised by the Auditor-General, only when such disclosure is necessary for the purposes of official duties;
- (d) tax authorities of a foreign country, in accordance with an international agreement entered into with a specific authority;
- (e) the Attorney-General for the purpose any criminal proceedings or civil proceedings where actions are instituted by the State or actions filed against the

State or where the opinion or advice of the Attorney-General has been sought in writing by the Department of Inland Revenue;

- (f) a court, in a proceeding to establish a taxpayer's tax liability or responsibility for an offence;
- (g) the Land Reform Commission, only when such disclosure is necessary for the purposes of official duties;
- (h) the Controller of Exchange for the purpose of prosecuting violations of the Exchange Control Act;
- (i) a Commission appointed under the Commissions of Inquiry Act, in an investigation into the affairs of any person or any person's spouse or child; and
- (j) the Commission to Investigate Allegations of Bribery or Corruption established under the Commission to Investigate Allegations of Bribery or Corruption Act, No. 19 of 1994.

(2) A person who is permitted to disclose information under subsection (1) shall maintain secrecy except to the minimum extent necessary to achieve the object for which disclosure is permitted.

(3) A person who receives information under subsection (1) shall maintain secrecy except to the minimum extent necessary to achieve the object for which the information was received.

(4) The Commissioner-General may disclose information concerning a taxpayer's affairs to the taxpayer or the taxpayer's authorised representative only after obtaining reasonable assurance of the authenticity of the claim.

(5) Information concerning a taxpayer may be disclosed to another person with the taxpayer's written consent.

(6) The obligation as to secrecy imposed by this section shall continue to apply in respect of any person notwithstanding that the person ceases to be appointed under or employed in carrying out the provisions of this Act.

(7) The Commissioner-General may publish a list of the names of taxpayers –

- (a) who are in default of tax under section 152;
- (b) who have failed to file a return as required; or
- (c) on whom an understatement penalty has been imposed under Chapter XVII.

**101.** The Commissioner-General may pay any individual who provides information that results in the assessment and collection of income not disclosed by another person an amount considered reasonable in the circumstances from sums appropriated by Parliament for that purpose. Informants.

## **Division II: Taxpayer Registration and Taxpayer Identification Numbers**

**102.** (1) Every person liable to furnish a return of income for a year of assessment, and who has not already registered, shall register with the Commissioner-General not later than thirty days after the end of the basis period for that year. Registration.

(2) A person registering under this section, shall submit an application for registration in the form and manner specified by the Commissioner-General and provide such information to the Commissioner-General as may be required by him under this Act.

(3) The Minister with the consent of the Commissioner-General may specify additional classes of persons required to register under this section.

(4) The Commissioner-General shall register any person whom the Commissioner-General considers to have fulfilled the requirements for registration and assign the person a Taxpayer Identification Number (hereinafter referred to as “TIN”).

(5) Where the Commissioner-General refuses to register a person who has applied for registration, the Commissioner-General shall serve the person with written notice of the refusal within fourteen days of making the decision with reasons.

Taxpayer  
identification  
number.

**103.** (1) The Commissioner-General shall assign a unique TIN to every taxpayer which shall be used in all correspondence relating to the administration of this Act.

(2) The Commissioner-General may assign a TIN to a person who is not a taxpayer, but who –

- (a) makes payments which are subject to tax in the hands of the recipient;
- (b) is, or may be, required to file a tax return;
- (c) is required under this Act or regulation made under this Act to furnish a TIN to another person; or
- (d) is required to register under subsection (3) of section 102.

(3) To the extent specified, a person is required –

- (a) to include the person’s TIN on documents relating to a tax to which this Act applies; and
- (b) to furnish the TIN to another person designated in regulations as a person who is

required to furnish tax information with respect to the person furnishing the number.

(4) The Commissioner-General shall include the TIN on all correspondence sent to a taxpayer concerning the taxpayer's tax liability, and the taxpayer shall include the TIN number on returns and correspondence with the Commissioner-General.

(5) A taxpayer shall notify the Commissioner-General in writing of a change in name (including business name or other trading name), address, place of business, or nature of the taxable activity carried on no later than thirty days following the date of the change.

### **Division III: Public Rulings**

**104.** (1) To achieve consistency in the administration of this Act and to provide guidance to the general public and officers of the Department, the Commissioner-General may issue public rulings setting out the Commissioner-General's interpretation of the application of this Act.

Binding public rulings.

(2) A public ruling shall be binding on the Commissioner-General until withdrawn.

(3) A public ruling shall not be binding on taxpayers.

**105.** (1) The Commissioner-General may make a public ruling by publishing a notice of the public ruling in the *Gazette* and on the Department's website.

Making a public ruling.

(2) A public ruling shall state that it is a public ruling and have a heading specifying the subject matter of the ruling by which it can be identified and an identification number.

(3) A public ruling shall have effect from the date specified in the public ruling or, when no date is specified, from the date the ruling is published in the *Gazette* and on the Department's website.

(4) A public ruling shall set out the Commissioner-General's opinion on the application of the provisions of this Act in the circumstances specified in the ruling and shall not be a decision of the Commissioner-General for the purposes of this Act or any other law.

Withdrawal of a public ruling.

**106.** (1) The Commissioner-General 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.

(2) In the event a public ruling is subsequently 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 Commissioner-General to the extent necessary to overcome such inconsistency.

(3) The withdrawal of a public ruling, in whole or part, shall have effect from the date specified in the notice of withdrawal.

#### **Division IV: Private Rulings**

Private rulings.

**107.** (1) A taxpayer may apply to the Commissioner-General for a private ruling setting out the Commissioner-General's position regarding the application of this Act to a transaction entered into, or proposed to be entered into, by the taxpayer.

(2) The Commissioner-General shall appoint a committee of senior officers of the Department known as the Interpretation Committee to review requests for private rulings and to issue private rulings as appropriate on behalf of the Commissioner-General.

(3) An application under this section shall be in writing and -

- (a) include full details of the transaction to which the application relates together with all documents relevant to the transaction;



- (b) specify precisely the question on which the ruling is required; and
- (c) give a full statement setting out the opinion of the applicant as to the application of this Act to the transaction.

(4) Subject to section 108, the Commissioner-General shall, within ninety days of receipt of the application under this section issue a private ruling on the question to the applicant.

(5) If the taxpayer has made a full and true disclosure of all aspects of the transaction relevant to the making of a private ruling and the transaction has proceeded in all material respects as described in the taxpayer's application for the private ruling, the private ruling shall be binding on the Commissioner-General as against the taxpayer identified but shall not be binding on the Commissioner-General as against any other taxpayer.

(6) A private ruling shall not be binding on a taxpayer.

(7) The Commissioner-General may specify reasonable fees to be charged in relation to an application for a private ruling.

**108.** (1) The Commissioner-General may refuse an application for a private ruling where-

Refusing an application for a private ruling.

- (a) the Commissioner-General has already decided the question that is the subject of the application in any of the following:-
  - (i) a notice of a tax assessment has been served on the applicant;
  - (ii) notice or other guidance issued by the Commissioner-General that is in force; or

- (iii) a ruling published under section 111 that is in force;
- (b) the application relates to a question that is the subject of a tax audit in relation to the applicant or an objection lodged by the applicant;
- (c) the application is frivolous or vexatious;
- (d) the transaction to which the application relates has not been carried out and there are reasonable grounds to believe that the transaction will not be carried out;
- (e) the applicant has not provided the tax official with sufficient information to make a private ruling;
- (f) in the opinion of the Commissioner-General, it would be unreasonable to comply with the application, having regard to the resources needed to comply with the application and any other matters the tax officer considers relevant; or
- (g) the making of the ruling involves the application of a tax avoidance provision.

(2) The Commissioner-General shall serve the applicant with a written notice of a decision to refuse to make a private ruling under this section.

Making a  
private ruling.

**109.** (1) The Commissioner-General may make a private ruling by serving written notice of the private ruling on the recipient of the ruling.

(2) The Commissioner-General may make a private ruling on the basis of assumptions about a future event or other matters as considered appropriate.

(3) A private ruling shall state that it is a private ruling, set out the question ruled on, and identify the following:-

- (a) the taxpayer;
- (b) the tax period to which the ruling applies;
- (c) the transaction to which the ruling relates; and
- (d) any assumptions on which the ruling is based.

(4) A private ruling is made when the applicant is served with written notice of the ruling and the ruling shall remain in force until withdrawn under section 110.

(5) A private ruling shall set out the Commissioner-General's opinion on the question raised in the ruling application and shall not be a decision of the Commissioner-General that can be formally reviewed, appealed or otherwise objected to, for the purposes of this Act or any other law. For the avoidance of doubt, this subsection shall not limit in any way a taxpayer's rights with respect to any tax assessment served on the taxpayer to which the ruling relates.

**110.** (1) The Commissioner-General may, for reasonable cause, withdraw a private ruling, in whole or part, by written notice served on the applicant.

Withdrawal of a private ruling.

(2) In the event a private ruling is subsequently found to be inconsistent in whole or part with any law, such private ruling shall be withdrawn in whole or part by the Commissioner-General to the extent necessary to overcome such inconsistency.

(3) The withdrawal of a private ruling, in whole or part, shall have effect from the date specified in the notice of withdrawal.

Publication of  
private rulings.

**111.** (1) The Commissioner-General shall publish a ruling made under section 109 on the Department's website except that the identity of the applicant to whom the ruling relates must not be indicated in the publication.

(2) When a ruling has been withdrawn in accordance with section 110, the Commissioner-General shall immediately publish a notice of withdrawal on the Department's website stating that the ruling ceases to be binding with effect from the date determined under subsection (3) of section 110.

#### **Division V: Communications, Forms and Notices**

Communications  
with taxpayers  
and other  
persons.

**112.** (1) A notice or statement, issued or an agreement entered into by the Commissioner-General or any tax official to a taxpayer or other person shall be effective if it is authorised by law and in writing, and signed by a tax official.

(2) Except as otherwise provided in this Act or any other law, a notice or other document required to be served on a person by the Commissioner General may be served in the following manner:-

- (a) delivering it personally to the person or the person's nominated officer;
- (b) delivering it to the person's usual or last known place of business or residence in Sri Lanka;
- (c) sending it by registered post to the person's usual or last known place of business or residence in Sri Lanka; or
- (d) transmitting it electronically in accordance with section 113.

(3) Where a person –

- (a) refuses to accept delivery of a letter addressed to the person; or
- (b) fails to collect a letter after being informed that the letter is available for collection at a post office,

the letter shall be treated as having been served on the person on the date on which the person refused to accept delivery of the letter or was informed that the letter was at the post office.

(4) A notice or other document sent by registered mail shall be considered served four days succeeding the day when posted where the address is in Sri Lanka and, where the address is not in Sri Lanka, twenty days succeeding the day when posted.

(5) A signature written on a notice, statement, agreement, return, form, declaration, table, certificate or other document and purporting to be the signature of a tax official shall be considered to be the signature of that person unless the contrary is proved.

**113.** (1) Notwithstanding any other provisions of this Act, the Commissioner-General may authorise the following to be done either in writing or electronically through a computer system or mobile electronic device:-

Application of electronic tax system.

- (a) the lodging of an application for registration under this Act;
- (b) the filing of a tax return or other document under this Act;

- (c) the payment of tax under this Act;
- (d) the paying of a refund under this Act;
- (e) the service of any document by the Commissioner-General, with such documents treated as being served on the date they are transmitted electronically; or
- (f) the doing of any other act or thing that is required or permitted to be done under this Act.

(2) The Commissioner-General may direct a person to do anything referred to in subsection (1) electronically through the use of a computer system or mobile electronic device.

(3) The Commissioner-General may specify conditions, including additional conditions, for the effective use of the Revenue Administration Management Information System.

(4) A person who files a tax return and pays tax electronically under this section shall continue to file tax returns and pay tax in that manner unless otherwise required or permitted by the Act or authorised by the Commissioner-General.

Forms and  
notices.

**114.** (1) The Commissioner-General shall specify the forms, notices, declarations, returns, statements, tables, and other documents and publish them for the efficient administration of this Act.

(2) The documents referred in subsection (1) shall be available to the public on the website of the Department or at its main office and at other locations, or by mail or electronically, as the Commissioner-General may determine.

**115.** The Commissioner-General may specify the circumstances under which a taxpayer may designate an authorized representative to communicate with the Department on behalf of the taxpayer and shall accept a designation made in accordance with such circumstances.

Authorized  
representatives.

**116.** (1) No notice, assessment, form, certificate, or other proceeding purporting to be in accordance with the provisions of this Act shall be quashed, or deemed to be void or voidable for want of form or be affected by reason of a mistake, defect or omission, if it is in substance and effect in conformity with, or according to the intent and meaning of this Act, and where the person assessed or intended to be assessed or affected thereby, is reasonably described or identified.

Defect does not  
affect validity.

(2) Without prejudice to the generality of subsection (1), an assessment shall not be affected or impugned by reason of –

- (a) a mistake as to the name or surname of the person chargeable, the amount of income assessed, or the amount of tax charged; or
- (b) any variance between the assessment and the notice thereof,

if the notice of such assessment is duly served on the person intended to be charged and contains in substance and effect all relevant particulars.

(3) Without prejudice to the generality of subsection (1) and subsection (2), no notice, assessment, form, certificate, or other proceeding purporting to be in accordance with the provisions of this Act shall be quashed, or deemed to be void or voidable or be affected by reason of any variance in the designation of the tax official who signed or executed such notice, assessment, form, certificate or other proceeding as the case may be.

Rectification of mistakes.

**117.** When a notice of a tax assessment or other document served by the Commissioner-General under this Act contains a mistake that is apparent from the record and the mistake does not involve a dispute as to the interpretation of the law or facts of the case, the Commissioner-General may, for the purposes of rectifying the mistake, amend the assessment or other document any time before the expiry of four years from the date of service of the notice of the tax assessment or other document.

Taxpayer's right to information.

**118.** Upon request by a taxpayer, an authorized officer of the Department shall –

- (a) inform the taxpayer of the status of the taxpayer's account with respect to tax;
- (b) provide a copy of a tax return filed by the taxpayer; and
- (c) provide a copy of any written agreement entered into with the Commissioner-General.

Due dates.

**119.** (1) When the last day for performing an act specified under this Act falls on a day on which the Department is not open to the public for business, the act shall be considered timely if it is performed on the next succeeding day on which the Department is open for business.

(2) A declaration, appeal, or other document, other than a payment, shall be considered filed on the date it is stamped, as received by the Department or, in the case of filing by post, within four days of the date of the postmark.



## CHAPTER X

### RECORD KEEPING AND INFORMATION COLLECTION

**120.** (1) A taxpayer engaged in business or investment activity or required under this Act to make a return shall keep and maintain in Sri Lanka records and accounts sufficient to record all transactions and to ascertain the gains and profits made or the loss incurred in respect of those transactions.

Accounts and records.

(2) The circumstances under which a person engaged in business or investment activity shall have accounts prepared by an approved accountant and the form by which an approved accountant shall attest to the accuracy and completeness of the accounts prepared shall be prescribed by regulations.

(3) Where the Commissioner-General is of the opinion that proper records or books of account are not being kept in accordance with subsection (1) or (2), or where no records or books of account are being kept, by any person carrying on business then in addition to prosecution for an offence, the Commissioner-General may direct such person to keep such records or books of account as the Commissioner-General may specify.

(4) The records or books of accounts required by this section shall be kept at the place of business or investment activity of the person unless the Commissioner-General approves of them being kept at some other place.

(5) In addition to the records and accounts referred to in subsections (1) and (2), a taxpayer shall also retain source documents and underlying documentation utilized in the creation of the records and accounts.

(6) A person required to prepare or retain records of a transaction under this Act shall retain such records—

- (a) for a period of five years from the date on which the transaction took place; or

- (b) for a period exceeding five years, until expiration of the time limit for assessment of tax for any tax period to which the records are relevant and until any related proceedings have been completed.

(7) Notwithstanding anything in any law, the Commissioner-General may specify a system of simplified record keeping for small businesses.

(8) Where a person has prepared records required under this section in a language other than Sinhala, Tamil or English, that person shall at that person's expense, upon request, provide a translation acceptable to the Commissioner-General.

(9) Financial statements, invoices, books of original entry, and all written communications between the Department and the taxpayer shall be in Sinhala, Tamil or English with amounts and values to be provided in Sri Lankan currency as well.

(10) For the purposes of this section, source documents include sales and purchase invoices, costing documents, bookings, diaries, purchase orders, delivery notes, bank statements, contracts, and other documents which relate to an element of a transaction.

Obligations of  
Financial  
Institutions.

**121.** A bank or financial institution shall keep records of all transactions with a client, including the client's identity.

Access to  
information,  
assets and land.

**122.** (1) An authorised officer may enter a business premises, or other premises open to the public, without prior notice, for an authorised purpose—

- (a) during normal business hours; or
- (b) at any time authorised in writing by a Magistrate upon application by the Commissioner-General and a showing the necessity to enter at that time.

(2) The authorised officer may enter a taxpayer's dwelling, or other premises not referred to in subsection (1), for an authorised purpose—

- (a) with the consent of the taxpayer; or
- (b) at the time stated and in the manner authorised in writing by a Magistrate upon application by the Commissioner-General and a showing of necessity to enter that time.

(3) An authorised officer may enter on any property for the purpose of surveying and valuing it—

- (a) with the consent of the taxpayer; or
- (b) after giving not less than twenty-four hours' notice in writing.

(4) An authorised officer who lawfully enters a premises or a dwelling under subsection (1), (2) or (3) may—

- (a) make a copy of a record;
- (b) seize a record or other item that appears to be relevant to an authorised purpose;
- (c) seal records or other items;
- (d) question any person in the premises or dwelling with respect to any matter arising under this Act;
- (e) 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;
- (f) operate any computer and take a record of any data stored within; or

(g) count and make a record of any cash found.

(5) Where an authorised officer seizes a record or other item pursuant to the authority provided under this section, the Commissioner-General may make a copy of the record or other item and shall return the original to the person in the shortest time practicable.

(6) A copy of a document made pursuant to the power conferred by this section may be produced in Court and shall have the same evidentiary value as if it were an original.

(7) This section shall not authorise access to premises of diplomatic, consular, or other missions of foreign countries and international organizations which enjoy immunity from such investigations under international law.

(8) Where taxpayer or other specified person fails to provide any document required by the Commissioner-General under this section or section 123 such document shall not be used by the taxpayer or other person in a judicial proceeding challenging an assessment, except with the agreement of the Commissioner-General.

(9) The owner or lawful occupier of the premises or place in respect of which power is exercised under this section shall provide all reasonable facilities and assistance to the authorised officer.

(10) A person whose books, records, or other items have been seized under this section may examine them and make copies, at the person's expense, during office hours.

(11) An authorised officer shall sign for all records, books, or other items removed and retained under this section and shall return them to the owner within fourteen days of the conclusion of the investigation or related proceedings.

(12) The Commissioner-General may cause any land to be visited, inspected, and measured and may call on any person 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.

(13) The Commissioner-General shall require a peace officer to be present for the purposes of exercising powers under this section, unless the Commissioner-General is of the opinion that the presence of a peace officer shall not be necessary in the circumstances.

(14) In this section-

“authorised purpose” means—

- (i) the collection of information for the purpose of determining the liability of person for the payment of tax;
- (ii) the collection of information for the purpose of collecting tax from a specific person; or
- (iii) the collection of information related to the investigation or prosecution of a specific person for an offence specified in this Act; and

“business premises” includes a place where any business is carried on, where anything is done in connection with a business, a dwelling used for the maintenance of stocks, keeping of records, signing of contracts or agreements, and attesting of deeds, and any place used for meeting clients.

**123.** (1) For the purpose of this Act, the Assistant Commissioner may require from the tax payer or the Commissioner may require from any other person, by giving reasonable notice in writing—

Notice to obtain information.

- (a) to furnish any information that is required by the notice, including information concerning another person;

- (b) to appear at the time and place designated in the notice for the purpose of being examined or of producing documents or other evidence in control of that person which are referred in the notice; or
- (c) to produce, within the time specified in the notice, all documents in the person's custody or under the person's control relating to the person's or any other person's tax affairs as specified in the notice.

(2) Without prejudice to the generality of subsection (1), the Commissioner may require any bank—

- (a) to furnish to the Commissioner details of any banking account or other assets which may be held on behalf of any person, or to furnish a copy of bank statements of any such banking account; or
- (b) to permit the Commissioner or Assistant Commissioner to inspect the records of the bank with respect to the banking account of any person; or
- (c) to furnish annually a schedule showing the amount of interest paid on deposits together with the names and addresses of the persons to whom such interest accrued or may require the attendance of any officer of a bank before the Commissioner to give evidence with regard to any bank account or other assets which may be held by the bank on behalf of any person.

(3) The provisions of subsection (1) shall extend to the furnishing of information, the production of documents and the giving of evidence to the Commissioner or Assistant Commissioner in relation to—

- (a) the payment of income by any person to a non-resident; or

- (b) the payment of remuneration by an employer to an employee, the deduction of tax therefrom and the accounting for any tax so deducted.

(4) The Commissioner or Assistant Commissioner may make copies of books of account or other documents that are produced for purposes of this section, or may retain them where such course of action appears to the Commissioner-General to be necessary for the purposes of any prosecution or the substantiation of any assessment.

(5) Subject to subsection (8) of section 122, this section shall have effect notwithstanding anything contrary in any written law relating to confidentiality, privilege, or the public interest with respect to the production of or access to documents or other evidence, including a law relating to bank secrecy and any contractual duty of confidentiality.

**124.** (1) For the purposes of determining whether a person has violated any provisions of this Act, the Commissioner-General or an authorised officer may make an ex parte application to a Magistrate for a search and seizure warrant.

Search and seizure with warrant.

(2) An application under subsection (1) shall set out the following:-

- (a) the provisions of this Act alleged to have been contravened;
- (b) the name of the person alleged to have contravened the provisions of this Act;
- (c) the premises to be searched; and
- (d) the documents sought.

(3) When an application is made under subsection (1), Magistrate may issue a search and seizure warrant where he is satisfied that there are reasonable grounds to believe that-

- (a) the search and seizure is necessary to determine whether a person has contravened any provision of this Act or committed an offence under this Act; and
- (b) any documents (including in electronic format) that are likely to be found on the premises which may provide evidence as to the matters specified in paragraph (a).

(4) A warrant issued under subsection (3) shall, as far as is reasonably practical contain the following information:-

- (a) the alleged commission of the offence under this Act which is the basis for the application;
- (b) the person alleged to have contravened any provision of this Act or committed an offence under this Act;
- (c) the premises to be searched; and
- (d) the documents that are the subject of the search.

Execution of a search and seizure with warrant and search without warrant.

**125.** (1) The owner or lawful occupier of premises to which access is sought under a search and seizure warrant may refuse access to the premises where the Commissioner-General or authorised officer fails to produce the warrant.

(2) An authorized officer shall not enter or remain on any premises which is subject to search and seizure warrant if, upon request by the owner or lawful occupier, the officer is unable to produce an authorisation in writing from the Commissioner-General permitting the officer to exercise powers under the warrant.



(3) In executing powers under a search and seizure warrant, the Commissioner-General or authorised officer -

- (a) shall have full and free access, at any time and without notice-
  - (i) to the premises specified in the warrant;
  - (ii) to any relevant material located on the premises, including in electronic format; and
  - (iii) to any data storage device located on the premises containing relevant material;
- (b) may open or cause to be opened or removed in conducting a search of the premises specified in the warrant, anything that the Commissioner-General or authorised officer reasonably suspects to contain relevant material;
- (c) may make an extract, or a paper or electronic copy of any relevant material, including on a data storage device;
- (d) may seize any relevant material;
- (e) may, if a paper or electronic copy of relevant material on a data storage device is not provided, seize and retain the device for as long as is necessary to copy the information required; and
- (f) may search any person on the premises specified in the warrant.

(4) The owner or lawful occupier of the premises to which an exercise of search and seizure warrant relates shall provide all reasonable facilities and assistance to the Commissioner-General or authorised officer including the following:-

- (a) answering questions, orally or in writing, concerning whether a person has violated the provisions of this Act; or

- (b) providing access to information necessary to decrypt data to which access is sought in exercise of a search and seizure warrant.

(5) The Commissioner-General or authorised officer shall-

- (a) make a written inventory of the relevant material seized and provide a copy thereof to the owner of the material; and
- (b) sign for any relevant material or data storage device removed and retained under this section.

(6) An authorized officer may search a person only if such officer is of the same sex as the person being searched.

(7) For the purposes of the exercise of powers under this section, the Commissioner-General or any authorised officer may require a police officer to be present when executing a warrant under this section.

(8) The Commissioner-General or authorised officer shall not retain any document seized under this section for a period longer than six months from the date of seizure unless the document is required for the purposes of any proceedings under this Act or any other written law.

## CHAPTER XI

### TAX RETURNS

Tax returns.

**126.** (1) Every person chargeable with income tax under this Act shall furnish to the Assistant Commissioner in accordance with subsection (2) a tax return in the specified form containing such particulars as may be specified by the Commissioner-General either in writing or by electronic means within the stipulated time.

(2) The Commissioner-General may specify—

- (a) the form for returns;
- (b) the information to be furnished on the return and attachments, if any, required to be filed with the return; and
- (c) the manner of filing.

(3) An Assistant Commissioner shall not be bound by a tax return or information provided by, or on behalf of, a taxpayer and the Assistant Commissioner may determine a taxpayer's tax liability based on any sources of information available to the Assistant Commissioner.

(4) A taxpayer or the taxpayer's duly authorised agent, shall sign the return, attesting to its accuracy and completeness.

(5) Where a return or part of a return was prepared for reward by some other person, including by an approved accountant, other than a full-time employee of the taxpayer, that other person shall also sign the return.

(6) An Assistant Commissioner may, by notice in writing, require a person to file, whether on that person's own behalf or as agent or trustee for another person, additional returns for a tax period as the Assistant Commissioner requires, even if the taxpayer has not submitted a return for the period, with that person to be given a period of not less than seven days to file the additional returns.

**127.** (1) Where it appears to the Commissioner-General that any person who is liable to furnish a return and has not done so, the Commissioner-General may, by notice in writing, require such person to furnish a return within such time as may be specified in the notice, not being less than fourteen days from the date of service of such notice.

Notice to  
require filing.

(2) Nothing in this section extends the time limits provided under this Act for the furnishing of a return.

Return deemed to be furnished by due authority.

**128.** Every return, statement, or form purporting to be furnished under this Act by or on behalf of any person shall be deemed to have been furnished by that person or with the person's authority, as the case may be, unless the contrary is proved, and any person signing such return, statement, or form shall be deemed to be cognisant of all matters contained therein.

Information Returns.

**129.** The provisions of this Act relating to returns shall apply to a person required under this Act to file a return of information related to matters other than the person's own tax liability.

Extension of time to file returns.

**130.** (1) The Commissioner-General may extend the time limit specified for filing a tax return where the taxpayer or other person required to file the return applies for the extension by due date.

(2) The granting of an extension of time under subsection (1) shall not affect the due date for payment of tax, unless an extension of time for payment is also expressly granted.

Tax return duly filed.

**131.** A tax return that is purported to be filed by or on behalf of a taxpayer shall be treated as having been filed by the taxpayer or with the taxpayer's authority unless the contrary is proved.

## CHAPTER XII

### ASSESSMENTS

Self-assessments.

**132.** (1) A self-assessment taxpayer who has filed a self-assessment return in the approved form for a tax period shall be treated, for all purposes of this Act, as having made an assessment of the amount of tax payable as set out in the return (including a nil amount) for the tax period to which the return relates.

(2) Where a self-assessment taxpayer liable for income tax has filed a self-assessment return in the approved form for a year of assessment and the taxpayer has a loss for the year, the taxpayer shall be treated, for all purposes of this Act, as having made an assessment of the amount of the loss set out in the return.

(3) A tax return in the approved form completed and filed in writing or electronically by a taxpayer shall be a self-assessment return despite the following:-

- (a) the form included pre-filled information provided by the Commissioner-General; or
- (b) the tax payable is computed electronically as information is inserted into the form.

**133.** (1) Where a taxpayer has failed to file a tax return for a tax period as required under this Act, the Assistant Commissioner may, based on such evidence as may be available and to the best of his or her judgement, make an assessment (hereinafter referred to as a “default assessment”) of the tax (including a nil amount) payable by the taxpayer for the period.

Default  
assessments.

(2) The Assistant Commissioner shall serve a taxpayer assessed under subsection (1) with notice, in writing, of a default assessment specifying the following:

- (a) the amount of tax assessed;
- (b) the amount assessed as penalty (if any) payable in respect of the tax assessed;
- (c) the amount of late payment interest (if any) payable in respect of the tax assessed;
- (d) the tax period to which the assessment relates;

(e) the due date for payment of the tax, penalty, and interest being a date that is not less than thirty days from the date of service of the notice; and

(f) the manner of objecting to the assessment.

(3) The service of a notice of a default assessment under this section shall not change the due date (hereinafter referred to as the “original due date”) for payment of the tax payable under the assessment, and late payment penalty and late payment interest shall remain payable based on the original due date.

(4) This section shall apply only for the purposes of a tax that is collected by assessment.

(5) A default assessment may be made at any time.

(6) Nothing in this section shall relieve a taxpayer from being required to file the tax return to which the default assessment served under this section relates.

(7) A tax return filed by a taxpayer for a tax period after a default assessment has been served on the taxpayer for the period shall not be a self-assessment return.

Advance  
assessments.

**134.** (1) Subject to subsection (2), the Assistant Commissioner may, based on such evidence as may be available and to the best of his judgement, make an assessment (referred to as an “advance assessment”) of the tax payable by a taxpayer for a tax period.

(2) Subsection (1) shall apply only when:

(a) the taxpayer has not filed a tax return for the tax period; and

(b) the tax is collected by assessment.

(3) An advance assessment—

- (a) may be made before the date on which the taxpayer's tax return for the period is due; and
- (b) shall be made in accordance with the law in force at the date the advance assessment was made.

(4) The Assistant Commissioner shall serve a taxpayer assessed under subsection (1) with notice, in writing, of the advance assessment specifying the following:—

- (a) the amount of tax assessed;
- (b) the amount assessed as penalty (if any) payable in respect of the tax assessed;
- (c) the tax period to which the assessment relates;
- (d) the due date for payment of the tax and penalty, which may be a date before the tax would otherwise be due for the tax period; and
- (e) the manner of objecting to the assessment.

(5) The Assistant Commissioner may specify in a notice of an advance assessment that the tax and penalty due shall be payable immediately.

(6) An advance assessment may be the subject of an amended assessment so that the taxpayer is assessed in respect of the whole of the tax period to which the advance assessment relates.

(7) Nothing in this section shall relieve a taxpayer from the requirement to file the tax return to which the advance assessment served under this section relates.

(8) A tax return filed by a taxpayer for a tax period after an advance assessment has been served on the taxpayer for the period is not a self-assessment return.

Amended or  
additional  
assessments.

**135.** (1) Subject to this section, the Assistant Commissioner may amend a tax assessment (referred to in this section as the “original assessment”) by making such alterations or additions, based on such evidence as may be available and to the best of his judgement, to the original assessment of a taxpayer for a tax period to ensure that:

- (a) in the case of a loss carried forward under this Act, the taxpayer is assessed in respect of the correct amount of the loss carried forward for the tax period; or
- (b) in any other case, the taxpayer is liable for the correct amount of tax payable (including a nil amount) in respect of the tax period to which the original assessment relates.

(2) Subject to subsection (3), the Assistant Commissioner may amend a tax assessment under subsection (1):-

- (a) in the case of fraud, or gross or wilful neglect by, or on behalf of, the taxpayer, at any time; or
- (b) in any other case, within thirty months of:
  - (i) for a self-assessment, the date that the self-assessment taxpayer filed the self-assessment return to which the self-assessment relates; or
  - (ii) for any other assessment, the date on which the Assistant Commissioner served notice of the assessment on the taxpayer.



(3) Subject to subsection (4), where the Assistant Commissioner has served a notice of an amended assessment on a taxpayer under subsection (1), the Assistant Commissioner may further amend the original assessment to which the amended assessment relates within the later of:-

- (a) four years after:-
  - (i) for a self-assessment, the date the taxpayer filed the self-assessment return to which the self-assessment relates; or
  - (ii) for any other assessment, the date the Assistant Commissioner served notice of the original assessment on the taxpayer; or
- (b) one year after the Assistant Commissioner has served notice of the amended assessment on the taxpayer.

(4) In any case to which paragraph (b) of subsection (3) applies, the Assistant Commissioner is restricted to amending the alterations or additions made in the amended assessment to the original assessment.

(5) Where the Assistant Commissioner has made an amended or additional assessment under this section, he shall serve the taxpayer with notice, in writing, of the amended assessment specifying the following:-

- (a) the original assessment to which the amended assessment relates;
- (b) the amount of tax assessed and the basis upon which the amended or additional assessment has been made;
- (c) the amount assessed as penalty (if any) in respect of the tax assessed;
- (d) the amount of late payment interest (if any) payable in respect of the tax assessed;

- (e) the tax period to which the assessment relates;
- (f) the due date for payment of any tax, penalty, and interest being a date that is not less than thirty days from the date of service of the notice; and
- (g) the manner of objecting to the assessment.

(6) The service of a notice of an amended assessment under this section shall not change the original due date (referred to as the “original due date”) for payment of the tax payable under the assessment as determined under this Act, and late payment penalty and late payment interest shall remain payable based on the original due date.

Application for making an amendment to a self-assessment.

**136.** (1) A taxpayer who has filed a self-assessment return may apply to the Commissioner-General for making an amendment to the self-assessment.

(2) An application under subsection (1) shall:

- (a) state the amendments that the taxpayer believes are required to be made to correct the self-assessment and the reasons for the amendments; and
- (b) be filed with the Commissioner-General within the period specified in subparagraph (i) of paragraph (b) of subsection (2) of section 135.

(3) Where an application has been made under subsection (1), the Commissioner-General may make a decision to amend the self-assessment or to refuse the application.

(4) When the Commissioner-General makes a decision to amend the self-assessment:

- (a) the amended assessment shall be made in accordance with subsection (1) section 135; and

- (b) notice of the amended assessment shall be served on the taxpayer in accordance with subsection (5) section 135.

(5) Where the Commissioner-General makes a decision to refuse an application under subsection (1) he shall serve the taxpayer with written notice of the decision with reasons for the decision.

(6) Where the Commissioner-General has not made a decision on an application made under subsection (1) within ninety days of the application being filed, the Commissioner-General shall be deemed to have:-

- (a) made a decision to disallow the application; and
- (b) served the taxpayer with notice of the decision on the ninetieth day after the application was filed.

### CHAPTER XIII

#### OBJECTIONS AND APPEALS

**137.** Except as provided for under this Chapter— Objections.

- (a) no decision relating to the payment of a tax under this Act shall be disputed at the Tax Appeals Commission, in any Court or Tribunal or any other proceedings on any other ground; and
- (b) the amount and particulars of every assessment made by the Commissioner-General in respect of a taxpayer shall be treated as correct and the liability of the taxpayer shall be determined accordingly.

**138.** In the event of any conflict or inconsistency between the provisions of this Act and the provisions of any other written law, the provisions of this Act shall prevail. The Act to prevail.

Administrative  
Review.

**139.** (1) A taxpayer who is dissatisfied with an assessment or other decision may request the Commissioner-General to review the decision.

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

(3) Where the request is an objection against an assessment which has been made in the absence of a return required to be made, the notice of request relating to the objection shall be sent together with a return duly made.

(4) The receipt of every request shall be acknowledged within thirty days of its receipt and where so acknowledged, the date of the letter of acknowledgement shall for the purpose of this section, be deemed to be the date of receipt of such request.

(5) The Commissioner-General shall consider the taxpayer's request and notify the taxpayer in writing of the Commissioner-General's decision and the reasons for the decision. Taxpayer's request shall be considered by a tax official other than the tax official who made the assessment or other decision.

(6) The Commissioner-General shall give effect to the decision referred to in subsection (5) by confirming an existing assessment or making an amended assessment (including for a nil amount) or an additional assessment in accordance with this Act, or taking such other necessary action to give effect to that decision.

(7) Where the Commissioner-General hears the evidence of a taxpayer or of any other person in respect of the request, a record of such evidence shall be maintained or caused to be maintained.

(8) Notwithstanding the provisions of subsection (2), the taxpayer may make a request for administrative review upon satisfying the Commissioner-General that owing to absence from Sri Lanka, sickness, or other reasonable cause the taxpayer was prevented from making the request within thirty days of the event described in subsection (2), and that there has been no unreasonable delay on the taxpayer's part.

**140.** (1) A person aggrieved by the decision of administrative review under section 139 may appeal against the decision to the Tax Appeals Commission.

Appeal from  
Administrative  
Review.

(2) An appeal to the Tax Appeals Commission shall not be made unless a request for administrative review has first been made, and —

- (a) a decision has been received from the Commissioner-General; or
- (b) ninety days have lapsed since the request for administrative review was made.

(3) Where the Tax Appeals Commission is satisfied that the appellant is overcharged it may reduce the amount of the assessment by the amount of the overcharge, and if it is satisfied that the appellant is undercharged, it may increase the amount of the assessment by the amount of the undercharge, or may confirm or annul the assessment.

(4) Notwithstanding anything contained in Chapter XVI, where the Tax Appeals Commission is satisfied that tax in accordance with its decision upon the appeal may not be recovered, the Tax Appeals Commission may require the appellant to furnish security for payment of the tax, if any, which may become payable by the appellant as may seem to the Tax Appeals Commission to be proper.

(5) Notice of an appeal under this section shall be given in writing to the Tax Appeals Commission with a copy to the Commissioner-General within thirty days from the date of the decision of the Commissioner-General under section 139.

(6) Notwithstanding the provisions of subsection (5), the appellant may appeal against an assessment or other decision upon satisfying the Tax Appeals Commission that owing to absence from Sri Lanka, sickness, or other reasonable cause the appellant was prevented from giving notice of appeal within thirty days as required under subsection (2), and that there has been no unreasonable delay on the appellant's part.

Burden of proof.

**141.** The burden of proof shall be on the taxpayer or person making an objection to an assessment to show that the assessment is incorrect.

Appeals do not suspend collection of amounts.

**142.** Notwithstanding that a request for administrative review of an assessment has been filed or a taxpayer has appealed to the Tax Appeals Commission against an assessment, the tax payable under the assessment shall remain due and payable, unless the Commissioner-General grants an extension of time under section 151 and may be recovered, despite the request for review or appeal.

Finality of assessment.

**143.** (1) Subject to the right of the Assistant Commissioner to issue a new or revised assessment under section 135 and subject to subsection (2), if no request for review is made within the time permitted by section 139, an assessment shall be treated as final.

(2) If an assessment is treated as final under subsection (1), and the taxpayer timely files an amended return under section 136, the filing of the amended return has the effect of revising the assessment, but only if the tax shown on the amended return exceeds the tax assessed.

Appeal from a decision of the Tax Appeals Commission.

**144.** (1) Either party to a proceeding before the Tax Appeals Commission who is dissatisfied with the decision of the Tax Appeals Commission may, within one month after being notified of the decision, file a notice of appeal with the Court of Appeal; and the party so appealing shall serve a copy of the notice of appeal on the other party to the proceeding before the Tax Appeals Commission.

(2) An appeal to the Court of Appeal shall not be made unless an appeal request to the Tax Appeals Commission has first been made, and—

- (a) a decision has been received from the Tax Appeals Commission; or
- (b) ninety days have lapsed since the request for appeal to the Tax Appeals Commission was made and no response to the request for appeal has been received from the Tax Appeals Commission.

(3) An appeal from a decision of the Tax Appeals Commission to the Court of Appeal shall be made only on a question of law.

(4) Where an appeal is made from a decision of the Tax Appeals Commission, the Tax Appeals Commission shall provide a written statement of the decision, including a summary of the evidence, the Commission's finding of the facts, and their conclusions on the points of law involved.

#### CHAPTER XIV

##### LIABILITY FOR AND PAYMENT OF TAX

**145.** (1) Tax shall be due and payable at the time stipulated under this Act.

Liability of taxpayer and due date.

(2) Subject to subsection (1), the amount of tax—

- (a) stated in a notice of assessment to be due; or
- (b) deemed to be assessed under Chapter XII,

shall be due and payable on the date stated in the notice or, in the case described in paragraph (b), on the due date for the return in question.

(3) Tax shall be paid in the manner and place specified by the Commissioner-General.

(4) Where the Commissioner-General has reasonable grounds to believe that a taxpayer may leave Sri Lanka before the due date for payment of an amount that would be due under this Act, inform the person by notice in writing that tax is due on the date specified by the Commissioner-General.

(5) Where a taxpayer fails to pay tax on the due date, the taxpayer shall be liable for any costs incurred by the Commissioner-General in taking action to recover the unpaid tax.

Liability and  
obligations of  
representatives.

**146.** (1) For the purposes of this Act, subject to subsection (2), “representative,” in respect of a person, means—

- (a) where the person is an individual under a legal disability, the guardian or manager who receives or is entitled to receive income on behalf of, or for the benefit of, the individual;
- (b) where the person is a company, a director or principal officer of the company or an agent referred to in subsection (4);
- (c) where the person is a partnership, a partner;
- (d) where the person is a trust, a trustee;
- (e) where the person is a body of persons other than a partnership or company, an individual responsible for accounting for the receipt and payment of moneys or funds on behalf of the body;
- (f) where the person is the Government of Sri Lanka, an individual responsible for accounting for the receipt and payment of moneys or funds on behalf of the Government;
- (g) where the person is a public corporation or local authority in Sri Lanka, an individual responsible for accounting for the receipt and payment of moneys or funds on behalf of such public corporation or local authority;



- (h) where the person is a foreign government or political subdivision of a foreign government, an individual responsible for accounting for the receipt and payment of moneys or funds in Sri Lanka on behalf of the government or political subdivision of the government; or
- (i) where the person is a non-resident, a person controlling the person's affairs in Sri Lanka, including a manager of a business of that person in Sri Lanka.

(2) Where, in relation to a person, there is more than one representative, described in subsection (1), then that person shall nominate which of them shall serve as the representative, but in the absence of a designation all shall serve as representatives pending the designation.

(3) The nomination under subsection (2) shall be of a person residing in Sri Lanka, unless there is none in relation to the person.

(4) Every company carrying on business in Sri Lanka shall be represented for the purposes of this Act by a principal officer residing in Sri Lanka and where there is none, by an authorised agent residing in Sri Lanka, and shall notify the Commissioner-General of its appointed representative within one month after it commences carrying on business in Sri Lanka, or one month after the representative ceases to qualify as such.

(5) Where a representative of a person nominated under subsection (1) is unable to perform duties, the Commissioner-General may, by notice in writing, declare another individual to be a representative of the person for the purposes of this Act.

(6) Every representative of a person shall be responsible for performing duties or obligations imposed by this Act on the person, including maintaining records, filing returns and other documents, and the payment of tax.

(7) Subject to subsection (9), the tax that, by virtue of subsection (6), is payable by a representative of a person shall be recoverable from the representative only to the extent of any assets of the person that are in the possession or under the control of the representative.

(8) A representative of a person who pays tax owed by the person shall be entitled to recover the amount so paid from the person or to retain the amount so paid out of any moneys of the person that are in the representative's possession or under the representative's control.

(9) A representative of a tax payer shall be personally liable for the payment of tax due by the tax payer if, while the amount remains unpaid, the representative—

- (a) alienates, charges, or disposes of moneys received or accrued in respect of which the tax is payable; or
- (b) disposes of or parts with moneys or funds belonging to the taxpayer that are in the possession of the representative or which come to the representative after the tax is payable, if the tax could legally have been paid from or out of the moneys or funds.

(10) A representative of a tax payer shall not be personally liable for tax under subsection (9) if-

- (a) the monies were paid by the representative on behalf of a taxpayer and the amount paid has priority, in law or equity, over the tax payable by the taxpayer; or
- (b) at the time the monies were paid, the representative had no knowledge, and could not reasonably be expected to know, of the taxpayer's tax liability.

(11) Nothing in this section shall relieve a person from performing duties imposed under this Act, notwithstanding any failure to perform such duties by his representative.

(12) Where there are two or more representatives of a person, the duties or obligations referred to in this section shall apply jointly and severally to the representatives but may be discharged by any of them.

(13) Where—

- (a) a partnership or other unincorporated association or body is dissolved or otherwise ceases to exist because of the retirement or withdrawal of one or more, but not all, of its partners or members, or because of the admission or a new partner or member;
- (b) apart from the provisions of this Act a new partnership, association, or body, consisting of the remaining members, or of the existing or remaining members and one or more new members, thereby comes into existence; and
- (c) the new partnership, association, or body continues to carry on the activity that was carried on by the dissolved partnership, association, or body,

the dissolved partnership, association, or body and the new partnership, association, or body are, for the purposes of this Act, shall be deemed to be one and the same.

(14) Where, after the death of a taxable person or the sequestration of a taxable person's estate, a taxable activity previously carried on by the taxable person is carried on by or on behalf of the executor or trustee of the person's estate or anything is done in connection with the termination of the taxable activity, the estate of the taxable person, as represented by the executor or trustee, shall be deemed for the purposes of this Act to be the taxable person in respect of the taxable activity.

(15) Where a mortgagee is in possession of land or other property previously mortgaged by a mortgagor who is a taxable person, and the mortgagee carries on a taxable activity in relation to the land or other property, the mortgagee shall be deemed, from the date the mortgagee took possession of that land or property until such time as the mortgagee ceases to be in possession of the land or property, to be the taxable person carrying on the taxable activity.

(16) For the purposes of this Act, where a person is a trustee in more than one capacity, the person shall be treated as a separate person in relation to each of those capacities.

Officers of  
unincorporated  
bodies.

**147.** (1) A liability or obligation imposed by this Act on an unincorporated body shall be imposed on the body and on any person who is an officer of the body at the time the liability or obligation is imposed, and the body and each such officer shall be jointly and severally liable for that liability or obligation.

(2) For the purposes of this Act, the existence of an unincorporated body and any taxable activity carried on by the unincorporated body shall be deemed not to be affected by any change in its members or officers.

(3) A document which is required to be served on an unincorporated body under this Act may be served on an officer of the body.

(4) Where an offence under this Act has been committed by an unincorporated body, the offence shall be deemed to have been committed by the officers of the unincorporated body.

Liability for tax  
following  
winding-up.

**148.** (1) This section shall apply to a company which is wound up without having satisfied its tax liabilities, including any liability to withhold and remit tax,

(2) A person who was a shareholder of the company at the time of the winding-up or during the preceding year shall be jointly and severally liable to pay the unpaid tax to the extent of a distribution of cash or property from the company received as a shareholder within one year prior to its winding-up.

(3) A person liable for tax of a company under this section may invoke any rights as against the Department that would have been available to the company.

**149.** (1) Where an entity fails to pay tax on time, every person who is or has been a manager of the entity at any time since the relevant time shall be jointly and severally liable with the entity and every other such person for payment of the tax. Managers of entities.

(2) Subsection (1) shall apply irrespective of whether the entity has ceased to exist or not.

(3) Provisions of subsection (1) shall not apply to a manager who has exercised the degree of care, diligence, and skill that a reasonably prudent person in the position of the manager would have exercised in preventing in the initial and continuing failure to pay tax.

(4) Amounts payable to the Commissioner-General by a manager under this section shall be a personal tax liability of the manager.

(5) Where a manager pays tax by reason of a liability under subsection (1), the manager may recover the payment from the entity as a debt due.

(6) A manager of an entity may not be assessed for an amount under this section after the period of limitations for collecting the relevant tax from the entity has expired.

(7) In this section-

“entity” means any taxpayer other than a partnership, unincorporated body, or an individual;

“manager” of an entity includes a person purporting to act as a manager of the entity and, in the case of a company, includes a director, the chief executive officer, and the chief financial officer of the company; and

“relevant time” is six months before the events that gave rise to the entity’s tax liability.

Refundable amounts.

**150.** (1) Where the amount of tax which has been paid by a taxpayer exceeds the amount of tax assessed or found to be payable, the Commissioner-General shall —

- (a) refund the amount against the taxpayer’s assessed liability to pay tax, interest, late fees, or penalties under this Act; and
- (b) unless the taxpayer objects, apply an amount remaining against the taxpayer’s liability to make advance payments of tax that shall become due within the succeeding six months.

(2) Subject to subsection (1), refundable amounts shall be paid to the taxpayer.

(3) A refund or credit may be made under this section only if the taxpayer applies for it within four years of the date of payment or, if made on the Commissioner-General’s initiative, within the specified time period.

Extension of time for payment.

**151.** (1) The taxpayer may apply, on a form specified by the Commissioner-General, for an extension of the time for payment of tax beyond the date on which it is required to be paid under section 145 of this Act.

(2) The Commissioner-General may, with good cause, extend the time for payment as requested under subsection (1) and may grant an extension period different from the period requested by the taxpayer, pending resolution of an appeal, and may make other arrangements to ensure payment of the tax, including arrangements requiring the person to pay the amount due in instalments or by requiring security.

(3) Where the Commissioner-General does not notify the person who made application under subsection (1), of the decision in writing within thirty days, the application shall be deemed to be granted.

(4) Where a taxpayer has been granted an extension under subsection (1), interest shall be payable notwithstanding the extension of time.

(5) If an extension is granted by permitting the taxpayer to pay the tax by instalments and the taxpayer defaults in paying any of the instalments, the amount of the outstanding tax shall become payable immediately.

**152.** (1) The Commissioner-General may send a notice to the taxpayer demanding payment **when a tax is not paid by the date** on which it became due and payable. Default in payment.

(2) The notice shall state:

- (a) the name of the taxpayer;
- (b) the taxpayer identification number (TIN), if such number has been issued to the taxpayer;
- (c) the date of issue of the notice;
- (d) the amount of tax, interest, and penalties payable, and the tax period or periods to which they relate;
- (e) a demand for payment of these amounts;

- (f) the place at which payment is to be made; and
- (g) that the taxpayer is on notice that, if payment is not made within twenty one days after service of the notice, the Commissioner-General has the right to institute action to collect the amounts specified in the notice.

(3) The taxpayer shall be in default, twenty-one days after service of the notice in respect of any amounts remaining unpaid as of that date.

(4) Subsection (3) shall not apply where the taxpayer has—

- (a) entered into a payment arrangement with the Commissioner-General; or
- (b) received an extension pursuant to section 151 and complied with terms of the arrangement.

Priority of tax.

**153.** (1) This section shall apply to the following amounts:—

- (a) withholding tax;
- (b) an amount that a payer is required to pay under a notice issued under section 170.

(2) A person owing, holding, receiving, or withholding an amount to which this section applies shall hold the amount in trust for the Republic of Sri Lanka and, in the event of the liquidation or bankruptcy of the person, the amount:—

- (a) shall not form part of the person's estate in liquidation or bankruptcy; and
- (b) shall be paid to the Commissioner-General before any distribution of property is made.



(3) Notwithstanding any other written law, withholding tax withheld by a person:-

- (a) shall not be subject to attachment in respect of any debt or liability of the person;
- (b) shall be a first charge on the payment or amount from which the tax shall be withheld; and
- (c) shall be withheld prior to any other deduction that the person may be required to make from the payment or amount under an order of any court or any law.

**154.** (1) Payments of a specific tax shall be applied against the taxpayer's liability in the following order:—

Order of  
payment of tax  
debts.

- (a) interest relating to the tax;
- (b) penalties relating to the tax; and
- (c) the principal amount of the tax.

(2) The Commissioner-General may apply a tax payment to any tax which has been assessed and is due—

- (a) where the taxpayer fails to indicate to which specific tax or taxation period the payment should be applied; or
- (b) where the payment has been collected pursuant.

**155.** Tax shall be payable in Sri Lanka currency, except as otherwise provided in this Act.

Currency.

## CHAPTER XV

### INTEREST

**156.** (1) Procedures for the payment, collection and dispute of a tax shall apply equally to interest relating to a tax.

General.

(2) Liability for interest under this Act shall be calculated separately and shall be in addition to penalties provided by law.

(3) If a person has paid interest and an amount to which the interest relates is found not to have been payable, the interest paid on that amount shall be refunded to the person.

Interest on  
under  
payments.

**157.** (1) If an amount of tax is not paid by the due date, the taxpayer shall be liable for interest on the amount for the period from the due date (determined without having regard to an extension of time) under section 151 to the date the tax is paid.

(2) In the case of tax due under a revised assessment, the due date for the calculation of interest shall be the original due date of the tax.

Interest on  
refundable  
amounts.

**158.** (1) Where the Commissioner-General is required to refund an interest amount, it shall be paid to the taxpayer from the later of –

(a) the due date; or

(b) the date the tax was paid,

until the date on which the refundable amount is paid.

(2) Notwithstanding the provisions of subsection (1), no interest shall be payable in respect of a refund that is based on a claim for refund and is paid to the taxpayer within sixty days of the filing of the claim for refund.

(3) A refundable amount that is applied against another tax liability under section 150 shall be considered to have been paid to the taxpayer on the due date of the liability against which the refundable amount was applied.

Interest rate.

**159.** (1) The interest rate for payments pursuant to section 157 shall be one and one-half per cent per month or part month, compounded monthly.

(2) The interest rate for payments pursuant to section 158 shall be one-half per cent per month or part month, compounded monthly.

(3) Notwithstanding the provisions of subsections (1) and (2), the Minister may vary the interest rate by Order published in the *Gazette*.

## CHAPTER XVI

### RECOVERY OF TAX

- |  |   |
|--|---|
| <p><b>160.</b> The Commissioner-General may proceed with any remedy under this Chapter once the taxpayer is in default pursuant to section 152.</p>  | <p>General.</p>                                 |
| <p><b>161.</b> Institution of action under this Chapter shall be commenced within five years of the date on which the taxpayer was in default.</p>   | <p>Period of limitations for collection.</p>    |
| <p><b>162.</b> (1) Where the Commissioner-General is unable to recover an amount of tax, interest, or penalty due and payable by a person under this Act, the Minister may, on recommendation of the Commissioner-General and approval by the Cabinet, order the extinguishment of the liability as a debt due to the Government.</p> <p>(2) Where the Commissioner-General determines that a person whose debt was extinguished under subsection (1) has assets that may be attached to recover all or part of the unpaid amounts, the liability for the debt may be reinstated by an order of the Minister, approved by Cabinet, revoking the order made under subsection (1).</p> | <p>Extinguishment of uncollectible amounts.</p> |
| <p><b>163.</b> (1) Tax that is due and payable shall be a debt to the Government and shall be payable to the Commissioner-General.</p> <p>(2) Where a person fails to pay tax when it is due, the Commissioner-General may commence proceedings in a court of competent jurisdiction to recover the debt outstanding in respect of the amount owing.</p>   | <p>Court proceedings.</p>                       |

(3) In any proceedings under this section, the production of a certificate signed by the Commissioner-General, stating the name of the defendant and the amount of tax owing, shall be sufficient evidence that the amount is due for the court to give judgment in that respect.

(4) In any proceedings for the recovery of tax it shall not be a defence for the defendant that —

- (a) the tax, the taxable income or other tax base is incorrect;
- (b) the tax charged is excessive; or
- (c) the assessment is the subject of objection or appeal.

Lien.

**164.** (1) Where a taxpayer fails to pay a tax by the due date, a lien in favour of the Commissioner-General shall be created in the amount owing (together with interest, penalty and costs of collection that may accrue) on all property belonging to the taxpayer, and has priority as against all other rights, except as otherwise provided in this section.

(2) The lien referred to in subsection (1) shall arise at midnight at the commencement of the date of default and shall continue until the liability is satisfied or becomes unenforceable by reason of lapse of time.

(3) The lien imposed under this section shall not be valid against the interest of a person who is a purchaser from the taxpayer, a holder of a security interest granted by the taxpayer, or other lien holder specified in regulations, if the interest arises—

- (a) before the person had actual knowledge of the lien; or
- (b) before notice of the lien has been duly registered by the Registrar of the High Court and the Registrar of Lands,  
whichever occurs first.

(4) The Commissioner-General may file notice of a lien at any time after a taxpayer is determined to be in default pursuant to section 152.

(5) The Commissioner-General may specify procedures for filing notice of a lien and may specify categories of interests against which the lien shall not be valid even though notice of the lien has been filed.

(6) At least fifteen days prior to registering a lien with the Registrar of the High Court and the Registrar of Lands, the Commissioner-General shall send notice of the intention to register the lien to the taxpayer.

(7) Subsection (6) shall not apply where the Commissioner-General believes that the ability to collect tax is in jeopardy.

(8) The Commissioner-General may file action in the High Court to enforce the lien created by this section.

(9) An affected person may apply to the Commissioner-General for a release of the lien on the person's property and a decision by the Commissioner-General not to release a lien may be appealed to the High Court.

**165.** (1) Where the taxpayer is in default, the Commissioner-General may cause execution to be levied on the taxpayer's property but, except when a determination has been made under subsection (7) of section 164, the Commissioner-General may proceed to execution only if the taxpayer has been served with a notice of intention to levy execution, and the taxpayer has failed to pay the tax within thirty days after service of the notice.

Execution  
against  
taxpayer's  
property.

(2) Where the Commissioner-General has reasonable grounds to believe that the collection of tax is in jeopardy, the Commissioner-General may demand immediate payment

of the tax and, on failure of the taxpayer to pay the tax within the period stated in such demand, may proceed to levy execution on the taxpayer's property immediately, notwithstanding subsection (3) of section 152.

(3) A person (including a bank or other financial institution) in possession of, or holding security over, property on which a levy has been made shall, on demand, surrender the property, or discharge the security, to the Commissioner-General, except in respect of the part of the property that is already subject to attachment or execution under judicial process.

(4) A person who fails to comply with the demand shall be liable to the Commissioner-General in the amount of the value of the property or security held, but not in excess of the amount for the collection of which the levy is made.

(5) A person complying with the requirements of this section or of section 170 shall, from the time of compliance, be discharged from an obligation to the taxpayer or another person to the extent of the value of property surrendered, or the security discharged, to the Commissioner-General and shall not be personally liable for loss or damage incurred as a consequence of compliance.

(6) A levy under this section shall commence within five years of the date on which the taxpayer was in default.

(7) A taxpayer's personal effects and household furnishings without substantial value shall be exempt from a levy.

Sale of seized  
property.

**166.** (1) Unless the Commissioner-General has good reason to release the seized property, the Commissioner-General shall sell the property seized pursuant to a levy.

(2) The sales proceeds shall be applied first against the expenses of the levy and sale, then against the liability for penalties, interest and tax and the excess shall be returned to the taxpayer.

(3) The Commissioner-General may make conditions with respect to the procedure on sale by public auction under the power of sale conferred on the Commissioner-General by this Act, and may—

- (a) fix an amount of a deposit to be made by the highest bidder;
- (b) reserve a price;
- (c) specify a time within which a deposit shall be made and the events following which it may be forfeited; and
- (d) declare, in the event that the highest bidder fails to make the required deposit or to complete the purchase within the required time, the next highest bidder to be the highest bidder and purchaser of the property.

(4) Seized goods or property shall be sold at public auction at a time and place as the Commissioner-General may direct, but no sale shall take place within fourteen days of the seizure of the goods or property, unless the goods seized are, in the opinion of the Commissioner-General, of a perishable nature, or the owner of the goods has requested their earlier sale.

(5) All goods seized under this Act shall be deposited in some fit place, or left in the possession of some fit person, as the Commissioner-General may determine.

(6) The date, time, and place of sale of all goods seized under this Act shall be published in the Gazette and notice thereof shall be given to the taxpayer prior to the date of sale unless those goods are being sold before the expiry of the fourteen day period under subsection (4).

(7) For the purpose of seizing and selling goods, a person may, if expressly authorised in writing by the Commissioner-General, execute a warrant of distress, and if necessary break

open a building in the day-time to levy such distress; and may seek assistance from a police officer, when so required, to assist in the execution of a warrant of distress and in levying the distress.

(8) At the sale of goods or other property, a duly designated officer of the Government may bid for and purchase the goods or other property on behalf of the Republic of Sri Lanka.

(9) Where goods or property advertised for sale are not sold on the day appointed for the sale, the property may be put up for sale again.

(10) The officer or other person conducting the sale may report to the Commissioner-General the result of the sale and the Commissioner-General may direct that, upon payment of the purchase money the property be conveyed to the purchaser.

(11) Where the Commissioner-General, after review of the report provided pursuant to subsection (10), is satisfied that there has been fraud or improper conduct in relation to the sale of a property mentioned in the report or that the relevant tax had been paid prior to the date of sale, the Commissioner-General may declare the sale to be *null and void*.

(12) Upon the execution of the deed of conveyance or the assignment to the purchaser by the Commissioner-General in accordance with this section, the goods or property shall be vested in the purchaser freed and discharged from all encumbrances arising under this Act.

(13) Notwithstanding anything contained in this Act authorising the Commissioner-General to sell a property for the recovery of tax, the conveyance or assignment executed to give effect to the sale shall not affect any interest, or right of the Republic of Sri Lanka in the property.



**167.** (1) Where the Commissioner-General is of opinion that any person who is a defaulter is about to or likely to leave Sri Lanka without paying:—

Departure  
Prohibition  
Order.

- (a) tax that is payable by that person; or
- (b) tax that is payable by a company in which that person is a controlling member,

which has become default as assessed upon his or otherwise, he may issue a certificate containing particulars of such tax and the name of such person to a Magistrate, who shall on receipt thereof issue a direction to the Controller General of Immigration and Emigration to take such measures as may be necessary to prevent such person from leaving Sri Lanka without paying the tax or furnishing security to the satisfaction of the Commissioner-General, for payment thereof.

(2) At the time of issue of the certificate to the Magistrate, the Commissioner-General shall issue to such person a notification thereof by registered post. However, the non-receipt of any such notification by such person shall not invalidate proceedings under this section.

(3) Where the Commissioner-General has reasonable grounds to believe that the departure from Sri Lanka of any person who is a defaulter referred to in subsection (1) is imminent and that sufficient time is not available to act in terms of subsection (1), the Commissioner-General may issue a departure prohibition order, in writing, to the Controller General of Immigration and Emigration stating—

- (i) the name and address of the person;
- (ii) the amount of tax that is or will become payable by the person or by the company in which the person is a controlling member,

and the Controller General of Immigration and Emigration shall take such measures as may be necessary to prevent such person from leaving Sri Lanka without paying the tax or furnishing security to the satisfaction of the Commissioner-General, for payment thereof:

Provided however that the Commissioner General shall, as soon as may be practicable and in any event within seventy two hours of issuing such departure prohibition Order, make an application to the Magistrate to have the Order confirmed. Such departure prohibition Order shall be treated as revoked where no application has been made to the Magistrate within the aforementioned time period.

(4) The production of a certificate signed by the Commissioner-General or a Deputy Commissioner, stating that the tax has been paid or that security had been furnished to for the payment of the tax, or payment of the tax to a police officer in charge of a police station, shall be sufficient authority for allowing such person to leave Sri Lanka. Any police officer to whom the amount of any tax has been paid shall forthwith pay such amount to the Commissioner-General.

Priority in  
bankruptcy.

**168.** Notwithstanding anything contained in any other written Law—

- (a) the trustee in bankruptcy of an individual; or
- (b) the liquidator of a company which is being wound up,

shall apply the assets of the bankrupt individual or the company, as the case may be, in payment of tax due under this Act (whether assessed before or after the date of

bankruptcy or commencement of winding up) as a privileged debt in priority over all debts of that individual or company.

**169.** Where a government department, institution or Ministry is about to make a payment to any person, other than a payment in respect of wages or salary, that department, institution or Ministry may apply the whole or part of that payment in satisfaction in whole or in part to any amount in respect of which that person is in default under section 152, and shall notify that person accordingly.

Offset against payments.

**170.** (1) If a taxpayer is in default, the Commissioner-General may serve a notice in writing on a third party debtor.

Third party debtors.

(2) On receiving a notice, the third party debtor shall pay to the Commissioner-General (on account of the taxpayer and by the date specified in the notice) the least of the following three amounts:—

- (a) the amount in respect of which the taxpayer is in default;
- (b) the money owed by the third party debtor to the taxpayer; and
- (c) the amount specified in the notice.

(3) A notice may be served on a third party debtor in relation to an amount in a joint account only when:—

- (a) all the holders of the joint account have unpaid tax liabilities; or
- (b) the taxpayer may withdraw funds from the account (other than a partnership account) without the signature or authorisation of the other account holders.

(4) The date for payment specified in the notice shall not be before fifteen days following the date the third party debtor is served with the notice.

(5) On receiving a notice under subsection (1), the third party debtor shall not pay any amount to the taxpayer until the Commissioner-General withdraws the notice.

(6) As soon as practicable after service of the notice on the third party debtor, the Commissioner-General shall serve the taxpayer with a copy of the notice.

(7) Amounts payable to the Commissioner-General by a third party debtor under this section shall be a personal liability of the third party debtor, which may be collected in the same manner as a tax.

(8) Money owed to a taxpayer shall include—

- (a) amounts currently owing or that may subsequently become owing to a tax payer;
- (b) amounts held or that may subsequently be held for or on account of a tax payer;
- (c) amounts held or that may subsequently be held on account of a third person for payment to a tax payer;
- (d) amounts held by a person who has authority from a third person to pay the money to a tax payer; and
- (e) in relation to a third party debtor that is a financial institution, amounts that the tax payer holds in an account with the institution.

(9) A notice may be served under this section on the taxpayer's employer, requiring the employer to withhold and to pay to the Department, for a specified period, some part of the future wages or salary that becomes payable to the tax payer.

(10) The first seventy five thousand rupees of wages per month shall not be subject to withholding under a notice referred to in subsection (9).

(11) When the third party debtor fails to pay the amount specified within the time specified in a notice under this section, the provisions of this Act apply as if such amount were tax due and payable by the third party debtor on the date by which the third party debtor was required to make the payment to the Commissioner-General.

(12) In this section:—

“money” includes a debt obligation denominated or payable in money; and

“third party debtor”, in relation to a taxpayer, means a person who owes money to the taxpayer.

**171.** (1) A third party who pays to the Commissioner-General, pursuant to section 170 shall be treated as having acted with the authority of the taxpayer and of all other persons concerned.

Compliance with notice.

(2) Subsection (1) shall apply irrespective of a provision to the contrary in any other written law, contract, or agreement.

(3) A notice issued under section 170 shall cease to have effect once the tax or obligations described in it is paid or otherwise satisfied.

(4) If a third party served with a notice under section 170 and is unable to comply with the notice by reason of lack of money owing to or held for the taxpayer, the person shall notify the Commissioner-General by notice hereinafter referred to as a “third party notice”.

(5) A third party notice shall—

(a) be in writing;

(b) set out the reasons for the inability; and

(c) be filed with the Commissioner-General as soon as practicable after the third party becomes aware of the inability and, in any event, before the payment date specified in section 170 notice.

(6) On receipt of a third party notice the Commissioner-General may, by notice in writing served on the third party—

(a) accept the third party notice and cancel or amend the notice; or

(b) reject the third party notice.

(7) The filing of a third party notice shall have no effect on the third party's personal liability for amounts unless and until the Commissioner-General cancels or amends the section 170 notice.

(8) In this section, "third party" means a third party debtor served with a notice under the preceding section.

Preservation of  
assets.

**172.** (1) This section shall apply where the Commissioner-General has reasonable cause to believe that:—

(a) a taxpayer will not pay the full amount of tax owing when due; and

(b) the taxpayer will take steps to frustrate the recovery of the tax, including the dissipation of the taxpayer's assets.

(2) The Commissioner-General may make an *ex-parte* application to the District Court having jurisdiction, for an order (hereinafter referred to as an "Asset Preservation Order") for the preservation of the assets of the taxpayer and prohibiting any person holding, controlling or managing assets belonging to the taxpayer from transferring, withdrawing, disposing or otherwise dealing with the assets.

(3) The Commissioner-General may take such steps as necessary to secure the assets of the taxpayer, including seizure of the assets, pending making an application for an order under subsection (2), which application shall be made within twenty four hours from taking steps to secure the taxpayer's assets.

(4) The District Court shall issue an asset preservation order when such court is satisfied that the requirements in subsection (1) are satisfied and the order shall be served on the taxpayer and any person having custody, control or management of the taxpayer's assets.

(5) An Asset Preservation Order shall be valid for ninety days and may be extended by the District Court on application by the Commissioner-General.

(6) A taxpayer whose funds are the subject of an Asset Preservation Order may, within fifteen days of being served with the order, apply to the District Court to discharge or vary the order.

(7) Where the District Court has issued an Asset Preservation Order, the Commissioner-General shall, within thirty days of service of notice of the order, determine the tax due by the taxpayer to whom the order relates and serve a notice of a tax assessment on the taxpayer and commence recovery of the tax assessed in accordance with the provisions of this Act.

(8) An Asset Preservation Order shall automatically expire upon service of a notice of assessment under subsection (7) unless the District Court extends the Order upon application by the Commissioner-General under subsection (5).

(9) A person who preserves funds pursuant to an Asset Preservation Order shall be, for all purposes, deemed to have acted within the authority thereof and such person and all other persons concerned shall be indemnified in respect of the actions taken in connection with the Order, against all

proceedings, civil or criminal and all process, judicial or extrajudicial, notwithstanding any provisions to the contrary in any written law, contract or agreement.

(10) A person who, without reasonable cause, fails to comply with an Asset Preservation Order served on the person shall be personally liable for the amount specified in the Order.

Non-arm's  
length  
transferees.

**173.** (1) Where a taxpayer's liability has not been satisfied after levy of execution on property known to the Commissioner-General, a person who has received assets of the taxpayer in a transaction that is not at arm's length in the period of one year preceding the date of the levy shall be secondarily liable for the tax to the extent of the value of the assets received.

(2) Provisions of subsection (1) shall not apply to an amount for which a person is liable under section 148.

Transferred tax  
liabilities.

**174.** (1) When a taxpayer (hereinafter referred to as the "transferor") has a tax liability in relation to a business carried on by the taxpayer and the taxpayer has transferred all or some of the assets of the business to an associate (hereinafter referred to as the "transferee"), the transferee shall be personally liable for the unpaid tax liability (hereinafter referred to as the "transferred liability") of the transferor in relation to the business.

(2) Provisions of subsection (1) shall not preclude the Commissioner-General from recovering the whole or part of the transferred liability from the transferor.

Receivers.

**175.** (1) A receiver shall be required to notify the Commissioner-General of the receiver's appointment within fourteen days after being appointed.

(2) The Commissioner-General may notify the receiver of the amount that appears to the Commissioner-General to



be sufficient to provide for payment of tax owing, or that will become owing, by the person whose assets are in the possession or care of the receiver.

(3) A receiver shall not dispose of an asset situated within Sri Lanka held in the receiver's capacity as receiver, without the prior permission of the Commissioner-General.

(4) A receiver shall set aside out of the proceeds of sale of an asset the amount notified by the Commissioner-General under subsection (2) or a lesser amount as may be agreed with the Commissioner-General.

(5) A receiver shall be personally liable for the amount of tax notified in subsection (2) to the extent of an amount required to be set aside under subsection (4), if the receiver fails to comply with the requirements of this section.

(6) In this section, "receiver" means a person who, with respect to an asset situated in Sri Lanka, is—

- (a) a liquidator of a company or other entity;
- (b) a receiver appointed out of court or by a court;
- (c) a trustee in bankruptcy;
- (d) a mortgagee in possession;
- (e) an executor, administrator or heir of a deceased individual's estate;
- (f) conducting the affairs of an incapacitated individual; or
- (g) a successor in a corporate reorganisation.

## CHAPTER XVII

## PENALTIES

Penalties.

**176.** (1) This section shall apply to penalties under this Act.

(2) Procedures for the assessment, payment, collection, and dispute of a tax shall apply equally to penalties relating to a tax.

(3) A person's liability for a penalty under a section in this Chapter is separate and distinct from the person's liability, if any, for a penalty under another section of this Act or any other law and is in addition to interest levied under Chapter XV and to a criminal sanction imposed under Chapter XVIII.

(4) The burden of proof shall be on the Commissioner-General to show non-compliance with the provisions of this Act with respect to the imposition of a penalty.

(5) The Commissioner-General may make an assessment of a penalty charged as if the penalty were tax payable under this Act, and may specify the date on which the penalty is payable.

(6) A notice of an assessment of a penalty shall be served on the person who is liable to the penalty and shall state the amount of the penalty payable, the provision under which it is payable, and the due date for payment, and on service of the notice —

- (a) the notice and the assessment shall be treated as if they were a notice and assessment of tax payable under this Act;
- (b) the amount of the penalty specified in the notice shall be treated as tax payable under this Act; and
- (c) the due date for payment is the date specified in the notice.

(7) A person's liability to pay a penalty shall arise on the making of an assessment by the Commissioner-General under subsection (6).

(8) The period of limitations for assessing a penalty shall be five years after the violation which causes the penalty, except for a violation under section 180, in which case the limitation for assessing a penalty shall be the same as the limitation for assessing the tax to which the penalty relates.

(9) If a person liable for a penalty shows reasonable cause, the Commissioner-General may—

- (a) refrain in whole or in part from assessing the penalty; or
- (b) remit or waive in whole or in part a penalty that has been assessed.

(10) A penalty payable for each day, month or other period during which a particular state of affairs exists or continues, shall be payable in full for part of that day, month or other period in which the state of affairs commences, continues or ends.

**177.** A person who fails to register as required by section 102 or notify the Commissioner-General as required by sections 103(5) or 146(4) shall be liable for a penalty not exceeding fifty thousand rupees.

Failure to register or notify of changes in taxpayer information.

**178.** (1) A person who fails to file a tax return on or before the date by which filing is required shall be liable to pay a penalty equal to the greater of—

Late filing of tax return.

- (a) five *per cent* of the amount of the tax owing, plus a further one *per cent* of the amount of tax owing for each month or part of a month during which the failure to file continues; and

- (b) fifty thousand rupees plus a further ten thousand rupees for each month or part of a month during which the failure to file continues.

(2) The amount of the penalty in respect of a given tax return under subsection (1) shall be limited to four hundred thousand rupees.

(3) The penalty under this section shall be treated as an addition to the tax liability for the tax period to which the return relates and may be assessed and collected in the same manner as the tax for that period.

Late payment.

**179.** (1) A person who fails to pay all or part of a tax due for a tax period within fourteen days of the due date, or by the due date specified in the notice of assessment, if later, shall be liable to a penalty equal to twenty *per cent* of the amount of tax due but not paid.

(2) A person who fails to pay all or part of an instalment required under this Act within fourteen days of the due date for the instalment shall be liable to a penalty equal to ten *per cent* of the amount of tax due but not paid.

(3) Where an extension is granted under section 151, a person shall not be liable to a penalty under subsection (1) unless the extension period expires without payment having been made.

Negligent or fraudulent underpayment.

**180.** Where tax is underpaid, as a result of an incorrect statement or a material omission in a taxpayer's tax return, and that statement or omission is a result of intentional conduct or negligence on the part of the taxpayer, the taxpayer shall be liable to a penalty in the amount of—

- (a) twenty five *per cent* of the underpayment if paragraph (b) does not apply; or

- (b) seventy five *per cent* of the underpayment if the amount of the underpayment is —
  - (i) higher than ten million rupees; or
  - (ii) higher than twenty five *per cent* of the person's tax liability for the period.

**181.** (1) A person who makes a statement to a tax official that is false or misleading in a material particular shall be liable for a penalty if an amount properly payable by or refundable to the person under this Act exceeds or is less than the amount that would be payable or refundable if the person were assessed on the basis that the statement was true.

False or  
misleading  
statements.

(2) The amount of the penalty for which the person is liable shall be the greater of fifty thousand rupees —

- (a) if an amount payable by the person would have been less if it were determined on the basis of the information provided in the statement, the amount by which that amount would have been so reduced; or
- (b) if the amount of a refund that the person applied for would be increased if it were determined on the basis of the information provided in the statement, the amount by which that amount would have been so increased.

(3) No penalty shall be imposed under this section if the person who made the statement did not know and could not reasonably be expected to know that the statement was false or misleading in a material particular.

(4) A reference in this section to a statement made to a tax official shall include a reference to a statement made orally,

in writing, or in another form to that officer acting in the performance of the officer's duties under this Act, and shall include a statement made—

- (a) in an application, certificate, declaration, notification, return, objection or other document made, prepared, given, filed, submitted or furnished under this Act;
- (b) in any information required to be furnished under this Act;
- (c) in a document furnished to a tax official otherwise than pursuant to this Act;
- (d) in an answer to a question asked of a person by a tax official; or
- (e) to another person with the knowledge or reasonable expectation that the statement would be conveyed to a tax official.

(5) A reference in this section to a statement that is misleading in a material particular shall include a reference to a statement which contains an omission of a matter or thing from the statement.

(6) This section shall not apply to conduct subject to the penalty under section 180.

Failure to  
maintain  
documents or  
provide  
facilities.

**182.** (1) A person who fails to maintain proper documents as required by this Act shall be liable for a penalty for each month or part of a month during which the failure continues.

(2) The penalty shall be one thousand rupees per day for each day the failure continues.

(3) Before assessing a penalty under this section, the Commissioner-General shall issue a warning notice, and no

penalty shall be due under this section if the taxpayer complies with the warning notice within the time specified in the notice.

(4) A person who fails to render reasonable facilities and assistance to a tax official as required by or under this Act shall be liable for a penalty in an amount not exceeding ten thousand rupees.

**183.** A person who fails to comply with a notice issued under section 170 shall be liable for a penalty of twenty five *per cent* of the difference between the amount payable by the third party and the amount paid to the Commissioner-General by the due date specified in the section 170 notice.

Failure to comply with third party notice.

**184.** Where any person fails to comply with the requirements, of section 76 or 77 in relation to transactions with associated enterprises, the Commissioner- General may impose on such person—

Transfer pricing penalties.

- (a) a penalty of a sum not exceeding one *per centum* of aggregate value of transactions with associated enterprises, where required documents have not been maintained;
- (b) a penalty of a sum not exceeding two hundred and fifty thousand rupees, where required documents have not been submitted;
- (c) a penalty of a sum not exceeding two *per centum* of aggregate value of transactions with its associated enterprises, in case of non-disclosure of any required information;
- (d) a penalty of a sum not exceeding one hundred thousand rupees, where required documents have not been submitted on the specified date; or

- (e) a penalty of two hundred *per centum* of the value of additional tax where such person has—
  - (i) concealed the particulars of his income, or furnished inaccurate particulars of such income; and
  - (ii) sought to evade by reason of concealment of particulars of his income or the furnishing of inaccurate particulars of such income,

and by notice in writing require such associated enterprise, to pay such penalty within such period as may be specified in such notice.

Failure to  
comply with  
notice to give  
information.

**185.** (1) A person who fails to comply with a request for information properly made under this Act, within the specified time, shall be liable for a penalty of an amount not exceeding one million rupees.

(2) Before assessing a penalty, the Commissioner-General shall issue a notice of warning, and no penalty shall be due under this section where the taxpayer complies with the warning notice within thirty days of service of the notice.

## CHAPTER XVIII

### CRIMINAL PROCEEDINGS

Criminal  
proceedings.

**186.** (1) The Commissioner-General may investigate an offence under this Act.

(2) The Attorney-General or a delegate authorized by the Attorney-General shall prosecute any person who commits an offence under this Act. Such criminal proceedings shall be initiated in the name of the Commissioner-General.

(3) Proceedings under this Act shall not affect criminal proceedings that may be brought under any other law.



(4) Where, in respect of a single act, omission or course of conduct, a person is convicted for more than one offence under this Chapter—

- (a) the maximum term of imprisonment imposed for the offences shall not exceed a term of five years; and
- (b) the person shall not subsequently be prosecuted for additional offences in relation to the same act, omission or course of conduct.

(5) No penalty shall be payable under Chapter XVII in respect of an act, omission or course of conduct by a person where—

- (a) the person has been convicted of an offence under this Chapter in respect of the same act, omission or course of conduct; or
- (b) the offence has been compounded by the Court with the consent of the Commissioner-General.

**187.** A person who wilfully aids, abets, assists, counsels, incites or induces another person to commit a criminal offence under this Chapter shall be liable on conviction to the same punishment as if the offence had been committed by that person. Aiding and abetting.

**188.** Proceedings under this Chapter may be commenced where the offence alleged involves — Period of limitations.

- (a) the doing of an act, within twelve years after the doing of the act;
- (b) the failure to do an act, within twelve years after the failure occurred or, if later, within three years after the Commissioner-General becomes aware of the failure; or

- (c) the non-disclosure or incorrect disclosure by a person of information relating to that person's liability to pay tax, within three years after the person's correct liability to tax becomes final for that tax period.

Tax evasion.

**189.** A person who wilfully evades or attempts to evade the assessment, payment or collection of tax or who wilfully and fraudulently claims a refund of tax to which the person is not entitled, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding ten million rupees or to imprisonment for a term not exceeding two years or to both such fine and imprisonment.

Impeding tax administration.

**190.** (1) A person who wilfully impedes or attempts to impede the Department in the administration of this Act shall be guilty of an offence and shall be liable on conviction to a fine not exceeding one million rupees or to imprisonment for a term not exceeding one year or to both such fine and imprisonment.

(2) For the purposes of this section, a person impedes the administration of this Act if the person—

- (a) fails to comply with a lawful request by a tax official to examine documents, records, or data within the control of the person;
- (b) fails to comply with a lawful request by a tax official to have the person appear before officials of the Department;
- (c) interferes with the lawful right of a tax official to enter into premises;
- (d) fails to file a return;
- (e) uses a false taxpayer identification number or a taxpayer identification number that does not apply to the person;

- (f) refuses to allow the Commissioner-General or authorized officer to inspect or measure land or refuses to deliver for inspection any map, plan, title deed, instrument of title or other document;
- (g) makes a statement to a tax official that is false or misleading in a material particular;
- (h) fails to comply with a notice issued under section 170;
- (i) fails to maintain required records; or
- (j) otherwise impedes the determination, assessment or collection of tax.

**191.** A person who contravenes subsection (2) or (3) of section 100 shall be guilty of an offence and shall be liable on conviction to a fine not exceeding one million rupees or to imprisonment for a term not exceeding one year or to both such fine and imprisonment.

Failure to preserve secrecy.

**192.** A tax official who, in carrying out the provisions of this Act—

Offences by tax officials.

- (a) directly or indirectly asks for or takes, in connection with the officer's duties, a payment or reward, whether pecuniary or otherwise or a promise or security for the payment or reward, not being a payment or reward which the officer is lawfully entitled to receive; or
- (b) enters into or acquiesces in an agreement to do, permit, conceal or connive at an act or thing that is contrary to the provisions of this Act or to the proper execution of the officer's duty or that has the effect that the tax revenue is or may be defrauded,

commits an offence and shall be liable on conviction to a fine not exceeding one million rupees or to imprisonment for a term not exceeding one year or to both

such fine and imprisonment and the Court may, in addition to imposing a fine, order the convicted person to pay to the Commissioner-General an amount of tax that has not been paid as a result of the officer's wrongdoing and which cannot reasonably be recovered from the person liable for the tax.

Compounding  
of offences.

**193.** (1) Where a person has committed an offence under this Chapter, other than an offence under section 191 or 192, the Commissioner-General may, at any time prior to the commencement of the hearing by a Court of the proceedings relating thereto, compound the offence and order the person to pay the sum of money as specified by the Commissioner-General, not exceeding the maximum amount of the fine specified for the offence.

(2) The Commissioner-General may compound an offence under this section only if the person concerned requests the Commissioner-General in writing to do so.

(3) Where the Commissioner-General compounds an offence under this section, the order referred to in subsection (1) shall—

- (a) be in writing and have attached the written request referred to in subsection (2);
- (b) specify—
  - (i) the offence committed;
  - (ii) the sum of money to be paid; and
  - (iii) the due date for the payment; and
- (c) be served on the person who committed the offence.

(4) An order under subsection (3) shall be final and shall not be subject to appeal.

(5) Where the Commissioner-General compounds an offence under this section, the offender shall not be liable for prosecution or penalty in respect of that offence.

(6) The Commissioner-General's power under this section shall be subject to the powers of the Attorney-General under the Constitution and the Code of Criminal Procedure Act, No. 15 of 1979, and the Commissioner-General shall give the Attorney-General a copy of the order referred to in subsection (3) at the time it is served on the taxpayer.

(7) The amount ordered to be paid under subsection (1) shall be recoverable as if it were tax due and payable under this Act.

## CHAPTER XIX

### REGULATIONS

**194.** (1) The Minister may make regulations for the purpose of carrying out or giving effect to the principles and provisions of this Act and for matters authorised to be made or prescribed under this Act. Regulations.

(2) A regulation made under this section, other than a regulation—

- (a) prescribing a penalty for; or
- (b) enhancing a penalty prescribed for,

the contravention of or failure to comply with, a regulation made under this section,

may be declared to take effect from a date earlier than the date of its publication in the *Gazette*.

(3) A regulation prescribing a penalty for the contravention of or failure to comply with a regulation, shall not come into operation until it is approved by Parliament and notice of such approval is published in the *Gazette*.

(4) Every regulation made by the Minister other than a regulation referred to in subsection (2), shall come into operation on the date of its publication in the *Gazette* or on such other date as may be specified in the regulation.

(5) Every regulation referred to in subsection (2) shall as soon as convenient after its publication in the *Gazette*, be brought before Parliament for approval. Any such regulation which is not so approved shall be deemed to be rescinded as from the date of disapproval, but without prejudice to anything previously done thereunder. Notification of the date on which a regulation shall be deemed rescinded shall be published in the *Gazette*.

## CHAPTER XX

### INTERPRETATION

Interpretation.

**195.** (1) In this Act, unless the context otherwise requires-

“agricultural business” means the business of producing agricultural, horticultural or any animal produce and includes an undertaking for the purpose of rearing livestock or poultry;

“approved accountant” means –

- (a) an accountant who is a member of the Institute of Chartered Accountants of Sri Lanka; or
- (b) an accountant who is a fellow member of the Association of Accounting Technicians of Sri Lanka incorporated under the Companies Act, No. 7 of 2007 in relation to any person, or any partnership other than a company where the turnover of the business of the person or partnership for the year does not exceed one hundred million rupees;

“arrangement” means –

(a) an action, agreement, course of conduct, dealing, promise, transaction, understanding or undertaking, whether express or implied, whether or not enforceable by legal proceedings and whether unilateral or involving more than one person; or

(b) a part of an item described in paragraph (a);

“asset” includes a tangible or intangible asset, currency, goodwill, know-how, property, a right to income or future income, a benefit that lasts longer than twelve months and a part of an asset;

“Assistant Commissioner” includes a Deputy Commissioner appointed under this Act;

“authorised officer,” in relation to a function, means the tax official employed in the Department and authorised in writing by the Commissioner-General to perform the function;

“authorised representative” means any individual who is authorized in writing by a person to act on his behalf from time to time for the purposes of this Act and who is -

(a) in any case-

(i) a member of the Institute of Chartered Accountants of Sri Lanka;

(ii) an attorney-at-law;

(iii) an employee regularly employed by that person; or

(iv) a member of the Sri Lankan Institute of Taxation established under the Sri Lanka Institute of Taxation Act, No. 21 of 2000;

(v) an individual approved by the Commissioner-General and registered as an auditor under the Companies (Auditors) Regulations;

(vi) an individual specified by the Commissioner-General of any other kind;

(b) in the case of an individual, a relative;

(c) in the case of a company, a director or the secretary of that company;

(d) in the case of a partnership, a partner of that partnership;

(e) in the case of a body of persons, a member of such body;

“body” means a company, partnership, trust or other body of persons whether formed in Sri Lanka or elsewhere;

“business”-

(a) includes-

(i) a trade, profession, vocation or isolated arrangement with a business character however short the duration of the arrangement; and

(ii) a past, present or prospective business; but

(b) excludes an employment;

“capital asset”-

(a) means each of the following assets:-

(i) land or buildings;



- (ii) a membership interest in a company, partnership or trust;
- (iii) a security or other financial asset;
- (iv) an option, right or other interest in an asset referred to in the foregoing paragraphs; but

(b) excludes trading stock or a depreciable asset;

“charitable institution” means the trustee or trustees of a trust or corporation or an unincorporated body of persons established for a charitable purpose only or engaged solely in carrying out a charitable purpose;

“charitable purposes” means a purpose for the benefit of the public or any section of the public in or outside Sri Lanka, of any of the following categories:

- (a) the relief of poverty;
- (b) the advancement of education or knowledge other than by any institution established for business purposes or by any institution established under the Companies Act;
- (c) activities for the protection of the environment or eco-friendly activities;
- (d) the advancement of religion or the maintenance of religious rites and practices or the administration of a place of public worship;
- (e) any other purpose beneficial to the community, not falling within any of the above categories;

“Commissioner-General” means the Commissioner-General of Inland Revenue appointed under section 97 and includes a Deputy Commissioner-General,

Senior Commissioner, Commissioner or Senior Deputy Commissioner who is specially authorised by the Commissioner-General either generally or for some specific purpose, to act on behalf of the Commissioner-General;

“company” -

(a) means a corporation, unincorporated association or other body of persons;

(b) includes –

(i) a friendly society, building society, pension fund, provident fund, retirement fund, superannuation fund or similar fund or society; and

(ii) a government excluding the Sri Lankan government, a political sub-division of a government, or a public international organization; but

(c) excludes a partnership or trust; and

(d) the following shall be deemed to be a company:-

(i) a partnership in which at least twenty of the partners have limited liability for the debts of the partnership; and

(ii) a unit trust or mutual fund to which section 59 applies;

“Department” means the Inland Revenue Department;

“depreciable asset” –

(a) means an asset to the extent to which it is employed in the production of income from a

business and which is likely to lose value because of wear and tear, obsolescence or the passing of time; but

- (b) excludes goodwill, an interest in land, a membership interest in an entity and trading stock;

“dividend”–

- (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;

- (b) includes a capitalisation of profits –

- (i) whether by way of a bonus share issue, increase in the amount paid-up on shares or otherwise; and

- (ii) whether an amount is distributed or not; and

- (c) excludes a payment to the extent to which it is –

- (i) matched by a payment made by the member to the company;

- (ii) debited to a capital, share premium or similar account; or

- (iii) otherwise constitutes a final withholding payment or is included in calculating the income of the member;

“domestic asset” means –

- (a) an asset owned by a resident person (other than foreign land or buildings or an asset held by a

foreign permanent establishment of the person)  
or held by a Sri Lankan permanent  
establishment;

(b) an interest in land or a building situated in Sri  
Lanka; and

(c) shares in a resident company;

(d) a membership interest in a body, if more than  
fifty *per cent* of the value of the interest is  
derived, directly or indirectly through one or  
more interposed bodies, from land or buildings  
in Sri Lanka;

“eligible investment business” means a business or  
investment comprising predominately of owning,  
investing or trading in –

(a) capital assets;

(b) financial instruments; or

(c) other similar assets;

“employee” means an individual engaged in  
employment;

“employer” means the person who engages or remunerates  
an employee in employment or pays a pension or  
other remuneration to a former employee or to any  
other person for the past services of such former  
employee, and includes in the case of an entity  
specified in Column I hereunder, the person specified  
in the corresponding entry in Column II:

<i>Column I</i>	<i>Column II</i>
A company or a body of persons whether corporate or unincorporate	Director, Secretary, Manager or other principal officer of such company or body of persons
A partnership	The precedent partner or any active partner resident in Sri Lanka, and in the case of a partnership of which no active partner is resident in Sri Lanka, the agent of such partnership in Sri Lanka
A trust	The trustee or trustees of the trust
A non- resident person	The agent or attorney of such person in Sri Lanka
A Government Institution	Accountant or Director of Finance or Administrative Officer or Head of the Department or Institution, or Secretary to the Ministry or Chairman of Commission or Committee or any other person who pays remuneration

“employment” –

(a) means –

- (i) a position of an individual in the employment of another person;
- (ii) a position of an individual as manager of an entity;

- (iii) a position of an individual entitling the individual to a fixed or ascertainable remuneration in respect of services performed;
- (iv) a public office held by an individual;
- (v) a position of an individual to whom any payment is made or due by or from an employer or who receives any other benefit as an employee or in a similar capacity;
- (vi) a position as a corporation or company director; and

(b) includes a past, present or prospective employment;

“entertainment” means the provision to any person of food, beverages, tobacco, accommodation, amusement, recreation or hospitality of any kind;

“entity” means a company, partnership or trust, but excludes an individual;

“expenditure” or “expense” means a payment made that reduces the assets of the person making the payment;

“export” includes specified undertaking;

“financial institution” means –

- (a) any company or body of persons carrying on banking business and includes a licenced specialized bank, within the meaning of the Banking Act, No. 30 of 1988;
- (b) a non-banking financial institution regulated in the same way as a bank in paragraph (a); or

- (c) any other category of person as may be prescribed;

“foreign permanent establishment” means a fixed place of business of a resident person situated in a foreign country where the business is conducted continuously for at least six months, but excludes any place at which only activities of a preparatory or auxiliary nature are conducted;

“generally accepted accounting principles” means—

- (i) those adopted, from time to time, by the Institute of Chartered Accountants (Sri Lanka); and
- (ii) the International Financial Reporting Standards;

“gift” means a transfer without consideration or a transfer with consideration to the extent that the market value of the property exceeds the market value of the consideration;

“interest” includes –

- (a) a payment, including a discount or premium, made under a debt obligation that is not a repayment of capital; and
- (b) a swap or other payment functionally equivalent to interest;
- (c) a commitment, guarantee or service fee paid in respect of a debt obligation or swap agreement; and
- (d) a distribution by a building society;

“investment” means –

- (a) the owning of one or more assets, including one or more assets of a similar nature or that are used in an integrated fashion, and
  - (i) includes a past, present or prospective investment; but
  - (ii) excludes a business or employment; or
- (b) a game of chance, including lotteries, betting or gambling;

“investment asset” –

- (a) means a capital asset held as part of an investment, but-
- (b) excludes the principal place of residence of an individual, provided it has been owned by the individual continuously for the three years before disposal and lived in for at least two of those three years (calculated on a daily basis);

“land or buildings” includes a structural improvement to land or buildings, an interest in land or buildings or an interest in a structural improvement to land or buildings, and includes the following:—

- (a) a lease of land or buildings;
- (b) a lease of a structural improvement to land or buildings; or
- (c) an exploration, prospecting, development, or similar right relating to land or buildings; and
- (d) information relating to a right referred to in paragraph (c);



“lease” means an arrangement providing a person with a temporary right in respect of an asset of another person, other than money, and includes a licence, profit-a-prendre, option, rental agreement, royalty agreement or tenancy;

“local authority” means any Municipal Council, Urban Council, or Pradeshiya Sabha and includes any Authority established by or under any law to exercise, perform and discharge powers, duties and functions, corresponding or similar to the powers, duties and functions exercised, performed and discharged by any such Council or Sabha;

“manager”, in relation to an entity –

- (a) means a councillor, director, manager, member, officer or other person who participates or may participate, whether alone or jointly with other persons, in making senior management decisions on behalf of the entity; and
- (b) includes–
  - (i) a working partner of a partnership and a trustee of a trust;
  - (ii) a person treated as a manager of an entity by any law; and
  - (iii) a non-resident person with respect to a Sri Lankan permanent establishment owned by the person;

“member” in relation to an entity means any person who owns a membership interest in the entity;

“membership interest” in an entity means a right, whether of a legal or equitable nature, including a contingent right, to participate in income or capital of the entity and includes the interest of a partner in a partnership, the interest of a beneficiary in a trust and shares in a company;

“Minister” means the Minister assigned the subject of Finance;

“natural resource” means minerals, petroleum, water or any other non-living or living resource that may be taken from land or the sea;

“natural resource payment” means a payment, including a premium or like amount, for the right to take natural resources from land or the sea or calculated in whole or part by reference to the quantity or value of natural resources taken from land or the sea;

“net cost” for an asset or liability at a particular time is equal to –

- (a) in the case of a depreciable asset, its share of the written down value of the pool to which it belongs at that time (paragraph 4 of the Fourth Schedule) apportioned according to the market value of all the assets in the pool; and
- (b) in the case of any other asset or a liability, the amount by which cumulative costs for the asset or liability exceed cumulative consideration received for the asset or liability to the time;

“non-governmental organization” means any organization or association, whether incorporated or unincorporated, formed by a person or a group of persons on a voluntary basis and which is non-governmental in nature, and established and constituted –

- (a) for the provision or relief and services of a humanitarian nature to the poor and destitute, the sick, orphans, widows, youth, children; or
- (b) generally for the provision of relief to the needy,

unless such organization or association is determined by the Commissioner-General not to be a non-governmental organization, but in all cases does not include an approved charity;

“non-traditional goods” means goods other than black tea not in packet or package form and each packet or package weighing not more than one kilogram, crepe rubber, sheet rubber, scrap rubber, latex or fresh coconuts, or agricultural, horticultural or dairy produce, includes and organic tea in bulk;

“partnership” means an association of two or more individuals or corporations carrying on business jointly for the purpose of making profit, irrespective of whether the association is recorded in writing;

“payment” means the conferring of value or a benefit in any form by one person on another person and includes –

- (a) the transfer by one person of an asset or money to another person or the transfer by another person of a liability to the one person;
- (b) the creation by one person of an asset that on creation is owned by another person or the decrease by one person of a liability owed by another person;
- (c) the provision by one person of services to another person; and
- (d) the making available of an asset or money owned by one person for use by another person or the granting of use of such an asset or money to another person;

“person” means an individual or entity and includes a body of persons corporate or unincorporate, an executor, non-governmental organization and charitable institution;

“precedent partner” means the partner who, of the active partners resident in Sri Lanka –

- (a) is first named in the agreement of partnership;
- (b) if there is no such agreement, is specified by name or initials singly or with precedence to the other partners, in the usual name of the partnership; or
- (c) is the first name in the statement made under section 4 of the Business Names Act, No.7 of 1987;

“public corporation” means any corporation, board or other body which was or is, established by or under, any written law, other than the Companies Act, No. 07 of 2007, with capital wholly or partly provided by the Government, by way of grant, loan or other form;

“received”, in relation to a person, includes –

- (a) applied on behalf of the person either at the instruction of the person or under any law;
- (b) reinvested, accumulated or capitalised for the benefit of the person;
- (c) credited to an account, or carried to any reserve, or a sinking or insurance fund for the benefit of the person; or
- (d) made available to the person;

“rent” –

- (a) means a payment, including a payment of a premium or like amount, for the use of or right to use property of any kind;
- (b) includes a payment for the rendering of, or the undertaking to render, assistance ancillary to a use or a right referred to in paragraph (a); but
- (c) excludes a natural resource payment or a royalty;

“residence” or “resident” with respect to a person is determined in accordance with section 69;

“royalty” means a payment, including a payment of a premium or like amount, derived as consideration for –

- (a) the use of or right to use a copyright of literary, artistic or scientific work, including cinematograph films, software or video or audio recordings, whether the work is in electronic format or otherwise;
- (b) the use of or right to use a patent, trade mark, design or model, plan, or secret formula or process;
- (c) the use of or right to use any industrial, commercial, or scientific equipment;
- (d) the use of or right to use information concerning industrial, commercial or scientific experience;
- (e) the rendering of or the undertaking to render assistance ancillary to a matter referred to in paragraph (a), (b), (c) or (d); or

- (f) a total or partial forbearance with respect to a matter referred to in paragraph (a), (b), (c), (d) or (e);

“senior citizen” with respect to a year of assessment means an individual who is –

- (a) a citizen of Sri Lanka during the year of assessment;
- (b) resident in Sri Lanka for the year of assessment; and
- (c) who is sixty years old or above at any time during the year of assessment;

“service fee” means a payment to the extent to which, based on market values, it is reasonably attributable to services rendered by a business of a person, but excludes interest, rent or a royalty;

“shareholder” means a person who is a member of a company;

“Small and Medium Enterprise” means a person who satisfies the following conditions:—

- (a) the person who conducts business solely in Sri Lanka other than an individual who is engaged in providing professional services individually or in partnership being an individual who is professionally qualified;
- (b) the person does not have an associate that is an entity; and
- (c) the person’s annual gross turnover is less than Rs. 500,000,000;

“specified undertaking” means an undertaking which is engaged in –

- (a) entrepot trade involving import, minor processing and re-export;
- (b) offshore business where goods can be procured from one country or manufactured in one country and shipped to another country without bringing the same into Sri Lanka;
- (c) providing front end services to clients abroad;
- (d) headquarters operations of leading buyers for management of financial supply chain and billing operations;
- (e) logistic services such as bonded warehouse or multi-country consolidation in Sri Lanka;
- (f) transshipment operations;
- (g) freight forwarding;
- (h) supply of services to any exporter of goods or services or to any foreign principal of such exporter directly, being services which could be treated as essentially related to the manufacture of such goods or provision of such services exported by such exporter either directly or through any export trading house, including any service provided by an agent of a ship operator to such agent’s foreign principal, and the payment for such services are made by such exporter or foreign principal to such person in Sri Lanka in foreign currency;
- (i) production or manufacture, and supply to an exporter of non-traditional goods; and

- (j) the performance of any service of ship repair, ship breaking repair and refurbishment of marine cargo containers, provision of computer software, computer programmes, computer systems or recording computer data, or such other services as may be specified by the Minister by notice published in the Gazette, for payment on foreign currency;
- (k) sale for foreign currency, of any gem or jewellery, being a sale made in Sri Lanka by any person authorized by the Central Bank of Sri Lanka to accept payment for such sale in foreign currency;

“Sri Lankan permanent establishment” means a place in Sri Lanka where a non-resident person carries on business or that is at the disposal of the person for that purpose and includes –

- (a) a place in Sri Lanka where a person has, or is using or is installing substantial equipment or substantial machinery;
- (b) a place in Sri Lanka where a person is engaged in a construction, assembly or installation project for ninety days or more, including a place where a person is conducting supervisory activities in relation to such a project;
- (c) the provision of services in Sri Lanka, but only if activities of that nature continues (for the same or a connected project) for a period of one hundred and eighty three days or more in any twelve month period; and



- (d) a place in Sri Lanka where an agent performs any function on behalf of the business of a non-resident person –
  - (i) including, in the case of an insurance business, the collection of premiums or the insurance of risks situated in Sri Lanka; but
  - (ii) excluding a case involving a general agent of independent status acting in the ordinary course of business as such;

“tax” means a compulsory payment to the government imposed under this Act regardless of whether that payment is designated as a tax, fee, duty, levy or otherwise, and, unless the context otherwise requires, includes withholding tax, instalments, interest, late fee, or penalty in relation to a tax;

“tax official” means –

- (a) the Commissioner-General; and
- (b) Deputy Commissioners General, Senior Commissioners, Commissioners, Senior Deputy Commissioners, Deputy Commissioners and Assistant Commissioners;

“tax return” means a return, including an information return, that a person is required to file with the Department, in which information about that person’s or some other person’s possible tax liability is provided;

“taxpayer” means—

- (a) a person who is required to pay tax under this Act including a person who has zero chargeable or taxable income or a loss for a year of assessment; or

- (b) a person who is required to withhold tax and pay it to the Department;

“trading stock” means assets owned by a person that are sold or intended to be sold in the ordinary course of a business of the person, work in progress on such assets, inventories of materials to be incorporated into such assets and consumable stores;

“Transfer Pricing Officer” means any officer of Inland Revenue specified by the Commissioner-General as a Transfer Pricing Officer;

“trust” means an arrangement under which a trustee holds assets;

“trustee” means an individual or body corporate holding assets in a fiduciary capacity for the benefit of identifiable persons or for some object permitted by law and whether or not—

- (a) the assets are held alone or jointly with other individuals or bodies corporate; or
- (b) the individual or body corporate is appointed or constituted trustee by personal acts, by will, by order or declaration of a court or by operation of the law; and
- (c) includes –
  - (i) an executor, administrator, tutor or curator;
  - (ii) a liquidator, receiver, trustee in bankruptcy or judicial manager;
  - (iii) a person having the administration or control of assets subject to a usufruct or other limited interest;

- (iv) a person who manages the assets of an incapacitated individual; and
- (v) a person who manages assets under a private foundation or other similar arrangement;

“underlying ownership” –

- (a) in relation to an entity, means membership interests owned in the entity, directly or indirectly through one or more interposed entities, by individuals or by entities in which no person has a membership interest; or
- (b) in relation to an asset owned by an entity, is determined as though the asset is owned by the persons having underlying ownership of the entity in proportion to that ownership of the entity;

“USD” means the United States Dollar;

“withholdee” means a person receiving or entitled to receive a payment from which tax is required to be withheld under this Act; and

“withholding agent” means a person required to withhold tax from a payment under this Act.

**196.** (1) For the purposes of this Act, two persons are associates or associated persons where the relationship between the two is –

Associated persons.

- (a) that of an individual and a relative of the individual;
- (b) that of partners in the same partnership;
- (c) that of an entity and a person referred to in subsection (2); or

- (d) in any case not covered by paragraphs (a) to (c), such that one may reasonably be expected to act, other than as employee, in accordance with the directions, requests, suggestions or intentions of the other.

(2) A person and an entity are associated persons where –

- (a) the person controls the entity or may benefit from fifty percent or more of the rights to income, capital or voting power of the entity –
  - (i) either alone or together with persons who, under another application of this section, are associated with the person; and
  - (ii) whether directly or through one or more interposed entities; or
- (b) the person, under another application of this section, is an associate of a person referred to in paragraph (a).

(3) In this section, “relative” in relation to an individual, means the individual’s child, spouse, parent, grandparent, grandchild, sibling, aunt, uncle, nephew, niece or first cousin, including by way of marriage or adoption.

Domestic  
expenditure.

**197.** (1) Where an individual incurs expenditure in respect of himself, the expenditure shall be domestic expenditure to the extent that it is incurred –

- (a) in maintaining the individual, including in providing shelter as well as meals, refreshment, entertainment or other leisure activities;
- (b) in the individual commuting from home;

- (c) in acquiring clothing, including shoes, for the individual, other than clothing that is not suitable for wearing outside of work;
- (d) in educating the individual, other than education that is directly relevant to a business conducted by the individual and that does not lead to a degree or diploma; or
- (e) in paying any personal debts, including credit card debts, of the individual.

(2) Where another person incurs expenditure in making a payment to or providing any other benefit for an individual, the expenditure shall be domestic expenditure except to the extent that –

- (a) the payment or benefit shall be included in calculating the income of the individual;
- (b) the individual provides consideration of an equal market value for the payment or benefit; or
- (c) the amount of the expenditure is so small as to make it unreasonable or administratively impracticable to account for it.

(3) Expenditure referred to in subsections (1) and (2) shall include interest incurred with respect to money borrowed that is used in a manner referred to in those subsections.

**198.** (1) For the purposes of this Act, the term “financial instrument” – Financial instruments.

- (a) means –
  - (i) a debt claim or debt obligation;
  - (ii) a derivative instrument;

- (iii) a foreign currency instrument; and
  - (iv) any other instrument prescribed by regulations or, in the absence of regulations, treated as a financial instrument by generally accepted accounting principles; but
- (b) except to the extent as may be prescribed by regulations, excludes a membership interest in an entity.

(2) For the purposes of this Act –

- (a) “debt claim” means a right to receive a payment under a debt obligation;
- (b) “debt obligation” means an obligation to make a payment to another person that is denominated in money, including accounts payable and the obligations arising under deposits, debentures, stocks, treasury bills, promissory notes, bills of exchange and bonds.

(3) For the purposes of this Act, a person –

- (a) derives a financial gain when the person derives interest or gains with respect to a financial instrument; and
- (b) incurs a financial cost when the person incurs interest or losses with respect to a financial instrument.

(4) For the purposes of this Act, a person –

- (a) derives a relevant financial gain when the person derives a financial gain with respect to a derivative or foreign currency instrument; and

- (b) incurs a relevant financial cost when the person incurs a financial cost with respect to a derivative or foreign currency instrument.

(5) The Minister may by regulation prescribe -

- (a) the derivative instruments; and
- (b) the foreign currency instruments.

## CHAPTER XXI

### SPECIAL PROVISIONS

**199.** (1) The Minister may, on behalf of the Government, enter into, amend, or terminate a mutual administrative assistance agreement with a foreign government or governments.

Implementation  
of Mutual  
Administrative  
Assistance  
Agreements.

(2) A mutual administrative assistance agreement for which Parliament has issued an instrument of ratification shall have legal effect in Sri Lanka according to its terms.

(3) If there is any conflict between the terms of a mutual administrative assistance agreement to which subsection (2) applies and any other law, the mutual administrative assistance agreement shall prevail.

(4) If a tax treaty or mutual administrative assistance agreement having legal effect in Sri Lanka provides for exchange of information, or reciprocal assistance in the recovery of tax or service of process, the Commissioner-General shall use the powers available under this Act or any other law to meet Sri Lanka's obligations under the treaty or agreement on the basis that a reference in this Act or other law:

- (a) to "tax" includes a foreign tax to which the exchange of information or reciprocal assistance relates;

- (b) to “unpaid tax” (or words to that effect) includes an amount specified in paragraph (a) that has not been paid by the due date;
- (c) to “taxpayer” includes a person liable for an amount specified in paragraph (a); and
- (d) to “tax law” includes the law under which a foreign tax specified in paragraph (a) is imposed.

(5) In this section -

“international agreement” means an agreement between the Republic of Sri Lanka and a foreign government or governments;

“mutual administrative assistance agreement” means a tax information exchange agreement or other international agreement for mutual administrative assistance in relation to taxation matters.

Sinhala text to prevail in case of inconsistency.

**200.** In the event of any inconsistency between the Sinhala and Tamil texts of this Act, the Sinhala text shall prevail.

## CHAPTER XXII

### TEMPORARY CONCESSIONS AND TRANSITIONAL PROVISIONS

Temporary Concessions.

**201.** (1) The provisions of the Sixth Schedule to this Act provide for concessions of a temporary nature, and apply to modify the application of this Act for the periods set out therein.



(2) Unless expressly stated to the contrary, the provisions of the Sixth Schedule –

- (a) shall be applied strictly and only in accordance with their clear wording; and
- (b) expire five years after they become operative.

(3) For the purposes of this Act, where a provision of the Sixth Schedule applies to grant a concession to a person with respect to a particular type of business –

- (a) the business shall be construed narrowly and only the person's activities devoted wholly and exclusively to that business shall be treated as part of the business; and
- (b) the person's income or loss from the business for a year of assessment shall be calculated separately from any other activity of the person.

**202.** (1) The Inland Revenue Act, No. 10 of 2006 is hereby repealed. Repeal and Savings.

(2) The repealed Act shall continue to apply in respect of events occurring prior to the date of commencement of this Act.

(3) All appointments and delegations made under the repealed Act and subsisting at the date of commencement of this Act shall be deemed to be as appointments and delegations made under this Act.

(4) All forms and documents used in relation to the repealed Act shall continue to be used under this Act, and all references in those forms and documents to provisions of and expressions appropriate to the repealed Act shall deem to refer to the corresponding provisions and expressions of this Act.

(5) Appeals, prosecutions and other proceedings commenced before the commencement date of this Act shall continue and shall be disposed of as if this Act had not come into force.

(6) Tax liabilities that arose before the commencement date of this Act may be recovered by fresh proceedings under this Act, but without prejudice to an action already taken for the recovery of the tax.

(7) When the law concerning tax administration and procedure in effect prior to the commencement of this Act is silent with respect to a matter addressed in this Act, the relevant provision in this Act shall apply with retroactive effect to matters that are not closed under the period of limitations.

Transitional  
Provisions.

**203.** (1) The repealed Act shall continue to apply for years of assessment commencing prior to the date on which this Act comes into effect.

(2) A reference in this Act to –

- (a) a previous year of assessment includes, where the context requires, a reference to a year of assessment under the repealed Act; or
- (b) this Act or to a provision of this Act includes, where the context requires, a reference to the repealed Act or to a corresponding provision of the repealed Act, respectively.

(3) This subsection shall apply where a person's year of assessment under the repealed Act is (at the time the repealed legislation ceases to have effect) a period of twelve months other than the year ending 31 March. The person shall be deemed to have been granted approval by the Commissioner-General under section 20(2) to use that period as the person's year of assessment under this Act.

(4) The cost of an investment asset held by a person as at, September 30, 2017 is equal to the market value of the asset at that time.

(5) For the purpose of calculating the amount of each instalment of tax payable by an instalment payer under section 90 for the first year of assessment commencing on or after 1 April 2017, the instalment payer may assume that its current estimated tax payable for that year of assessment is equal to the amount of tax that was payable by the instalment payer in the previous year of assessment, increased by an uplift of five percent. A person shall not be required to pay tax by quarterly instalments under section 90 where that person had no tax payable in the previous year of assessment.

## FIRST SCHEDULE

(Section 2)

## TAX RATES

**1. Tax rates for resident and non - resident individuals.**

(1) Subject to the provisions of subparagraph (2), the **taxable income** of a resident or **non-resident individual** for a year of assessment shall be taxed at the following rates:

<i>Taxable Income</i>	<i>Tax Payable</i>
Not Exceeding Rs. 600,000	4% of the amount in excess of Rs. 0
Exceeding Rs. 600,000 but not exceeding Rs. 1,200,000	Rs. 24,000 plus 8% of the amount in excess of Rs. 600,000
Exceeding Rs. 1,200,000 but not exceeding Rs. 1,800,000	Rs. 72,000 plus 12% of the amount in excess of Rs. 1,200,000
Exceeding Rs. 1,800,000 but not exceeding Rs. 2,400,000	Rs. 144,000 plus 16% of the amount in excess of Rs. 1,800,000
Exceeding Rs. 2,400,000 but not exceeding Rs. 3,000,000	Rs. 240,000 plus 20% of the amount in excess of Rs. 2,400,000
Exceeding Rs. 3,000,000	Rs. 360,000 plus 24% of the amount in excess of Rs. 3,000,000:

(2) Where an individual's taxable income includes gains from the realisation of investment assets or the types of income referred to in subparagraphs (3) or (4), then –

- (a) those gains from the realisation of investment assets shall be taxed at the rate of 10%;
- (b) the types of income from employment referred to in subparagraph (3) for a year of assessment shall be taxed at the following rates:—

- (i) where the period of contribution or the period of employment is 20 years or less:

<i>Total Income from Employment</i>	<i>Tax Payable</i>
Not exceeding Rs. 2,000,000	0% of the amount in excess of Rs. 0
Exceeding Rs. 2,000,000 but not exceeding Rs. 3,000,000	5% of the amount in excess of Rs. 2,000,000
Exceeding Rs. 3,000,000	Rs. 50,000 plus 10% of the amount in excess of Rs. 3,000,000

- (ii) where the period of contribution or the period of employment is more than 20 years:

<i>Total Income from Employment</i>	<i>Tax Payable</i>
Not exceeding Rs. 5,000,000	0% of the amount in excess of Rs. 0
Exceeding Rs. 5,000,000 but not exceeding Rs. 6,000,000	5% of the amount in excess of Rs. 5,000,000
Exceeding Rs. 6,000,000	Rs. 50,000 plus 10% of the amount in excess of Rs. 6,000,000

- (c) the type of business income referred to in subparagraph (4) shall be taxed at 40%; and
- (d) only the remainder of the individual's taxable income shall be taxed at the rates referred to in subparagraph (1)
- (3) The types of income from employment referred to in subparagraph (2) shall be –
- (a) amount received in commutation of a pension;
- (b) amount received as a retiring gratuity;
- (c) amount received as compensation for loss of office or employment under a scheme which the Commissioner-General considers to be uniformly applicable to all individuals employed by the employer;

- (d) amount paid to a person at or after the time of retirement from employment from a provident fund approved by the Commissioner-General that does not represent the person's contributions to that provident fund;
- (e) amount paid to a person from a regulated provident fund that does not represent the contributions made by the employer to that provident fund before April 1, 1968, and the interest which accrued on such contributions made by the employer, if tax has been paid by the employer at 15% on such contributions made and the interest accruing thereon; and
- (f) amount paid to a person at or after the time of retirement from employment from the Employees' Trust Fund, established by the Employees' Trust Fund Act, No. 46 of 1980.

(4) The type of income referred to in subparagraph (2) (c) shall be income from a business consisting of betting and gaming, liquor or tobacco.

## **2. Tax rate for partnerships.**

Where a partnership's taxable income includes gains from the realisation of investment assets, those gains shall be taxed to the partnership at the rate of 10%.

## **3. Tax rates for trusts.**

(1) Subject to the provisions of subparagraph (2), the taxable income of a trust for a year of assessment to which subsection (1) of section 57 applies shall be taxed at the rate of [24%].

(2) Where a trust's taxable income includes gains from the realisation of investment assets, then –

- (a) those gains, shall be taxed to the trust at the rate of 10%; and
- (b) only the remainder of the trust's taxable income shall be taxed at the rate referred to in subparagraph (1).

(3) Where a trust's taxable income (not otherwise covered by this paragraph) includes gains from the realisation of investment assets, those gains shall be taxed to the trust at the rate of 10%.

## **4. Tax rates for companies.**

(1) Subject to subparagraphs (2) and (3), the taxable income of a company for a year of assessment shall be taxed at the rate of 28%.

(2) The taxable income of a company for a year of assessment shall be taxed at the following rates:—

- (a) in the case of an Small and Medium Enterprises – 14%;
- (b) in the case of a company predominantly conducting a business of exporting goods and services – 14%;
- (c) in the case of a company predominantly conducting an agricultural business – 14%;
- (d) in the case of a company with income from a business consisting of betting and gaming, liquor and tobacco (excluding such income which is merely incidental to another business) – 40%;
- (e) in the case of a company predominantly providing educational services – 14%;
- (f) in the case of a company predominantly engaged in an undertaking for the promotion of tourism- 14%; and
- (g) in the case of a company predominantly providing information technology services-14%.

(3) In this paragraph –

- (i) providing information technology means –
  - (a) software development services; or
  - (b) the provision of information technology services under a business process outsourcing arrangement or a knowledge process outsourcing arrangement;
- (ii) undertaking for the promotion of tourism means an undertaking for the operation of-
  - (a) any hotel or guest house approved by the Ceylon Tourist Board;
  - (b) any restaurant graded by the Ceylon Tourist Board as being in “Class A” or “Class B”;
  - (c) any business of travel agent who provides travel management services for domestic travel in Sri Lanka;
  - (d) any business of transporting tourists only; or

(e) any business approved by the Ceylon Tourist Board for providing facilities for recreation or sports;

(iii) “predominantly” means 80% or more calculated based on gross income

(4) Where a company’s taxable income includes gains from the realisation of investment assets, then –

(a) those gains, shall be taxed to the company at the rate of 10%; and

(b) only the remainder of the company’s taxable income shall be taxed at the rate referred to in subparagraph (1).

#### **5. Tax rates for unit trusts or mutual funds.**

(1) Subject to the provisions of subparagraph (2), the taxable income of a unit trust or mutual fund to which section 59 applies for a year of assessment shall be taxed at the rate of [28%].

(2) Where a unit trust’s or mutual fund’s taxable income includes gains from the realisation of capital assets then –

(a) those gains, shall be taxed to the unit trust or mutual fund at the rate of 10%; and

(b) only the remainder of the unit trust’s or mutual fund’s taxable income shall be taxed at the rate referred to in subparagraph (1).

#### **6. Tax rates for charitable institutions.**

(1) Subject to subparagraph (2), the taxable income of a charitable institution for a year of assessment shall be taxed at the rate of [14%].

(2) Where a charitable institution’s taxable income includes gains from the realisation of investment assets, then –

(a) those gains shall be taxed to the charitable institutions at the rate of 10%; and

(b) only the remainder of the charitable institution’s taxable income shall be taxed at the rate referred to in subparagraph (1).

#### **7. Tax rates for non-governmental organizations.**

(1) Subject to subparagraph (2), the taxable income of a non-governmental organization for a year of assessment shall be taxed at the rate of [28%].



(2) Where a non-governmental organization's taxable income includes gains from the realisation of investment assets, then –

- (a) those gains, shall be taxed to the non-governmental organization at the rate of 10%; and
- (b) only the remainder of the non-governmental organization's taxable income shall be taxed at the rate referred to in subparagraph (1).

(3) The rate of tax payable by a non-governmental organization on amounts received in a year of assessment by way of grant, donation or contribution or in any other manner under section 68 shall be [28%].

**8. Tax Rates for Employees Trust Funds, Provident or Pension Funds and Termination Funds.**

(1) The taxable income of an employees trust fund, an approved provident or pension fund, or an approved termination fund for a year of assessment shall be taxed at the rate of [14%].

(2) For this paragraph, “approved termination fund” means any thrift, saving or building society or welfare fund to which contributions are made by employees only or any gratuity fund approved by the Commissioner-General and maintained for the purposes of payment under the Payment of Gratuity Act, No. 12 of 1983, of gratuities to employees on the termination of their services.

**9. Remittance tax rate.**

The rate of tax payable by a non-resident person who has remitted profits under section 62 shall be [14%].

**10. Withholding tax rates.**

(1) The rates of tax to be withheld from payments shall be –

- (a) for payments to which section 83 applies –
  - (i) in the case of a resident withholder - at the rates specified by the Commissioner General and published in the Gazette; and
  - (ii) in the case of a non-resident withholder - at the rates specified by the Commissioner General and published in the Gazette;
- (b) for payments to which section 84(1)(a)(i) applies –
  - (i) in the case of interest or discount paid to a person (other than to an individual who is a senior citizen in relation to a bank deposit account) - 5%;

- (ii) in the case of interest paid to a senior citizen - at the rate and in the manner prescribed in regulations;
  - (iii) in the case of rent paid to a resident person – 10%; and
  - (iv) in all other cases – 14%;
- (c) for payments to which section 85 applies –
- (i) in the case of service fees referred to in section 85(1)(a) - 5% on amounts exceeding Rs. 50,000 per month;
  - (ii) in the case of service fees referred to in section 85(1)(b) - 14%; and
  - (iii) in the case of insurance premiums referred to in section 85(1)(b) - 14%.
- (2) The rate of tax to be withheld from each partner's share of any partnership income under section 53(9) and section 84(1) (a) (ii) shall be 8% of the amount.
- (3) The rate of tax to be withheld from payments to which section 84 (2) applies - 2.5%.



SECOND SCHEDULE

INVESTMENT INCENTIVES

**Enhanced Capital Allowances**

1. (1) A person who invests in Sri Lanka (other than the expansion of an existing business) during a year of assessment shall be granted enhanced capital allowances computed in accordance with this paragraph, in addition to the capital allowances computed under the Fourth Schedule.



(2) A capital allowance of 100% of the expenses incurred by a person on depreciable assets, other than intangible assets during a year of assessment shall be granted to that person for that year if the total expenses incurred by that person during that year on depreciable assets (other than intangible assets) that are used in a part of Sri Lanka other than the Northern Province exceeds USD 3 million but does not exceed USD 100 million.

(3) A capital allowance of 150% of the expenses incurred by a person on depreciable assets other than intangible assets during a year of assessment shall be granted to that person for that year if the total expenses incurred by that person during that year on depreciable assets (other than intangible assets) that are used in a part of Sri Lanka other than the Northern Province exceeds USD 100 million.

(4) A capital allowance of 200% of the expenses incurred by a person on depreciable assets other than intangible assets during a year of assessment shall be granted to that person for that year where the total expenses incurred by that person during that year on depreciable assets (other than intangible assets) that are used in the Northern Province exceeds USD 3 million.

(5) A capital allowance of 150% of the expenses incurred by a person on assets or shares of a state owned company during a year of assessment shall be granted to that state owned company for that year if the total expenses incurred by that person during that year on assets of a state owned company that are used in a part of Sri Lanka exceeds USD 250 million.

(6) Capital allowances arising under a subparagraph of this paragraph 1 with respect to a particular year of assessment cannot be accumulated with another subparagraph and shall be taken in that year and shall be deferred to a later year of assessment.

**Extended Period for Deducting Unrelieved Losses**

(7) Subject to the provisions of subparagraph (9), and despite subsection 19(1), where enhanced Capital allowances computed under

this paragraph and deducted under section 16 result in an unrelieved loss for a person, that unrelieved loss may be deducted by that person for the purposes of calculating the person's income from a business for a year of assessment in any of the succeeding ten years of assessment.


(8) Notwithstanding anything in subsection (1) of section 19, where a person has incurred more than USD 1,000 million on depreciable assets (other than intangible assets) in Sri Lanka or entitled to enhanced capital allowances under subparagraph (5) of this paragraph in respect of which enhanced Capital allowances have been computed under this paragraph and deducted under section 16 resulting in an unrelieved loss for a person, that unrelieved loss may be deducted by that person for the purposes of calculating the person's income from a business for a year of assessment in any of the succeeding twenty-five years of assessment.

#### **Assessable Charges and Balancing Allowances**

(9) Where an asset for which Capital allowance has been granted under this paragraph is disposed of (or deemed to be disposed of) during a year of assessment –

- (a) if the consideration received for the disposal exceeds the written down value of the asset, the excess shall be included in calculating a person's income for a year of assessment from a business in which the depreciable assets are or were employed; and
- (b) if the written down value of the asset exceeds the consideration received for the disposal, an additional Capital allowance shall be granted for the year in an amount equal to the excess.

(10) In this paragraph-

“Capital allowance expenditure” means expenditure for which Capital allowances are available under this **Schedule;**  
and 

“state owned company” means any company, where fifty *per centum* or more of the shares are held by the Government and includes a company of which forty *per centum* or more of the shares held by the Government are acquired by a person for an amount not less than USD 250 million; and

“written down value” of an asset means the cost of the asset less all Capital allowances granted with respect to expenditure included in that cost.

**Exemption of Certain Dividends from Withholding Tax**

2. Notwithstanding anything in the First Schedule, the rate of tax to be withheld from a dividend paid by a company to a non-resident member shall be zero, if the company paying the dividend has incurred more than USD 1,000 million on depreciable assets (other than intangible assets) in Sri Lanka or entitled to an enhanced capital allowance under subparagraph (5) of paragraph 1, and that dividend is paid out of profits sheltered by enhanced Capital allowances under this Schedule.

**Exemption of Employment Income from Withholding Tax**

3. Notwithstanding anything in the First Schedule, the rate of tax to be withheld from a payment made by an employer to an expatriate employee shall be zero, if the company paying the dividend has incurred more than USD 1,000 million on depreciable assets (other than intangible assets) in Sri Lanka or entitled to an enhanced capital allowance under subparagraph (5) of paragraph 1, and that dividend is paid out of profits sheltered by enhanced Capital allowances under this Schedule, where the number of expatriate employees is not exceeding twenty.

THIRD SCHEDULE

EXEMPT AMOUNTS

The following shall be exempt amounts:-

- (a) amounts derived by –
  - (i) the Government of Sri Lanka or a local authority, including any Government department;
  - (ii) the Central Bank of Sri Lanka, including the Monetary Board;
  - (iii) any University which is established or deemed to be established under the Universities Act, No. 16 of 1978 or the Buddhist and Pali University of Sri Lanka Act, No. 74 of 1981;
  - (iv) any Government assisted private school other than that incorporated under the Companies Act, No. 7 of 2007 which is registered with the Ministry of Education and mandated to follow the Circulars and mandated to follow the Circulars issued by Government and the Ministry of Education;
  - (v) any registered society within the meaning of the Co-operative Societies Law, No. 5 of 1972;
  - (vi) the Government of a foreign country of foreign territory to the extent specified under a diplomatic immunities law or a similar law;
  - (vii) an international organisation to the extent specified under a diplomatic immunities law or a similar law or an agreement between the organisation and the Government of Sri Lanka, provided that the exemption provided under the agreement shall be broader than that provided under diplomatic immunities law or a similar law;
- (b) capital sums paid to a person as compensation or a gratuity in relation to –
  - (i) personal injuries suffered by the person; or
  - (ii) the death of another person;
- (c) the pension of a person where the pension income is paid by the Government of Sri Lanka or a department of the Government of Sri Lanka;

- (d) an amount paid to an employee at the time of retirement from—
  - (i) any pension fund or the Employees Trust Fund established by the Employees Trust Fund Act, No.46 of 1980, as represents income derived by that fund, for any period commencing on or after April 1, 1987, from investments made by it;
  - (ii) a provident fund approved by the Commissioner-General;
- (e) the income of an individual entitled to privileges to the extent provided for by –
  - (i) a diplomatic immunities law or a similar law;
  - (ii) an Act giving effect to the Convention on the Privileges and Immunities of the United Nations and the Convention on the Privileges and Immunities of the Specialised Agencies of the United Nations; or
  - (iii) regulations made under this Act relating to an international organisation, or a law or Act referred to in subparagraph (i) or (ii);
- (f) a gain made by a resident individual from the realisation of an investment asset that does not exceed Rs. 50,000 and where the total gains made by the resident individual from the realisation of investment assets in the year of assessment do not exceed Rs. 600,000, except –
  - (i) where the Commissioner-General is satisfied that an investment asset has been realised in two or more parts for the purpose of taking advantage of this paragraph, any gain arising from the realisations shall be exempt under this paragraph only if the total gain from the realisation of all parts does not exceed Rs. 50,000 and the total gains made by the resident individual from the realisation of investment assets in the year of assessment do not exceed Rs. 600,000;
  - (ii) in the case of the realisation of an investment asset that is jointly owned, this paragraph applies only if the total gain made by all owners of the investment asset on realisation of the asset does not exceed Rs. 50,000 and the total gains made by the resident individual in the year of assessment do not exceed Rs. 600,000;

- (g) a gain made by a resident individual on the realisation of the individual's principal place of residence, provided it has been owned by the individual continuously for the three years before being realised and lived in by the individual for at least two of those three years (calculated on a daily basis);
- (h) gain made on realisation of an asset consisting of shares quoted in any official list published by any stock exchange licensed by the Securities and Exchange Commission of Sri Lanka;
- (i) the interest derived by a charitable institution, where it is proved to the satisfaction of the Commissioner-General that such interest is applied solely for the purpose of providing care to children, the elderly or the disabled in a home maintained by such charitable institution;
- (j) any prize received by a person as an award made by the President of the Republic of Sri Lanka or by the Government in recognition of an invention created, or any research undertaken, by such person;
- (k) any sum received by a person from the President's Fund established by the President's Fund Act, No. 7 of 1978 or National Defence Fund established by the National Defence Fund Act, No. 9 of 1985;
- (l) an amount equal to the interest or the discount paid or allowed, as the case may be, to any non-resident person or to any licensed commercial bank in Sri Lanka, by the issuer of any sovereign bond denominated in foreign currency, issued on or after October 21, 2008, by or on behalf of the Government of Sri Lanka;
- (m) any amount derived by a senior citizen from an annuity for life for a period of not less than ten years purchased from a bank or an insurance company registered under the Regulation of Insurance Industry Act, No. 43 of 2000;
- (n) any winning from a lottery, the gross amount of which does not exceed Rs. 500,000;
- (o) a dividend paid by a resident company to a member to the extent that dividend payment is attributable to, or derived from, another dividend received by that resident company or another resident company that was subject to withholding under section 84; and
- (p) benefits received or derived by an employee of the government of Sri Lanka from a road vehicle permit issued to that employee;



- (q) the profits and income from any property donated by royal or other grant before March 2, 1815, to any place of public worship administered by a charitable institution, in so far as such profits and income are applied to the purposers for which such grant was made;
- (r) dividends from and gains on the realisation of shares in a non-resident company where derived by a resident company with respect to a substantial participation in the non-resident company. In this paragraph, “substantial participation” means—
  - (i) holding 10 percent or more of the value of shares in the company, excluding redeemable shares; together with
  - (ii) control, either directly or indirectly, of 10 percent or more of the voting power in the company;
- (s) any amount derived by a person from the sale of any gem on which tax has been deducted under subsection (2) of section 84.



## FOURTH SCHEDULE

CAPITAL ALLOWANCES, BALANCING ALLOWANCES AND  
ASSESSABLE CHARGES**Types and classification of depreciable assets.**

1. (1) The types and classification of depreciable assets shall be as follows:

<i>Class</i>	<i>Depreciable Assets</i>
1	computers and data handling equipment together with peripheral devices.
2	buses and minibuses, goods vehicles; construction and earth-moving equipment, heavy general purpose or specialised trucks, trailers and trailer-mounted containers; plant and machinery used in manufacturing.
3	railroad cars, locomotives, and equipment; vessels, barges, tugs, and similar water transportation equipment; aircraft; specialised public utility plant, equipment, and machinery; office furniture, fixtures, and equipment; any depreciable asset not included in another class.
4	buildings, structures and similar works of a permanent nature.
5	intangible assets, excluding goodwill.

(2) Where a depreciable asset owned by a person is only partly used in the production of income from a business at the end of a year of assessment, the cost of and consideration received for the asset shall be apportioned according to the market value of that part of the asset that is used in the production of income from that business and that part not.

**Capital allowances.**

2. (1) Subject to this paragraph, an allowance shall be granted to a person for a year of assessment for each of the person's depreciable assets equal to the depreciation for the year of that asset and calculated in accordance with subparagraph (2).

(2) Depreciation for a year of assessment for each depreciable asset shall be calculated according to the straight line method using the following formula:

A/B

where-

A is the depreciation basis of asset at the end of the year of assessment; and

B is the number of years referred to in subparagraph (3) applicable to that asset.

(3) The number of years applicable to a depreciable asset referred to in subparagraph (2) shall be:

<i>Class</i>	<i>Number of Years</i>
1	5
2	5
3	5
4	20
5	The actual useful life of the intangible asset, or where the intangible asset has an indefinite useful life, 20.

(4) No Capital allowance shall be granted to a person in respect of a road vehicle, other than-

- (a) a commercial vehicle;
- (b) a bus or minibus;
- (c) a goods vehicle; or
- (d) a heavy general purpose or specialised truck or trailer.

(5) For the purposes of this paragraph, "commercial vehicle" means-

- (a) a road vehicle designed to carry loads of more than half a tonne or more than 13 passengers; or
- (b) a vehicle used in a transportation or vehicle rental business.

**Depreciation basis of a depreciable asset.**

3. The depreciation basis of a depreciable asset of a person at the end of a year of assessment is shall be the sum of-

- (a) the depreciation basis of the asset at the end of the previous year of assessment; and

- (b) amounts added to the depreciation basis of the asset during the year of assessment in respect of additions to the cost of asset.

**Balancing allowances and assessable charges.**

4. (1) Where a depreciable asset of a person is realised by the person before the end of a year of assessment-

- (a) an assessable charge is included in calculating the person's income for the year calculated in accordance with the following formula:

$$A - B$$

or

- (b) a balancing allowance is granted to the person for the year calculated in accordance with the following formula:

$$B - A$$

where –

‘A’ is consideration received by the person during the year of assessment for the asset; and

‘B’ is the written down value of the asset at the time of realisation of the asset.

(2) For the purposes of this paragraph, “written down value” of an asset at the time of realisation of the asset means the expenses incurred by a person in acquiring the asset reduced by all Capital allowances granted to the person under paragraph 2 in respect of the asset.

(3) For the purposes of this paragraph and without prejudice to section 39, a person realises a depreciable asset if the person sells the business in respect of which the expenses were incurred to another person who is not an associate.

FIFTH SCHEDULE

QUALIFYING PAYMENTS AND RELIEFS

1. The qualifying payments referred to in section 52 shall be as follows:

- (a) a donation made by an individual or entity in money to an approved charitable institution that is:
  - (i) a charitable institution established for the provision of institutionalized care for the sick or the needy; and
  - (ii) declared by the Minister as an approved charitable institution for the purposes of this sub-paragraph, subject to a maximum of –
    - (iia) in the case of an individual, one-third of the taxable income of the individual or Rupees seventy five thousand, whichever is less;
    - (iib) in the case of an entity, one-fifth of the taxable income of the entity or Rupees five hundred thousand, whichever is less;
- (b) a donation made by an individual or entity in money or otherwise to the following:-
  - (i) the Government of Sri Lanka;
  - (ii) a local authority;
  - (iii) any Higher Education Institution established or deemed to be established under the Universities Act, No. 16 of 1978;
  - (iv) the Buddhist and Pali University of Sri Lanka or any Higher Educational Institution established by or under the Buddhist and Pali University of Sri Lanka Act, No. 74 of 1981;
  - (v) a fund established by the Government of Sri Lanka;
  - (vi) a fund established by a local authority and approved by the Minister;
  - (vii) the Sevana Fund created and administered by the National Housing Development Authority established by the National Housing Development Authority Act, No. 17 of 1979;

- (viii) a fund established by a Provincial Council and approved by the Minister;
- (ix) the Api Wenuwen Api Fund established by the Api Wenuwen Api Fund Act, No. 6 of 2008;
- (x) National Kidney Fund established under the National Kidney Foundation of Sri Lanka (Incorporation) Act, No. 34 of 2006;
- (c) profits remitted to the President's Fund established by the President's Fund Act, No. 7 of 1978 by a public corporation as required by the law by or under which such corporation is established.

2. The reliefs referred to in section 52 shall be as follows:

- (a) Rs. 500,000 for each year of assessment, except that an individual who is a trustee, receiver, executor or liquidator shall not be entitled to deduct this personal relief as such trustee, receiver, executor or liquidator, and the relief is not available to be deducted against gains from the realisation of investment assets;
- (b) in the case of an individual with income from employment, Rs. 700,000 for each year of assessment, up to the total of the individual's income from employment for the year;
- (c) in the case of an individual with rental income from an investment asset, an amount equal to 25 percent of the total rental income for the year of assessment, being a relief for the repair, maintenance, and depreciation relating to the investment asset, but shall only be allowed to the extent no deduction or cost is claimed for any actual expenditures incurred by the taxpayer for the repair, maintenance, and depreciation of the investment asset;
- (d) in the case of an individual who is a senior citizen in a year with interest income derived from a financial institution, Rs. 1,500,000 for each year of assessment, up to the total of the individual's interest income for the year;
- (e) in the case of a resident individual or partner of a partnership with income earned in foreign currency in Sri Lanka, from any service rendered in or outside Sri Lanka to any person to be utilized outside Sri Lanka, Rs. 15,000,000 for each year of assessment, up to the total of such income for the year.

(Section 104)

SIXTH SCHEDULE

TEMPORARY CONCESSIONS

**Enhanced Capital Allowances**

1. (1) A person who invests in Sri Lanka (other than expansion of existing business) on depreciable assets mentioned in subparagraph (4) during a year of assessment shall be granted enhanced capital allowances computed in accordance with this paragraph, in addition to the capital allowances computed under the Fourth Schedule.

(2) A Capital allowance of 100% for expenses incurred by a person, up to USD 03 million on depreciable assets mentioned in subparagraph (4) during a year of assessment shall be granted to that person for that year where the depreciable assets are used in a part of Sri Lanka, other than the Northern Province.

(3) A Capital allowance of 200% for expenses incurred by a person, that are used in the Northern Province up to USD 3 million on depreciable assets mentioned in subparagraph (4) during a year of assessment shall be granted to that person for that year where the depreciable assets are used in the Northern Province.

(4) The depreciable assets referred to in subparagraphs (1) and (2) shall be -

- (a) Class 1 and Class 4 assets within the meaning of paragraph 1 of the Fourth Schedule (being, buildings, structures and similar works of a permanent nature); and
- (b) Depreciable assets (other than intangible assets) comprising plant or machinery that are used to improve business processes or productivity and fixed to the business premises.

(5) Capital allowances arising with respect to a particular year of assessment shall be taken in that year and cannot be deferred to a later year of assessment.

**Assessable Charges and Balancing Allowances**

2. (1) Where an asset for which Capital allowances has been granted under this paragraph is disposed of (or deemed to be disposed of) during a year of assessment -

- (a) where the consideration received for the disposal exceeds the written down value of the asset, the excess shall be included in calculating a person's income for a year of assessment from a business in which the depreciable assets are or were employed; and

- (b) where the written down value of the asset exceeds the consideration received for the disposal, an additional Capital allowance shall be granted for the year in an amount equal to the excess.

(2) In this paragraph-

“Capital allowance expenditure” means expenditure for which Capital allowances are available under this Schedule; and

“written down value” of an asset means the cost of the asset less all Capital allowances granted with respect to expenditure included in that cost.

#### **Expiration period**

3. Paragraph 1 of this Schedule shall expire three years after it becomes effective.

#### **Life Insurance**

4. The portion of the gains and profits of any insurer engaged in the business of life insurance that is deemed as income of the life insurer under section 67 (2) shall be taxed at the rate of fourteen percent for three years of assessment after the commencement of the Act.

#### **Information Technology**

5. (1) A company is entitled to an additional deduction when calculating the company’s income from business for a year of assessment equal to 35% of the total amount deducted for the year under this Act that represents payments made by the company which are to be included in calculating the taxable income of its employees (other than as a company director), where that company—

- (a) conducts a business which predominately consists of providing information technology services within the meaning of the First Schedule;
- (b) has atleast 50 employees during the whole of the year ; and
- (c) report those employees in the statement that the company, as a withholding agent, is required to file under section 86.

(2) A company which is entitled for deduction under this paragraph shall not be entitled to an enhanced capital allowance under paragraph 1 of this Schedule.



(3) Notwithstanding any thing in section 19(1) where the deduction under this paragraph results in an unrelieved loss for a company that unrelieved loss shall not be deducted in any succeeding year of assessment.

**Headquarters Relocation**

6. Notwithstanding anything in the First Schedule, any institution, established on or after October 1, 2017 by relocating in Sri Lanka the headquarters or regional head offices of institutions in the international network, as specified by the Commissioner-General by Notice published in the *Gazette* shall be taxed at the rate of Zero percent for three years of assessment after the commencement of this Act.

**Renewable Energy**

7. Notwithstanding anything in the First Schedule, any person, who has entered into a Standardized Power Purchase Agreement on or before November 10, 2016 with the Ceylon Electricity Board to provide electricity generated using renewable resources shall be taxed at the rate of fourteen percent for the three years of assessment after the commencement of this Act.

**Research and Development**

8. A person is entitled to an additional deduction when calculating the person's income from business for a year of assessment equal to 100% of the total amount of research and development expenses deducted for the year under section 15, for three years of assessment after the commencement of this Act.

---