



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

**INLAND REVENUE (AMENDMENT)
ACT, No. 12 OF 2004**

[Certified on 18th November, 2004]

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Inland Revenue (Amendment)
Act, No. 12 of 2004

[Certified on 18th November, 2004]

L. D. — O. 16/2004.

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. 12 of 2004. Short title.

2. Section 3 of the Inland Revenue Act, No. 38 of 2000 (hereinafter referred to as the “principal enactment”) as amended by Act, No. 10 of 2002, is hereby further amended as follows :— Amendment of section 3 of Act No. 38 of 2000.

(1) in paragraph (*h*) of that section, by the substitution for the words “March 31, 2002”, of the words “March 31, 2002; and”; and

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

(*hh*) winnings from a lottery, betting or gambling; and”.

3. Section 8 of the principal enactment as last amended by Act, No. 37 of 2003, is hereby further amended as follows :— Amendment of section 8 of the principal enactment.

(1) in paragraph (*a*) of that section :—

(*a*) by the substitution in sub-paragraph (LXXIV), for the words “Investment Bank;”, of the words “Investment Bank;” ; and

(*b*) by the insertion immediately after sub-paragraph (LXXIV), of the following new sub-paragraphs :—

“(LXXV) The Nordic Development Fund established pursuant to a treaty entered between the Governments of Denmark, Finland, Iceland, Norway and Sweden on November 2, 1988 ;

(LXXVI) Management Corporation established under Apartment Ownership Law No. 11 of 1973 as last amended by Act, No. 39 of 2003;”;

(LXXVII) the Sri Lanka Institute of Taxation incorporated by the Sri Lanka Institute of Taxation (Incorporation) Act, No. 21 of 2000;

(c) in the proviso to that paragraph by the substitution for the word and figure “and (LXXIV)”, of the words and figures “(LXXIV) and (LXXV),”.

(2) in paragraph (c) of that section, by the substitution in sub-paragraph (iii) for the words “of the unit.”, of the words “of the unit for any year of assessment commencing on or before April 1, 2003.”.

Amendment of section 10 of the principal enactment.

4. Section 10 of the principal enactment, as last amended by Act, No. 19 of 2003, is hereby further amended by the repeal of paragraph (*eeee*) of that section.

Amendment of section 11 of the principal enactment.

5. Section 11 of the principal enactment as last amended by Act, No. 37 of 2003, is hereby further amended as follows :—

(1) by the renumbering of that section as subsection (1) of that section ;

(2) in paragraphs (g) of the renumbered subsection (1) by the substitution for the words “any dividend paid to a shareholder of a company, out of any such

dividend received by that company as is referred to in paragraph (a) or (f), if the first mentioned”, of the words “any dividend paid to a shareholder of a company, out of any such dividend received by that company during the period for which dividends as is referred to in paragraphs (a), (b), (c), (d), (e) or (f) respectively, are exempt from income tax, if the first mentioned, ;

- (3) in paragraph (h) of the re-numbered subsection (1) for the words “paragraph (a) or (f)” wherever those words appear in that paragraph, of the words “paragraphs (a), (b), (c), (d), (e) or (f)” respectively ; an”

- (4) by the addition immediately after the renumbered subsection (1), of the following new subsection :—

“(2) (a) The provisions of paragraph (b), (c), (d), or (e) of subsection (1) shall not apply to any dividend paid on or after April 1, 2004, in relation to any agreement referred to therein, which has been entered into on or after November 6, 2002. ; or

(b) The provisions of paragraph (f) of subsection (1), shall not apply to any dividend paid on or after April 1, 2004, by any company referred to in that paragraph, which qualified for an exemption on to after November 6, 2002.”.

6. Section 15 of the principal enactment as last amended by Act, No. 37 of 2003, is hereby further amended as follows :—

Amendment of
section 15 of the
principal
enactment.

- (1) in paragraph (g) of that section, by the substitution for the words “any prize received”, of the words and figures “any prize received on or before March 31, 2004,”;

- (2) in paragraph (h) of that section, by the substitution for the words “an agreement has been entered into”, of the words and figures “an agreement has been entered into before April 1, 2004”;
- (3) in paragraph (j) of that section, by the substitution for the words “arising in Sri Lanka,”, of the words and figures “arising in Sri Lanka before April 1, 2004,”;
- (4) in paragraph (m) of that section, by the substitution for the words “income arising to”, of the words and figures “income arising before April 1, 2004, to”;
- (5) by the repeal of paragraph (t) of that section ;
- (6) in paragraph (v) of that section, by the substitution for the words “any person,”, of the words and figures “any person, for any year of assessment commencing on or before April 1, 2003,”;
- (7) by the insertion immediately after paragraph (v) of that section, of the following new paragraph :—
 - (vv) for any year of assessment commencing on or after April 1, 2004, any profit derived by or accruing to any person other than a unit trust or 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 after two years from the date of acquisition :

Provided that the two year period has no application to any unit trust or mutual fund;”;
and

- (8) by the addition at the end of that section, the following :—

“For the purposes of this paragraph, “profit” includes gains.”.

7. Section 18A of the principal enactment as last amended by Act, No. 10 of 2002, is hereby further amended in subsection (2) of that section, by the substitution for the words “by Order published in the Gazette”, of the words and figures “by Order published in the Gazette on or before June 30, 2004”.

Amendment
of section 18A
of the
principal
enactment.

8. Section 21 of the principal enactment is hereby amended by the substitution for the words “and income arising from”, of the words “and income arising on or after March 31, 2005 from”.

Amendment
of section 21
of the
principal
enactment.

9. Section 21A of the principal enactment as last amended by Act, No. 37 of 2003, is hereby repealed and the following section substituted therefor :—

Replacement
of section 21A
of the
principal
enactment.

“Exemption
from income
tax of the
profits and
income of any
company from
any specified
undertaking.

21A. (1) The profits and income within the meaning of paragraph (a) of section 3 (other than any profits and income from the sale of capital assets) of any company from any specified undertaking referred to in subsection (2) and carried on by such company on or after April 1, 2002, shall be exempt from income tax for a period of five years reckoned from the year of assessment in which the undertaking commences to make profits or any year of assessment not later than two years reckoned from the date on which the undertaking commences to carry on commercial operations, whichever is earlier.

(2) For the purposes of subsection (1) “specified undertaking” in relation to a company means—

(a) an undertaking carried on by a company—

- (i) incorporated before April 1, 2002 and which commenced operations on or after April 1, 2002 but before April 1, 2004, with a minimum investment of rupees two and a half million, invested in such undertaking ;
- (ii) incorporated before April 1, 2002 and which commenced operations on or after April 1, 2004, with a minimum investment of rupees fifty million, invested in such undertaking ;
- (iii) incorporated and commenced to carry on the undertaking on or after April 1, 2002 but before April 1, 2004 ; or
- (iv) incorporated on or after April 1, 2004 with a minimum investment of rupees ten million, invested in such undertaking,

and which is engaged in agriculture, agro processing, industrial and machine tool manufacturing, machinery manufacturing, electronics, export of non-traditional products, or information technology and allied services.

Any company incorporated prior to April 1, 2002 shall be deemed to be carrying on any specified undertaking, if such company has on or after April 1, 2002 commenced an activity which produce goods or commodities that are distinct from the goods or commodities that were being made by such company with regard to the production methods and output and where the profits and income from such activity can be separately ascertained.

- (b) (i) any designated project carried on by a company, which qualify under the same investment criteria as referred to in sub paragraph (ii) of paragraph (a) of subsection (2) or ;
- (ii) an undertaking carried on by a company on or after April 1, 2002 but before April 1, 2004, with an investment in excess of rupees two hundred and fifty million,

and which conforms to the prescribed guidelines ; and

- (c) an undertaking of a pioneering nature as determined by the Minister by Order published in the Gazette carried on by a company on or after April 1, 2004, with an investment in excess of rupees two hundred and fifty million.
- (3) (a) Notwithstanding the provisions of subsection (1), for any company having an investment not less than rupees one thousand million in any pioneering undertaking as determined by the Minister, the period of exemption shall be the corresponding period referred to in Column II below, provided the corresponding minimum investment as given in Column I has been made—

| <i>Column I</i> <i>(Rs. Million)</i> | <i>Column II</i> <i>(Years)</i> |
|---|------------------------------------|
| 1000 to 2499 | 08 |
| 2500 and above | 10 |

- (b) The amount of investment referred to in subparagraph (i) of paragraph (b) of subsection (2) shall not be applicable to any Export Production Village Company.
 - (c) In case of a company receiving income from any other trade or business in addition to the income from any specified undertaking or designated project or pioneering undertaking as referred to above, the exemption provided under this section shall be applicable only in respect of the profits and income from the relevant specific undertaking, designated project or pioneering undertaking, as the case may be.
- (4) For the purposes of this section—
- (i) “agriculture” means the cultivation of land with plants of any description, rearing of fish or animal husbandry including poultry farms, veterinary and artificial insemination services and other support services ;
 - (ii) “agro processing” means the processing of any agricultural product or fishing product including deep sea fishing, but excludes the processing of black tea in bulk and the manufacture of liquor ;
 - (iii) “non-transitional products” means any goods (other than black tea in bulk, crepe rubber, sheet rubber,

scrap rubber, latex and fresh coconuts,) including deemed export of such goods, where not less than eighty *per centum* of the total turnover of such undertaking is from export or deemed export of such non-traditional goods for any year of assessment ;

- (iv) “deemed export” means the production or manufacture and supply by any person or partnership of any commodities (other than black tea in bulk, crepe rubber, sheet rubber, scrap rubber, latex and fresh coconuts) to any exporter of such goods without further production or manufacture by such exporter, or the production or manufacture and supply of any goods to any exporter for the production, manufacture or packaging for export of any commodity which is a non-traditional product.”.

10. Section 21D of the principal enactment is hereby amended by the substitution for the words “any company which commences a new undertaking which is engaged in”, of the words “any new undertaking of a company which is engaged solely in”.

Amendment of
section 21D of the
principal
enactment.

11. Section 21E of the principal enactment is hereby amended as follows :—

Amendment of
section 21E of the
principal
enactment.

- (1) by the repeal of subsection (2) of that section, and the substitution therefor of the following subsection :—

“(2) The period of three years referred to in subsection (1) shall be reckoned from :—

- (a) the year of assessment in which the business that is acquired commences to make profits ; or
- (b) any year of assessment not later than two years reckoned from the date on which the business that is acquired commenced commercial operations,

whichever is earlier.”.

(2) by the substitution for the definition of the term “acquires”, of the following definition :—

“acquires” means—

- (i) acquiring the ownership of the enterprise as an owner ;
- (ii) acquiring not less than fifty one *per centum* of the ownership of the enterprise with management rights or as partner or a joint venture partner ; or
- (iii) acquiring the business (including the assets, liabilities and employees) other than by way of acquiring the shares of such enterprise, by way of a Deed.”.

Amendment of section 21F of the principal enactment.

12. Section 21F of the principal enactment is hereby amended in subsection (1) of that section, by the substitution for the words “not less than rupees ten million but not exceeding rupees one hundred million,”, of the words “not less than rupees ten million,”.

Amendment of section 21H of the principal enactment.

13. Section 21H of the principal enactment is hereby amended as follows :—

- (1) in paragraph (b) of the proviso to subsection (1) of that section, by the substitution for the words “an associate company within the meaning of the Companies Act, No. 17 of 1982.”, of the words “an associate company.”;
- (2) in the proviso to subsection (2) of that section, by the substitution for the words “the company commences to carry on commercial operations the exemption afforded”, of the words “the company commences to carry on commercial operations or more than twenty *per centum* of the total specific investment made in any year has been made in one or more associate companies of such venture capital company, the exemption afforded”; and
- (3) by the addition at the end of that section of the following new subsection :—

“(7) For the purposes of this section “associate company” means any company within a group of companies which includes a parent company and all its subsidiaries where the parent company has one or more subsidiaries and such subsidiaries are controlled by the parent company either by appointing a majority of the Board of Directors of such subsidiary or by holding more than one half in nominal value of the equity share capital of such subsidiary.”.

14. Section 23 of the principal enactment as last amended by Act, No. 19 of 2003, is hereby further amended as follows :—

Amendment of
section 23 of the
principal
enactment.

- (1) in subsection (1) of that section —
 - (a) by the substitution in paragraph (a) of that subsection, for the words “by such person;”, of the words and figures “by such person, for any year of assessment commencing on or before April 1, 2003;”;

- (b) by the substitution in paragraph (b) of that subsection, for the words “an allowance for depreciation”, of the words and figures “for any year of assessment commencing on or before April 1, 2003, an allowance for depreciation”;
- (c) by the insertion immediately after paragraph (b) of that subsection, of the following new paragraph :—

“(bb) an allowance for depreciation by wear and tear of the following assets acquired, constructed or assembled and arising out of their use on or after April 1, 2004, by such person in any trade, business, profession or vocation carried on by him —

- (i) information technology equipments and calculating equipment including accessories acquired or assembled by such person and software, acquired by such person, at the rate of twenty five *per centum per annum* on the cost of acquisition or assembling of such equipments, as the case may be ;
- (ii) any motor vehicle or furniture acquired by such person, at the rate of twenty *per centum per annum*, on the cost of acquisition ;
- (iii) any other machinery or equipment not referred to in sub paragraphs (i) and (ii) above and any plant acquired or assembled by such person, at the rate of twelve and one half *per centum per annum*, on the cost of acquisition or assembly ;

- (iv) any intangible assets (other than goodwill) acquired by such person, at the rate of ten *per centum per annum*, on the cost of acquisition ;
- (v) any bridge, railway, reservoir, electricity or water distribution line and toll roads constructed by such person or acquired from a person who has constructed such assets during the period of such ownership, 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 ;
- (vi) any qualified building or 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 hotel building (including a hotel building complex) or industrial building or 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 :

Provided that no deduction under the preceding provisions of this paragraph shall be allowed to a person in respect of any capital asset referred to in subparagraphs (i), (ii), (iii), (iv), (v) or this paragraph in respect of which the total of the allowances granted for depreciation in the preceding years of

assessment is equal to the cost of acquisition or cost of construction or assembling, as the case may be, of such capital asset by such person ;”;

- (d) by the substitution in paragraph (cc) of that subsection, for the words and figures “on or after April 1, 2002”, of the words and figures “on or after April 1, 2002 but on or before March 31, 2004”;
- (e) by the substitution in paragraph (d) of that subsection, for the words “acquisition of such computer software:”, of the words and figures “acquisition of such computer software on or before March 31, 2004:”;
- (f) by the insertion immediately after the proviso to paragraph (f) of that subsection, the following new proviso :—

“Provided further that for any year of assessment commencing on or after April 1, 2004, the provisions of sub-paragraph (ii) above, shall be applicable to the business of letting any premises ;”;

- (g) by the substitution :—
 - (i) in paragraph (g) of that subsection, for the words “sum equal to the bad debts”, of the words “sum equal to the bad debts representing the supply of goods or services by such person on credit”; and
 - (ii) in the proviso to paragraph (g) of that subsection, by the substitution for the words “vocation or employment ;”, of the words “vocation or employment and for

the purpose of this proviso, sums recovered shall be deemed to include any reduction as at the last date of such period in any estimated amount of a doubtful debt previously allowed as a deduction;”;

- (h) by the substitution for sub-paragraph (i) of the proviso to paragraph (m) of that subsection, of the following sub-paragraphs :—

“(ia) in respect of expenses incurred in relation to a vehicle used partly for the purposes of his trade, business, profession or vocation and partly for the domestic or private purposes of an executive officer being employed by him or a non-executive director of such organization, unless the value of the benefit as specified under the proviso to paragraph (b) of subsection (2) of section 4 of this Act has been included in the remuneration of such officer, for the purposes of deduction of income tax under Chapter XIV of this Act;

(ib) in respect of expenses incurred in relation to a vehicle, where more than one vehicle is provided to any employee of such person or to any non-executive director or to any other individual who is not an employee but rendering services in the trade, business profession or vocation carried on by such person, if such vehicle is not the first vehicle provided to such employee, or non-executive director or such other individual, as the case may be;

- (ic) in respect of expenses incurred in relation to a vehicle where such vehicle is provided to any other person who is not an employee of such person and who does not render any services to the trade, business, profession or vocation carried on by such person;
- (id) in respect of expenses incurred in relation to the reimbursement of any expenditure on a vehicle belonging to an employee of such person who has been allowed by the employer to claim such expenses, unless the value of benefit of using such vehicle for non-business purposes by such employee as determined by the Commissioner General has been included in the remuneration of such employee for the purposes of deduction of income tax under Chapter XIV, or in the opinion of the Commissioner General such amount that is reimbursed represents only expense on allowable traveling expenses in relation to the trade business, profession or vocation carried on by such employer;

For the purposes of sub-paragraphs (ia), (ib) and (ic) the “expenses incurred” shall not include any lease rental or other rental payment in respect of such vehicle or the cost of acquisition or the cost of financing of the acquisition of such vehicle;”

- (i) by the substitution in paragraph (r) of that subsection for the words “of the lump sum payment”, of the words “of the lump sum payment, which not being an advance payment”, ; and

- “(j) by the substitution in paragraph (s) of that subsection for the words “sum paid, by a”, of the words “sum paid on or before March 31, 2004, by a”.
- (2) in subsection (3) of that section by the substitution for the words “Where any person” and of the words “carried on or exercised by him”, of the words “Subject to the provisions of subsection (3A), where any person”, and of the words “carried on or exercised by him, whether such profits and income are fully or partly exempt from income tax,” respectively.
- (3) by the insertion immediately after subsection (3) of that section, of the following new subsection :—
- “(3a) Where a disposal takes place under the provisions of subsection (3) on or after April 01, 2004, the total proceeds of the disposal shall be taken into account in calculating such receipt or expenditure, as the case may be, from such trade, business, profession or vocation.”;
- (4) in subsection (5) of that section by the substitution for the words “paragraph (a) or paragraph (b)”, of the words “paragraph (a) or paragraph (b) or paragraph (bb)”;
- (5) in subsection (7) of that section —
- (a) by the substitution in sub-paragraph (i) of paragraph (a) of that subsection, for the words “paragraph (a), paragraph (b)”, of the words “paragraph (a), paragraph (b), paragraph (bb)”;
- (b) by the substitution in paragraph (b) of that subsection, for the words “utensils, articles or equipment”, of the words “utensils, articles or equipment or any bridge, railway, reservoir electricity or water distribution lines, toll roads”;

- (c) by the substitution in sup-paragraph (iii) of paragraph (f) for the words “to a company referred to in paragraph (xv) of subsection (1) of section 14,”, of the words “to a company which is incorporated mainly for the acquisition of the assets of that business,”; and
- (d) by the insertion immediately after sub-paragraph (iv) of paragraph (f), of the following new sub-paragraph :—
 - “(v) where any asset used in the business of leasing as part of the leasing stock is disposed of subsequently, either by transferring such asset out of the leasing stock or by transferring such stock to the lessee, the market value as at the time of such transfer of such asset shall be deemed to be a receipt from such trade or business of the lessor, unless such lessor proves to the satisfaction of the assessor that all receipts under such lease agreement, including total rentals receivable or received, as the case may be, advance payments received, early settlement fees and all other similar receipts have been considered as taxable receipts in computing profits or income from such business ;
 - (vi) where any person has obtained an asset under a lease agreement and the relevant lease rentals have been allowed to such person as expenditure incurred in any trade, business, profession or vocation either fully or partly, the receipts from disposal of such asset, less any cost of acquisition other than lease rentals paid on such asset by such person after acquiring it directly or through a nominee, shall be treated as a receipt from such trade, business, profession or vocation of such lessee ;

- (vii) where any lessee has acquired any asset used by him in any trade, business, profession or vocation under a lease agreement, such acquisition shall not be considered as an acquisition which qualifies for any depreciation allowance under this section, and such asset shall be treated as an asset on which depreciation has been granted to such lessee to the extent of the repayment of the capital value of such asset under such lease agreement by such lessee.”.

15. Section 24 of the principal enactment as last amended by Act, No. 19 of 2003, is hereby further amended as follows :—

Amendment of
section 24 of the
principal
enactment.

(1) in subsection (1) of that section —

- (a) by the substitution in paragraph (j) of that subsection for the words “is not treated as income”, of the words “is not treated as a receipt from such trade, business, profession or vocation”;
- (b) by the substitution for paragraph (o) of that subsection, of the following paragraph :—

- “(o) (i) one half of the excess of any expenditure in relation to any employee including an executive officer but excluding any director or senior executive officer; and
- (ii) three fourths of the excess of any expenditure in relation to any employee who is a director or senior executive officer (being an officer receiving a salary of not less than rupees fifty thousand per month),

incurred by such person in providing any place of residence to any employee of such person or to the spouse, child or parent of such employee over the rental value of such place of residence which is included in the profits from employment of such employee within the meaning of section 4.

For the purposes of this paragraph “expenditure” shall include rent, lease rent, rates, repairs and maintenance or other expenses directly and specifically related to such place of residence whether incurred directly or indirectly by the employer;”;

(c) by the substitution in paragraph (p) of that subsection for the words “in any year of assessment”, of the words “in any year of assessment commencing on or before April 01, 2003”; and

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

“(pp) such part of the rental paid by him under any finance leasing agreement entered in to by him in any year of assessment commencing on or after April 1, 2004, in respect of—

(i) any motor vehicle, furniture, plant, machinery or equipment other than information technology equipment and calculating equipment including accessories and computer software and other computing or calculating machine referred to in

paragraph (*bb*) of subsection (1) of section 23, as in excess of one-fifth of the total rental payable under such agreement; and

- (ii) any information technology equipment and calculating equipment including accessories and computer software as referred to in paragraph (*bb*) of subsection (1) of section 23, as in excess of one-fourth of the total rental payable under such agreement;”;
- (e) by the substitution in paragraph (*r*) of that subsection for the words “from the sale of capital assets,” of the words “from the sale of capital assets;”;
- (f) by the addition immediately after paragraph (*r*) of that subsection, the following new paragraphs :—
 - “(s) any expenditure or outgoing in relation to any asset provided by such person to any employee to be used in the residence of such employee;
 - (t) any expenditure or outgoing in relation to any movable or immovable property given by such person to any employee at a price less than market value at the time of giving such property;
 - (u) any expenditure or outgoing in relation to any loan, other advance or credit granted to any employee which is subsequently written off as a bad debt by such person.”.

- (2) in subsection (2) by the substitution for the words “under paragraph (b) of”, of the words “under paragraph (b) or paragraph (bb) of”.

Amendment of
section 29 of the
principal
enactment.

16. Section 29 of the principal enactment as last amended by Act, No. 37 of 2003, is hereby further amended as follows :—

- (1) by the insertion immediately after subsection (1B) of that section of the following :—

“For the purposes of subsection (1A) and (1B), a “primary market transaction” means the purchase of any Security or Treasury Bond issued under the Registered Stocks 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, by any primary dealer subject to any discount or payment of interest by the issuer.”;

- (2) by the repeal of subsection (1C) of that section, and the substitution therefore of the following subsection :—

“(1C) The assessable income of any person shall not include —

- (a) (i) any reward received by such person as an informer under any scheme for the payment of such rewards; or
- (ii) a share of fine received by such person under any scheme for the distribution of such share of fine,

form any Government Institution, on or after April 1, 2003, from which income tax has been deducted in accordance with Chapter XVIB;

- (b) the receipt of any lottery prize or winnings from gambling or betting from which tax has been deducted under section 132A ; and
 - (c) interest received on the compensation payable in respect of any immovable or movable property vested in the Government or in the Land Reform Commission or in a Public Corporation from which the income tax has been deducted under section 33.”;
- (3) in subsection (2) of that section—
- (a) by the substitution in paragraph (aa) of that subsection, for the words “on or after April 1, 2002”, of the words “on or after April 1, 2002 but prior to April 1, 2004”;
 - (b) by the insertion immediately after paragraph (aa) of that subsection, of the following new paragraph :—

“(aaa) sums paid by such person for any year of assessment commencing on or after April 1, 2004 by way of annuity, ground rent, royalty or interest not deductible under section 23, which amount has not previously been allowed as a deduction under this section on the basis of amount payable or paid :

Provided that —

- (i) no deduction shall be allowed in respect of any such sum paid unless the assessor is satisfied that the recipient of such payment has issued a valid

receipt for such payment, containing name, address and the income tax file number (if any) of such person in Sri Lanka or that the tax has been deducted under this Act before or at the time such payment is made;

- (ii) where for any year of assessment any such sum paid and deductible under this subsection exceeds the total statutory income for that year, the excess shall be treated for the purposes of this section, in the same manner as a loss incurred in a trade during that year;
- (iii) where any sum is paid by such person by way of an annuity, no deduction shall be allowed in respect of such annuity, unless such annuity is paid—
 - (a) under an order of court by way of payment of alimony or maintenance;
 - (b) to his spouse under a duly executed deed of separation; or
 - (c) in return for full consideration in money or money's worth.
- (iv) where any sum is paid by such person by way of interest, no deduction shall be allowed in

respect of such interest unless such interest is paid under any legal or contractual obligation—

- (a) to any bank licensed under the Banking Act, No. 30 of 1988 or any finance company registered under the Finance Company Act, No. 78 of 1988; or
- (b) to any other person recognized by the Commissioner-General for the purposes of this paragraph :

Provided however, where the Commissioner-General is satisfied that such recipient of interest has declared such interest as income under this Act, such person may be deemed to be a recognized person.

For the purposes of this paragraph the term “interest” means any interest paid on a loan the proceeds of which are utilized —

- (i) for the construction or purchase of any house for residential purposes or for the purchase of any site for the

construction of any such house for residential purposes;

- (ii) in any trade, business, profession or vocation carried on or exercised by him.”;

- (c) by the omission of all the words from “which if it had been a profit” to “as the case may be;”, appearing immediately after paragraph (c) of that subsection;
- (d) by the substitution in paragraph (d) of that section, for the words “income of a previous year of assessment;”, of the words —

“income of a previous year of assessment, which if it had been a profit would have been assessable and which had not been allowed against his total statutory income for any year of assessment within such period of six years or eleven years, as the case may be.”;

- (e) the proviso to paragraph (d), and the proviso to subsection (2) as inserted by Act No. 37 of 2003, are hereby repealed ;
- (f) by the insertion immediately after paragraph (e) of that subsection, the following new paragraph :—
 - (f) The amount of a loss (other than any capital loss) incurred by such person in any year of assessment commencing on or after April 1, 2004, in any trade, business, profession or vocation which if it had been a profit would

have been assessable under this Act, including any such loss brought forward from a previous year which has not been deducted under this section previously, and any deemed loss under paragraph (ii) of proviso to paragraph (*aaa*) of subsection (2), and where such amount of the loss has been ascertained in the manner provided in this Act for ascertainment of profits from a trade, business, profession or vocation and claimed in the return of income furnished by such person and supported by a statement of account certified by an approved accountant, up to a maximum limit of thirty five *per centum* of the total statutory income for that year, and any loss which cannot be deducted may be carried forward to the next year of assessment, and so on :

Provided however—

- (i) no loss incurred on the disposal of shares, rights or warrants in a company as referred to in section 38b of this Act, shall be a loss deductible under this paragraph ;
- (ii) no loss can be carried forward beyond the year of assessment in which the death of such person occurred in the case of an individual, or liquidation of such person occurred in the case of a company or other body of persons.

- (iii) where any person has been declared or adjudged insolvent by a competent court, no loss incurred prior to the date of bankruptcy or insolvency, as the case may be, shall be deducted from income arising ;
- (iv) no loss can be deducted which is incurred by a company in which there had been a change of ownership otherwise than by way of testate or intestate succession, except against the statutory income of such trade or business of the company as that in which the loss was incurred.

For the purpose of this paragraph, a change of ownership of a company is deemed to have occurred where more than one-third of the issued share capital of the company is held, at any time in the year of assessment for which the claim for deduction, is made either directly or through nominees, by persons who did not hold such share capital, at any time in the year of assessment in which the loss was incurred.”;

- (4) by the insertion immediately after subsection (2) of that section, the following new subsection :—

(2A) The provisions of paragraphs (b), (c), (d) and (e) of subsection (2), shall have no application with effect from April 1, 2004.”; and

- (5) by the substitution in paragraph (b) of subsection (3) of that section, for the words and figures “provided in paragraph (b), (c) or (d) of subsection (2).”, of the words and figures “provided in paragraphs (b), (c), (d) or (f) of subsection (2).”.

17. Section 30 of the principal enactment as amended by Act, No. 10 of 2002, is hereby further amended in subsection (1) thereof, by the repeal of paragraph (a) of that subsection, and the substitution therefor of the following paragraph :—

Amendment
of section 30
of the
principal
enactment.

“(a) an allowance of —

- (i) one hundred and forty four thousand rupees, in respect of every year of assessment commencing prior to April 1, 2002; or
- (ii) two hundred and forty thousand rupees, in respect of every year of assessment commencing on or after April 1, 2002 but prior to April 1, 2004; or
- (iii) three hundred thousand rupees, in respect of every year of assessment commencing on or after April 1, 2004; and”.

18. Section 31 of the principal enactment as last amended by Act, No. 37 of 2003 is hereby further amended as follows :—

Amendment of
section 31 of the
principal
enactment.

(1) in subsection (2) of that section —

- (a) by the substitution in sub-paragraph (viii) of paragraph (b) of that subsection, for the words “approved by the Minister.”, of the words and figures “approved by the Minister :

Provided that such part, if any, of any donation otherwise than in money, made on or after April 1, 2004 as is in excess of two million rupees shall be deemed not to comprise a qualifying payment.”;

- (b) by the substitution in paragraph (e) of that subsection, for the words “paragraph (b) of section 9;”, of the words and figures “paragraph (b) of section 9 :

Provided that where such contribution made on or after April 1, 2004 exceeds 12 *per centum* of such emoluments, such excess shall be deemed not to comprise a qualifying payments ”;

- (2) in subsection (4) of that section —

- (a) by the substitution for sub-paragraph (i) of paragraph (a) of that subsection, of the following sub-paragraph :—

“(i) in respect of all qualifying payments other than those referred to in—

(A) paragraphs (b), (c), (g) and (h) 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 ;” ; and

- (b) by the substitution for sub-paragraph (v) of paragraph (a) of that subsection, 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), (f), (i), (j) and (k) 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, whichever is less.” ; and

- (3) in subsection (6A) of that section, by the substitution for the words “any qualifying payment referred to in paragraph (i) of subsection (2)”, of the words “any qualifying payment referred to in paragraph (i) or (j) of subsection (2)”.

19. Section 38 of the principal enactment as amended by Act, No. 37 of 2003, is hereby further amended by the substitution for the words “Sixth Schedule to this Act,”, of the words and figures “Sixth Schedule to this Act, for any year of assessment commencing on or before April 1, 2002 and on such profit and income for the period up to and including June 30, 2003 in the year of assessment commencing on April 1, 2003.”.

Amendment of section 38 of the principal enactment.

20. The following new sections are hereby inserted immediately after section 38 of the principal enactment and shall have effect as section 38A, section 38B, section 38C and section 38D of that enactment:—

Insertion of new sections 38A, 38B, 38C and 38D in the principal enactment.

“Rate of income tax on profits and income of any foreign currency banking unit arising from any off-shore foreign currency transaction.

38A. The profits and income of any foreign currency banking unit arising from any off-shore foreign currency transaction shall, for any year of assessment commencing on or after April 1, 2004, be liable to income tax at the appropriate rate given in the Sixth Schedule to this Act.

For the purposes of this section, any foreign currency transaction which any foreign currency banking unit enters into with any other foreign currency banking unit, shall be deemed to be an “off-shore transaction”.

Rate of income tax on profits and income arising in Sri Lanka to the consignor or consignee from certain exports.

38B. The profits and income arising in Sri Lanka to a consignor or consignee, from the export of -

- (a) any precious stones or metals not mined in Sri Lanka ;
- (b) any petroleum, gas or petroleum products ; or
- (c) such other products as may be approved by the Minister for the purposes of this paragraph, having regard to the foreign exchange benefits that are likely to accrue to the country from the export of such products,

being goods brought to Sri Lanka on a consignment basis, and re-export without subjecting such goods to any process of manufacture, shall for any year of assessment commencing on or after April 1, 2004 be liable to income tax at the appropriate rate given in the Sixth Schedule to this Act.

Rate of
income tax on
profits and
income arising
from certain
undertakings
approved by
Minister.

38C. The profits and income arising to any person from an undertaking approved by the Minister for the operation and maintenance of facilities for the storage of goods or commodities brought into Sri Lanka for re-export, shall for any year of assessment commencing on or after April 1, 2004, be liable to income tax at the appropriate rate given in the Sixth Schedule to this Act.

Rate of
income tax on
sale of any
share or a
warrant.

38D. The profits from the sale of any share of a person, other than a unit trust or a mutual fund, including a right to any share or a bonus share or a warrant for any year of assessment commencing on or after April 1, 2004, where such profits derived by or accruing to such person from such sale has taken place within two years from the date of acquisition, be liable to tax at the appropriate rate given in the Sixth Schedule to this Act.

For the purposes of this section “profits”, includes gains and shall be computed, after deducting any expenditure allowable under section 23 directly related to the disposal of such shares and the cost of acquisition of such shares, from the sale proceeds, and shall be the net profit or gain for that year, after deducting losses incurred in the same year from the disposal of shares, rights or warrants, calculated in the same manner as mentioned above, had such loss been a profit or gain would have been liable to tax under this paragraph, have been held for a period not exceeding twenty four months by such person, and in the event that the sale comprises shares of the same company, acquired on different dates, the cost of such shares or the period of ownership shall be determined on a first in first out basis of such

shares. Any excess of such deductible loss over the profits or gain for any year may be carried forward to the succeeding year and so on, and deducted in computing the net profits or gains under this paragraph.”.

Replacement of section 48A of the principal enactment.

21. Section 48A of the principal enactment as amended by Act, No. 37 of 2003, is hereby repealed and the following section substituted therefor :—

“Rate of income tax on certain dividends.

48A. Where the taxable income of any person (other than a company) for any year of assessment includes a dividend, other than any dividend exempt from income tax as referred to in paragraphs (a), (b), (c), (d), (e), (f), (g) and (h) of section 11, declared on or after April 1, 2002-

- (i) not in the form of money or an order to pay money ;
- (ii) in the form of money or an order to pay money out of income exempt from tax or not chargeable with tax ; or
- (iii) out of dividends received from another company where such dividend is not exempt from income tax under section 11, without a deduction of tax under subsection (1A) of section 61, irrespective of whether such company is entitled to deduct such tax or not,

the income tax on such dividend shall be charged at the appropriate rate as specified in the Sixth Schedule to this Act.”.

Amendment of section 52A of the principal enactment.

22. Section 52A of the principal enactment is hereby amended as follows :-

- (1) by the repeal of subsection (6) of that section, and the substitution therefor of the following subsection :—

“(6) For the purpose of this section “special employment tax credit” means the sum which bears to the income tax payable by that individual for that year of assessment, the same proportion as the proportion which the employment income exempt under paragraph (a) or (b) of subsection (1) of section 9, (other than a benefit referred to in paragraph (c) of subsection (1) of section 4, of this Act), bears to the total statutory income of that individual for that year of assessment.”; and

- (2) by the substitution in subsection (7) of that section for the words “calculated in accordance with subsection (6)”, of the words “as defined in subsection (6)”.

23. Section 53 of the principal enactment as last amended by Act, No. 37 of 2003, is hereby further amended as follows :—

Amendment of
section 53 of the
principal
enactment.

- (1) in subsection (1) of that section —

- (a) by the substitution for paragraph (b) and paragraph (bb) of that subsection, of the following paragraphs :—

“(b) equal to fifteen *per centum* of the aggregate amount of the gross dividend distributed by such company, not being a quoted public company, in that year of assessment being a year of assessment commencing prior to April 1, 2002, out of the profits on which the taxable income of such company is computed for any year of assessment other than any such dividend distributed to a person referred to in paragraph (a) and paragraph (b) of section 8;

(bb) equal to ten *per centum* of the aggregate amount of the gross dividend distributed by such company, not being unit trust or mutual fund approved by the Securities and Exchange Commission of Sri Lanka, in that year of assessment, being a year of assessment commencing on or after April 1, 2002 out of the profits on which the taxable income of such company is computed for any year of assessment, other than any such dividends distributed to —

(i) any company or other body of persons who or which is exempt from income tax under paragraph (a) or paragraph (b) of section 8 ;
or

(ii) any unit trust or mutual fund approved by the Securities and Exchange Commission of Sri Lanka :

Provided however, income tax equal to ten *per centum* shall be payable on any dividend declared, not being a dividend declared to any person referred to in sub-paragraphs (i) or (ii) on the amount of gross dividend declared by such company on or after April 1, 2004, out of profits and income of such company, whether such profits and income are chargeable with income tax or not chargeable with income tax, excluding any dividend received from another company after deduction of income tax

under this subsection on any dividend which is exempt under section 11 to the recipient of such dividend;”;

- (b) by the substitution in paragraph (e) of that subsection for the words “under paragraph (1)”, of the words “under paragraph (a) of subsection (1)”; and
- (2) by the repeal of subsection (3) of that section, and the substitution therefor of the following subsection—

“(3) The “amount of gross dividend” in relation to any dividend received from another company, shall be such amount of the dividend received.”.

24. Section 60 of the principal enactment as amended by Act, No. 10 of 2002, is hereby further amended by the substitution for the words and figures “commencing prior to March 31, 2002”, of the words and figures “commencing on or after April 1, 2004.”.

Amendment of
section 60 of the
principal
enactment.

25. Section 61 of the principal enactment as last 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:—

Amendment of
section 61 of the
principal
enactment.

- “(1A) Every resident company, (other than a unit trust or mutual fund approved by the Securities and Exchange Commission of Sri Lanka shall deduct from the amount of gross dividend payable to any share holder other than —
- (a) any company or other body of persons who or which is exempt from income tax under paragraph (a) or paragraph (b) of section 8;

- (b) any unit trust or mutual fund approved by the Securities and Exchange Commission of Sri Lanka,

on or after April 1, 2002, in the form of money or an order to pay money out of profits on which the taxable income to that company is computed for any year of assessment, income tax equal to ten *per centum*:

Provided however, income tax under this subsection, subject to dividends payable to any person referred to in paragraph (a) or (b), shall be deducted from the amount of any gross dividend payable on or after April 1, 2004, out of the profits and income of such company, whether such profits and income are chargeable with income tax or not, excluding any dividend received from another company after deduction of income tax under subsection (1) or under this subsection, and any dividend which is exempt under section 11 to the recipient of such dividend or any dividend declared by a quoted public company prior to April 1, 2002.

The “amount of gross dividend” in relation to any dividend received from another company shall be such amount of the dividend received.”.

Insertion of new section 72A in the principal enactment.

26. The following new section is hereby inserted immediately after section 72 of the principal enactment and shall have effect as section 72A of that enactment :—

“Tax chargeable on partnerships.

72A. (1) Notwithstanding the provisions contained in section 72, every partnership shall be charged with income tax on the aggregated amount of the devisible profits as referred to in section 71 and other income, at the appropriate rate given in the Sixth Schedule to this Act for each year of assessment

commencing on or after April 1, 2004, and such tax shall be paid by the partnership in quarterly instalments as provided for in Chapter XIII, subject to the provisions of this section.

(2) Where there is a divisible loss for any year of assessment, the tax shall be charged on the total amount of other income, without any set off of such divisible loss from such other income.

(3) Notwithstanding anything to the contrary in any other provisions of this Act, the share of the tax paid (other than any tax in default recovered) under subsection (1), less any amount set off against the Economic Service Charge paid by the partnership for that year that is attributable to each partner using the profit sharing ratio of the partnership for that year of assessment, may be set-off against the income tax liability of such partner of such partnership for the same year of assessment on such share of profit and other income from such partnership, without any right to a refund or carry forward of any excess of such share of tax attributable to such partner.

(4) Any quarterly instalment of tax payable as provided for in Chapter XIII of this Act subject to the provisions of this section and not paid on or before the due date, shall be a tax in default for the purposes of this Act and recovery action under Chapter XXII of this Act may be instituted by the Commissioner-General under that Chapter against any or all of the partners of such partnership for the recovery of such tax in default.

For the purposes of this section “any quarterly instalment of tax payable” shall include an estimated amount of tax on the basis of the preceding year’s divisible profit and other income, where the divisible profit and other income for that year cannot be ascertained due to the non-availability of details of such profits and income of the partnership.”.

Amendment of section 80 of the principal enactment.

27. Section 80 of the principal enactment is hereby amended in subsection (1) of that section, by the substitution for the words “does not exceed one hundred and forty four thousand rupees such income shall not be taxable,”; of the words “does not exceed -

- (a) one hundred and forty four thousand rupees in respect of any year of assessment commencing prior to April 1, 2003 ; or
- (b) three hundred thousand rupees, in respect of any year of assessment commencing on or after April 1, 2004,

such income shall not be taxable.”.

Amendment of section 91 of the principal enactment.

28. Section 91 of the principal enactment is hereby amended in subsection (1) of that section, by the substitution for the words “equal to fifteen *per centum* of the amount of such payment.”, of the words “at the rate specified in the Sixth Schedule to this Act.”.

Insertion of new section 97A in the principal enactment.

29. The following new section is hereby inserted immediately after section 97 of the principal enactment and shall have effect as section 97A of that enactment :-

“Assessors power to disregard certain transactions between the members of a group of companies.

97A. Where an Assessor is of opinion that any transaction between the members of a group of companies which has no economic substance, has resulted in a tax benefit to any member of the group or a loss from any trade or business to one or more of such members, which can be claimed as a deduction under

section 29, such transaction shall be disregarded and the relevant persons shall be assessed accordingly.

For the purposes of this section “group of companies” means a parent company and all its subsidiaries where the parent company has one or more subsidiaries and such subsidiaries are controlled by the parent company either by controlling the composition of the Board of Directors of such subsidiary or by holding more than half in nominal value of the equity share capital of such subsidiary.”.

30. The following new sub-chapter is hereby inserted at the end of section 97A of the principal enactment :-

Insertion of new sub-chapter in the principal enactment.

“L - PETROLEUM EXPLORATION AND EXPLOITATION

Ascertainment of profits and income from business of petroleum exploitation under a Petroleum Resources Agreement.

97B. (1) Any person or partnership which has entered into an agreement as a contractor or sub-contractor under the Petroleum Resources Act, No. 26 of 2003, shall, notwithstanding the provision of section 73 of this Act, be deemed to be resident in Sri Lanka during the tenure of such contract or sub contract as the case may be, for the purposes of this Act.

(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 profits and income 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 expenses under the provisions of 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 *per centum* of the cost of acquisition of any plant, machinery or equipment used for the recovery of petroleum resources in lieu of the allowance for depreciation or cost of renewal under section 23. Any proceeds realized 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. However, this amount shall not be allowed as a deduction under section 29 ;
- (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 blocs under any Petroleum Resources Agreement in any year of assessment, after the first commercial production.”.

31. Section 98 of the principal enactment as amended by Act, No. 37 of 2003, is hereby further amended by the insertion immediately after subsection (1) of that section, of the following new subsections :-

Amendment of
section 98 of the
principal
enactment.

“(1A) Any person who is carrying on or carries out any trade, business, profession or vocation, including any person incorporated under the Companies Act, No. 17 of 1982 and any company which has entered into any agreement with the Board of Investment of Sri Lanka established under the Board of Investment of Sri Lanka Law, No. 4 of 1978, shall obtain a registration number within one year of such registration or incorporation or commencement of the activity, as the case may be, from the Commissioner-General, and furnish a return on or before the November, 30, following the end of each year of assessment commencing on or after April 1, 2003, containing such particulars and documents as may be specified by the Commissioner-General, notwithstanding that no tax is chargeable under this Act on such person.

(1B) (a) The Commissioner-General shall issue a certificate of registration containing the name, address, registration number and any other particulars as determined by him, to all such persons registered under subsection (1A);

(b) It shall be the duty of the Registrar of Companies, notwithstanding anything to the contrary contained in any provisions of the

Companies Act, No. 17 of 1982, to obtain the certificate issued by the Commissioner General under subsection (1A), as an integral part of the annual return filed under such Companies Act -

- (i) in relation to any company registered before such date as may be determined by the Commissioner-General, by a notice published in that behalf, along with any annual return due in respect of any financial year commencing on or after January 1, 2004 ;
 - (ii) in relation to any company registered on or after the date determined by the Commissioner-General under sub-paragraph (i), along with the first annual return due to be submitted by such company;.
 - (c) The date as determined by the Commissioner-General under sub-paragraph (i) of paragraph (b), shall immediately upon such determination, be forthwith communicated to the Registrar of Companies, by the Commissioner-General.
- (1C) (a) Every company deemed to be a resident in Sri Lanka under section 73 of this Act, shall submit a return to the Commissioner-General for each year commencing on or after April 1, 2004, on a half yearly basis on or before October, 31 and April 30, of dividends declared, containing such particulars as specified by him including the details of dividends declared during the period April to September and October to March respectively. Where no dividends have been declared during any such period, a “NIL” return shall be submitted.

- (b) Every company not deemed to be a resident in Sri Lanka shall submit a return to the Commissioner-General on a half yearly basis on or before October, 31 and April, 30, of remittances made by such company as referred to in paragraph (c) of subsection (1) of section 57 containing such particulars as specified by him, including the details of remittances made during the period April to September and October to March respectively, in each year. Where there were no remittances declared during such period covered by such return, a “NIL” return shall be submitted.”.

32. Section 105 of the principal enactment is hereby amended as follows :—

Amendment of
section 105 of the
principal
enactment.

- (1) in subsection (1) of that section, by the substitution for the words “any person is liable to pay”, and of the words “shall be paid by such person”, and of the words “on him”, of the words “any person or partnership is liable to pay”, and of the words “shall be paid by such person or partnership” and of the words “on him or it” respectively ;”;
- (2) by the repeal of subsection (2) of that section, and the substitution therefore of the following subsection :—
- “(2) The quarterly instalment of a tax payable by any person or partnership for any year of assessment shall be one-quarter of the tax payable by him or it for that year of assessment.”;
- (3) by the repeal of subsection (3) of that section, and the substitution therefore of the following subsection :—
- “(3) Notwithstanding anything contained in subsection (1) and subsection (2) of this section, the entirety of the tax payable—

- (a) by any company resident in Sri Lanka under paragraph (b) and paragraph (bb) of subsection (1) of section 53 or under section 60, in respect of dividends distributed by such company; or
- (b) by any company not resident in Sri Lanka under paragraph (c) of subsection (1) of section 57, in respect of remittances made by such company,

shall be paid on or before the thirtieth day succeeding the date of distribution of such dividends or making of such remittances, as the case may be.”.

Amendment of section 106 of the principal enactment.

33. Section 106 of the principal enactment as amended by Act, No. 37 of 2003, is hereby further amended by the addition at the end of that section, of the following paragraph :—

“For the purpose of this section, any person who receives a remuneration in cash or kind from an employer, is deemed to be an employee of such employer.”.

Amendment of section 107 of the principal enactment.

34. Section 107 of the principal enactment is hereby amended in subsection (1) of that section as follows :—

- (1) by the insertion immediately after paragraph (a) of that subsection, the following new paragraph :—

“(aa) any individual who after April 1, 2004—

- (i) receives remuneration in excess of twenty five thousand rupees per month or three hundred thousand rupees per year,

- (ii) is a director or non-executive director to whom any payment is made or is due by or from such employer or who receives any other benefit as an employee or in any other capacity;
 - (iii) falls within paragraph (b) of section 9 and who is in receipt of any remuneration not paid out of the Consolidated Fund directly or through the funds received from the Consolidated Fund; or”; and
- (2) by the substitution for the words and figures “not later than July 1, 2000,”, of the words and figures “not later than July 1, 2000 and in respect of paragraph (aa) above, not later than December 1, 2004,”.

35. The following new section is hereby inserted immediately after section 108 of the principal enactment, and shall have effect as section 108A of that enactment :—

Insertion of new section 108A in the principal enactment.

“Deduction of tax at special rates.

108A. (1) Where an employer pays any remuneration or provides any benefit to any director, whether executive or non-executive, or to any Chairperson of the Board of Directors of any company or provides a benefit in cash or in kind to any other person who is not considered to be an employee and where such amounts are not taken into account in the application of the tax tables referred to in section 108, such employer shall deduct tax at the rate of ten *per centum* on such amounts or the value of such benefits in terms of the provisions of this Chapter. No direction shall be issued or entertained under section 109 in relation to such amounts or value of benefits.

(2) No refund shall be made under this Act in relation to the income tax deducted in terms of subsection (1), notwithstanding anything to the contrary in this Act, but such income tax may be set off against the income tax liability of such person in respect of the same year of assessment, if such amounts or the value of benefit has been included in his total statutory income for that year.

(3) Where any employer who is required to deduct tax on any remuneration using tax tables as referred to in section 108 omits to do so, and deducts tax at the rate of ten *per centum* on such remuneration, such employer shall be liable to pay such tax in default calculated on the basis of the difference between tax payable under the tax tables as provided for in section 108 and tax deducted by the employer under this section, and be liable to a penalty not exceeding ten *per centum* of such tax in default, calculated as follows :—

- (a) where the tax payable on a return submitted under subsection (1) of section 98 has not been paid fully or partly on or before the due date, at the rate of five *per centum* for the first month of such default and a further one *per centum* for each month or part of a month thereafter, on such amount of tax in default;
- (b) where an assessment has been issued in the absence of a return due from such person and the relevant tax is in default, at the rate of ten *per centum* on such amount of tax in default;

- (c) where an assessment was under appeal and the tax became payable on the settlement of such appeal, at the rate of ten *per centum* on such amount of tax that became payable,

and the Commissioner-General may recover such tax from such employer as tax in default under this Act.

(4) Any employer who fails to deduct tax as provided for in subsection (1) from any benefits, in cash or kind, provided during the period April 1, 2004 up to such date as may be determined by the Commissioner-General by a notice published in that behalf, shall not be in default, if such employer has provided the full details of such payment from which tax has not been deducted, to the Commissioner-General within thirty days of such date.”.

36. The following new section is hereby inserted immediately after section 118 of the principal enactment and shall have effect as section 118A of the at enactment :—

Insertion of new section 118A in the principal enactment.

“Penalty on default.

118A. Notwithstanding the provisions of section 118, where any income tax payable by any employer under the provisions of this Chapter is in default in respect of a pay period commencing on or after April 1, 2004, such employer shall pay in addition to such tax a penalty, not exceeding ten *per centum* of such tax in default calculated as follows :—

- (a) where the tax payable on a return submitted under subsection (1) of section 98 has not been paid fully or partly on or before the due date, at the rate of five *per centum* for the first month

of such default and a further one *per centum* for each month or part of a month thereafter, on such amount of tax in default ;

- (b) where an assessment has been issued in the absence of a return due from such person and the relevant tax is in default, at the rate of ten *per centum* on such amount of tax in default ;
- (c) where an assessment was under appeal and the tax became payable on the settlement of such appeal, at the rate of ten *per centum* on such amount of tax that became payable.”.

Amendment of
section 119 of the
principal
enactment.

37. Section 119 of the principal enactment is hereby amended by the substitution for the words “to have been deducted.”, of the words “to have been deducted :

Provided however, for any year of assessment commencing on or after April 1, 2004, such employee shall be entitled to set off the tax deducted under this Chapter on the basis of a tax deduction certificate, if the income from which such income tax has been deducted forms part of his total statutory income for that year of assessment.”.

Amendment of
section 122A of
the principal
enactment.

38. Section 122A of the principal enactment is hereby amended in subsection (1) of that section as follows :—

- (1) by the insertion immediately after sub-paragraph (ii) of paragraph (a) of that subsection, the following new sub-paragraph :—
- “(iii) where the interest paid or credited to any individual on or after January 1, 2004 by such bank or financial institution on all deposits

maintained by such individual with that bank or financial institution is not less than nine thousand rupees in any month or not less than one hundred and eight thousand rupees in any period of twelve months,”;

- (2) in paragraph (a) of that subsection by the substitution for the words “on the total amount of interest paid or credited on such deposits:”, with the following words and figures—

“on the total amount of interest paid or credited on such deposit during the period up to December 31, 2003, and on the total amount of interest paid or credited on all deposits maintained by such individual with such bank or financial institutions, for any period commencing on or after January 1, 2004.

For the purposes of this paragraph, where the deposit is maintained by one or more individuals as a joint deposit, interest on such deposits shall be aggregated for the purposes of deduction of income tax to the interest earned on other deposits held by such individuals to the extent of his entitlement on such joint deposit. Any interest on a joint deposit once aggregated to any individual on this basis, shall not be aggregated to any other individual again for the purposes of deduction of income tax. Any interest on a deposit maintained by any receiver, trustee, executor, administrator, curator or guardian or any other person in similar capacity on behalf of an individual or jointly for a group of individuals, shall be treated in the manner provided in this paragraph:”.

39. section 122B of the principal enactment is hereby amended in subsection (2) of that subsection, by the substitution in paragraph (b) of that subsection, for the words “similar facility or financial instrument”, of the words “similar facility”.

Amendment of
section 122B of
the principal
enactment.

Amendment of
section 123 of the
principal
enactment.

40. Section 123 of the principal enactment as amended by Act, No. 19 of 2003, is hereby further amended by the addition immediately after the proviso to paragraph (b) of that section, of following new proviso :—

“Provided further, that where such deduction is in respect of any corporate debt security issued with a discount without any right to receive any interest or other benefit subsequent to the original issue, such person shall not be entitled to any refund under section 169 in respect of the amount of any such deduction which may not be set off due to the provisions of the first proviso to this paragraph.”.

Amendment of
section 123A of
the principal
enactment.

41. Section 123A of the principal enactment is hereby amended by the substitution for the words “if such interest income forms part of the assessable income of such person”, of the words “if such income interest forms part of the statutory income of such person being a company or the assessable income of such person being a person other than a company,”.

Replacement of
section 123B of
the principal
enactment.

42. Section 123B of the principal enactment is hereby repealed and the following section is substituted therefor :—

“Refund of
income tax
paid on
interest liable
to withholding
tax.

123B.(1) Where any person has proved to the satisfaction of the Commissioner-General that such person has already paid income tax on any interest subject to income tax at ten *per centum* under section 122A or 122B of this Act, and any claim is made in writing within twelve months from the date of payment of such tax, such person shall be entitled to a refund of such income tax paid by him on such interest income, other than any tax deducted under 122A or 122B on such interest income.

(2) Where any person being a company which has included any interest income referred to in section 122A or 122B of this Act in its total statutory income, has by virtue of the notional credit referred to in section 123A, paid any income tax in excess of its income tax liability for that year of assessment, then such excess may be carried forward to be set off against the income tax liability in any future year of assessment, but such company shall not be entitled to a refund of such excess or any part thereof.

(3) Any interest accrued to any person not being a company or any other person or partnership receiving such interest as business income for any year of assessment, shall not be included in the total statutory income for such year of assessment, if such person proves to the satisfaction of the Assessor that the total amount of such interest will be liable to the deduction of income tax under section 122A or 122B, as the case may be.”.

43. The following new section is hereby inserted immediately after section 124A of the principal enactment and shall have effect as section 124B of that enactment :—

Insertion of new section 124B in the principal enactment.

“Issue of directions where deductions are made from interest income under section 122A or 122B.

124B. (1) Any person other than an individual from whose interest income tax is deductible by a bank, financial institution, or a company which issues any corporate debt security in accordance with the provisions of paragraph (a) of subsection (1) of section 122A or subsection (1) of section 122B, as the case may be, where such interest income will form part of the assessable income of such person for any year of assessment, may, if the amount of income tax payable by such person for such year of assessment is less than the income tax

deductible during that year of assessment under section 122A and 122B, make an application to the Commissioner-General in such form and containing such particulars as may be specified by the Commissioner-General, requesting that a direction be issued to the bank or financial institution or any company which issues corporate debt security subject to the deduction of income tax, to make necessary adjustments in the deduction of income tax during that year of assessment :

Provided however if such person has obtained a direction under any other section of this Act, such direction shall also be taken into consideration in making a direction under this subsection.

(2) Notwithstanding the provisions of subsection (1) of section 124A or of this section, any individual from whose interest income income tax is deductible by a bank or financial institution in accordance with the provisions of paragraph (a) of subsection (1) of section 122A, during any period commencing on or after January 1, 2004, and where —

- (a) such interest income is the sole income or the major source of income of such individual, where more than ninety *per centum* of his income consists of such interest income for that year of assessment ;
- (b) the amount of the interest income receivable on all deposits maintained by such individual either singly or jointly in all banks and financial institutions, does not exceed rupees twenty five thousand in a month or rupees three hundred thousand in any twelve months period; and

- (c) the total income of such person for that year of assessment including any income exempt from income tax does not exceed rupees three hundred thousand for that year of assessment,

may make an application to the relevant bank or financial institution where such deposit is held, requesting that no income tax be deducted from the interest payable on the deposits maintained by him as provided in paragraph (a) of subsection (1) of section 122A, pending verification of facts mentioned in such application by the relevant authority. The application shall contain the following particulars—

- (i) full name and address of the deposits holder and the National Identity Card number or Passport number with the date and place issue;
- (ii) name of the bank or financial institution with which deposits are held;
- (iii) reference number of all deposits held in such bank or financial institutions, and the interest payable on each deposit and date payable;
- (iv) any relevant facts in relation to the quantum of total interest receivable on deposits, and whether such income is the sole income or major source of income of such individual as referred to in paragraph (a) above, and that the total income for such year of assessment does not exceed rupees three hundred thousand, including any income exempt from tax; and

- (v) a declaration certifying the correctness of the above details.

Where the status with regard to the income of such individual has been changed subsequently, a fresh application shall be made.

(3) (a) On receipt of an application containing all particulars as mentioned in subsection (2) and being satisfied with the identity of such applicant, the Chief Executive Officer or any other designated officer not below the rank of a manager, shall make necessary endorsements on that application and issue the relevant instructions to refrain from deduction of tax from the interest paid or credited to such individual, unless such officer or the institution receives a direction to the contrary from the relevant authority or any other officer authorized by him.

(b) The Chief Executive Officer or any other designated officer not below the rank of a manager of such bank or financial institution, shall submit the originals of all such applications received and accepted with the necessary endorsement, to the relevant authority or any other officer authorized by the relevant authority, retaining a copy of such application with such bank or financial institution.

(c) Any individual who has furnished incorrect information to a bank or financial institution and has obtained the relief of non payment of income tax under this section, shall be liable to pay such tax due on interest income as provided in section 122A, with hundred *per centum* penalty thereon, and such tax and

penalty shall be a tax in default under this Act, and shall be recovered by the Commissioner-General as provided for in Chapter XXII of this Act.

For the purposes of this section, the “relevant authority” means the Commissioner-General of Inland Revenue”.

44. The following new section is hereby inserted immediately after section 129 of the principal enactment and shall have effect as section 129A of that enactment :—

Insertion of new section 129A in the principal enactment.

“Penalty and interest on default.

129A. Where any income tax payable by a bank or a financial institution under the provisions of this Chapter is in default for any year of assessment commencing on or after April 1, 2004, such bank or financial institution shall pay in addition to such tax a penalty and interest in the manner provided in subsection (3A) of section 144, notwithstanding the provisions of section 129.”.

45. The following new section is inserted immediately after section 130B of the principal enactment, and shall have effect as section 130C of that enactment :—

Insertion of new section 130c in the principal enactment.

“Registration of banks and financial institutions.

130C. (1) Any bank or financial institution which is liable to deduct income tax from interest paid by such bank or financial institution under this Chapter on or after January 1, 2004, shall apply for and obtain a registration number from the Commissioner-General thirty days prior to the commencement of such deduction of tax, and shall furnish a return to the Commissioner-General on a monthly basis containing such particulars as may be specified by the Commissioner-General in relation to such deductions :

Provided that in respect of payments made during the period January 1, 2004 to September 30, 2004, such registration shall be obtained on or before September 30, 2004.

(2) Any bank or financial institution which does not so register or does not furnish any return shall be liable to a penalty not exceeding rupees fifty thousand which may be imposed by the Commissioner-General.”.

Insertion of new sections 130D and 130E in the principal enactment.

46. The following new sections are hereby inserted in Chapter XVI of the principal enactment immediately before section 131 and shall have effects as sections 130D and 130E of that enactment :—

“Registration of specified persons.

130D. (1) Any person or partnership who or which is liable to deduct income tax from specified fees under this Chapter on or after April 1, 2004, shall apply for and obtain a registration number from the Commissioner-General thirty days prior to the commencement of such deduction of tax, and shall furnish a return on a monthly basis containing such particulars as may be specified by the Commissioner-General in relation to any such deductions:

Provided that in respect of payments made during the period April 1, 2004 to September 30, 2004, such registration number shall be obtained on or before September 30, 2004.

(2) Any person or partnership who or which does not so register or does not furnish any return, shall be liable to a penalty not exceeding rupees fifty thousand which may be imposed by the Commissioner- General.

Registration of persons liable to deduct tax from rent, lease rent or other similar payments.

130E. (1) Any person or partnership who or which is liable to deduct income tax from rent, lease rent or other payments made by such person or partnership under this Chapter on or after April 1, 2004, shall apply for and obtain a registration number form the Commissioner General thirty days prior to the commencement of such deduction of tax, and shall furnish a return on a monthly basis containing such particulars as may be specified by the Commissioner-General in relation to any such deductions :

Provided that in respect of payments made during the period April 1, 2004 to September 30, 2004, such registration number shall be obtained on or before September 30, 2004.

(2) Any person or partnership who or which does not so register or does not furnish any return, shall be liable to a penalty not exceeding rupees fifty thousand which may be imposed by the Commissioner-General.”.

47. Section 132A of the principal enactment is hereby amended as follows :—

Amendment of section 132A of the principal enactment.

- (1) by the substitution for the words and figures, “Where, on or after April 1, 2003 —”, of the words and figures “Notwithstanding anything to the contrary in any other law, where on or after April 1, 2003—”; and
- (2) by the substitution for the words “share of fine ;”, of the words “share of fine, other than any such share of fine not paid out of the Consolidated Fund or which will fall under the profits form employment in terms of section 4 of this Act, in relation to any individual who holds any paid office under the Republic of Sri Lanka,”.

Insertion of new section 132C of the principal enactment.

48. The following new section is hereby inserted immediately after section 132B of the principal enactment, and shall have effect as section 132C of that enactment :—

“Registration of persons conducting lotteries or betting or gambling activities.

132C. (1) any person or partnership who or which is conducting any lottery or betting or gambling activity within the meaning of this Chapter on or after April 1, 2004, shall apply for and obtain a registration number from the Commissioner-General, thirty days prior to the commencement of such activity, if the prizes awarded or payments made are liable to the deduction of income tax under this Chapter, and shall furnish a return on a monthly basis containing such particulars as may be specified by the Commissioner-General in relation to such activity :

Provided that in respect of payments made during the period April 1, 2004 to September 30, 2004, such registration number shall be obtained on or before September 30, 2004.

(2) Any person or partnership who or which does not so register or does not furnish any return, shall be liable to a penalty not exceeding rupees fifty thousand which maybe imposed by the Commissioner General.”.

Insertion of new Chapter XVIC in the principal enactment.

49. The following new Chapter is hereby inserted immediately after Chapter XVIB of the principal enactment, and shall have effect as Chapter XVIC of that enactment :—

“CHAPTER XVIC

DEDUCTION OF INCOME TAX FROM ANY ANNUITY OR ROYALTY PAID
OR ANY MANAGEMENT FEE PAID OR SIMILAR PAYMENT MADE BY ANY
PERSON OR PARTNERSHIP

Persons
paying
annuity,
royalty,
management
fee or similar
payment to
deduct income
tax.

132D. Notwithstanding anything to the contrary in any other law, where on or after April 1, 2004 any person or partnership pays—

- (a) an annuity or royalty other than any such annuity or royalty referred to in section 90 ; or
- (b) any management fee or other similar payment,

such person or partnership, as the case may be, shall deduct at the time of such payment of annuity, royalty, management fee or such other similar payment, income tax at the rate of —

- (i) ten *per centum* of the gross annuity or royalty paid; and
- (ii) five *per centum* of any management fee paid or any other similar payment made:

Provided however, that in case of any payment referred to in paragraph (a), the tax shall be deducted only where each such payment of annuity or royalty to any person or partnership is in excess of rupees fifty thousand in any month, or rupees five hundred thousand in any year.

Application of
the provisions
of Chapter XV
to this
Chapter.

132E. (1) The provisions of Chapter XV relating to the deduction of income tax from interest paid by banks or financial institutions, credit for income tax so deducted, issue of

directions, duties of banks and financial institutions, default in the deduction of income tax, issue of assessments on banks and financial institutions and appeals and penalty for default, shall, *mutatis mutandis* apply to the deduction of income tax from such payments of any annuity, royalty, management fee or such other similar payment as is mentioned in section 132D, duties of persons or partnership making such payments of any annuity, royalty, management fee or similar payments, credit for income tax so deducted, issue of directions, default in the deduction of income tax, issue of assessments on such persons and appeals and penalty for default under this Chapter, as if there were substituted in Chapter XV for the words “banks and financial institutions” of the words “persons or partnerships liable to pay such annuity, royalty management fee or such similar payment” and for the word “interest” of the words “annuity, royalty management fee or such similar payment” wherever they appear in that Chapter.

(2) Any person or partnership who or which is liable to deduct income tax under this Chapter on or after April 1, 2004, shall apply for and obtain a registration number from the Commissioner-General thirty days prior to the commencement of such deduction of tax and shall furnish a return on a monthly basis containing such particulars as specified by the Commissioner-General :

Provided that in respect of payments made during the period April 1, 2004 to September 30, 2004 such registration number shall be obtained on or before September 30, 2004.

(3) Any person or partnership who or which does not so register or does not furnish any return, shall be liable to a penalty not exceeding rupees fifty thousand which may be imposed by the Commissioner-General.

(4) Any person or partnership who or which is liable to deduct income tax under this Chapter but has not deducted during the period April 1, 2004 up to such date as may be determined by the Commissioner-General by notice published in that behalf, shall not be in default, if such person or partnership informs the Commissioner-General within thirty days of such date, full details of such payments made without tax deduction.”.

50. Section 134 of the principal enactment as amended by Act No. 37 of 2003, is hereby further amended as follows :—

Amendment of
section 134 of the
principal
enactment.

- (1) in subsection (1) of that section, by the substitution for the words and figures “required under subsection (1) of section 105.”, of the words and figures—

“required under subsection (1) of section 105:

Provided further that any assessment in relation to the tax payable by a company under paragraph (bb) of subsection (1) of section 53 or paragraph (c) of subsection (1) of section 57, shall be made after the expiry of thirty days from the due date for payment of such tax.”; and

- (2) in subsection (6) of that section, by the substitution for the words “assessment so annulled.”, of the words—

“assessment so annulled :

Provided that such further assessment shall be limited to only one assessment in place of the assessment so annulled, and no further assessment or additional assessments shall be made.”.

Insertion of new sections 144A and 144B in the principal enactment.

51. The following new sections are hereby inserted immediately after the section 144 of the principal enactment, and shall have effect as section 144A and section 144B of that enactment —

“Time limits
for recovery
of income tax.

144A. Any tax in default under this Chapter shall not be recoverable as provided in Chapter XXII after expiry or a period of sixty months from the end of the month in which such tax went into default, notwithstanding anything contained in this Act or any other written law, but subject to the provisions of section 162A.

Punishment
for tax default.

144B. Where any person, including a director or a principal officer of a company or a partner of a partnership or a member or an office-bearer of an un-incorporated body, in respect of income tax payable by such person, including a company, partnership or other un-incorporated body respectively, has defaulted in the payment of such tax due and where such default commences on or after April 1, 2004, and continues for a period exceeding thirty six months, the Commissioner-General shall submit to the Magistrate a certificate containing relevant particulars, including the amount of tax in default, the period of default and accrued penalty and interest. Such person, including a director, principal officer, partner, a member or an office bearer, as the case may be, shall be liable, on conviction after summary trial before a Magistrate, to a period of imprisonment of either description not exceeding three months :

Provided that in the case of a director or a principal officer of a company, the Magistrate may allow such person to show cause that he is not responsible for such default or that he has taken all necessary steps within his power to avoid the non-payment of such tax :

Provided further that any written agreement between the Commissioner-General or any other officer appointed under this Act who is authorized by the Commissioner General to exercise any powers under Chapter XXII for the recovery of tax, and the defaulter, to pay the tax in default in installments within the period of time stipulated in section 144A for the recovery of tax in default, shall be taken into consideration before acting under this section, if such defaulter has honoured such agreement.”.

52. Section 158 of the principal enactment is hereby amended in subsection (1) of that section, by the substitution for the words “any person” and for the words “wealth tax or gift tax assessed upon him,”, of the words “any person who is a defaulter” and of the words “wealth tax or gift tax which have become default as assessed upon him or otherwise,”, respectively.

Amendment of section 158 of the principal enactment.

53. The following new section is hereby inserted immediately after section 162 of the principal enactment, and shall have effect as section 162A of that enactment :—

Insertion of new section 162A in the principal enactment.

“Where tax default is to be recovered in instalments, period during which the instalments are to be paid not to extend beyond the period referred to in section 144A.

162A. (1) Where any tax in default is to be recovered under this Chapter in instalments, the period during which such instalment payments are to be made shall not extend beyond the period referred to in section 144A in relation to the recovery of any tax in default.

Any such instalment payments allowed but not paid within the period referred to in section 144A may be recovered by the Commissioner-General under this Chapter, notwithstanding the provisions of such section.

(2) Where —

- (a) the seizure of any property under section 148;
- (b) the imposition of a sentence by a Magistrate under section 149;
- (c) the issue of any valid notice by the Commissioner-General under section 150;
- (d) the issue of any valid notice to the employer of the defaulter by the Commissioner-General under Section 152; or
- (e) the issue of a certificate by the Commissioner-General to the Magistrate under section 158 and the prevention of the defaulter from leaving the island,

has taken place within the period referred to in section 144A, any subsequent action directly related to the relevant action for recovery as mentioned above, shall not be affected by the provisions of such section.

Amendment of
 section 169 of the
 principal
 enactment.

54. Section 169 of the principal enactment is hereby amended by the addition at the end of that section, the following new subsection —

“(8) Nothing in the above provisions of this section shall operate in relation to the following deductions —

- (a) income tax paid by a primary dealer on any interest under section 122A or 122B, on primary market transactions;
- (b) income tax paid by any person on any interest under section 122A or 122B (not being any interest referred to in paragraph (a) paid by any primary dealer) where such interest is not included in his assessable income, or on any dividends under subsection (1A) of section 61;
- (c) income tax paid by any person as provided for under section 33 or on any rewards or share of fines received, a lottery prize or winnings from betting or gaming taxable under section 132A.”.

55. Section 173 of the principal enactment is hereby amended in subsection (3) of that section, by the substitution for the words “compound any proceedings thereunder.”, of the words “compound any proceedings thereunder, subject to the recovery of an amount that is not less than one third of the fine that may be imposed under sub-paragraphs (i) and (ii) of subsection (1), Such fine recovered shall be credited to the Consolidated Fund.”.

Amendment of
section 173 of the
principal
enactment.

56. Section 186 of the principal enactment as last amended by Act No. 19 of 2003, is hereby further amended by the substitution for the definition of the term “business”, of the following definition :—

Amendment of
section 186 of the
principal
enactment.

“business” includes an agricultural undertaking, the racing of horses, the letting or leasing of any premises including any land by a company and the forestry;”.

57. The First Schedule to the principal enactment is hereby amended as follows :—

Amendment of
First Schedule to
the principal
enactment.

- (1) in Part 1B of that Schedule, by the substitution for the words “any year of assessment”, of the words “the year of assessment”;
- (2) by the insertion immediately after Part 1B of that Schedule, of the following new Part :—

“PART 1C

For any year of assessment commencing on or after April 1, 2004

| | |
|--|----------------------|
| On the first Rs. 240,000 of the taxable income | <i>10 per centum</i> |
|--|----------------------|

| | |
|---|----------------------|
| On the next Rs. 240,000 of the taxable income | <i>20 per centum</i> |
|---|----------------------|

| | |
|-------------------------------|------------------------|
| On the balance taxable income | <i>30 per centum”.</i> |
|-------------------------------|------------------------|

- (3) in Part IIIA of that Schedule, by the substitution for the words and figures “for any year of assessment commencing on or after April 1, 2002-”, of the words and figures “for the year of assessment commencing on April 1, 2002 and for the immediately succeeding year of assessment-.”; and

- (4) by the addition immediately after Part IIIA of that Schedule, of the following new Part :—

“PART IIIB

For any year of assessment commencing on or after April 1, 2004—

| | |
|----------------------------|------------------------|
| On the first Rs. 2,000,000 | Nil |
| On the next Rs. 500,000 | <i>5 per centum</i> |
| On the next Rs.500,000 | <i>10 per centum</i> |
| On the balance | <i>15 per centum”.</i> |

58. The Third Schedule to the principal enactment as amended by Act, No. 37 of 2003, is hereby further amended as follows :—

Amendment of
the Third
Schedule to the
principal
enactment.

- (1) by the substitution for item 5 thereof, of the following item :—

“5 Partnerships (on any
assessment made) 30 *per centum*”;

- (2) by the substitution in item 6 thereof, for the words and figures “Law No. 5 of 1972”, of the words and figures “Law No. 5 of 1972 or clubs or associations referred to in section 96, for any year of assessment commencing on or after April 1, 2003”; and

- (3) by the substitution for item 10 thereof, of the following item :—

“10. Business Undertakings vested in the
Government under the Business Undertaking
(Acquisition) Act, No. 35 of 1971,

(i) on the taxable income 30 *per centum*

(ii) on the balance of the profits
after deduction therefrom, of
the tax payable under
paragraph (i) 25 *per centum*

59. The Sixth Schedule to the principal enactment is hereby amended as follows :—

Amendment of
the Sixth Schedule
to the principal
enactment.

- (1) by the substitution in item 5 of that Schedule, for the words and figures “arising from any on-shore foreign currency banking transactions (section 38)”, of the words and figures “arising from any on-shore foreign currency banking transactions for any year of assessment commencing on or before April 1, 2002 and on profit and income for the period up to and including June 30, 2003 (section 38)”;

(2) by the insertion immediately after item 5 of that Schedule, the following new items :—

- (5a) The rate of income tax on profits and income from off-shore foreign currency transactions of any foreign currency baking unit (section 38A) *20 per centum*
- (5b) The rate of income tax on profits and income arising to any consignor or consignee from entrepot trade involving precious stones, metals not mined in Sri Lanka or any petroleum, gas or petroleum products or such other approved products (Section 38B) *10 per centum*
- (5c) The rate of income tax on profits and income arising to any person from any approved undertaking for the operation and maintenance of facilities for the storage of goods or commodities involving entrepot trade-(section 38c) *10 per centum*
- (5d) The rate of income tax applicable to any profits or gains on the disposal of company shares, rights or warrants (section 38d) *15 per centum unless such person is liable at 10 per centum only.*

- (3) by the addition immediately after item 20 of that Schedule, the following new items :—

- “21. The rate of income tax applicable to any partnership on the divisible profits and other income, other than on any assessment made (section 72A) *10 per centum*
22. The rate of income tax applicable to any person who is not a citizen of Sri Lanka carrying on the profession or vocation of entertainer or artist (section 91) *15 per centum*
23. The rate of income tax applicable to any profits and income from petroleum exploration of any person or in the case of a partner of a partnership, as referred to in section 97B (section 97B)”. *15 per centum*

60. Section 31A of the Inland Revenue Act, No. 28 of 1979 as amended by Act No. 24 of 1997 is hereby further amended in subsection (5) thereof, by the substitution for the words “allowance is deducted.”, of the words “allowance is deducted :

Amendment of section 31A of that Inland Revenue Act No. 28 of 1979.

Provided that any balance of investment tax allowance as at March 31, 2005 shall not be carried forward or refunded.

61. (1) The amendments made to section 10, paragraph (i) of section 15 and sections 48A, 61, 123A and 123B of the principal enactment by sections 4, 6(5), 20, 24, 41 and 42 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 21F of the principal enactment by section 11 of this Act, shall for all purposes be deemed to have come into force on October 1, 2002.

(3) The amendment made to section 123 of the principal enactment by section 40 of this Act, shall for all purposes be deemed to have come into force on November 1, 2002.

(4) The amendments made to section 8 by the inclusion of new paragraphs (LXXV) and to paragraph (a) and the proviso to paragraph (a) by section 3 of this Act, shall for all purposes be deemed to have come into force on February 14, 2003.

(5) (a) The amendments made to sections 21D, 21E, 21H, 38 and 52A of the principal enactment by sections 9, 10, 12, 18 and 21 of this Act; and,

(b) The new paragraph (hh) of section 3 and section 97A inserted in to the principal enactment by section 2(2) and 28 of this Act,

shall for all purposes be deemed to have come into force on April 1, 2003.

(6) (a) The amendments made to section 8 by the inclusion of new paragraph (LXXVI) and (LXXVII) and to section 11, 15, (other than paragraph (i)), 29 (1c) and (2), 31, 53, 60, 107, 119, 122A, 122B, 169, 186 and the First, Third and Sixth Schedules of the principal enactment by sections 3, 5, 6, 15(2) and (3), 17, 21, 22, 23, 34(1), 37, 38, 39, 54, 56, 57, 58 and 59 of this Act; and

(b) Sections 38A, 38B, 38C, 38D, 72A, 97A, 98A, 108A, 118A, 124B, 129A, 131A, 131B, 132C, 144A, 144B, 162A and Chapter XVIC inserted in to the principal enactment by section 19, 25, 28, 31, 35, 36, 43, 44, 46, 48, 51, 53 and 49 of this Act,

shall for all purposes be deemed to have come into force on April 1, 2004.

Validation and
Indemnity.

62. The amount of tax charged or collected from any person by or on behalf of the Commissioner-General prior to the date of commencement of this Act, by virtue of the application of any provision of this Act, shall be deemed to

have been validly charged and levied by the Commissioner-General or by such person who charged and levied such tax on behalf of the Commissioner-General, and the Commissioner-General and such other person is hereby indemnified from any action, civil or criminal, in respect of the charging or collection of such tax

63. 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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