

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 withholdable 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