



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

**INLAND REVENUE (AMENDMENT)
ACT, No. 40 OF 1981**

[Certified on 10th June, 1981]

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**Inland Revenue (Amendment)
Act, No. 40 of 1981**

[Certified on 10th June, 1981]
L. D.—O.84/80.

AN ACT TO AMEND THE INLAND REVENUE ACT, No. 28 OF 1979.

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. 40 of 1981.

Short
title.

2. Section 8 of the Inland Revenue Act, No. 28 of 1979, (hereinafter referred to as the "principal enactment") as amended by Act No. 24 of 1980, is hereby further amended as follows :—

Amendment
of section
8 of Act
No. 28 of
1979.

(1) in paragraph (a) of that section—

(a) by the substitution in sub-paragraph (xxxi) of that paragraph, for the words and figures "Ayurveda Act, No. 31 of 1961 ; and", of the words and figures "Ayurveda Act, No. 31 of 1961 ;" ; and

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

" (xxxiii) the Ceylon College of Physicians established by the Ceylon College of Physicians (Incorporation) Act, No. 9 of 1971 ; and

(xxxiv) the Institute of Engineers, Ceylon incorporated by the Institute of Engineers, Ceylon, Act, No. 17 of 1968 ;" ; and

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

" (e) the profits and income of any undertaking for operating yachts and pleasure craft registered with the Director of Merchant Shipping if such undertaking is—

(i) carried on by individuals who are not citizens of Sri Lanka or by a company the shares of which are owned entirely by individuals who are not citizens of Sri Lanka or by non-resident companies ; and

(ii) approved by the Minister."

Amendment
of section
9 of the
principal
enactment.

3. Section 9 of the principal enactment, as amended by Act No. 24 of 1980, is hereby further amended by the substitution, in paragraph (i) of subsection (1) of that section, for the words "to come to Sri Lanka to assume duties," of the words "to come to Sri Lanka to assume duties or to visit his home abroad,".

Amendment
of section
11 of the
principal
enactment.

4. Section 11 of the principal enactment, as amended by Act No. 24 of 1980, is hereby further amended as follows:—

(i) in paragraph (b) of that section, by the substitution for the words and figures "under sections 15, 16, 16A, 16B, 17, 18, 19, 20, 21, 22A, 22B and 22C of this Act", of the words and figures "under section 15, 16, 16A, 16B, 17, 18, 19, 20, 21, 22A, 22B, 22C or 22D of this Act"; and

(ii) in paragraph (c) of that section, by the substitution for the expression "referred to in paragraph (b),", of the expression "referred to in paragraph (a) or (b),".

Amendment
of section
12 of the
principal
enactment.

5. Section 12 of the principal enactment is hereby amended as follows:—

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

(a) by the substitution in sub-paragraph (iii) of paragraph (b) of that subsection, for the words "not exceeding two thousand square feet:", of the words "not exceeding three thousand square feet: "; and

(b) by the substitution in the proviso to paragraph (b) of that subsection, for the words "one thousand square feet or less,", of the words "one thousand and five hundred square feet or less, "; and

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

(b) by the substitution in paragraph (a) of that subsection, for the words "specified in the certificate; ", of the words "specified in the certificate; and ";

(b) by the substitution in paragraph (b) of that subsection for the words "a co-owner; and", of the words "a co-owner."; and

(c) by the omission of paragraph (c) of that subsection.

6. Section 15 of the principal enactment, as amended by Act No. 24 of 1980, is hereby further amended as follows:—

Amendment
of section
15 of the
principal
enactment.

(1) in paragraph (p) thereof—

(a) by the substitution for sub-paragraph (ii) thereof of the following sub-paragraph:—

“(ii) any petroleum, gas or petroleum product, or”; and

(b) by the substitution for all the words “being stones, metals or products,” to the end of that paragraph, of the following words:—

“being stones, metals, petroleum, gas or products, as the case may be, brought to Sri Lanka on a consignment basis, and re-exported, without subjecting such stones, metals, petroleum, gas or products, as the case may be, to any process or manufacture;”; and

(2) by the insertion, immediately after paragraph (r) thereof, of the following new paragraph:—

“(s) 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 in Sri Lanka for re-export.”.

7. Section 17 of the principal enactment is hereby amended in subsection (1) of that section, by the substitution for the words and figures “ending on March 31, 1983.”, of the words and figures “ending on March 31, 1985.”.

Amendment
of section
17 of the
principal
enactment.

8. Section 20 of the principal enactment is hereby amended as follows:—

Amendment
of section
20 of the
principal
enactment.

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

“(1A) There shall be exempt from income tax for each of the five years immediately succeeding the relevant date, so much of the profits and income of an undertaking as consists of the excess of the export profits and income of that undertaking for that year over the average of its export profits and income for the three years preceding the relevant date if—

- (a) such undertaking commenced to carry on its trade or business on a day prior to April 1, 1972, and is approved by the Minister under section 7A of the Inland Revenue Act, No. 4 of 1963 prior to April 1, 1982; and
- (b) no part of the export turnover of the undertaking arose in consequence of the amalgamation of the whole or a part of the trade or business of that undertaking.”;

(2) by the relettering of paragraph (c) of subsection (2) of that section as paragraph (d); and

(3) by the insertion, immediately after paragraph (b) of subsection (2) of that section, of the following new paragraph:—

‘ (c) “relevant date” when used in relation to any company or undertaking, means such date not earlier than April 1, 1965 and not later than April 1, 1974, as is selected by that company or the person carrying on that undertaking or, in the case of a partnership, by the precedent partner of that partnership and as is notified to the Commissioner-General in writing ;’.

Insertion
of new
section
22D in the
principal
enactment.

9. The following new section is hereby inserted immediately after section 22c, and shall have effect as section 22D, of the principal enactment:—

“Exemption
from income
tax of
profits
and income
of
undertakings
engaged
in
cultivating
land with
certain
plants.

22D. (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 referred to in subsection (2) shall be exempt from income tax for a period of ten years calculated from the date on which such company commences commercial production.

(2) The provisions of subsection (1) shall apply to any company which—

(a) is engaged solely—

(i) in cultivating land with any plant of whatever description other than tea, rubber, coconut or paddy; or

(ii) in cultivating land with any plant of whatever description other than tea, rubber, coconut or paddy and processing the product of such cultivation; and

(b) is a quoted public company—

(i) incorporated on or after January 1, 1981; and

(ii) the paid-up equity capital of which is not less than one hundred million rupees; and

(iii) approved by the Minister.”

10. Section 23 of the principal enactment, as amended by Act, No. 24 of 1980, is hereby further amended in sub-section (1) of that section as follows:—

Amendment
of section
23 of the
principal
enactment.

(1) by the substitution in sub-paragraph (ii) of paragraph (b) of that subsection for the words and figures “in paragraph (a) of section 16”, of the words and figures “in paragraph (a) of section 16 or section 16A or section 16B”;

(2) by the substitution in sub-paragraph (i) (a) of paragraph (d) of that subsection, for the words and figures “referred to in section 16”, of the words and figures “referred to in section 16 or section 16A or section 16B”;

(3) by the substitution in sub-paragraph (ii) of paragraph (n) of that subsection, for the words “of employment or *vice versa*; and”, of the words “of employment or *vice versa*;”;

(4) by the substitution in paragraph (o) of that subsection, for the words “formation of that company.”, of the words “formation of that company; and”; and

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

“(p) the expenditure incurred by such person in operating a motor coach used for transporting employees of such person to, and from, their place of work.”

Amendment
of section
29 of the
principal
enactment.

11. Section 29 of the principal enactment, as amended by Act No. 24 of 1980, is hereby further amended in subsection (6) of that section, as follows:—

(1) by the substitution in paragraph (b) that subsection, for all the words "his share of the capital of such business or company", to the end of that paragraph, of the following:—

"his share of the capital of such business or company at the time when such share was acquired by him; and

(iv) includes the amount of any debt (other than a trade debt) which is proved to be due by documentary evidence and which is proved to be irrecoverable."; and

(2) by the insertion, immediately after sub-paragraph (ii) of paragraph (d) of that subsection, of the following new sub-paragraphs:—

"(iii) Where a company is liquidated and such company has any capital loss for the last year of assessment for which it was liable to be assessed for income tax, the amount of such capital loss shall, as far as practicable, be deducted from the statutory income from all sources of such company for such last year of assessment, and, if it cannot be so deducted, from the statutory income from all sources of such company for any of the three years of assessment in order of recession immediately preceding such last year of assessment.

(iv) Where a deduction is made from the statutory income of any company for any year of assessment under paragraph (iii), the tax for that year of assessment in respect of such company shall, notwithstanding the provisions of section 123, be revised, taking into consideration such deduction, and the difference between the amount of the tax paid by such company in respect of that year of assessment and the amount of the revised tax for that year of assessment shall be refunded."

12. Section 31 of the principal enactment, as amended by Act No. 24 of 1980, is hereby further amended in subsection (2) of that section as follows:—

Amendment
of section
31 of the
principal
enactment

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

“ (v) the S. W. R. D. Bandaranaike National Memorial Foundation established by the S. W. R. D. Bandaranaike National Memorial Foundation Law, No. 2 of 1975 ; ” ; and

(2) by the substitution in paragraph (m) of that subsection, for the words and figures “ approved under section 16A or section 22B, ”, of the words and figures “ approved under section 16A or section 22B or section 22D, ”.

13. Section 32 of the principal enactment, as amended by Act No. 24 of 1980, is hereby further amended in paragraph (c) of subsection (1) of that section, by the substitution for the words “ Third Schedule to this Act. ”, of the following:—

Amendment
of section
32 of the
principal
enactment.

“ Third Schedule to this Act :

Provided that the income tax payable for any year of assessment by an individual who is deemed to be non-resident under subsection (7) of section 67 shall not be more than the amount by which his assessable income exceeds twelve thousand rupees. ”.

14. (1) Section 33 of the principal enactment, as amended by Act, No. 24 of 1980, is hereby further amended as follows:—

Amendment
of section
33 of the
principal
enactment.

(a) in subsection (1A) of that section, by the substitution in sub-paragraph (i) of paragraph (a) of that subsection for the words and figures “ specified in Part IV ”, of the words and figures “ specified in Part II ”; and

(b) by the insertion, immediately after subsection (1A) of that section, of the following new subsection:—

‘(1B) (a) Where for any year of assessment commencing on or after April 1, 1979, the taxable income of any company, other than a small company, includes any capital gain, the tax payable on such part of the taxable income shall be at the rate of twenty-five *per centum* notwithstanding anything to the contrary in this Act.

(b) Where for any year of assessment commencing on or after April 1 1979, the taxable income of a small company includes any capital gain, and the rate of income tax payable on a part of such income (hereafter in this subsection referred to as the “relevant part of the income”) exceeds twenty-five *per centum*, then, in regard to the relevant part of the income, tax shall be computed as follows:—

(i) if the relevant part of the income exceeds the amount of such capital gain—

(aa) the tax payable on such portion of the relevant part of the income as is equal to the amount of such capital gain shall be at the rate of twenty-five *per centum*; and

(bb) the tax payable on the balance of the relevant part of the income shall be computed according to such of the rates of tax above twenty-five *per centum* as are applicable thereto under this Act;

(ii) if the relevant part of the income does not exceed the amount of the net capital gain, the tax payable on the entirety of the relevant part of the income shall be twenty-five *per centum* notwithstanding anything to the contrary in this Act.’

(2) The amendment made to subsection (1A) of section 33 of the principal enactment by paragraph (a) of subsection (1) of this section shall be deemed to have come into force from the year of assessment commencing on or after April 1, 1980.

15. Section 42 of the principal enactment is hereby amended as follows:—

Amendment
of section
42 of the
principal
enactment.

(1) by the relettering of paragraphs (t) and (u) of that section, as paragraphs (w) and (x) respectively; and

(2) by the insertion, immediately after paragraph (s) of that section, of the following paragraphs:—

“(t) the Sri Lanka Foundation established by the Sri Lanka Foundation Law, No. 31 of 1973;

(u) the S. W. R. D. Bandaranaike National Memorial Foundation established by the S. W. R. D. Bandaranaike National Memorial Foundation Law, No. 2 of 1975;

(v) the Tower Hall Theatre Foundation established by the Tower Hall Theatre Foundation Act, No. 1 of 1978;”.

16. Section 54 of the principal enactment, as amended by Act No. 24 of 1980, is hereby further amended in subsection (2) of that section by the substitution for the words and figures “Inland Revenue Act, No. 4 of 1963,” of the words and figures “Inland Revenue Act, No. 4 of 1963, or to any Institute, Foundation or Commission referred to in paragraph (k) of subsection (2) of section 31.”.

Amendment
of section
54 of the
principal
enactment.

17. Section 68 of the principal enactment is hereby renumbered as section 68A thereof.

Renumbering
of section
68 as
section 68A
of the
principal
enactment.

18. The following new section is hereby inserted immediately after the heading “E-Liability of Non-Resident Persons”, and shall have effect as section 68 of the principal enactment:—

Insertion of
new section
68 in the
principal
enactment.

“Chargeability of certain profits of non-resident persons. 68. Where a person in Sri Lanka, acting on behalf of a non-resident person, effects or is instrumental in effecting any insurance or sells or disposes of or is instrumental in selling or disposing of any property, whether

such property is in Sri Lanka or is to be brought into Sri Lanka and whether the insurance, sale or disposal is effected by such person in Sri Lanka or by or on behalf of the non-resident person outside Sri Lanka and whether the moneys arising therefrom are paid to or received by the non-resident person directly or otherwise, the profits arising from any such insurance, sale, or disposal shall be deemed to be derived by the non-resident person from business transacted by him in Sri Lanka, and the person in Sri Lanka who acts on his behalf shall be deemed to be his agent for all the purposes of this Act :

Provided that where the property sold or disposed of is produced or manufactured by such non-resident person outside Sri Lanka, the profits from the sale or disposal shall—

(a) if the sale or disposal was by wholesale, be deemed to be not more than the profits which might reasonably be expected to be made by a merchant selling the property by wholesale, and

(b) if the sale or disposal was by retail, be deemed to be not more than the profits which might reasonably be expected to be made by a merchant selling the property by retail.”.

Amendment
of section
73 of the
principal
enactment.

19. Section 73 of the principal enactment is hereby amended by the insertion, immediately after subsection (1) of that section, of the following new subsection :—

“ (1A) Where the assessable income for any year of assessment commencing on or after April 1, 1980, of an individual deemed to be non-resident under

subsection (7) of section 67, consists solely of income from services rendered in Sri Lanka and does not exceed twelve thousand rupees, such income shall not be taxable."

20. The following heading is hereby substituted for the heading "H" occurring immediately preceding section 81 of the principal enactment:—

"H—Interest, &c. Payable to Persons Outside Sri Lanka."

Substitution
of heading
"H" in the
principal
enactment.

21. The following new sections are hereby inserted immediately after the heading "H" in the principal enactment:—

Insertions
of new
sections 80A
and 80B in
the
principal
enactment.

"Interest
on certain
loans
deemed to
be profits
and income.

80A. Where interest is payable to a non-resident person on a loan obtained from such person and the interest on such loan is borne—

(a) directly or indirectly by a person resident in Sri Lanka; or

(b) by a non-resident person where the amount of such loan or part thereof has been brought to or used in Sri Lanka,

such interest shall be deemed to be profits and income arising in or derived from Sri Lanka.

Certain
royalties
deemed to
be profits
and income.

80B. Where royalties are—

(a) borne directly or indirectly by a person resident in Sri Lanka; or

(b) deductible under section 29,

such royalties shall be deemed to be profits and income arising in or derived from Sri Lanka."

Amendment
of section 89
of the
principal
enactment.

22. Section 89 of the principal enactment, as replaced by Act No. 24 of 1980, is hereby amended by the insertion at the end of that section, of the following proviso :—

“ Provided that the provisions of paragraphs (b) and (c) of this section shall not be applicable if the sum realized is in respect of a capital asset which is replaced, and in such event the deduction for depreciation in accordance with the provisions of paragraph (e) of subsection (1) of section 23, shall be computed on the cost of replacement of such capital asset less the amount realized under a contract of insurance.”.

Amendment
of section
125 of the
principal
enactment.

23. Section 125 of the principal enactment, as amended by Act, No. 24 of 1980, is hereby further amended by the insertion immediately after subsection (2) of that section, of the following new subsection :—

“(2A) Notwithstanding the provisions of section 96B of the Inland Revenue Act, No. 4 of 1963, where any tax payable by any person for any year of assessment preceding the year of assessment commencing on April 1, 1979, is in default on or after April 1, 1981, the defaulter shall, in addition to the tax in default, pay as a penalty any sum payable as penalty in terms of subsection (6) of section 96B of the Inland Revenue Act, No. 4 of 1963, and a further sum equivalent to twenty-five *per centum* of the amount in default on or after April 1, 1981.”.

Replacement
of section
126 of the
principal
enactment.

24. Section 126 of the principal enactment is hereby repealed and the following section substituted therefor—

‘Tax to include fines, &c. 126. In this Chapter, “tax” includes :—
(a) income tax, wealth tax and gifts tax charged and levied under this Act ;

(b) any income tax, wealth tax and gifts tax charged and levied under the Inland Revenue Act, No. 4 of 1963, and which was in default or goes into default on or after April 1, 1981 ;

(c) any income tax which an employer is required to pay under the provisions of Chapter XV,

and any sum or sums added to any such tax by reason of default, any sum or sums added to such income tax, wealth tax or gifts tax under subsection (2) or (2A) of section 125 of this Act or under subsection (6) of section 96B of the Inland Revenue Act, No. 4 of 1963, and any fines, penalties, fees or costs whatsoever incurred under this Act or the Inland Revenue Act, No. 4 of 1963.' .

25. The Third Schedule to the principal enactment, as amended by Act No. 24 of 1980, is hereby further amended by the substitution, in item 6 of that Schedule for the figures and words "35 *per centum*", of the figures and words "20 *per centum*".

Amendment
of the
Third
Schedule
to the
principal
enactment.