



PARLIAMENT OF THE DEMOCRATIC SOCIALIST REPUBLIC OF SRI LANKA

INLAND REVENUE (AMENDMENT) ACT, No. 8 OF 2005

[Certified on 31st March, 2005]

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Inland Revenue (Amendment)
Act, No. 8 of 2005

[Certified on 31st March, 2005]

L. D. — O. 9/2005

AN ACT TO AMEND THE INLAND REVENUE ACT, NO. 38 OF 2000

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 (Amendment) Act, No. 8 of 2005. Short title.

2. Section 3 of the Inland Revenue Act, No. 38 of 2000 (hereinafter referred to as the “principal enactment”) as last amended by Act, No. 12 of 2004 is hereby further amended as follows :— Amendment of section 3 of the Inland Revenue Act, No. 38 of 2000.

(1) in paragraph (*hh*) of that section, by the substitution for the words “gambling ; and” of the words “gambling ;” ; and

(2) by the insertion, immediately after paragraph (*hh*) of that section, of the following new paragraph :—

“(hhh) in the case of a non-governmental organization, any sum received by such organization by way of grants, donations or contributions or any other manner on or after April 1, 2005 ; and”.

3. Section 4 of the principal enactment as amended by Act, No. 37 of 2003, is hereby further amended in subsection (1) of that section as follows :— Amendment of section 4 of the principal enactment.

(1) in the proviso to paragraph (*d*) of subsection (1) of that section, by the substitution for all the words from “Provided that”, to the end of that proviso, and the substitution therefor of the following :—

“Provided that,

- (a) on or before March 31, 2005, any excess of the rental value over one hundred and twenty thousand rupees, where the aggregate of the profits referred to in paragraph (a), does not exceed one hundred and fifty thousand rupees ; and
- (b) for any year of assessment commencing on or after April 1, 2005, any excess of the rental value over one hundred and eighty thousand rupees, where the aggregate of the profits referred to in paragraph (a), exceeds one hundred and fifty thousand rupees,

shall be disregarded ; and” ;

- (2) in paragraph (e) of that subsection in the paragraph immediately after the first proviso to that paragraph, by the substitution for the words “profits from the sole taxable income”, of the words “profits form the sole taxable income.” ;

Amendment of
section 8 of the
principal
enactment.

4. Section 8 of the principal enactment as last amended by Act, No. 12 of 2004, is hereby further amended in paragraph (a) of that section as follows :-

- (1) in sub-paragraph (LXXVII) of that paragraph, by the substitution for the words and figures “Act, No. 21 of 2000 :”, of the words and figures “Act, No. 21 of 2000;” ; and
- (2) by the addition, immediately after sub-paragraph (LXXVII) of that paragraph, of the following new paragraph :—

“(LXXVIII) The Nordic Investment Bank:”.

5. Section 9 of the principal enactment as last amended by Act, No. 37 of 2003, is hereby further amended in subsection (1) of that section, as follows :—

Amendment to
section 9 of the
principal
enactment.

- (1) in paragraph (b) of that subsection, by the substitution for the words “the official emoluments paid to-” of the words and figures “the official emoluments for any year of assessment commencing on or before April 1, 2005, paid to-” ;
- (2) by the insertion, immediately after paragraph (b), of that subsection, of the following new paragraph :-

“(bb) one half of the official emoluments for any year of assessment commencing on or after April 1, 2005, paid to —

- (i) any individual who holds any paid office under the Republic, out of the Consolidated Fund ;
- (ii) any employee of any public corporation, being a public corporation which pays such emoluments or such pension or such profits, from emoluments wholly or partly out of the sums voted annually by Parliament to such corporation from the Consolidated Fund ;
- (iii) the Governor of any Province appointed under the Article 154B of the Constitution ;
- (iv) any member of any Provincial Council ;
- (v) any employee of any Provincial Council or to any officer of any Provincial Public Service ;

- (vi) any member of any local authority ;
- (vii) any employee of any local authority ;
- (viii) any employee of any University which is established or deemed to be established by the Universities Act, No. 16 of 1978 ;
- (ix) any employee of the Institute of Policy Studies of Sri Lanka, established by the Institute of Policy Studies of Sri Lanka Act, No. 53 of 1988 ;
- (x) a member or employee of any board or commission of inquiry established by or under any law being a board or commission, all the members of which are appointed by the President or by a Minister,

and any such pension or any profit from employment referred to in paragraph (c) of subsection (1) of section 4 as are received by any individual in respect of past services performed by such individual or by any other person whether before or after the commencement of this Act, as an individual, an employee, the Governor or a member as referred to in items (i), (ii), (iii), (iv), (v), (vi), (vii), (viii) or (ix) ;” ;

- (3) in paragraph (p) of that subsection, by the substitution for the words “any sum paid to any employee”, of the words “for any year of assessment commencing on or before April 1, 2005, any sum paid to any employee” ; and

- (4) by the insertion immediately after paragraph (p) of that subsection, of the following new paragraph :-

“(pp) for any year of assessment commencing on or after April 1, 2005, such part of any sum paid to any employee being a sum paid as compensation for loss of any office or employment consequent to -

(i) the voluntary retirement by such employee in accordance with a scheme, which in the opinion of the Commissioner-General is uniformly applicable to all employees employed by such employer ; or

(ii) the retrenchment of such employee in accordance with a scheme approved by the Commissioner-General of Labour,

as does not exceed two million rupees.”.

6. Section 10 of the principal enactment as last amended by Act, No. 12 of 2004 is hereby further amended as follows :—

Amendment of
section 10 of the
principal
enactment.

- (1) in paragraph (e) of that section, by the substitution for the words “in any Commercial Bank with the approval of the Central Bank of Sri Lanka ;” of the words “in any Commercial Bank or any specialized Bank with the approval of the Central Bank of Sri Lanka ;” ;

- (2) by the addition, immediately after paragraph (h) of that section, of the following new paragraph :—

“(i) such part of any interest as does not exceed one hundred thousand rupees, accruing in any year of assessment commencing on or after April 1, 2005 to any individual who is a

citizen of Sri Lanka and resident in Sri Lanka, and who is more than sixty years of age on the first day of that year of assessment, from any special deposit scheme for age on the first day of that year of assessment, from any special deposit scheme for senior citizens operated by the National Savings Bank established by the National Saving Bank Act, No. 30 of 1971, or by the Bank of Ceylon established by the Bank of Ceylon Ordinance (Chapter 397), or the People's Bank established by the People's Bank Act, No. 29 of 1971.”.

Amendment of section 11 of the principal enactment.

7. Section 11 of the principal enactment as last amended by Act, No. 12 of 2004, is hereby further amended in subsection (1) of that section by the substitution in paragraph (i) of that subsection, for the words “paid to a share holder”, of the words “paid to an unit holder”.

Amendment of section 12 of the principal enactment.

8. Section 12 of the principal enactment as amended by Act, No. 37 of 2003, is hereby further amended by the repeal of subsection (1A) of that section and the substitution therefor of the following subsection :—

“(1A) There shall be exempt from income tax, the income accruing to the owner of any house from such house, where such house is constructed on or after April 1, 2003, for the year of assessment, in which the construction of such house was completed and for the four years of assessments immediately succeeding that year of assessment, if such house is used solely for residential purposes :

Provided that where the floor area of the house is one thousand and five hundred square feet or less the income accruing to the owner on or after April 1, 2005 shall be exempt from income tax for the year of assessment in which the construction of that house is completed and for the six years of assessment immediately succeeding that year of assessment.”.

9. Section 15 of the principal enactment as last amended by Act, No. 12 of 2004 is hereby further amended as follows :—

Amendment of section 15 of the principal enactment.

(1) by the substitution for paragraph (i) of that section, of the following paragraph :-

“(i) the profits and income within the meaning of paragraph (a) of section 3 arising to any person from -

(i) the sale of gold, gems or jewellery, for any year of assessment commencing prior to April 1, 2005 ;

(ii) export of gold, gems or jewellery, for any year of assessment commencing on or after April 1, 2005;” ;

(2) by the substitution for paragraph (vv) of that section, of the following paragraph :—

“(vv) for the period commencing on April 1, 2004 and ending on December 1, 2004, any profits derived by or accruing to any person, other than a unit trust or a mutual fund, from the sale of any share including a right to any share or a bonus share or a warrant where such disposal has taken place two years after the acquisition ;” ; and

(3) by the insertion immediately after paragraph (vv) of that section, of the following new paragraph :-

“(vvv) for the period commencing on January 1, 2005 and ending on March 31, 2005 and for any year of assessment commencing on or after April 1, 2005, any profits derived by or accruing to any person or partnership other than any unit trust or mutual fund or

any venture capital company, from the sale of any share, a right to any share, a bonus share or a share warrant in respect of which the Share Transaction Levy under section 7 of the Finance Act, No 5 of 2005 has been charged, or where such disposal has taken place after two years from the date of acquisition ;”.

Insertion of new section 16A in the principal enactment.

10. The following new section is hereby inserted immediately after section 16 of the principal enactment and shall have effect as section 16A of that enactment :—

“Exemption of profits and income devired from outside Sri Lanka.

16A. Notwithstanding anything to the contrary in any other provision of this Act, the profits and income derived from outside Sri Lanka by any individual who has been a non-resident of Sri Lanka and who arrives and stays in Sri Lanka, shall be exempt from income tax, if such individual is a citizen of both Sri Lanka and any other country at the time of such arrival and during the whole of such stay.”.

Insertion of new section 17A in the principal enactment.

11. The following new section is hereby inserted immediately after section 17 of the principal enactment and shall have effect as section 17A of that enactment :—

“Exemption from income tax of profits and income from agricultural undertakings.

17A. (1) The profits and income from any agricultural undertaking (other than any profits and income from the sale of capital assets) shall be exempt from income tax for a period of five years reckoned from the commencement of the year of assessment commencing April 1, 2005.

(2) For the purposes of subsection (1) “profits and income from any agricultural undertaking” means the profits and income from the cultivation of land and the sale of the produce therefrom :

Provided that where the produce from the cultivation of land is subject to any process of production or manufacture in the course of one undertaking, such produce shall be deemed to have been sold for production or manufacture at the open market price prevailing at the time of such sale and profits and income from cultivation of land and sale of the produce therefrom shall be deemed to be the profit and income arising from such deemed sales.”.

12. Section 21 of the principal enactment as amended by Act, No. 12 of 2004 is hereby further amended by the substitution for the words and figures from “the government sells any house or flat”, to the end of that section of the words and figures “the government sells on or before March 31, 2005 any house or flat, the floor area of which does not exceed two thousand square feet and the construction of which was commenced by such person on or after January 1, 1977 such sale being the first sale of that house or flat, seventy five *per centum* of the profits and income arising from such sale shall be exempt from income tax.”.

Amendment of section 21 of the principal enactment.

13. Section 21A of the principal enactment as last amended by Act, No. 12 of 2004 is hereby further amended in subsection (4) of that section, by the substitution in paragraph (iii) of that subsection, for the words “non-transitional products”, of the words “non-traditional products”.

Amendment of section 21A of the principal enactment.

14. Section 23 of the principal enactment as last amended by Act, No. 12 of 2004 is hereby amended as follows :—

Amendment of section 23 of the principal enactment.

(1) in paragraph (*bb*) of subsection (1) of that section:—

(a) by the substitution in sub-paragraph (i) of that paragraph, for the words “such equipments, as the case may be ;”, of the following words and figures :—

“such equipments, as the case may be :

Provided that in the case of software acquired on or after April 1, 2005 -

- (A) where such software is a software developed in Sri Lanka, the rate shall be one hundred *per centum* ; and
 - (B) where such software is other than software developed in Sri Lanka the rate shall be twenty five *per centum* ;”;
- (b) by the substitution in sub-paragraph (vi) of that paragraph, for all the words from “any qualified building or any unit” to the words “acquisition as the case may be :” , of the following words :-
- “any qualified building, any unit of a condominium property acquired which is approved by the Urban Development Authority established by the Urban Development Authority Law, No. 41 of 1978, and constructed to be used as a commercial unit or any hotel building (including a hotel building complex) or any industrial building (including a industrial building complex) acquired from a person who has used such buildings in any trade or business, at the rate of six and two third *per centum per annum*, on the cost of construction or cost of acquisition, as the case may be :” ; and
- (c) by the substitution in the proviso to that paragraph, for the words and figures “(v) of this paragraph”, of the words and figures “(v) or (vi) of this paragraph.” ;

- (2) in the paragraph appearing immediately after sub-paragraph (*id*) of the proviso to paragraph (*m*) of subsection (1) of that section, by the substitution for the words and figures “sub-paragraphs (*ia*), (*ib*) and (*ic*)”, of the words and figures “sub-paragraphs (*ia*), (*ib*), (*ic*) and this sub-paragraph” ; and
- (3) by the renumbering subsection (3*a*) of that section as subsection (3A).

15. Section 24 of the principal enactment is hereby amended in subsection (1) of that section, as follows :—

Amendment of
section 24 of the
principal
enactment.

- (1) in paragraph (*c*) of that subsection :—
 - (*a*) by the substitution in sub-paragraph (iii) of that paragraph, for the words “training referred to”, of the words and figures “prior to March 31, 2004, training referred to” ; and
 - (*b*) in the proviso to that paragraph, by the substitution for the words and figures “any year of assessment commencing on or after April 1, 2002”, of the words and figures “any year of assessment commencing on or after April 1, 2002, but prior to April 1, 2005.” ;
- (2) in paragraph (*d*) of that subsection :—
 - (*a*) by the substitution for the words “subsection (1) of section 23”, of the words “subsection (1) of section 23 prior to April 1, 2005,”; and
 - (*b*) in the proviso to that paragraph, by the substitution for the words and figures “any year of assessment commencing on or after April 1, 2002, of the words and figures “any year of assessment commencing on or after April 1, 2002 but prior to April 1, 2005 ;”;

- (3) in the proviso to paragraph (e) of that subsection, by the substitution for the words and figures “on or after April 1, 2002 if the expenses” of the words and figures “on or after April 1, 2002, but prior to April 1, 2005, if such expenses” ;
- (4) in paragraph (f) of that subsection, by the substitution for the words and figures “in any year of assessment commencing prior to April 1, 2002;”, of the words and figures “in any year of assessment commencing prior to April 1, 2002 and in any year of assessment commencing on or after April 1, 2005 ;” ;
- (5) in paragraph (l) of that subsection, by the insertion immediately after sub-paragraph (iv) of that paragraph, of the following new sub-paragraphs :—
 - “(v) any Economic Service Charge levied under Finance Act, No. 11 of 2004 on or after April 1st, 2004 ;
 - (vi) any Value Added Tax on Financial Services levied under Chapter IIIA of the Value Added Tax Act, No. 14 of 2002, (inserted by amendment Act, No. 13 of 2004) on or after April 1, 2005 ;
 - (vii) any Social Responsibility Levy chargeable under the Finance Act, No. 5 of 2005 as is referred to in item (4) of the First Schedule to the said Act, levied on or after April 1, 2005 ;”; and
- (6) by the addition at the end of that subsection, of the following new paragraphs :-
 - “(v) one half of such person’s cost of advertisement in connection with any trade, business, profession or vocation carried on or exercised by him in any year of assessment

commencing on or after April 1, 2005, other than the cost of advertisement outside Sri Lanka incurred solely in connection with the export trade of any articles or goods or the provision of any services for payment in foreign currency ;

- (w) any expenditure incurred in any trade or business carried on in Sri Lanka by any non-resident company, being expenditure in the nature of head office expenditure incurred in any period by reference to the profits and income of which the statutory income from such trade or business for any year of assessment commencing on or after April 1, 2005 is computed.

For the purpose of this paragraph the expression “head-office expenditure” shall have the same meaning as given in section 24A of this Act.”.

16. The following new section is hereby inserted immediately after section 24 of the principal enactment and shall have effect as section 24A of that enactment :—

Insertion of new section 24A in the principal enactment.

“Deduction of head office expenses incurred by any non-resident company.

24A. (1) Where any non-resident company carrying on in Sri Lanka any trade or business incurs in any year of assessment commencing on or after April 1, 2005 any expenditure in the nature of head office expenditure, there shall be deducted from the profits and income of such company for such year of assessment from such trade or business, a sum equal to the lesser of -

- (a) the amount of such expenditure ; or
- (b) the amount equal to ten *per centum* of such profits or income.

(2) For the purpose of this section “head office expenditure” in relation to non-resident company and to any year of assessment means, the executive and general administration expenditure incurred by or on behalf of such company outside Sri Lanka, including expenditure -

- (a) comprising the aggregate of the total profits from employment of and the total cost of traveling undertaken by every employee and every other person employed in, or managing the affairs of, any office of such company outside Sri Lanka ; and
- (b) in respect of —
 - (i) any premises outside Sri Lanka ; and
 - (ii) such other matters connected with the executive and general administration as may be determined by the Commissioner General having regard to all the circumstances of the case, as being reasonable and commercially justifiable .”.

Amendment of
section 29 of the
principal
enactment.

17. Section 29 of the principal enactment as amended by Act, No. 12 of 2004, is hereby further amended as follows :—

(1) in subsection (1A) of that section :-

- (a) by the substitution in paragraph (a) of that subsection, for the words and figures “section 122A and section 122B ; and”, of the words and figures “section 122A and section 122B;” ;

- (b) by the substitution in paragraph (b) of that subsection, for the words “through any other company,”, of the words “through any other company ; and” ; and
- (c) by the insertion immediately after paragraph (b) of that subsection, of the following new paragraph :-

“(c) statutory income from interest arising or accruing to any individual in respect of a secondary market transaction on any Security or Treasury Bond issued under the Registered Stock and Securities Ordinance (Chapter 420), or Treasury Bill issued under Treasury Bills Ordinance (Chapter 417), or Central Bank Securities issued under the Monetary Law Act (Chapter 422) and from the interest on which tax under section 122A has been deducted from a primary dealer,” ;

- (2) in subsection (1B) of that section, by the substitution for all the words and figures from “for the purposes of subsections (1A) and (1B)”, to the end of that paragraph, of the following words and figures :-

“for the purposes of subsection (1A) and (1B) of this section —

“interest income” means the proportionate amount of interest or discount allowed by the issuer of any security or instrument referred to in sub-paragraph (b) of subsection (1B) of this section, in proportion to the holding period of such security or other instrument by any holder over the period of maturity of such security or other instrument ;

“primary market transaction” means the purchase of any Security or Treasury Bond issued under the Registered Stock and Securities Ordinance (Chapter 420), or Treasury Bill issued under the Local Treasury Bills Ordinance (Chapter 417), or Central Bank Security issued under the Monetary Law Act, (Chapter 422) at the time of the original issue of such Security, Bill or Bond or by any primary dealer subject to any discount or payment of interest by the issuer ; and

“secondary market transaction” means the sale of a security or other instruments referred to in sub-paragraph (b) of subsection (1B) of this section or re-purchase or reverse re-purchase of such security or other instruments after the original issue of such security or holding of any such security or instrument for a period longer than one day from the date of acquisition, by any primary dealer who has acquired such security or other instruments.” ;

(3) in subsection (2) of that section :—

(a) by the repeal of paragraph (i) of the definition of “interest” appearing in sub-paragraph (iv) of paragraph (aaa) of that subsection and the substitution therefor of the following paragraph :—

“(i) for the construction or purchase of any building or for the purchase of any site for the construction of any building on or after April 1, 2004 ;” ;

(b) in paragraph (f) of that subsection :—

- (i) by the substitution for all the words from “of thirty five *per centum* of the total statutory income” to the words “and so on :”, of the following words and figures :—

“of thirty five *per centum* of the excess of the total statutory income for that year over the aggregate of —

- (a) statutory income from interest and dividends referred to in subsection (1A) ;
- (b) any interest income referred to in subsection (1B) ; and
- (c) any reward, a share of fine, any lottery winning and any interest on compensation payable referred to in subsection (1c),

for that year and any loss which cannot be deducted may be carried forward to the next year of assessment and so on:” ;

- (ii) in item (iii) of the proviso to that paragraph, by the substitution for the words “deducted from income arising ;”; of the words “deducted from income arising subsequent to such declaration of insolvency ;” ; and

- (4) in subsection (2A) of that section, by the substitution for the words and figures “The provisions of paragraphs (b), (c), (d) and (e) of subsection (2), shall”, of the words and figures, “The provisions of

paragraphs (b), (c), (d) and (e) of subsection (2), or subsection (4), or sub-paragraphs (i) and (iii) of paragraph (d) of subsection (5), or subsection (6), (7) and (8) shall”.

Amendment of
section 31 of the
principal
enactment.

18. Section 31 of the principal enactment as, last amended by Act, No. 12 of 2004, is hereby further amended as follows :—

- (1) in the proviso to subsection (2) of that section by the substitution for the words and figures “otherwise than in money, made on or after April 1, 2004 as in excess of two million rupees”, of the words and figures “otherwise than in money, made on or after April 1, 2004, but prior to January 1, 2005, as in excess of two million rupees” ;
- (2) in paragraph (a) of subsection (4) of that section :—
 - (a) by the substitution for sub-paragraph (i) of that paragraph, of the following sub-paragraph :—
 - “(i) in respect of all qualifying payments other than those referred to in —
 - (a) paragraphs (b), (c), (g), (h), (i), (j) and (k) of subsection (2) made by him or deemed to have been made by him in any year of assessment ending on or before March 31, 2004 ; and
 - (b) paragraphs (a), (b), (c), (e), (g), (h), (i), (j) and (k) of subsection (2) made by him or deemed to have been made by him in any year of assessment commencing on or after April 1, 2004,

shall not exceed one third of such assessable income or twenty five thousand rupees, whichever is less ;” ;

- (b) by the substitution in sub-paragraph (iii) of that paragraph for the words and figures “paragraph (g) of subsection (2), made by him”, of the words and figures “paragraph (g) of subsection (2), made by him prior to March 1, 2004” ; and
- (c) by the substitution for sub-paragraph (v) of that paragraph, of the following sub paragraph :—

“(v) in respect of the aggregate of all qualifying payments made —

- (a) on or before March 31, 2004 and referred to in paragraphs (a), (c), (d), (e) and (f) of subsection (2), shall not exceed twenty five thousand rupees ; and
- (b) on or after April 1, 2004 and referred to in paragraphs (a), (e) and (g) of subsection (2), shall not exceed seventy five thousand rupees or one-third of such assessable income,”

- (3) in subsection (6A), by the substitution for the words and figure “in paragraphs (i) or (j) of subsection (2)”, of the words and figures “in paragraph (i) of subsection(2)”. and

19. Section 38D of the principal enactment is hereby amended by the substitution for the words “Schedule to this Act.” of the following words :—

“Schedule to this Act :

Provided that the provisions of this section shall not apply in relation to the sale on or after January 1, 2005 of any share, if in respect of such sale the Share Transaction Levy under section 7 of the Finance Act, No. 5 of 2005 has been paid.”.

Amendment of
section 38D of
the principal
enactment.

Amendment of
section 39 of the
principal
enactment.

20. Section 39 of the principal enactment as amended by Act, No.37 of 2003, is hereby further amended in subsection (2) of that section, by the substitution for sub-paragraph (ii) of paragraph (a) of that subsection, of the following sub-paragraph:-

“(ii) subject to the provisions of section 17A of this Act, cultivating land with plants of whatever description ; and ;”.

Amendment of
section 48A of
the principal
enactment.

21. Section 48A of the principal enactment as last amended by Act No. 12 of 2004, is hereby further amended by the substitution for the words and figures “and (h) of section 11,” of the words and figures “and (h) of subsection (1) of section 11,”

Amendment of
section 52A of
the principal
enactment.

22. Section 52A of the principal enactment as last amended by Act, No.12 of 2004, is hereby further amended as follows :—

- (1) in subsection (1) of that section, by the substitution for the words and figures “commencing on or after April 1, 2003,” of the words and figures commencing on or after April 1, 2003 but prior to March 31, 2005,” ; and
- (2) in subsection (2) of that section, by the substitution for the words and figures “commencing on or after April 1, 2003”, of the words and figures “commencing on or after April 1, 2003 but prior to March 31, 2005,”.

Amendment of
section 53 of the
principal
enactment.

23. Section 53 of the principal enactment as last amended by Act, No. 12 of 2004, is hereby further amended in paragraph (e) of subsection (1) of that section, by the substitution for the words “under paragraph (a) of subsection (1)”, of the words “under paragraph (a) of this subsection”.

Amendment of
section 60 of the
principal
enactment.

24. Section 60 of the principal enactment as last amended by Act, No. 12 of 2004, is hereby further amended by the substitution for the words and figures “commencing on or after April 1, 2004” of the words and figures “commencing prior to April 1, 2002”.

25. Section 62 of the principal enactment is hereby amended as follows :—

Amendment of
section 62 of
the principal
enactment.

- (1) in subsection (1) of that section, by the substitution for the words “Where, in the case of a company controlled by not more than five persons, the Assessor is satisfied that the company has not distributed”, of the following words :—

“Where, in the case of —

- (a) a company controlled by not more than five persons, in respect of any year of assessment commencing on or before April 1, 2005 ; or
- (b) any company in respect of any year of assessment commencing on or after April 1, 2005,

the Assessor is satisfied that the company has not distributed”, and

- (2) by the repeal of subsection (7) of that section.

26. Section 72A of the principal enactment is hereby amended as follows :—

Amendment of
section 72A of
the principal
enactment.

- (1) in subsection (1) of that section, by the substitution for the words “subject to the provisions of this section”, of the words “subject to the provisions of this section:

Provided that for any year of assessment commencing on or after April 1, 2005, the income tax referred to in subsection (1) of this section shall not apply, if the Economic Service Charge paid under the Finance Act, No.11 of 2004, is more than the income tax payable under the provisions of this subsection :

Provided further, if the income tax payable under subsection (1) is more than the Economic Service Charge paid under the Finance Act, No.11 of 2004, the amount of income tax payable shall be reduced by the Economic Service Charge paid for the same year of assessment.” ; and

- (2) in subsection (3) of that section, by the substitution for the words “against the Economic Service Charge paid by the partnership” of the words “against the Economic Service Charge levied under the Finance Act, No.11 of 2004, paid by the partnership”.

Insertion of new section 96A in the principal enactment.

27. The following new section is hereby inserted immediately after section 96 of the principal enactment, and shall have effect as section 96A of that enactment :—

“Profits and income of Non-Governmental Organization to be chargeable with income tax.

96A. (1) Where any Non - Governmental Organization as defined in subsection (2) of this section, receives in any year of assessment, commencing on or after April 1, 2005 any money by way of grants, donations, contributions or by any other means, an amount equal to three *per centum* of such money, shall notwithstanding anything to the contrary in any other provision of this Act, be deemed to be the full profits and income of such year of assessment, and such profits and income of such non-governmental organization shall be deemed to arise in Sri Lanka.

(2) For the purposes of subsection (1) a “Non Government Organization” means any organization or association formed by a group of persons on a voluntary basis which is non - governmental in nature dependant on grants, donations, contributions or money received from any other means locally or from any foreign country or any foreign or local

organization and established or constituted for the provision of relief and services of a humanitarian nature to the poor and destitute, to the sick, orphans and widows, youth and children and generally for providing relief to the needy in times of disaster, which is determined by the Commissioner-General to be a Non-Governmental Organization for the purpose of this section.

(3) The profits and income of a Non Governmental Organization, shall be chargeable with income tax at the appropriate rate as specified in the Sixth Schedule to this Act :

Provided that, where the Commissioner - General is satisfied that any Non Governmental Organization is engaged solely in—

- (a) rehabilitation and the provision of infrastructure facilities and livelihood support to displaced persons in any area identified by the Government for such purposes ; 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 consequently required to be provided ,”.

the Commissioner - General may remit the tax payable by such Non - Governmental Organization for that year of assessment.”.

Amendment of
section 98 of the
principal
enactment.

28. Section 98 of the principal enactment as last amended by Act, No.12 of 2004 is hereby further amended as follows :—

- (1) in paragraph (b) of subsection (1c) of that section, by the substitution for the words “Where there were no remittances declared during”, of the words “Where there were no remittances made during”; and
- (2) by the insertion immediately after subsection (1c) of that section, of the following new subsections :-

“(1D) (a) Any individual who satisfies any four requirements out of the five requirements specified in paragraph (b) of this subsection, during any year of assessment commencing on or after April 1,2005, shall submit a return of income to the Commissioner - General not later than one month after the fulfillment of such requirements.

(b) For the purpose of paragraph (a) of this subsection, the requirements shall be as follows :—

- (i) paying a monthly residential electricity bill exceeding a net amount of ten thousand rupees ;
- (ii) incurring a monthly credit card bill exceeding twenty-five thousand rupees ;
- (iii) paying a monthly residential telephone bill exceeding a net amount of ten thousand rupees ;
- (iv) purchasing an air ticket to travel abroad ; and
- (v) owning a motor vehicle which is used for travelling purposes.

(1E) Every person chargeable to pay income tax under any provisions of this Act, shall be required to declare -

(a) the value of every asset and liability, as at the last day of any year of assessment commencing on or after April 1, 2005 ; and

(b) any profits or income exempted from the payment of income tax under this Act, for any year of assessment commencing on or after April 1, 2005.”.

29. Section 104 of the principal enactment is hereby amended in subsection (1) of this section as follows :—

Amendment of section 104 of the principal enactment.

(1) in paragraph (b) of that subsection, by the substitution for the words “that section ; or”, of the words “of that section;”.

(2) in paragraph (c) of that subsection by the substitution for the words and figure “Provisions of section 111;” of the words and figure “Provisions of section 111;or”; and

(3) by the insertion immediately after paragraph (c) of that subsection, of the following new paragraph :—

“(d) any individual who, on or after April 1, 2005 fails to furnish within the time specified in subsection (1D) of section 98, a return which such individual is required to furnish under that section ;”.

30. The following new Chapter is hereby inserted immediately after Chapter XIV of the principal enactment and shall have effect as Chapter XIV_A of that enactment :-

Insertion of new Chapter XIV_A in the principal enactment.

“CHAPTER XIV_A**PROVISIONS RELATING TO THE PAYMENT OF INCOME TAX BY A
GOVERNMENT INSTITUTION**

Payment of
income tax
by a
Government
institution for
its
employees.

121A. (1) Notwithstanding anything contained in section 2 and in Chapter XIII and XIV of this Act, the income tax attributable to one half of official emoluments of any employee of a Government Institution, for any year of assessment commencing on or after April 1, 2005, shall be paid by such Institution, if such part of the official emoluments of such employee for that year of assessment, exceeds an amount equal to the allowance referred to in paragraph (a) of subsection (1) of section 30 :

Provided that no part of such income tax shall be refunded to such employee or set off against any tax payable by such employee.

(2) Notwithstanding anything contained in section 4 of this Act, the income tax in respect of one half of the official emoluments of any employee of a Government Institution shall be deemed not to form part of the profits from employment of such employee.

(3) For the purposes of subsection (1) “the income tax attributable to one half of the official emoluments of any employee of a Government Institution” means the income tax computed, at the rates specified in Part 1D of the First Schedule to this Act, on the one half of emoluments of such employee, after deducting therefrom a sum equal to the allowance referred to in paragraph (a) of subsection (1) of section 30.

(4) For the purposes of this Chapter –

“Government Institution” means any institution or other body which employs individuals holding any paid office under the Republic, a public corporation, Provincial Council, a local authority, University, Institution, board or Commission referred to in paragraph (bb) of subsection (1) of section 9 of this Act ; and

“official emoluments” means profits from employment as specified in paragraph (a) of subsection (1) of section 4 received for services rendered, excluding pension.”.

31. Section 122B of the principal enactment as last amended by Act, No. 12 of 2004, is hereby further amended in subsection (1), by the substitution for the words and figures “where such payment takes place on or after November 1, 2002”, of the words and figures “where such payment takes place on or after November 1, 2002, but prior to April 1, 2005”,

Amendment of section 122B of the principal enactment.

32. Section 123A of the principal enactment as last amended by Act, No. 12 of 2004, is hereby further amended by the substitution for the words and figures “such Security, Bond or Bill or where such Security, Bond or Bill has been issued prior to April 1, 2002”, and “if such income interest forms part”, of the words and figures “such Security, Bond or Bill,” and “if such interest income forms part”, respectively.

Amendment of section 123A of the principal enactment.

33. Section 123B of the principal enactment as last amended by Act, No.12 of 2004, is hereby further amended in subsection (3) of that section by the substitution for the words “Section 122A or 123B, as the case may be”, of the words “Sections 122A or 122B, as the case may be, when such interest is paid or credited”.

Amendment of section 123B of the principal enactment.

Amendment of
section 124B of
the principal
enactment.

34. Section 124B of the principal enactment is hereby amended in subsection (1) of that section, by the substitution for the words “Any person other than an individual” of the words “Any person being a company, or any other person or partnership receiving interest income as a business receipt”.

Amendment of
section 129A of
the principal
enactment.

35. Section 129A of the principal enactment is hereby amended by the substitution for the words and figures “in subsection (3A) of section 144,” of the words and figures “in subsection (3) of section 144,”.

Amendment of
section 132A of
the principal
enactment.

36. Section 132A of the principal enactment as amended by Act, No. 12 of 2004, is hereby further amended in the second proviso to that section by the substitution for the words “such person shall be liable to,” of the words “such person or partnership shall be liable to,”.

Amendment of
section 132B of
the principal
enactment.

37. Section 132B of the principal enactment is hereby amended in paragraph (a) of subsection (2) of that section as follows :-

- (1) in sub - paragraph (i) of that paragraph, by the substitution for the words “working day of each month ;”, of the words “working day of each month or on the date of the last reward payment in any month;” and
- (2) in sub- paragraph (ii) of that paragraph, by the substitution for the words “working day of each month;”, of the words : “working day of each month or on the last share of fine payment in any month ;”.

Amendment of
section 134 of
the principal
enactment.

38. Section 134 of the principal enactment as last amended by Act, No.12 of 2004, is hereby further amended in subsection (5) of that section, as follows :—

- (1) by the substitution for all the words from “under this Act, for any year of assessment by any person

who has made” to the words “such return is due.”;
of the following words :-

“under this Act —

- (a) by any person who has made a return of his income on or before the thirtieth day of November of the year of assessment immediately succeeding that year of assessment, after the expiry of the three years from the end of that year of assessment ; and
 - (b) by any person other than the person referred to in the preceeding paragraph after the expiry of a period of six years from the end of that year of assessment :”;
- (2) in the second proviso to that subsection by the substitution for the words “not later than five years from the end of that year of assessment.”, of the words “at any time after the end of that year of assessment.”.

39. Section 144A of the principal enactment is hereby repealed.

Repeal of section 144A of the principal enactment.

40. Section 162A of the principal enactment is hereby repealed and the following section substituted therefor:-

Replacement of section 162A of the principal enactment.

“Action not to commence after expiry of five years in certain circumstances.

162A. The Commissioner - General shall not, subject to the provisions of section 4 of the Inland Revenue (Regulation of Amnesty) Act, No.10 of 2004, commence any action under sections 148, 149, 150, 151 or 152 of this Act for the recovery of tax in default, after the expiry of five years from the end of the year of assessment in which the assessment by which such tax was charged or levied becomes final and conclusive under section 142.”.

Amendment of
the First
Schedule to the
principal
enactment.

41. The First Schedule of the principal enactment as last amended by Act, No. 12 of 2004, is hereby further amended as follows :—

- (1) in Part 1C of that Schedule by the substitution for the words and figures “For any year of assessment commencing on or after April 1, 2004”, of the words and figures “For any year of assessment commencing on or after April 1, 2004 but prior to April 1, 2005”;
- (2) by the insertion immediately after Part 1C of that Schedule of the following new part:-

“PART ID

For any year for assessment commencing on or after April 1, 2005—

On the first Rs.300,000 of the taxable income	<i>5 percentum</i>
On the next Rs. 200,000 of the taxable income	<i>10 percentum</i>
On the next Rs. 200,000 of the taxable income	<i>15 percentum</i>
On the next Rs. 200,000 of the taxable income	<i>20 percentum</i>
On the next Rs. 200,000 of the taxable income	<i>25 percentum</i>
On the next balance taxable income	<i>30 percentum”.</i>

- (3) by the insertion immediately after Part IIIB of that Schedule of the following new part :-

“PART IIIC

For any year of assessment commencing on or after April 1, 2005 —

On the first Rs. 2,000,000 if, either the period of contribution in relation to any category of payments referred to in paragraphs (a), (b), (c), (d), (e) or (f) of subsection (2) of section 32 or the period of service, is not less than 20 years ; or

Nil

On the first Rs. 1,000,000 if, either the period of contribution in relation to any category of payments referred to in paragraphs (a), (b), (c), (d), (e) or (f) of subsection (2) of section 32 is less than 20 years, —

Nil

On the next Rs. 500,000	5 <i>per centum</i>
On the next Rs. 500,000	10 <i>per centum</i>
On the balance	15 <i>per centum</i>

42. The Sixth Schedule to the principal enactment as amended by Act, No.12 of 2004, hereby further amended as follows :-

Amendment of
the Sixth
Schedule to the
principal
enactment

- (1) in item 20 of that Schedule, by the substitution for the words “maximum of fifteen *per centum*.” of the words “maximum of ten *per centum*”;
- (2) by the addition immediately after item 23 of that Schedule, of the following new item :-

“24 The rate of income tax applicable to the profit on the receipt of any fund set up or funds received by a Non Governmental Organization (Section 96A) 30 *per centum*.”.

43. (1) The amendments made to paragraph (c) of subsection (1A) and subsection (1B) of section 29 and to section 123A of the principal enactment by section 17(1) and (2) and 32 of this Act, shall for all purposes be deemed to have come into force on April 1, 2002.

Retrospective
effect.

(2) The amendment made to section 132B of the principal enactment by section 37 of this Act, shall for all purposes be deemed to have come into force on April 1, 2003.

(3) The amendments made to sub-paragraph (vi) of paragraph (bb) of subsection (1) of section 23, paragraph (1) of the definition of “interest” appearing in sub-paragraph

(iv) of paragraph (*aaa*) and paragraph (*f*) of subsection (2) of section 29, section 72A, 144A, and 162A of the principal enactment by sections 14(1)(*b*), 17(3) and (4), 26, 39 and 40 of this Act, shall for all purposes be deemed to have come into force on April 1, 2004.

(4) The amendment made to paragraph (*e*) of section 10 of the principal enactment by section 6 (1) of this Act, shall for all purposes be deemed to have come into force on January 1, 2005.

(5) The amendments made to section 8 by the inclusion of new paragraph (LXXVIII), section 39 and 134 of the principal enactment by sections 20 and 38 of this Act and the new sections 16A and 96A inserted into the principal enactment by sections 10 and 27 of this Act, shall for all purposes be deemed to have come into force on April 1, 2005.

Amendment of
section 61 of Act
No. 12 of 2004.

44. Section 61 of the Inland Revenue (Amendment) Act, No. 12 of 2004 is hereby amended as follows :—

- (1) in subsection (1) of that section, by the substitution for the words and figures “paragraph (*t*) of section 15 and section 48A,” and for the figures “6(5), 20, 24,” of the words and figures “section 48A” and of the figures “21, 25”, respectively ;
- (2) in subsection (2) of that section by the substitution for the words and figure “by section 11 of this”, of the words and figure “by section 12 of this” ;
- (3) in subsection (4) of that section, by the substitution for the words “and to paragraph (*a*) and the proviso to paragraph (*a*)” of the words “and the proviso to paragraph (*a*)” ;
- (4) in subsection (5) of that section –

(*a*) by the substitution in paragraph (*a*) of that subsection by the substitution for the figures

“9, 10, 12, 18 and 21”, of the figures “10, 11, 13, 19 and 22”; and

- (b) by the repeal of paragraph (b) of that section and the substitution therefor of the following paragraph :—

“(b) The new paragraph (hh) inserted to section 3 and the amendment made to paragraph (t) of section 15 of the principal enactment by section 2(2) and 6 (5) of this Act;” ;

- (5) in subsection (6) of that section –

- (a) by the substitution in paragraph (a) of that subsection for the figures “15 (2) and (3), 17, 21, 22, 23, ” of the figures “16 (2) and (3), 18, 23, 24”; and

- (b) by the substitution for the figures “131A, 131B, 132C” and for the figures “19, 25, 28” of the figures “130D, 130E”, and of the figures “20, 26, 29”, respectively.

45. In the event of any inconsistency between the Sinhala and Tamil texts of this Act, the Sinhala text shall prevail.

Sinhala text to prevail in case of inconsistency.

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