



PARLIAMENT OF THE DEMOCRATIC  
SOCIALIST REPUBLIC OF  
SRI LANKA

TURNOVER TAX ACT, No. 69 OF 1981

[Certified on 12th November, 1981]

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[Certified on 12th November, 1981]

L.D.—O. 41/80

**AN ACT TO PROVIDE FOR THE IMPOSITION OF TURNOVER TAX**

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

1. This Act may be cited as the Turnover Tax Act, Short title No. 69 of 1981.

**CHAPTER I**

**IMPOSITION OF TURNOVER TAX**

2. Subject to the other provisions of this Act there shall be charged for the period November 13, 1981 to December 31, 1981 and for every quarter commencing on or after January 1, 1982 from every person who—

Imposition  
of turnover  
tax.

- (a) carries on any business in Sri Lanka ; or  
(b) renders services outside Sri Lanka for which payment is made from Sri Lanka,

a tax (hereinafter referred to as the "turnover tax") in respect of the turnover made by that person from that business or from services rendered outside Sri Lanka computed at such rate as the Minister may fix by Order published in the *Gazette*.

For the purposes of this Act the expression "business" shall include services rendered outside Sri Lanka for which payment is made from Sri Lanka.

3. (1) A person shall, in respect of any business carried on by him in Sri Lanka, be chargeable with turnover tax for each quarter if the turnover of that business for that quarter is not less than twenty-five thousand rupees and where that business is carried on by him for only a part of any quarter, the turnover of that business for that part of the quarter is not less than the sum which bears to twenty-five thousand rupees the same proportion as the number of days in that part of the quarter bears to ninety.

Circumstan-  
ces in which  
a person  
becomes  
chargeable  
with turn-  
over tax.

- (2) Where a person is chargeable with turnover tax in respect of any business carried on by him and a change of ownership of that business occurs, then notwithstanding the provisions of subsection (1), the new owner of that business shall be chargeable with turnover tax as though he had been the owner of that business immediately before the occurrence of the change of ownership.

## CHAPTER II

## EXEMPTIONS

**Exemption from turnover tax.**

4. (1) The Minister may, if he is of opinion that it is essential for the economic progress of Sri Lanka, exempt by Order published in the *Gazette* any business or such business as may be specified, which is carried on by any person, from the turnover tax.

(2) Every Order under subsection (1) shall come into force on the date of its publication in the *Gazette* or on such later date as may be specified in such Order and shall be brought before Parliament within a period of three months from the date of the publication of such Order in the *Gazette* or, if no meeting of Parliament is held within such period, at the first meeting of Parliament held after the expiry of such period, by a motion that such Order shall be approved.

(3) Any Order which Parliament refuses to approve shall, with effect from the date of such refusal, be deemed to be revoked but without prejudice to the validity of such Order until the date of such refusal, and the notification of the date on which such Order is deemed to be revoked shall be published in the *Gazette*.

## CHAPTER III

## TURNOVER

**Turnover.**

5. (1) For the purposes of this Act "turnover" in relation to any business means the total amount received or receivable from transactions entered into in respect of that business or for services performed in carrying on that business and includes—

- (a) in the case of a financier, moneylender or pawn-broker, the interest received or receivable by him on loans and the sums received by him as fees or other charges in respect of such loans;
- (b) in the case of a person carrying on any educational establishment or school, the total amount received or receivable by him in carrying on such educational establishment or school;
- (c) in the case of a person carrying on a business of insurance, the total amount excluding premia received or receivable in respect of life insurance;

- (d) in the case of an importer of articles manufactured outside Sri Lanka—
  - (1) when such articles were imported the aggregate of—
    - (a) the value of such articles ascertained for the purpose of custom duty in accordance with the Customs Ordinance ; and
    - (b) the amount of custom duty ,if any, paid on such articles ;
  - (2) if such articles are sold the amount received or receivable ;
- (e) in the case of a manufacturer where the sale is to another manufacturer for the purpose of manufacture of another article, the amount received or receivable in respect of any transaction before adding any amount due as turnover tax in respect of that transaction ;
- (f) in the case of a bank the receipts of such bank by way of or on account of interest, discounts, dividends, exchange, service charges, commissions, brokerage and any other income derived by such bank in the course of its business or otherwise but shall not include receipts attributable to the operation of the foreign currency banking unit of such bank ;

In this paragraph "foreign currency banking unit" means a unit or department of a commercial bank authorized by the Central Bank of Ceylon to operate as a foreign currency banking unit.

- (g) in the case of a person who renders services outside Sri Lanka the amount received or receivable from Sri Lanka in respect of such services.

(2) For the purposes of subsection (1) the turnover shall not include any amount received or receivable by the sale of capital assets.

(3) Where in respect of any quarter, turnover tax has been paid in respect of any sum receivable during that quarter, no such tax in respect of that sum need be paid in respect of the quarter in which such sum is actually received.

6. (1) Where businesses of a like nature are carried on by a person in the same place or in different places, the businesses so carried on by him shall be deemed to be one business.

Different businesses  
to be  
deemed one  
business.

(2) Different businesses carried on by the same person in one place shall be deemed to be one business.

## CHAPTER IV

### RATES OF TAX

Rate of turnover tax.

7. (1) The rate of turnover tax in respect of any business may be determined by reference to the nature of such business and accordingly different rates of such tax may be determined in respect of different classes or descriptions of businesses and published in the *Gazette*.

(2) The rate of turnover tax in respect of any class or description of business may from time to time be varied by the Minister by Order published in the *Gazette*.

(3) Every determination under subsection (1) and every Order made under subsection (2) shall come into force on the date of its publication in the *Gazette* or on such later date as may be specified in such determination or Order and shall be brought before Parliament within a period of three months from the date of the publication of such determination or Order in the *Gazette*, or, if no meeting of Parliament is held within such period, at the first meeting of Parliament held after the expiry of such period by a motion that such determination or Order shall be approved. There shall be set out in a schedule to every such motion the text of the determination or Order to which the motion refers.

(4) Any determination under subsection (1) or any Order under subsection (2) which Parliament refuses to approve shall, with effect from the date of such refusal, be deemed to be revoked but without prejudice to the validity of anything done thereunder. Notification of the date on which any such determination or Order is deemed to be revoked shall be published in the *Gazette*.

Excepted Articles.

8. (1) The Minister may, by Order published in the *Gazette*, declare any article specified in such Order to be an excepted article for the purposes of this Act. Different articles may be declared to be excepted articles in respect of different classes or descriptions of businesses.

(2) Where an article is, under subsection (1), declared to be an excepted article in respect of any class or description of business, no turnover tax shall be payable in respect of the sum realized by the sale of such article or in respect of the import of such article.

## CHAPTER V

### RETURNS

9. (1) Every person who carries on any business in Sri Lanka shall, where the turnover of that business for any quarter is not less than twenty-five thousand rupees and where that business is carried on by him for only a part of any quarter, the turnover of that business for that part of the quarter is not less than the sum which bears to twenty-five thousand rupees the same proportion as the number of days in that part of the quarter bears to ninety, furnish to the Commissioner-General not later than fifteen days after the expiry of that quarter or part of the quarter, as the case may be, a return setting out the turnover of that business for that quarter or part of the quarter. Every such return shall be in the prescribed form and shall contain all such particulars as may be required to be set out in such form.

Returns and information to be furnished

(2) An Assessor may, by notice in writing, direct any person who, in the judgment of that Assessor, is a person chargeable with turnover tax to furnish within the time specified in such notice a return containing such particulars as the Assessor may require:

(3) For the purpose of obtaining full information in respect of the turnover from any business carried on by any person, an Assessor may give notice in writing to such person requiring him—

(a) to produce for examination, or transmit to the Assessor, within the period specified in such notice, any such books, accounts, trade lists, stock lists, registers, vouchers, cheques, paying-in-slips, auditors' reports or other documents in his possession as may be specified in such notice;

(b) to attend in person or by an authorized representative at such place and on such date and at such time as may be specified in the notice for the purpose of being examined regarding the turnover in respect of that business.

(4) For the purposes of this Act, a Deputy Commissioner may give notice in writing to any person requiring him—

(a) to produce, or transmit, to such Deputy Commissioner within the period specified in such notice any books, accounts, trade lists, stock lists, registers, vouchers, cheques, paying-in-slips, auditors' reports or other documents in his possession as may be specified in such notice;

(b) to attend in person or by an authorized representative at such place and on such date and at such time as may be specified in such notice so that he may be examined on any such matter or matters as may be specified in such notice.

(5) A person who attends in compliance with a notice given under subsection (4) may be allowed by the Commissioner-General the expenses reasonably incurred by him in so attending.

(6) A Deputy Commissioner, or an Assessor with the approval of a Deputy Commissioner, may retain in his custody as long as such retention is necessary for the purposes of this Act any books, accounts, trade lists, stock lists, registers, vouchers, cheques, paying-in-slips, auditors' reports or other documents which are or have been produced before him or transmitted to him under subsection (3) or subsection (4) or which otherwise come or have come into his possession.

(7) An Assessor may give notice in writing to any person when and as often as he thinks necessary requiring him to furnish within the time specified in such notice—

(a) fuller or further returns ; or

(b) fuller or further information relating to any matter as will in the opinion of the Assessor be necessary or relevant for the assessment of turnover tax payable by such person.

(8) A return, statement or form purporting to be furnished under this Act by or on behalf of any person shall for all purposes be deemed to have been furnished by that person or by his authority, as the case may be, unless the contrary is proved, and any person signing any such return, statement or form shall be deemed to be cognizant of all matters contained therein.

## CHAPTER VI

### PAYMENT OF TAX

**Payment of  
turnover  
tax.**

10. The turnover tax in respect of any quarter shall be paid not later than the fifteenth day of the month following the end of that quarter. Any tax not so paid shall be deemed to be in default and the person by whom such tax is payable or where any tax is payable by more than one person, or by a partnership then each of such persons and each partner in the partnership shall be deemed to be a defaulter for the purposes of this Act.

11. (1) Where any turnover tax is in default, the defaulter shall, in addition to such tax in default, pay as a penalty—

Penalty for  
default.

- (a) a sum equivalent to ten *per centum* of the amount in default; and
- (b) where any amount in default is not paid before the fifteenth day of the month succeeding the month in which such tax has begun to be in default, a further sum equivalent to two *per centum* of the amount in default in respect of each period ending on the fifteenth day of each succeeding month or part of such period during which it is in default:

Provided, however, that the total amount payable as penalty under this subsection shall in no case exceed fifty *per centum* of the tax in default and any such amount may be waived or reduced if the Commissioner-General is satisfied that by reason of any special circumstances in which the default occurred a waiver or reduction of such amount would be just and equitable

(2) Where upon the final determination of an appeal under section 17 any tax in default to which any sum or sums under subsection (1) has or have been added is reduced then such sum or sums shall be calculated on the tax as so reduced.

## CHAPTER VII

### LEVY AND COLLECTION OF TURNOVER TAX ON ARTICLES MANUFACTURED ABROAD AND IMPORTED INTO SRI LANKA

12. (1) Notwithstanding anything in this Act, there shall be charged from every person who imports any article manufactured outside Sri Lanka turnover tax in respect of his turnover, whether the turnover for any quarter is less than the amount specified in section 3 or not, at the rates specified in an Order made by the Minister under section 7 and collected by the Principal Collector of Customs, which tax shall be in addition to any other tax, duty or levy imposed under the Customs Ordinance.

Levy of  
turnover  
tax on  
articles  
manufactured  
abroad and  
imported  
into Sri  
Lanka and  
collection of  
such tax

(2) The turnover tax referred to in subsection (1) shall, for the purposes of the levy and collection of such tax, be deemed to be customs duty leviable under the Customs Ordinance and accordingly the provisions of the Customs Ordinance shall apply to the levy, collection and recovery of

such tax, granting exemption from or drawback of such tax and settling any appeals or any other matter in relation to such tax.

(3) Where an article manufactured outside Sri Lanka and imported into Sri Lanka is sold—

(a) by the Principal Collector of Customs for any levy due under the Customs Ordinance;

(b) by the Sri Lanka Ports Authority for any dues under the Sri Lanka Ports Authority Act, No. 51 of 1979;

(c) by the Commissioner-General,

the purchaser of such article shall be deemed to be an importer for the purposes of this Act.

## CHAPTER VIII

### ASSESSMENTS

**Power of  
Assessor to  
make assess-  
ments.**

13. (1) Where any person—

(a) who, in the opinion of an Assessor, is chargeable with turnover tax fails to furnish under section 9, a return for any quarter and to pay the tax for that quarter; or

(b) who is chargeable with the turnover tax furnishes under section 9, a return in respect of any quarter but fails to pay tax for that quarter,

the Assessor shall assess the amount of the turnover tax, which such person, in the judgment of the Assessor, ought to have paid for that quarter and shall, by notice in writing, require that person to pay such amount immediately. The amount so assessed in respect of any person for a quarter shall, subject to the provisions of section 14, be deemed to be the amount of the turnover tax payable by him for that quarter:

Provided that the Assessor may assess any person for any quarter at any time prior to the fifteenth day after the end of such quarter, if he is of the opinion that such person is about to leave Sri Lanka or that it is expedient to do so for the protection of revenue and require such person to pay such tax to the Commissioner-General earlier than as required under section 10. Any tax not so paid shall be deemed to be in default for that quarter.

(2) An assessment made under subsection (1) in respect of any person for any quarter shall not affect the liability of such person to a penalty under section 11 as though the amount assessed were the amount of turnover tax due from him for that quarter.

(3) Where, in the opinion of the Assessor, the amount paid as turnover tax for any quarter by any person who has failed to furnish under section 9, a return in respect of that quarter is less than the proper amount payable by that person for that quarter, the Assessor shall assess the amount which, in the judgment of the Assessor, ought to have been paid by such person and shall, by notice in writing, require that person to pay on or before a date specified in that notice, the difference between the amount so assessed and the amount paid by that person.

(4) Where an assessment is made under subsection (3) in respect of any person for any quarter, the difference between the amount so assessed and the amount paid by that person as turnover tax for that quarter shall be deemed to be the turnover tax in default for that quarter and accordingly such person shall, from the date on which such person ought to have paid the tax for that quarter under section 10, be liable in respect of that amount to the penalty under subsection (1) of section 11.

14. (1) Where it appears to an Assessor that a person chargeable with turnover tax has for any quarter paid as tax an amount less than the proper amount of the tax payable by him for that quarter, or chargeable from him for that quarter, an Assessor may, at any time, assess such person at the additional amount at which, according to the judgement of the Assessor, tax ought to have been paid by such person. The Assessor shall give such person notice of assessment.

Additional assessments

(2) Where an assessment is made under subsection (1) in respect of any person for any quarter, the amount so assessed shall be deemed to be turnover tax in default for that quarter and accordingly such person shall, from the date on which such person ought to have paid the tax for that quarter under section 10, be liable to the penalty under subsection (1) of section 11 in respect of such amount.

**Assessor to give reasons for not accepting a return.**

15. Where an Assessor does not accept a return furnished by any person under section 9 for any quarter and makes an assessment or additional assessment on that person for that quarter under section 13 or section 14 he shall communicate to such person in writing by registered letter sent through the post his reasons for not accepting the return.

**Power of Assessor to estimate sale price.**

16. Where any person who carries on the business of a manufacturer of any article sells such article for the purposes of distribution at a price which, in the opinion of the Assessor, reduces or would reduce the turnover tax payable by him, then for the purposes of this Act, such article shall be deemed to have been sold at a price which in the opinion of the Assessor, it would have fetched in an open market on the date of such sale, and the turnover of such person from such business shall be computed accordingly.

## CHAPTER IX

### APPEALS

**Appeals to the Commissioner-General.**

17. (1) Any person may, if he is dissatisfied with any assessment or additional assessment made in respect of him by an Assessor, or a penalty imposed under this Act, appeal against such assessment or additional assessment or penalty to the Commissioner-General within thirty days after the service of notice of such assessment, additional assessment or imposition of penalty. Such person shall, notwithstanding the appeal, pay the turnover tax charged by such assessment or additional assessment together with any penalty imposed on him by this Act:

Provided that the Commissioner-General, upon being satisfied that owing to absence from Sri Lanka, sickness or other reasonable cause, the appellant was prevented from appealing within such period, shall grant an extension of time for preferring the appeal.

(2) Every appeal shall be preferred by a petition in writing addressed to the Commissioner-General and shall state precisely the grounds of such appeal.

(3) Where the assessment or additional assessment appealed against has been made in the absence of a return, the petition of appeal shall be sent together with a return duly made.

(4) Every petition of appeal which does not conform to the provisions of subsections (2) and (3) shall not be valid.

(5) On receipt of a valid petition of appeal, the Commissioner-General may cause further inquiry to be made by an Assessor, and if in the course of such inquiry an agreement is reached as to the matters specified in the petition of appeal, the necessary adjustment of the assessment shall be made.

(6) Where no agreement is reached between the appellant and the Assessor in the manner provided in subsection (5) the Commissioner-General shall fix a time and place for the hearing of the appeal.

(7) Every appellant shall attend before the Commissioner-General at the time and place fixed for the hearing of the appeal. The appellant may attend the hearing of the appeal in person or by an authorized representative. The Commissioner-General may, if he thinks fit, from time to time adjourn the hearing of an appeal for such time and place as he may fix for the purpose. In any case in which an authorized representative attends on behalf of the appellant, the Commissioner-General may adjourn the hearing of the appeal and may, if he considers that the personal attendance of the appellant is necessary for the determination of the appeal, require that the appellant shall attend in person at the time and place fixed for the adjourned hearing of the appeal. If the appellant or his authorized representative fails to attend at the time and place fixed for the hearing or any adjourned hearing of the appeal, or if the appellant fails to attend in person when required so to attend by the Commissioner-General, the Commissioner-General may dismiss the appeal :

Provided that, if the appellant shall within a reasonable time after the dismissal of an appeal satisfy the Commissioner-General that he or his authorized representative was prevented from due attendance at the hearing or at any adjourned hearing of such appeal by reason of absence from Sri Lanka, sickness, or other unavoidable cause, the Commissioner-General may vacate the order of dismissal and fix a time and place for the hearing of the appeal.

(8) The Commissioner-General shall have power to summon any person whom he may consider able to give evidence respecting the appeal to attend before him and may examine such person on oath or otherwise. Any person so attending may be allowed by the Commissioner-General any reasonable expenses necessarily incurred by such person in so attending.

(9) Before making his determination on any appeal, the Commissioner-General may, if he considers it necessary so to do, by notice given in writing to any person require that person to produce for examination, or to transmit to the Commissioner-General within the period specified in such notice, any such deeds, plans, instruments, books, accounts, trade lists, stock lists, registers, cheques, paying-in-slips, auditor's reports or other documents in his possession as may be specified in such notice.

(10) Where the Commissioner-General hears the evidence of the appellant or of any other person in respect of the appeal, he shall maintain or cause to be maintained a record of such evidence.

(11) In determining an appeal under this section the Commissioner-General may confirm, reduce, increase or annul the assessment appealed against and shall give notice in writing to the appellant of his determination on the appeal.

**Appeals to  
the Board  
of Review.**

18. Any person aggrieved by the decision of the Commissioner-General upon any appeal made to him under subsection (1) of section 17, may appeal from that decision to the Board of Review constituted under the Inland Revenue Act, No. 28 of 1979, and the provisions of that Act relating to appeals to such Board shall, *mutatis mutandis*, apply to an appeal under this section.

**Appeal on  
a question of  
law to the  
Court of  
Appeal.**

19. (1) The decision of the Board of Review shall be final :

Provided that either the appellant or the Commissioner-General may make an application requiring the Board of Review to state a case on a question of law for the opinion of the Court of Appeal.

(2) The provisions of the Inland Revenue Act, No. 28 of 1979, relating to appeals to the Court of Appeal and to the Supreme Court shall, *mutatis mutandis*, apply to an appeal under this section.

## CHAPTER X

### FINALITY OF ASSESSMENTS AND PENALTY FOR INCORRECT RETURNS

**Assessments  
or amended  
assessments  
to be final.**

20. Where no valid appeal has been lodged within the time specified in this Act against an assessment in respect of the turnover tax, or where the amount of such tax has been determined on appeal, the assessments as made, or

reduced, or increased or confirmed on appeal, as the case may be, shall be final and conclusive for all purposes of this Act as regards the amount of such tax:

Provided that nothing in this Act shall prevent an Assessor from making an assessment or additional assessment for any quarter if it does not involve reopening any matter which has been determined on appeal for that quarter.

21. Where in an assessment made in respect of any person, the amount of turnover tax exceeds the amount already paid by him as the amount due from him in respect of the turnover specified in his return and the assessment is final and conclusive under section 20 the Commissioner-General may, unless that person proves to the satisfaction of the Commissioner-General that there is no fraud or wilful neglect involved in the disclosure of the turnover made by that person in his return, in writing, order that person to pay as a penalty for making an incorrect return a sum not exceeding two thousand rupees and a sum equal to twice the tax on the difference between the turnover on which the assessment was made and the turnover specified in his return.

Penalty for  
under-  
payment of  
turnover  
tax

## CHAPTER XI

### SPECIAL CASES

22. Any act or thing required by or under this Act to be done by any person shall, if such person is an incapacitated person, be deemed to be required to be done by the trustee of such incapacitated person.

Who may  
act for  
incapacita-  
ted person

23. Any act or thing required by or under this Act to be done by any person shall, in the case of two or more persons in partnership, be deemed to be required to be done by the precedent partner of such partnership:

Precedent  
partner to  
act on  
behalf of  
partnership.

Provided that any person to whom a notice has been given under the provisions of this Act as a precedent partner of a partnership shall be deemed to be the precedent partner thereof unless he proves that he is not a partner of such partnership or that some other person in Sri Lanka is the precedent partner thereof.

**Principal officer to act on behalf of a company or body of persons.**

24. (1) The secretary, manager, director or other principal officer of every company or body of persons, corporate or unincorporate, shall be liable to do all such acts, matters or things as are required to be done under the provisions of this Act by such company or body of persons.

Provided that any person to whom a notice has been given under the provisions of this Act on behalf of a company or body of persons shall be deemed to be the principal officer thereof unless he proves that he has no connection with that company or body of persons or that some other person resident in Sri Lanka is the principal officer thereof.

(2) Where an offence under this Act is committed by a company or body of persons, corporate or unincorporate, every person who at the time of the commission of the offence was the secretary, manager, director or other principal officer of the company or body of persons shall be deemed to be guilty of that offence unless he proves that the offence was committed without his knowledge and that he exercised all such diligence to prevent the commission of that offence as he ought to have exercised having regard to the nature of his functions in such capacity and to all the other circumstances.

**Liability to pay turnover tax in the case of cessation of business.**

25. (1) Subject as hereinafter provided, where during the course of a quarter a person chargeable with turnover tax ceases to carry on any business in respect of which he is chargeable with such tax, he shall, notwithstanding that he has ceased to carry on such business, be liable to pay such tax for the period during which he carried on that business in that quarter.

(2) Where any person carrying on a business transfers such business to any other person, any turnover tax payable in respect of such business for any period prior to the transfer may, if it cannot be recovered from the transferor, be recovered from the transferee notwithstanding that an assessment may not have been made on the transferee and the provisions of this Act as to collection and recovery of turnover tax shall apply accordingly.

**Liability of executor to pay turnover tax.**

26. (1) Where any person chargeable with turnover tax dies, the executor of such deceased person shall, in respect of all periods prior to the date of death of such person, be chargeable with turnover tax which such person would be

chargeable if he were alive, and shall be liable to do all acts, matters and things which such person if he were alive would be liable to do under this Act:

Provided that—

- (a) no proceedings shall be instituted against the executor in respect of any act or default of the deceased person;
- (b) no assessment or additional assessment in respect of a period prior to the date of such person's death shall be made after three years from the end of the quarter in which the death occurred; and
- (c) the liability of the executor under this section shall be limited to the sum of—
  - (i) the deceased person's estate in his possession or control at the date when notice is given to him that liability to turnover tax will arise under this section; and
  - (ii) any part of the estate which may have passed to a beneficiary.

(2) Where an executor on behalf of the estate of a deceased person carries on any business which is a part of such estate, such executor shall, in respect of such business, be chargeable with turnover tax with which such person would be chargeable if he were alive.

27. Where any business in respect of which turnover tax is payable is carried on by any person on behalf of any other person as the agent of such other person, the first-mentioned person shall be chargeable with turnover tax in respect of that business in like manner and to the like amount as the latter-mentioned person would be chargeable under this Act.

28. Where two or more persons act in the capacity of trustees of a trust or executors of a deceased person's estate, they may be charged jointly and severally with turnover tax with which they are chargeable under this Act, and shall be jointly and severally liable for payment of such tax.

**Liability of certain persons to pay turnover tax in respect of business not belonging to them.**

**Joint agents, trustees and executors.**

Persons liable to pay turnover tax upon liquidation of a company or dissolution of a body of persons.

**29.** (1) Notwithstanding anything in the Companies Ordinance, where a company is wound up and where any turnover tax to which that company is liable cannot be recovered, then, every person who was a director of the company at any time during the period in respect of which such tax is charged shall be jointly and severally liable for the payment of such tax unless he proves that the default in payment of tax cannot be attributed to any gross neglect, misfeasance or breach of duty on his part in relation to the affairs of the company, and the provisions of this Act as to collection and recovery of turnover tax shall apply accordingly.

(2) Where a body of persons is dissolved and where any turnover tax to which such body of persons is liable cannot be recovered, then, every person who was a member of that body of persons during the period in respect of which the tax is charged shall be jointly and severally liable for the payment of such tax unless he proves that the default in payment of tax cannot be attributed to any gross neglect, misfeasance or breach of duty on his part in relation to the affairs of that body, and the provisions of this Act as to collection and recovery of turnover tax shall apply accordingly.

## CHAPTER XII

### RECOVERY OF TAX

Meaning of turnover tax for the purposes of section 31 to 38.

**30.** (1) For the purposes of section 31, section 32, section 33, section 34, section 35, section 36, section 37 and section 38 "turnover tax" includes any penalty imposed or incurred under this Act.

(2) Whenever the Commissioner-General issues a certificate under section 33 or section 34 or a notice under section 35, he shall at the same time issue to the defaulter a notification thereof by personal service or by registered letter sent through the post or by telegraph; but the non-receipt of such notification by the defaulter shall not invalidate proceedings under this section.

31. Any turnover tax in default shall be a first charge all the assets of the defaulter:

Turnover  
tax to be a  
first charge.

Provided that—

- (i) such charge shall not extend to or affect any assets sold by the defaulter to a bona fide purchaser for value prior to the seizure of the same in accordance with the provisions of section 33;
- (ii) as regards immovable property, the turnover tax shall not rank in priority to any lease or encumbrance created bona fide for value and registered prior to the date of such seizure; and
- (iii) as regards movable property, where turnover tax for more than four quarters is in default, the tax for four quarters only, to be selected by the Commissioner-General, shall rank in priority to any lien or encumbrance created bona fide for value prior to the date of default.

32. (1) Where any turnover tax is in default, the Commissioner-General shall, before proceeding to recover such tax, issue notice in writing to the defaulter stating—

Notice to  
defaulter.

- (a) the particulars of such tax; and
- (b) that action is being contemplated to recover such tax.

(2) If such defaulter has not appealed within the proper time against the assessment in respect of which such tax is charged, he may within thirty days of the date of such notice make any objection to the tax so charged, to the Commissioner-General and the Commissioner-General shall, notwithstanding the provisions of section 20, consider such objections and give his decision thereon which shall subject to subsection (3) be final.

(3) Where such defaulter has failed to make the objection referred to in subsection (2) to the Commissioner-General, he may make an objection to the tax charged to the Commissioner-General within a period of thirty days from the date of the certificate issued under section 33 or section 34 or a notice issued under section 35.

33. (1) The Commissioner-General may appoint persons to be tax collectors for the purposes of this Act.

Recovery  
of turnover  
tax by  
seizure  
and sale.

(2) (a) Where any turnover tax is in default, the Commissioner-General may issue a certificate to a Government Agent, Assistant Government Agent, Fiscal, Deputy Fiscal or tax collector containing particulars of such tax

and the name of the defaulter, and the officer to whom such certificate is issued shall be empowered and is hereby required to cause the tax to be recovered from the defaulter named in the certificate by seizure and sale of his movable property.

(b) The said seizure shall be effected in such manner as the said officer shall deem most expedient in that behalf, and any property so seized shall be kept for five days at the costs and charges of the defaulter. If the defaulter does not pay the tax in default together with the costs and charges within the said five days, the Government Agent, Assistant Government Agent, Fiscal, Deputy Fiscal or tax collector shall cause the said property to be sold by public auction.

(c) The sum realized by the sale shall be applied—

- (i) firstly in payment of the costs and charges of seizing, keeping and selling the property ; and
- (ii) secondly in satisfaction of the tax in default, and any balance shall be paid to the owner of the property seized.

(3) It shall be lawful for a tax collector to recover from any defaulter reasonable expenses incurred by him in proceeding against the defaulter under this section notwithstanding that the seizure was not effected. Where cash is seized such reasonable expenses shall be set off first from the amount so seized.

(4) Where any turnover tax is in default, and the Commissioner-General is of opinion that recovery by the means provided in subsection (2) is impracticable or inexpedient, he may issue a certificate to a District Court having jurisdiction in any district where the defaulter resides or in which any property movable or immovable owned by the defaulter is situate, containing particulars of such tax and the name or names of the person or persons by whom the tax is payable, and the Court shall thereupon direct a writ of execution to issue to the Fiscal authorizing and requiring him to seize and sell all or any of the property movable and immovable of the defaulter, or such part thereof as he may deem necessary for recovery of the tax, and the provisions of sections 226 to 297 of the Civil Procedure Code shall, *mutatis mutandis*, apply to such seizure and sale.

For the purposes of this section "movable property" shall include plant and machinery.

34. (1) Where the Commissioner-General is of opinion in any case that recovery of turnover tax in default by seizure and sale is impracticable or inexpedient, or where the full amount of the tax has not been recovered by seizure and sale, he may issue a certificate containing particulars of such tax and the name and last known place of business or residence of the defaulter to a Magistrate having jurisdiction in the division in which such place is situate. The Magistrate shall thereupon summon such defaulter before him to show cause why further proceedings for the recovery of the tax should not be taken against him, and in default of sufficient cause being shown, the tax in default shall be deemed to be a fine imposed by a sentence of the Magistrate on such defaulter for an offence punishable with fine only or not punishable with imprisonment, and the provisions of subsection (1) of section 291 (except paragraphs (a), (d) and (i) thereof) of the Code of Criminal Procedure Act, No. 15 of 1979, relating to default of payment of a fine imposed for such an offence shall thereupon apply, and the Magistrate may make any direction which, by the provisions of that subsection, he could have made at the time of imposing such sentence:

Proceedings  
for recovery  
before a  
Magistrate.

Provided that nothing in this section shall authorize or require the Magistrate in any proceeding thereunder to consider, examine or decide the correctness of any statement in the certificate of the Commissioner-General.

(2) Nothing in subsections (2) to (5) of section 291 of the Code of Criminal Procedure Act, No. 15 of 1979, shall apply in any case referred to in subsection (1) of this section.

(3) In any case referred to in subsection (1) in which the defaulter is sentenced to imprisonment in default of payment of the fine deemed by that subsection to have been imposed on him, the Magistrate may allow time for the payment of the amount of the said fine or direct payment of that amount to be made by instalments.

(4) The Court may require bail to be given as a condition precedent to allowing time under subsection (1) for showing cause as therein provided or under subsection (3) for the payment of the fine; and the provisions of Chapter XXXIV of the Code of Criminal Procedure Act, No. 15 of 1979, shall apply where the defaulter is so required to give bail.

(5) Where payment in instalments is directed under subsection (3) and default is made in the payment of any one instalment, the same proceedings may be taken as if default had been made in payment of all the instalments then remaining unpaid.

**Recovery of turnover tax out of debts, &c.**

35. (1) Where the turnover tax payable by any person is in default and it appears to the Commissioner-General to be probable that any person—

- (a) owes or is about to pay money to the defaulter or his agent ; or
- (b) holds money for or on account of the defaulter or his agent ; or
- (c) holds money on account of some other person for payment to the defaulter or his agent ; or
- (d) has authority from some other person to pay money to the defaulter or his agent,

the Commissioner-General may give to such person notice in writing (a copy of which shall be sent by post to the defaulter) requiring him to pay any such moneys not exceeding the amount of the tax in default to the officer named in such notice. The notice shall apply to all such moneys which are in his hands or due from him at the date of receipt of such notice, or come into his hands or become due from him or are about to be paid by him at any time within a period of three months after the date of such notice.

(2) Any person who has made any payment in pursuance of this section shall be deemed to have acted under the authority of the defaulter and of all other persons concerned, and is hereby indemnified in respect of such payment against all proceedings, civil or criminal, notwithstanding the provisions of any written law, contract or agreement.

(3) Where any person to whom a notice has been given under subsection (1) is unable to comply therewith owing to the fact that moneys in question do not come into his hands or become due from him within the period referred to in subsection (1), he shall within fourteen days of the expiration thereof give notice in writing to the Commissioner-General apprising him of the facts.

(4) Where any person to whom a notice has been given under subsection (1) is unable to comply therewith and has failed to give notice to the Commissioner-General as pro-

vided in subsection (3), or where such person has deducted or could have deducted the tax to which the notice relates or any part thereof and has not paid over as required by the Commissioner-General the amount of such tax or part thereof within fourteen days after the expiration of the period referred to in subsection (1), such person shall, if he is an individual, be liable, or where such person is a company or body of persons, whether corporate or unincorporate, the secretary, manager or other principal officer of such company or body shall be personally liable, for the whole of the tax which such person has been required to deduct, and such tax may be recovered from such individual, secretary, manager or other principal officer, as the case may be, by all means provided in this Act.

(5) For the purposes of this section, the expression "defaulter" shall be deemed to include the agent of a person who is in default and the provisions of this section shall apply in any case where the tax which would have been payable by any person if he were alive is in default; and for the purpose of the application of those provisions in any such case, the expression "defaulter" in subsection (1) means—

- (a) the executor or administrator of a deceased person ;  
or
- (b) any person who takes possession of, or intermeddles with, the property of a deceased person ; or
- (c) any person who has applied or is entitled to apply to a District Court for the grant or resealing of probate or letters of administration in respect of the estate of a deceased person.

36. (1) Where the Commissioner-General is of opinion that any person is about to or likely to leave Sri Lanka without paying the turnover tax assessed upon him, the Commissioner-General may issue a certificate containing particulars of such tax and the name of such person to a Magistrate, who shall on receipt thereof issue a direction to the Inspector-General of Police to take such measures as may be necessary to prevent such person from leaving Sri Lanka without paying the tax or furnishing security to the satisfaction of the Commissioner-General for payment thereof.

(2) At the time of issue of his certificate to the Magistrate, the Commissioner-General shall issue to such person a notification thereof by personal service, or registered letter

Recovery  
of turnover  
tax from  
persons  
leaving  
Sri Lanka.

sent through the post or telegraph; but the non-receipt of any such notification by such person shall not invalidate proceedings under this section.

(3) The production of a certificate signed by the Commissioner-General or a Deputy Commissioner stating that the tax has been paid or that security has been furnished to the payment of the tax or payment of the tax to a police officer in charge of a police station, shall be sufficient authority for allowing such person to leave Sri Lanka.

(4) Any police officer to whom the amount of any tax has been paid shall forthwith pay such amount to the Commissioner-General.

**Use of  
more than  
one means of  
recovery.**

37. Where the Commissioner-General is of opinion that application of any one of the means of recovery provided in this Act has failed or is likely to fail to secure payment of the whole of the turnover tax due under this Act from any person, it shall be lawful for the Commissioner-General to proceed to recover any sum remaining unpaid by any other means of recovery provided in this Act, notwithstanding that an order has been made by a Magistrate under section 34 and carried into effect.

**Power of  
Commissioner  
General to  
obtain  
information  
for the  
recovery of  
turnover tax.**

38. The Commissioner-General may, by notice given in writing to any person, require that person within the period specified in such notice to furnish any information which the Commissioner-General may require for the purpose of recovering any turnover tax due from such person or any other person.

**Delegation of  
Commissioner  
General's  
powers  
and  
functions.**

39. (1) The Commissioner-General may, by writing under his hand, delegate to any Assessor any of the powers or functions conferred on or assigned to the Commissioner-General by this Chapter.

(2) Every Assessor to whom any power or function has been delegated under subsection (1) shall exercise or discharge that power or function subject to the general or special directions of the Commissioner-General.

## CHAPTER XIII

### MISCELLANEOUS

**Signature  
and service  
of notices.**

40. (1) Every notice to be given by the Commissioner-General, a Deputy Commissioner or an Assessor under this Act shall bear the name of the Commissioner-General or Deputy Commissioner or Assessor, as the case may be, and

every such notice shall be valid if the name of the Commissioner-General, Deputy Commissioner or Assessor is duly printed or signed thereon.

(2) Every notice given by virtue of this Act may be served on a person either personally or by being delivered at, or sent by post to, his last known place of abode or any place at which he is, or was, during the period to which the notice relates, carrying on business:

Provided that a notice of assessment under section 13 or section 14 shall be served personally or by being sent by post by registered letter to any such place as aforesaid.

(3) Any notice sent by post shall be deemed to have been served on the day on which it could have been received in the ordinary course of post.

(4) In proving service by post it shall be sufficient to prove that the letter containing the notice was duly addressed and posted.

(5) Every name printed or signed on any notice or signed on any certificate given or issued for the purposes of this Act, which purports to be the name of the person authorized to give or issue the same, shall be judicially noticed.

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

Validity of assessments

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

(a) by reason of a mistake therein as to the name or surname of the person chargeable, the amount of turnover or the amount of turnover tax charged, or

(b) by reason of any variance between the assessment and the notice thereof,

if the notice of such assessment is duly served on the person intended to be charged and contains in substance and effect the particulars mentioned in paragraph (a) of this subsection.

Power to  
search  
buildings or  
places.

42. (1) Any officer of the Department of Inland Revenue who is specially authorized by the Commissioner-General in that behalf may, accompanied by a peace officer, do all or any of the following acts :—

- (a) enter and search any building or place where he has reason to believe that any books of account, registers, records or other documents which in his opinion will be useful for, or relevant to, any proceeding under this Act may be found, and examine them if found ;
- (b) seize any such books of account, registers, records or other documents or place marks of identification thereon or make extracts or copies therefrom ;
- (c) make a note or an inventory of any other thing found in the course of any search under this section which in his opinion will be useful for, or relevant to, any proceedings under this Act, and the provisions of the Code of Criminal Procedure Act, No. 15 of 1979, relating to searches shall apply so far as may be to searches under this section.

In this subsection "peace officer" shall have the same meaning as in the Code of Criminal Procedure Act, No. 15 of 1979.

(2) Before authorizing any officer to exercise the powers under subsection (1), the Commissioner-General shall record the circumstances which necessitate the exercise of those powers by that officer.

(3) Where any officer authorized by the Commissioner-General under subsection (1) seizes any book of account, register, record or other document from any person, such officer shall issue to that person a memorandum specifying the book, register, record or other document he has seized.

(4) Any book of account, register, record or other document seized under subsection (1) by any officer may be retained in the possession of such officer as long as may be necessary for a scrutiny of such book, register, record or other document or for the institution of legal proceedings against the person to whom such book, register, record or other document belongs.

43. (1) The Commissioner-General or any other officer of the Department of Inland Revenue who is specially authorized in that behalf by the Commissioner-General in writing may do all or any of the following acts :—

Power to search business premises.

- (a) enter and inspect any place or building where any business is carried on by any person for the purpose of ascertaining whether the provisions of this Act are being complied with ;
- (b) open and examine any receptacle where any book of account, register, record or any other document may be found and make an inventory of any of the articles found therein ;
- (c) examine and take copies of, or make extracts from, any book of account, register, record or other document found in such place or building ;
- (d) take possession of any book of account, register, record or other document or place marks of identification thereon ;
- (e) count and make a record immediately of the cash found in such place or building ;
- (f) require any person whom he finds in such place or building to give such information as is in his power to give with respect to matters under this Act ;
- (g) examine, either alone or in the presence of any other person, as he thinks fit, with respect to matters under this Act, every person whom he finds in such place or building.

(2) Where an officer authorized by the Commissioner-General under subsection (1), takes into his possession any book of account, register, record or other document from any person, such officer shall issue to that person a memorandum specifying the book, register, record or document he has taken into his possession.

(3) Any book of account, register, record or other document taken into his possession under subsection (1) by any officer may be retained in the possession of such officer as long as may be necessary for the scrutiny of such book, register, record or document or for the institution of legal proceedings against the person to whom such book, register, record or other document belongs.

**Voucher to be prepared and issued by every person chargeable with turnover tax.**

44. Every person chargeable with turnover tax other than a manufacturer shall, in respect of each transaction entered into by him, in carrying on his business, prepare or cause to be prepared a voucher setting out—
- the date on which such transaction was entered into;
  - the nature of such transaction;
  - the amount of money received or receivable in respect of such transaction; and
  - the name and address of the person with whom such transaction was entered into.

The original of such voucher shall be issued to the person with whom such transaction was entered into and the copy of such voucher shall be retained and preserved by the person by whom or on whose behalf such voucher was prepared for a period of five years after the expiry of the quarter in which such voucher was prepared.

Notwithstanding anything in this section the Commissioner-General may prescribe the form and manner in which transactions may be recorded in different businesses.

**Register of transactions**

45. (1) Every person chargeable with turnover tax shall, in respect of transactions entered into by him in carrying on his business, keep and maintain in respect of each quarter a register of transactions.

(2) The register of transactions kept by any person in respect of any quarter shall be retained and preserved by him for a period of five years after the expiry of that quarter.

## CHAPTER XIV

### REGISTRATION OF MANUFACTURERS

**Registration of manufacturer and issue of vouchers by him**

46. (1) Every manufacturer chargeable with turnover tax shall, register himself with the Commissioner-General who shall assign him a registration number:

Provided, however, that no such registration shall be necessary in the case of a person who brings into Sri Lanka any article manufactured outside Sri Lanka, other than in the course of a business.

(2) Every manufacturer registered under subsection (1) (hereafter in this Chapter referred to as a "registered manufacturer") shall in respect of each transaction

entered into by him in carrying on his business in relation to which such tax is payable prepare or cause to be prepared a voucher setting out—

- (a) his name, postal address and his registration number;
- (b) the name, postal address and the registration number, if any, of the buyer;
- (c) the date on which each transaction was entered into;
- (d) the nature of the transaction;
- (e) the quantity of the goods supplied and the amount of money received or receivable in respect of each transaction before any charge for the turnover tax; and
- (f) the turnover tax attributable to each such transaction.

The original of such voucher shall be issued to the person with whom such transaction was entered into and the copy of such voucher shall be retained and preserved by the person by whom or on whose behalf such voucher was prepared for a period of five years after the expiry of the quarter in which such voucher was prepared.

**47.** Where a registered manufacturer has paid to another registered manufacturer during any quarter any sum in respect of any transaction which includes turnover tax on articles used by the first-mentioned registered manufacturer in his business of manufacture of articles liable to turnover tax, the turnover tax so included shall be deducted from the turnover tax payable by the first-mentioned registered manufacturer for that quarter:

Deduction  
by registered  
manufacturer.

Provided that—

- (a) no deduction shall be made for tax in respect of any plant, machinery, fixtures, buildings, vehicles or other capital assets used in that business;
- (b) no deduction shall be made for turnover tax in respect of articles used in any business which is exempt from turnover tax under section 4 or in the manufacture of excepted articles;
- (c) no deduction shall be made unless he has obtained from the manufacturer from whom such articles were purchased by him a voucher as required by subsection (2) of section 46;

(d) any turnover tax included in any sum paid prior to the date of registration as a registered manufacturer shall be allowed as a deduction from the tax payable for the quarter in which such registered manufacturer becomes chargeable to turnover tax:

(e) any excess of such deduction over the tax payable for the quarter shall not be refunded but deducted from the tax payable for the subsequent quarter and so on.

Credit in respect of turnover tax paid to Principal Collector of Customs.

48. Where a registered manufacturer has paid turnover tax to the Principal Collector of Customs under section 12 he shall be entitled on production of a receipt issued to him in respect of that payment to a deduction of the amount paid from the turnover tax payable by him to the Commissioner-General for that quarter and any excess of such deduction over the tax payable for the quarter shall not be refunded but deducted from the tax payable for the subsequent quarter and so on.

Turnover tax paid in excess to be refunded.

49. (1) If it is proved to the satisfaction of the Commissioner-General by claim duly made in writing within three years after the end of a quarter that any person has paid turnover tax in excess of the amount with which he was properly chargeable for that quarter, such person shall be entitled to have refunded the amount so paid in excess:

Provided that, nothing in this section shall operate to extend or reduce the time limit for appeal or to validate any objection or appeal which is otherwise invalid or to authorize the revision of any assessment or other matter which has become final and conclusive:

Provided further that, no refund shall be made if such tax paid in excess has been deducted under section 47 or section 48 or has been included in any amount recovered from another person.

(2) Where it is proved to the satisfaction of the Commissioner-General by claim made in writing that any person has paid any sum referred to in subsection (1) of section 11 which is in excess of the sum which he should have paid if such sum were calculated in accordance with the provisions of subsection (2) of that section, such person shall be entitled to have refunded the amount so paid in excess, if such claim is made within three years of the end of the quarter in which the sum referred to in the aforesaid subsection (1) was paid.

(3) Subject to the provisions of subsection (6), where any article is exported from Sri Lanka by any person (hereafter in this section referred to as the "exporter") and the Commissioner-General is satisfied—

- (a) that such article was produced or manufactured in Sri Lanka and was purchased by the exporter from the manufacturer or producer of such article;
- (b) that the price paid by the exporter for the purchase of such article forms part of the turnover of the business of that manufacturer or producer; and
- (c) that turnover tax has in fact been paid by that manufacturer or producer in respect of the turnover of his business,

such amount of the turnover tax paid in respect of the turnover of that business by the manufacturer or producer of that article as is attributable to the purchase price paid for that article by the exporter, shall be paid to the exporter by the Commissioner-General.

(4) Subject to the provisions of subsection (5) where the exporter is himself the manufacturer or producer of any article manufactured or produced in Sri Lanka and the Commissioner-General is satisfied—

- (a) that such article was in fact manufactured or produced in Sri Lanka by such exporter;
- (b) that the price paid by such exporter for the purchase of such raw materials as is attributable to the manufacture or production of such article was paid by the manufacturer or producer from whom such raw materials were purchased; and
- (c) that turnover tax has in fact been paid by that manufacturer or producer in respect of the turnover of his business as is attributable to such raw materials,

such amount of the turnover tax as is attributable to the raw materials used in the manufacture or production of such article shall be paid to such exporter by the Commissioner-General.

(5) The provisions of subsections (3) and (4) shall apply in relation to any container, receptacle or wrapper in which an article referred to in those subsections is exported in the same manner as if all reference to "article" in those provisions were references to such container, receptacle or wrapper, as the case may be.

(6) No payment under subsection (3) or subsection (4) shall be made by the Commissioner-General in respect of any article or any article and container, receptacle or wrapper in which such article is exported, unless a claim in writing for such payment is made by the exporter of such article not earlier than three months, and not later than nine months, after the export of such article.

## CHAPTER XV

### DEDUCTION OF TURNOVER TAX FROM PAYMENTS

Deduction of  
turnover tax  
from pay-  
ments.

50. (1) Every person who makes any payment in pursuance of a contract to which he is a party or on behalf of any other person who is a party to a contract shall, whether or not such contract was entered into before the coming into operation of this Act, deduct from such payment turnover tax which shall be a percentage of such payment at a rate to be prescribed by the Minister by Order published in the *Gazette* and the amount of tax so deducted shall be a debt due from such person to the Republic and shall be recoverable forthwith or may be assessed and charged upon such person in addition to any turnover tax, if any, payable by him under this Act :

Provided that where the total consideration payable for the performance of such contract does not exceed five hundred thousand rupees no such deduction shall be made.

(2) Any person who deducts turnover tax in accordance with the provisions of subsection (1) shall—

(a) issue to the person from whose payment the deduction is made a statement showing—

(i) the gross amount of such payment;

(ii) the rate and amount of tax so deducted ; and

(iii) the net amount actually paid ;

(b) remit within seven days of making such deduction the sum so deducted to the Commissioner-General together with a statement showing :—

(i) the name and address of the person to whom the payment was made ;

(ii) the gross amount of such payment ;

(iii) the rate and amount of tax so deducted ; and

(iv) the net amount actually paid.

(3) Where the turnover of a person includes a sum from which turnover tax has been deducted in accordance with subsection (1), he shall be entitled on production of a statement relating to such sum issued in accordance with subsection (2) to a set off against the tax payable by him of the amount shown on such statement as the amount of tax deducted.

(4) For the purposes of this section—

“contract” means—

- (i) any contract in respect of construction work of whatever nature;
- (ii) any contract for the supply of goods or services in respect of any contract specified in paragraph (i); or
- (iii) any sub-contract in respect of any contract specified in paragraph (i) or (ii).

(5) Any person who fails to deduct turnover tax in terms of subsection (1) or fails to remit under subsection (2) any turnover tax to the Commissioner-General shall be deemed to be in default and the provisions of this Act relating to recovery of turnover tax shall accordingly apply to any such default.

(6) Any person who has made any deduction under subsection (1) or any remittance in pursuance of subsection (2) shall be deemed to have acted under the authority of the person by whom the turnover tax was payable and of all other persons concerned, and is hereby indemnified in respect of such deduction or remittance, as the case may be, against all proceedings, civil or criminal, notwithstanding the provisions of any written law, contract or agreement.

(7) Where any person has entered into two or more contracts and the Assessor, having regard to the nature and the parties to such contracts, is of opinion that the recipient of the payments made in respect of such contracts by such person is one and the same person or his agent, the sum paid or payable shall be aggregated for the purposes of subsection (1).

## CHAPTER XVI

## PENALTIES AND OFFENCES

Breach of,  
secrecy and  
other  
matters  
to be  
offences.

## 51. Every person—

- (a) who being a person required to take an oath of secrecy under section 57, acts under this Act without taking such oath; or
- (b) who acts in contravention of the provisions of section 57; or
- (c) who aids, abets or incites any other person to act in contravention of any of the provisions of this Act,

shall be guilty of an offence under this Act, and shall be liable, on conviction after summary trial before a Magistrate, to a fine not exceeding two thousand rupees, or to imprisonment of either description for a term not exceeding six months or to both such fine and imprisonment.

Penal  
provisions  
relating  
to fraud.

## 52. Any person who—

- (a) gives any false answer whether verbally or in writing to any question or request for information asked or made in accordance with the provisions of this Act; or
- (b) omits from a return made or furnished under this Act any particulars which he should have included in such return;
- (c) makes any false return or false entry in any return made under this Act,

and thereby evades or attempts to evade turnover tax or assists any other person to evade or attempt to evade such tax shall be guilty of an offence under this Act, and shall be liable on conviction after summary trial before a Magistrate to a fine consisting of—

- (i) a sum equal to twice the amount of tax so evaded or attempted to be evaded for which he, or as the case may be, the other person so assisted, is liable under this Act for the quarter in respect of or during which the offence was committed, and
- (ii) a sum not exceeding five thousand rupees or to imprisonment of either description for a term not exceeding six months or to both such fine and imprisonment.

**53. Every person who—**

- (a) fails to comply with the provisions of section 9 or section 44 or section 45 or subsections (1) and (2) of section 46 or subsection (1) of section 50 ; or
- (b) fails to comply with the requirements of a notice issued to him under section 9 or section 17 ; or
- (c) having appeared before an officer of the Department of Inland Revenue in compliance with a notice issued to him under section 9 or section 17 fails without sufficient cause to answer any question lawfully put to him by such officer ; or
- (d) gives any incorrect information relating to any matter or thing affecting his own liability to turnover tax or the liability of any other person ; or
- (e) wilfully obstructs or delays the Commissioner-General or any other officer in the exercise of his powers under section 42 or section 43 ; or
- (f) aids, abets or incites any other person to act contrary to the provisions of this Act,

shall be guilty of an offence and shall, on conviction after summary trial before a Magistrate, be liable to a fine not exceeding five thousand rupees or to imprisonment of either description for a term not exceeding six months or to both such fine and imprisonment.

**54. The Commissioner-General may compound any offence under section 51, section 52 or section 53 and may before judgment stay or compound any proceedings thereunder.**

**Penal provisions relating to returns etc.**

**55. No prosecution in respect of an offence under section 51, section 52 or section 53 shall be commenced except at the instance, or with the sanction, of the Commissioner-General.**

**Compounding of offences.**

**Prosecutions to be with the sanction of the Commissioner-General.**

## CHAPTER XVII

### ADMINISTRATION

**56. (1) Subject to the provisions of Charter VII, the Commissioner-General of Inland Revenue shall be in charge of the administration of this Act.**

**Administration.**

(2) A Commissioner or Deputy Commissioner exercising or performing or discharging any power, duty or function of the Commissioner-General under this Act shall be deemed for all purposes to be authorised to exercise, perform or discharge that power, duty or function until the contrary is proved.

(3) A Commissioner or a Deputy Commissioner may exercise any power conferred on an Assessor by this Act.

Official  
secrecy.

57. (1) Except in the performance of his duties under this Act, every person who is or has been employed in carrying out or in assisting any person in carrying out the provisions of this Act shall preserve, and aid in preserving, secrecy with regard to all matters relating to the affairs of any person that may come to his knowledge in the performance of his duties under this Act, and shall not communicate any such matter to any person other than the person to whom such matter relates or his authorized representative or to the Minister or the Secretary to the Ministry of Finance nor suffer or permit any person to have access to any records in the possession, custody or control of the Commissioner-General.

(2) Every person employed in carrying out the provisions of this Act shall before acting under this Act, and the Minister and the Secretary to the Ministry of Finance may before acting under this Act, take and subscribe before a Justice of the Peace an oath of secrecy in the prescribed form.

(3) No person employed in carrying out the provisions of this Act shall be required to produce in any court any return, document or assessment or to divulge or communicate to any court any matter or thing coming under his notice in the performance of his duties under this Act, except as may be necessary for the purpose of carrying into effect the provisions of this Act or any other written law administered by the Commissioner-General.

(4) Notwithstanding anything contained in this section, any officer of the Department of Inland Revenue may communicate any matter which comes to his knowledge in the performance of his duties under this Act or under any other written law administered by the Commissioner-General to any other officer of that Department if the communication is necessary for the performance of any duty under this Act or under any such other written law and

the Commissioner-General may, notwithstanding anything in the Evidence Ordinance relating to the proof of documents, produce or cause to be produced in any court, in any proceedings under this Act, a copy of any particulars contained in any return or document received by him or in his possession under this Act or under any other written law administered by him, certified by him or on his behalf to be a correct copy of such particulars:

Provided, that the Commissioner-General may produce or cause to be produced the original of any such return or document in any case where it is necessary to prove the handwriting or the signature or the person who wrote, made, signed or furnished such return or document, but only for the purpose of such proof:

Provided, further, that the Commissioner-General shall not in any case be compelled to produce in any court either the original of such document or return or copy of any particulars contained in such document or return.

(5) Notwithstanding anything contained in this section, the Commissioner-General may permit the Auditor-General or any officer of the Department of the Auditor-General duly authorized by him in that behalf to have such access to any records or documents as may be necessary for the performance of his official duties. The Auditor-General or any officer authorized by him under this subsection shall be deemed to be a person employed in carrying out the provisions of this Act for the purpose of subsection (2).

58. The Commissioner-General may from time to time prescribe the forms and register of transactions to be used for all or any of the purposes of this Act; and any forms or register of transactions so prescribed may from time to time be amended or varied by the Commissioner-General, or some other forms or register of transactions may be substituted by the Commissioner-General in place of any forms or register of transactions so prescribed.

Forms and  
register of  
transactions.

## CHAPTER XVIII

### INTERPRETATION

59. (1) In this Act, unless the context otherwise requires—

Interpreta-  
tion.

“agent” includes any person having the direction, control or management of any business on behalf of any other person;

“article” includes any goods, material or any agricultural or horticultural produce;

“Assessor” means an Assessor of Inland Revenue appointed for the purposes of the Inland Revenue Act, No. 28 of 1979;

“authorized representative” means any individual—

(1) who is authorized in writing by a person to act on his behalf for the purposes of this Act and who is—

(a) in any case—

(i) a member of the Institute of Chartered Accountants of Sri Lanka;

(ii) an accountant approved by the Commissioner-General;

(iii) an attorney-at-law; or

(iv) an employee regularly employed by the person concerned;

(b) in the case of an individual, a relative;

(c) in the case of a company a director or a secretary;

(d) in the case of a partnership, a partner;

(e) in the case of a body of persons, a member of such body; or

(2) who is authorized in writing from time to time by a person to act on his behalf for the purposes of this Act in respect of such matters relating to such quarter as is specified in the authorization and who being an individual registered as an auditor under the Companies (Auditors) Regulations is approved by the Commissioner-General;

“body of persons” means any body corporate or unincorporate, local authority, any fraternity, fellowship, association or society of persons, whether corporate or unincorporate, any partnership and any Hindu undivided family and includes any Government department or any undertaking of the Government of Sri Lanka.

“business” includes any trade, profession, vocation, or agricultural undertaking, the racing of horses or the letting of commercial premises by a company or the business of a manufacturer or the business of any person, taking commissions or fees in respect of any transactions or services rendered or the business of an independent contractor or every adventure and concern in the nature of trade;

“Commissioner” means a Commissioner of Inland Revenue appointed for the purposes of the Inland Revenue Act, No. 28 of 1979;

“Commissioner-General” means the Commissioner-General of Inland Revenue appointed under the Inland Revenue Act, No. 28 of 1979, and includes a Commissioner, and a Deputy Commissioner specially authorized by the Commissioner-General either generally or for some specific purpose to act on behalf of the Commissioner-General;

“company” means any company incorporated or registered under any law in force in Sri Lanka or elsewhere;

“Deputy Commissioner” means a Deputy Commissioner of Inland Revenue appointed for the purposes of the Inland Revenue Act, No. 28 of 1979;

“excepted article” means any article declared to be an excepted article under section 8;

“executor” means an executor or administrator of a deceased person and includes—

(a) any person who takes possession of or intermeddles with the property of a deceased person;

(b) any person who has applied or is entitled to apply to a District Court for the grant or resealing of probate or letters of administration in respect of the estate of a deceased person; or

(c) a trustee acting under a trust created by the last will of the author of the trust;

“incapacitated person” means any minor, lunatic, idiot or person of unsound mind;

“local authority” means any Municipal Council, Urban Council, Town Council or Village Council and includes any Authority established by or under any law to exercise, perform and discharge powers, duties and functions, corresponding to or similar to the powers, duties and functions, exercised, performed and discharged by any such Council;

“manufacturer” means any person who—

- (a) makes an article;
- (b) assembles or joins any article whether by chemical process or otherwise;
- (c) adapts for sale any article;
- (d) packages, bottles, puts into boxes, cuts into pieces, cleans, polishes, wraps, labels or in any other way whatsoever prepares for sale any article otherwise than in a retail stores for the purpose of sale in such store exclusively and directly to the consumer;
- (e) purchase or receives for sale from any enterprise with which an agreement has been entered into by the Greater Colombo Economic Commission under section 17 of the Greater Colombo Economic Commission Law, No. 4 of 1978, any article manufactured in Sri Lanka by such an enterprise;
- (f) imports any article manufactured outside Sri Lanka;
- (g) brings into Sri Lanka any article manufactured outside Sri Lanka;

“person” includes a company or body of persons;

“precedent partner” means the partner who, of the active partners resident in Sri Lanka—

- (a) is first named in the agreement of partnership; or
- (b) if there is no agreement, is specified by name or initials singly or with precedence to the other partners in the usual name of the partnership; or

(c) is first named in the statement made under section 4 of the Business Names Ordinance;

"quarter" means the period of three months commencing on the first day of January, the first day of April, the first day of July and the first day of October of each year;

"trustee" includes any trustee, guardian, curator, manager, agent or other person having the direction, control or management of any property on behalf of any person but does not include an executor.

## CHAPTER XIX

### APPLICATION OF PART XII OF THE FINANCE ACT, NO. 11 OF 1963

**60.** Part XII of the Finance Act, No. 11 of 1963, shall not apply to the imposition of business turnover tax for any period commencing on or after November 13, 1981.

Application  
of Part XII  
of the  
Finance Act,  
No. 11 of  
1963.