

PARLIAMENT OF CEYLON

3rd Session 1958-59



Income Tax (Amendment) Act, No. 13 of 1959

Date of Assent : May 15, 1959

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AN ACT TO AMEND THE INCOME TAX ORDINANCE, TO MAKE CERTAIN CONSEQUENTIAL AMENDMENTS IN THE FIRST SCHEDULE TO THE APPROPRIATION ACT, NO. 32 OF 1958, TO REPEAL THE PROFITS TAX ACT, NO. 5 OF 1948, AND TO MAKE CERTAIN CONSEQUENTIAL PROVISIONS.

[Date of Assent: May 15, 1959]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and the House of Representatives of Ceylon in this present Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the Income Tax (Amendment) Act, No. 13 of 1959. Short title.

2. Section 2 of the Income Tax Ordinance, hereinafter referred to as the "principal enactment", is hereby amended as follows:— Amendment of section 2 of the Income Tax Ordinance.

(a) in the definition of "Assistant Commissioner", by the substitution, for the words "Income Tax", of the words "Inland Revenue";

(b) in the definition of "Commissioner", by the substitution, for the words "Income Tax", of the words "Inland Revenue";

(c) in the definition of "Deputy Commissioner", by the substitution, for the words "Income Tax", of the words "Inland Revenue";

(d) by the insertion, immediately after the definition of "executor", of the following definition:—

"executive officer" means a director of a company or corporation, or an employee in any trade, business, profession or vocation whose monthly emoluments (including all allowances) are not less than one thousand rupees; and

(e) in the definition of "written-down value", by the substitution, for the words "means the residue of the cost to the owner thereof of any plant, machinery or fixtures", of the following:—

"with reference to any plant, machinery or fixtures purchased before April 1, 1957, or, where statutory income is

directed by the Commissioner under section 11 (2) to be computed up to any such day other than the thirty-first day of March as is specified in the direction, before such specified day in the year preceding the year of assessment commencing on April 1, 1957, means the residue of the cost thereof to the owner thereof ”.

Replacement of
section 3 of
the principal
enactment.

3. Section 3 of the principal enactment is hereby repealed and the following new section is substituted therefor:—

“ Officers.

3. (1) For the purposes of this Ordinance, there shall be appointed a Commissioner of Inland Revenue and such number of Deputy Commissioners of Inland Revenue, Assistant Commissioners of Inland Revenue and Assessors as may be necessary.

(2) An Assistant Commissioner exercising or performing any power, duty or function of the Commissioner under this Ordinance shall be deemed for all purposes to be authorised to exercise or perform that power, duty or function until the contrary is proved.

(3) An Assistant Commissioner may exercise any power conferred on an Assessor by this Ordinance.”.

Amendment of
section 4 of
the principal
enactment.

4. Section 4 of the principal enactment is hereby amended as follows:—

- (a) in sub-section (3) of that section by the substitution, for the words “ effect the provisions of this Ordinance. ”, of the words “ effect the provisions of this Ordinance or of any other written law administered by the Commissioner. ”; and
- (b) by the substitution, for sub-section (4) of that section, of the following sub-section:—

“ (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 Ordinance or under any other written law administered by the Commissioner—

- (a) to any other officer of that Department, if the communication is necessary for the performance of any duty under this Ordinance, and
- (b) to the Income Tax Authority of any part of Her Majesty's dominions or of any place under Her Majesty's protection or suzerainty to such an extent as the Commissioner may deem necessary to enable the correct relief to be given from income tax in that part or place in respect of the payment of income tax in Ceylon;

and the Commissioner 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 Ordinance, a copy of any particulars contained in any return or document received by him or in his possession under this Ordinance 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 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 of 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 shall not in any case be compelled to produce in any court either the original of such document or return or a copy of any particulars contained in such document or return. ”.

*Amendment of
section 5 of
the principal
enactment.*

5. Section 5 of the principal enactment is hereby amended in sub-section (1) of that section by the substitution, in paragraph (a) of that sub-section, for the words "resident in Ceylon, and", of the words and figures "who, if the year of assessment commences before April 1, 1959, is resident in Ceylon in the year of assessment, or, if the year of assessment commences on or after April 1, 1959, was resident in Ceylon in the year preceding the year of assessment, and".

*Amendment of
section 6 of
the principal
enactment.*

6. Section 6 of the principal enactment is hereby amended as follows:—

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

(i) by the omission of the word "and" occurring in paragraph (g) of that sub-section;

(ii) by the relettering of paragraph (h) of that sub-section as paragraph (j); and

(iii) by the insertion, immediately after paragraph (g) of that sub-section, of the following paragraphs:—

"(h) net capital gains arising from—

(i) the change of ownership of any property occurring by sale, disposal, transfer, realisation, exchange, or in any other manner whatsoever, other than any such change of ownership of a fiduciary's rights in a property subject to a fideicommissum as occurs by a transfer or extinction of those rights, and other than a change of ownership of a right to exploit a property occurring by a transfer of that right and the change of ownership of a property the expenditure for the acquisition of which is

assessable expenditure within the meaning of the Personal Tax Act of 1959 or would be such assessable expenditure if such acquisition were after the coming into operation of that Act,

- (ii) the surrender or relinquishment of any right in any property other than the surrender of a life insurance policy,
- (iii) the transfer of some of the rights in any property other than the transfer of the rights of a fiduciary in any property subject to a fideicommissum,
- (iv) the loss of any office or employment,
- (v) the redemption of any shares, debentures or other obligations,
- (vi) the formation of a company,
- (vii) the dissolution of a business, or the liquidation of a company,
- (viii) the amalgamation or merger of two or more businesses or companies, or
- (ix) any transaction in connection with which a person who promotes that transaction without being a party to it receives any commission or reward,

on or after April 1, 1957, other than any such gains which are treated as profits or income under any other provisions of this section;

- (i) the value of a prize won at a sweep or lottery; and ";

(2) in sub-section (1A) of that section, as amended by Act No. 44 of 1958, by the substitution, for the expression "paragraph (h)", of the expression "paragraph (j)";

(3) by the insertion, immediately after sub-section (1C) of that section, of the following new sub-sections:—

"(1D) The racing of horses owned by any person shall, for the purposes of paragraph (a) of sub-section (1), be deemed to be a business carried on by that person.

(1E) Any loss arising from a business referred to in sub-section (1D) shall not be deducted from the profits or income from any other source but shall be deducted from the profits or income from that business for the next succeeding year of assessment, and if such deduction cannot be made from the profits or income from that business for such next succeeding year, it shall be made as early as possible from the profits or income from that business for any subsequent year of assessment. ";

(4) in sub-section (2) of that section,—

(A) in paragraph (a) of that sub-section—

(a) in sub-paragraph (i) of that paragraph—

(i) by the substitution, for the words "conveyance, the value", of the words and figures "conveyance, and, in respect of any year of assessment commencing before April 1, 1958, the value"; and

(ii) by the substitution, for the words "in this subparagraph;", of the words and figures "in this sub-paragraph, and in respect of any year of assessment commencing on or after April 1, 1958, the value of any

holiday warrant or passage, except the value of any holiday warrant or passage granted to a person who is not a citizen of Ceylon or to his wife, son or daughter to enable him or her to visit his or her home abroad ;"; and

(b) in sub-paragraph (v) of that paragraph, by the substitution, for all the words from " and such part " to the end of that sub-paragraph, of the following :—

" other than an allowance for entertainment or travelling ; ";

(B) in paragraph (d) of that sub-section by the substitution, for the full stop at the end of that paragraph, of a semi-colon; and

(C) by the addition, at the end of that sub-section, of the following new paragraphs :—

' (e) " capital gain ",—

(i) with reference to capital gain of any person arising from a change of ownership of property, means, subject to the provisions of sub-section (3) of section 6A, the amount by which the value of that property at the time when such change of ownership occurs exceeds its value at the time when it was acquired by that person by purchase, gift, inheritance, or exchange, or in any other manner whatsoever;

(ii) with reference to capital gain of any person arising from the surrender or relinquishment of any right or the transfer of some of the rights in any property or the loss of any office or

- employment, means, subject to the provisions of sub-section (3) of section 6A, the value of the consideration for such surrender, relinquishment, or transfer, or the amount of compensation for such loss;
- (iii) with reference to capital gain of any person arising from the redemption of any shares, debentures or other obligations, means, subject to the provisions of sub-section (3) of section 6A, the value of all property received by him in consequence of such redemption less the cost to him of that which is redeemed, or, where that which is redeemed is any property referred to in subparagraph (viii) or subparagraph (ix) of paragraph (k) of this sub-section, less such value of that property as is specified in that subparagraph;
- (iv) with reference to capital gain of any person arising from the formation of a company, means, subject to the provisions of sub-section (3) of section 6A, the value of the consideration received by him for any transaction in connection with the formation of such company;
- (v) with reference to capital gain of any person arising from the dissolution of a business or the liquidation of a company, means, subject to the provisions of sub-section (3) of section 6A, the amount by which the value of all property received by him in consequence of such dissolution or liquidation exceeds the cost to him of his share of the capital of such business or company;

- (vi) with reference to capital gain arising from the amalgamation or merger of two or more companies, means, in the case of a shareholder of any of those companies, any money received by such shareholder in consequence of such amalgamation or merger, and, in the case of any other person, the value of the consideration received by such other person for any transaction in connection with such amalgamation or merger; and
- (vii) with reference to capital gain of any person arising from a transaction promoted by him without being a party to it, the sum received by him as commission or reward;

(f) "capital loss",—

- (i) with reference to capital loss of any person arising from a change of ownership of any property, means, subject to the provisions of sub-section (3) of section 6A, the amount by which the value of that property at the time when such change of ownership occurs is less than its value at the time when it was acquired by that person by purchase, gift, inheritance, or exchange, or in any other manner whatsoever;
- (ii) with reference to capital loss of any person arising from the redemption of any shares, debentures or other obligations, means, subject to the provisions of sub-section (3) of section 6A, the amount by which the value of all property received by him in consequence of such redemption is less than the cost to him of that which is redeemed or, where that which is redeemed is any property referred to in

sub-paragraph (viii) or sub-paragraph (ix) of paragraph (k) of this sub-section, is less than such value of that property as is specified in that sub-paragraph;

- (iii) with reference to capital loss of any person arising from the dissolution of a business or the liquidation of a company, means the amount by which the value of all property received by him in consequence of such dissolution or liquidation is less than the cost to him of his share of the capital of such business or company; and
- (iv) includes the amount of any irrecoverable debt which is secured by a mortgage or a promissory note;

(g) "change of ownership", in the context of the definition of "capital gain" or "capital loss", does not include—

- (i) the sale to a customer of any property held by the vendor primarily for sale to customers in the ordinary course of his trade or business,
- (ii) the sale of any property which was used by any person in producing income from any trade, business, profession, vocation, or employment carried on or exercised by him, and in respect of which a deduction for depreciation has been allowed under section 9, such sale being effected by him without his ceasing to carry on or exercise that trade, business, profession, vocation, or employment;
- (iii) the passing of any property subject to a trust from the trustee to any beneficiary under the trust, and

- (iv) the passing of any property belonging to the estate of a deceased person from his executor to any testate or intestate heir of the deceased;
- (h) "market value", with reference to any property and any date and in the context of the definition of "value of any property", means the price which, in the opinion of an assessor, that property would have fetched on that date in an open market;
- (j) "net capital gains", in respect of any year of assessment, mean the excess of the capital gains for that year over the capital losses for that year;
- (k) "value", with reference to any property or consideration in the context of the definition of "capital gain" or "capital loss", shall be as follows:—
 - (i) where the property is movable property acquired by purchase, gift, inheritance, or exchange, or in any other manner whatsoever before April 1, 1957, by the person who is the owner of the property immediately before the occurrence of the change of ownership, then, subject to the provisions of paragraph (vi), paragraph (viii), paragraph (ix) and paragraph (x), the value of the property at the time of the change of ownership shall, if such change occurs by a sale of the property, be an amount equal to the sale price, and, if such change occurs in any other manner, be an amount equal to the market value of the property at that time, and the value of the property at the time when it was acquired as aforesaid by such person shall be an amount equal to the market value of the property on April 1, 1957;

- (ii) where the property is movable property acquired as aforesaid by such person on or after April 1, 1957, then, subject to the provisions of paragraph (vi), paragraph (viii), paragraph (ix) and paragraph (x), the value of the property at the time of the change of ownership shall, if such change occurs by a sale of the property, be an amount equal to the sale price, and, if such change occurs in any other manner, be an amount equal to the market value of the property at that time, and the value of the property at the time when it was acquired as aforesaid by such person shall, if such acquisition was by purchase, be an amount equal to the cost of such purchase, and, if such acquisition was otherwise than by purchase, be an amount equal to the market value of the property at the time of such acquisition;
- (iii) where the property is immovable property acquired as aforesaid by such person before April 1, 1957, then, subject to the provisions of paragraph (vi), paragraph (vii) and paragraph (x), the value of the property at the time of the change of ownership shall, if such change occurs by a sale of the property, be an amount equal to the sale price, and, if such change occurs in any other manner, be an amount equal to the market value of the property at that time, and the value of the property at the time when it was acquired as aforesaid by such person shall be an amount equal to the market value of the property on April 1, 1957;

- (iv) where the property is immovable property acquired as aforesaid by such person on or after April 1, 1957, then, subject to the provisions of paragraph (vi), paragraph (vii) and paragraph (x), the value of the property at the time of the change of ownership shall, if such change occurs by a sale of the property, be an amount equal to the sale price, and, if such change occurs in any other manner, be an amount equal to the market value of the property at that time, and the value of the property at the time when it was acquired as aforesaid by such person shall, if such acquisition was by purchase, be an amount equal to the cost of such purchase, and, if such acquisition was otherwise than by purchase, be an amount equal to the market value of the property at the time of such acquisition;
- (v) the value of any consideration received by any person shall, where the consideration is partly cash and partly property, other than cash, be an amount equal to the aggregate of such cash and the market value of such property on the date on which the consideration was received, and, where the consideration is wholly property other than cash, be an amount equal to the market value of such property on the date on which the consideration was received;
- (vi) where the acquisition as aforesaid of the property by such person is by the transfer of the property by a trustee under a trust to such person in his

capacity as a beneficiary under the trust or is by the transfer of the property by an executor to such person in his capacity as a testate or an intestate heir of the deceased whose estate is administered by such executor, the value of the property at the time of such acquisition shall, if the date of such acquisition is before April 1, 1957, be an amount equal to the market value of the property on April 1, 1957, and, if the date of such acquisition is on or after April 1, 1957, be an amount equal to the market value of the property at the time when such trustee or executor came into possession of the property;

(vii) where the person who is the owner of the property immediately before the occurrence of the change of ownership had come into possession of the property immediately after the cessation of a life interest of any other person in the property, the value of the property at the time when the first mentioned person acquired title to the property shall, if the date of acquisition of such title is before April 1, 1957, be an amount equal to the market value of the property on April 1, 1957, and, if the date of acquisition of such title is on or after April 1, 1957, be an amount equal to the market value of the property on the date of acquisition of such title;

(viii) where the property consists of any shares forming part of a holding of such person which includes bonus shares issued on or after April 1, 1957, or shares

issued on or after April 1, 1957, at a price less than their market value, the value of the property at the time when it was acquired as aforesaid by such person shall be an amount which bears to the cost of acquisition by him of such holding the same proportion as the property bears to such holding;

(ix) where the property consists of any shares received by a person in place of any shares of his in any of two or more companies which have amalgamated or merged on or after April 1, 1957, the value of the property at the time when it was so received shall be an amount equal to the cost to him of the last mentioned shares;

(x) where the property is property which was acquired by purchase, gift, inheritance, or exchange, or in any other manner whatsoever by the person who is the owner of the property immediately before the occurrence of the change of ownership, and which was used by him in producing income from any trade, business, profession, vocation, or employment carried on or exercised by him, and in respect of which a deduction for depreciation has been allowed under section 9, the value of the property at the time of such acquisition shall—

(a) if the property was acquired as aforesaid before April 1, 1957, be the written down value of the property at the time of the acquisition, and

(b) if the property was acquired as aforesaid on or after April 1, 1957, be an amount equal to the difference between the cost of the acquisition and such part of the amount deducted for depreciation as is in the opinion of the Commissioner attributable to the period during which the property was used as aforesaid;

(xi) where, in the case of a change of ownership of the property of any person occurring by sale, the Assessor is of the opinion that the sale price is less than the market value of that property at the time of the sale, then, unless that person satisfies the Assessor that there was reasonable cause for the difference between the sale price and such market value, the value of such property at the time of the sale shall be an amount equal to the market value of that property at that time.'

Insertion of
new sections
6A and 6B in
the principal
enactment.

7. The following sections are hereby inserted immediately after section 6, and shall have effect as section 6A and section 6B, of the principal enactment:—

"Special provisions regarding capital gains and capital losses.

6A. (1) Where a capital gain or a capital loss arises from the change of ownership of any property occurring on a donation of that property by its owner to any other person, such capital gain or such capital loss shall be deemed to be a capital gain or a capital loss, as the case may be, of the donor.

(2) Where a capital gain or a capital loss arises from the change of ownership of any property occurring on the death of the owner of that property, such capital gain or such capital loss shall be deemed to be his capital gain or capital loss, as the case may be, arising immediately before his death.

(3) The amount of a capital gain or a capital loss arising from the change of ownership of any property shall be computed after making the following deductions:—

(a) the expenditure (other than the purchase price if any) incurred solely in connection with the acquisition of that property by the person who is the owner of that property immediately before the occurrence of such change of ownership;

(b) the expenditure incurred by the aforesaid owner in making any improvements, additions or alterations to that property; and

(c) the expenditure incurred by the aforesaid owner solely in connection with the transaction which results in such change of ownership.

(4) The amount of the net capital loss of any person for any year of assessment shall be a capital loss of that person for the next succeeding year of assessment.

(5) Where the aggregate amount of the capital gains of any person for any year of assessment which arise in respect of movable property other than stocks, shares, debentures or debenture stocks does not exceed two thousand rupees, such amount shall be deemed not to be that person's capital gain for that year of assessment.

(6) Where any person—

(a) has no taxable income for the three years of assessment preceding any year of assessment, or

(b) has a total assessable income for those three years of assessment which is less than the total of the allowances which under section 20F are required to be deducted from that assessable income in arriving at his taxable income for those three years of assessment,

the first five thousand rupees of his net capital gains for the year of assessment mentioned last in paragraph (a) of this sub-section shall not be deemed to be income for that year of assessment.

(7) Where the taxable income of a person includes any net capital gain, and the rate of the tax payable on a part of such income (hereafter in this sub-section referred to as the "relevant part of the income") exceeds 45 per centum, then, in regard to the relevant part of the income, the tax shall be computed as follows:—

(a) if the relevant part of the income exceeds the amount of the net capital gain—

(i) the tax payable on such portion of the relevant part of the income as is equal to the amount of the net capital gain shall be at the rate of 45 per centum, and

(ii) the tax payable on the balance of the relevant part of the income shall be computed according to such of the rates of the tax above 45 per centum as are applicable thereto under this Ordinance; and

(b) if the relevant part of the income is less than the amount of the net capital gain, the tax payable on the entirety of the relevant part of the income shall be 45

per centum notwithstanding anything to the contrary in this Ordinance.

(8) Where a person dies and he has any net capital loss for the last year of assessment for which he was liable to be assessed for the tax, the amount of such net capital loss shall, as far as is practicable, be deducted from his statutory income from all sources for such last year of assessment, and, if it cannot be so deducted, from his statutory income from all sources for any (in order of recession) of the three years of assessment preceding such last year of assessment; and where such deduction is made from his statutory income for any such preceding year of assessment, the tax for that year of assessment in respect of him shall, notwithstanding the provisions of section 75, be revised taking into consideration such deduction, and the amount of the difference in the tax originally imposed on him in respect of that year of assessment and the amount of the revised tax for that year of assessment shall, if there is an executor of the deceased, be refunded to such executor, and, if there is no such executor, be refunded to such person or persons as is or are in the opinion of the Commissioner entitled to such refund.

(9) In this section—

(a) the expressions "capital gain", "capital loss" and "net capital gain" shall have the same meanings as are assigned to them in sub-section (2) of section 6; and

(b) "net capital loss", in respect of any year of assessment, means the excess of the capital loss for that year over the capital gain for that year.

Provisions in regard to the tax on taxable income which includes the value of a prize won at a sweep or lottery.

- 6B. (1) Where any person—
 (a) who has no taxable income for the three years of assessment preceding any year of assessment, or
 (b) the total of whose assessable income for those three years of assessment is less than the total of the allowances which under section 20F are required to be deducted from that assessable income in arriving at his taxable income for those three years of assessment,

wins a prize at a sweep or lottery in the year preceding the year of assessment mentioned last in paragraph (a) of this sub-section, the first five thousand rupees of the value of that prize shall not be deemed to be income for that year of assessment.

(2) The provisions of sub-section (7) of section 6A shall apply in regard to the computation of the tax on any taxable income which includes the value of a prize won at a sweep or lottery as if the reference therein to "any net capital gain" were a reference to "the value of a prize won at a sweep or lottery" and the reference therein to "amount of the net capital gain" were a reference to "value of such prize".

Amendment of section 7 of the principal enactment.

8. Section 7 of the principal enactment, as last amended by Act No. 44 of 1958, is hereby further amended, in sub-section (1) of that section, as follows:—

(A) by the insertion, immediately after paragraph (bb) of that sub-section, of the following paragraphs:—

- "(c) the profits and income of the Ceylon Tea Propaganda Board;
- (d) any sum paid to any person as a subsidy under the Cacao Planting Subsidy Scheme;

- (e) the emoluments, and any income not arising in Ceylon, of any scientist or technician who is not a citizen of Ceylon and who is brought to and employed in Ceylon on or after April 1, 1958, by the Government of Ceylon or by any corporation which is wholly financed by that Government;
 - (ee) the emoluments, and any income not arising in Ceylon, for three years reckoned from the date of employment in Ceylon, of any scientist or technician who is not a citizen of Ceylon and who is brought to and employed in Ceylon on or after April 1, 1958, by a corporation to which section 7A applies or by the proprietor of an undertaking, to which section 7B applies, for the purposes of that undertaking; ”.
- (B) in paragraph (hh) of that sub-section, by the omission of sub-paragraphs (i), (ii) and (iii) of that paragraph and the substitution therefor of the following sub-paragraphs:—
- “ (i) members of any naval, military or air forces of any country other than Ceylon who are in Ceylon at the request or with the concurrence of the Government of Ceylon; and
 - (ii) persons employed in any civil capacity by the Government of any country other than Ceylon who, not being persons resident in Ceylon for a period exceeding three months immediately prior to the date of the commencement of such employment, are so employed in, or visit, Ceylon for any purpose connected with such members of any naval, military or air forces as are referred to in the preceding sub-paragraph (i); ”.

9. Section 7A of the principal enactment, as amended by Act No. 36 of 1951, Act No. 28 of 1954 and Act No. 38 of 1957, is hereby amended as follows:—

Amendment of
section 7A of
the principal
enactment.

- (a) in sub-section (1) of that section, by the substitution, for the word “ eight ”, of the word “ thirteen ”; and

(b) in sub-section (3) of that section, by the substitution, for all the words and figures from "and accordingly" to the end of that sub-section, of the following:—

"and accordingly where that year commences before April 1, 1958, the provisions of section 43 shall not apply to such dividends, and where that year commences on or after April 1, 1958, the provisions of section 53D shall not apply to such dividends."

*Amendment of
section 7B of
the principal
enactment.*

10. Section 7B of the principal enactment, as amended by Act No. 36 of 1951, Act No. 28 of 1954 and Act No. 38 of 1957, is hereby amended, in sub-section (1) of that section, by the substitution, in subparagraph (a) of paragraph (i) of that sub-section, for the word and figures "March 31, 1959", of the word and figures "March 31, 1964".

*Amendment of
section 9 of
the principal
enactment.*

11. Section 9 of the principal enactment, as amended by Act No. 28 of 1954, is hereby amended as follows:—

(1) in paragraph (ccc) of sub-section (1) of that section—

(a) by the substitution, in the first proviso to that paragraph, for the words "five years", of the words "four years"; and

(b) by the substitution, in the second proviso to that paragraph, for the words "three years", of the words "two years"; and

(2) by the insertion, immediately after sub-section (1D) of that section, of the following new sub-sections:—

"(1E) The provisions of paragraphs (a), (b), (c) and (ccc) of sub-section (1) shall not apply to any plant, machinery or fixtures purchased after March 31, 1957, or where statutory income is directed by the Commissioner under section 11 (2) to be computed up to any such day other than the thirty-first day of March as is specified in the direction, after such specified day in the year preceding the year of assessment commencing on April 1, 1957, and to any

expenditure incurred after March 31, 1957, or after such specified day for the repair of any plant, machinery or fixtures, or any premises, implements, utensils or articles.

(1F) There shall be deducted in respect of any year of assessment commencing on or after April 1, 1958, for the purpose specified in sub-section (1), a prescribed lump sum for the depreciation by wear and tear of any plant, machinery or fixtures acquired by any person in the year preceding that year of assessment by purchase, gift, inheritance, or exchange, or in any other manner whatsoever and used by him in any trade, business, profession, vocation, or employment carried on or exercised by him, such lump sum being variable according to the kind of plant, machinery or fixtures concerned.

(1G) There shall be deducted in respect of any year of assessment commencing on or after April 1, 1958, for the purpose specified in sub-section (1), a prescribed lump sum for the depreciation by wear and tear of any such building constructed in the year preceding that year of assessment as is referred to in sub-paragraph (ii) or sub-paragraph (iii) of paragraph (ccc) of sub-section (1), such lump sum being variable according to the kind of building concerned.

(1H) Where in respect of any year of assessment the whole or any part of any sum allowed under sub-section (1F) or sub-section (1G) to be deducted from the profits or income for that year of any person from any source cannot be so deducted, the amount which cannot be so deducted shall be deducted from his profits or income from any other source, and, if the whole or any part of that amount cannot be deducted from the profits or income from such other source, the amount which cannot be so deducted together with a sum equal to five per centum per annum of that amount shall be deducted as early

as possible from his profits or income from any source for any of the next succeeding years of assessment.

(1J) There shall be deducted, for the purpose specified in sub-section (1), any sum expended for the repair (not renewal) of plant, machinery or fixtures employed for producing the income, or for the renewal or repair of any premises, implement, utensil, or articles so employed, or the cost of renewal of any plant, machinery or fixtures if no deduction for depreciation thereof has been allowed under paragraph (a) of sub-section (1) :

Provided that the preceding provisions of this sub-section shall not apply to any sum expended for the renewal of plant, machinery, fixtures or premises in respect of which any deduction under sub-section (1F) or sub-section (1G) has been allowed.

(1K) Where any person sells or discards any plant, machinery or fixtures purchased by him after March 31, 1957, or such specified day as is referred to in sub-section (1E), and used in producing the income from any trade, business, profession, vocation, or employment carried on or exercised by him, or any building constructed after March 31, 1957, or such specified day as is referred to in sub-section (1E), which is a staff welfare building or a building for use as a dwelling-house by any member of the subordinate staff employed by him in, or for the purposes of, or in connection with, any such undertaking as is referred to in subparagraph (ii) or subparagraph (iii) of paragraph (ccc) of sub-section (1), or which is a building occupied, for the purposes of that undertaking, otherwise than as a dwelling-house, and the sale or discard occurs when or after he ceases to carry on or exercise such trade, business, profession, vocation, employment or undertaking, and a deduction for depreciation has been made under sub-section (1F) or sub-section (1G) in respect of the

things sold or discarded, then, if the sale or discard is before the expiry of the period of likely use by reference to which the deduction for depreciation was determined, such part of the amount deducted for depreciation as is in the opinion of the Commissioner attributable to the unexpired part of such period shall be added to the profits or income of such person as a receipt of such trade, business, profession, vocation, employment or undertaking.

(1L) Where any person sells or discards any plant, machinery or fixtures purchased after March 31, 1957, or such specified day as is referred to in sub-section (1E), and used in producing the income from any trade, business, profession, vocation, or employment carried on or exercised by him, or any building constructed after March 31, 1957, or such specified day as is referred to in sub-section (1E), which is a staff welfare building or a building for use as a dwelling-house by any member of the subordinate staff employed by him in, or for the purposes of, or in connection with, any such undertaking as is referred to in sub-paragraph (ii) or sub-paragraph (iii) of paragraph (ccc) of sub-section (1), or which is a building occupied, for the purposes of that undertaking, otherwise than as a dwelling-house, and the sale or discard occurs without his ceasing to carry on or exercise such trade, business, profession, vocation, employment or undertaking, and a deduction for depreciation has been made under sub-section (1F) or sub-section (1G) in respect of the thing sold or discarded, then:—

(a) if the sale or discard is before the expiry of the period of likely use by reference to which the deduction for depreciation was determined, the Commissioner shall take into account the unexpired part of such period and determine the amount of the loss, or the amount of the

profit, arising in the event of a sale from the sale or in the event of a discard from the likely sale of such plant, machinery, fixtures, or building, and where the amount of the loss is so determined, there shall be deducted that amount for the purpose specified in sub-section (1), and where the amount of the profit is so determined, that amount shall be added to the profits or income of such person as a receipt of such trade, business, profession, vocation, employment, or undertaking, and where such plant, machinery, or fixtures was or were only partly used or employed for such trade, business, profession, vocation, or employment, or such building was only partly used for the purposes of, or in connection with, such undertaking, the deduction or addition under this sub-section shall be proportionately reduced; and

- (b) if the sale or discard is after the expiry of the aforesaid period of likely use, the full amount of the sale proceeds in the event of a sale, or the full amount likely to be realised by the sale of such plant, machinery, fixtures, or building in the event of a discard, shall be added to the profits or income of such person as a receipt of such trade, business, profession, vocation, employment, or undertaking, and where in the case of a discard such plant, machinery, or fixtures was or were only partly used or employed for such trade, business, profession, vocation or employment, or such building was

only partly used for the purposes of, or in connection with, such undertaking, the addition under this sub-section shall be proportionately reduced.

(1M) There shall be deducted for the purpose specified in sub-section (1)—

- (a) a sum equal to twenty per centum of the expenditure actually incurred in the purchase and installation, after March 31, 1957, or such specified day as is referred to in sub-section (1E), of any new plant, machinery, or fixtures to be used by the owner thereof in the commencement or expansion by him of a trade or business which is not an approved project, or of any profession, vocation or employment;
- (b) a sum equal to forty per centum of the expenditure actually incurred in the purchase and installation, after March 31, 1957, or such specified day as is referred to in sub-section (1E), of any new plant, machinery, or fixtures to be used by the owner thereof for the purposes of an approved project;
- (c) a sum equal to twenty per centum of the expenditure actually incurred, after March 31, 1957, or such specified day as is referred to in sub-section (1E), in constructing any such building referred to in sub-paragraph (ii) or sub-paragraph (iii) of paragraph (ccc) of sub-section (1) as is not to be used for the purposes of an approved project; and
- (d) a sum equal to forty per centum of the expenditure actually incurred, after March 31, 1957, or such specified day as is

referred to in sub-section (1E), in constructing any such building referred to in sub-paragraph (ii) or sub-paragraph (iii) of paragraph (ccc) of sub-section (1) as is to be used for the purposes of an approved project.

The definition of "approved project" contained in sub-section (1) of section 44C shall apply as if it were part of the provisions of this sub-section also and as if the reference in that definition to "this section" were a reference to "this sub-section". Every project hitherto declared by the Minister of Finance to be an approved project for the purposes of section 44C shall be an approved project for the purposes of this sub-section also.

(1N) Where in respect of a year preceding a year of assessment commencing on or after April 1, 1958, any person who is not a citizen of Ceylon and who is carrying on or exercising any trade, business, profession or vocation in Ceylon incurs any cost of passage from Ceylon to his home abroad and from such home to Ceylon of himself or of his wife, son or daughter, the amount of such cost shall be deducted for the purpose specified in sub-section (1).'

**Amendment of
section 10 of
the principal
enactment.**

12. Section 10 of the principal enactment is hereby amended by the insertion, immediately after paragraph (a) of that section, of the following:—

"(ab) the following for any year of assessment commencing on or after April 1, 1958 :—

- (i) expenses incurred in connection with employment other than the expenses referred to in section 9 (1) (h);
- (ii) any travelling expenditure in excess of two thousand rupees a year incurred in connection with any trade, business, profession or vocation carried on or exercised by such person other than any such expenditure so incurred by an employee of such person who is not an executive officer;

- (iii) entertainment expenses incurred by such person in connection with any trade, business, profession or vocation carried on or exercised by him;
- (iv) entertainment expenses incurred by an executive officer of such person in connection with a trade, business, profession or vocation carried on or exercised by such person;
- (v) entertainment or travelling allowance paid by such person to his executive officer;
- (vi) one quarter of such person's cost of advertisement in connection with any trade, business, profession or vocation carried on or exercised by him; ”.

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

- (1) in sub-section (3) of that section by the substitution, for the words “a year of assessment”, of the words and figures “a year of assessment commencing before April 1, 1958,”;
- (2) in sub-section (4) of that section by the substitution, for the words “a year of assessment”, of the words and figures “a year of assessment commencing before April 1, 1958, ”;
- (3) in sub-section (5) of that section by the substitution, for the words “any year of assessment”, of the words and figures “any year of assessment commencing before April 1, 1958, ”;
- (4) in sub-section (6) of that section by the substitution, for the word “ceases”, of the words and figures “ceases in any year of assessment commencing before April 1, 1958, ”;
- (5) in sub-section (7) of that section by the substitution, for the words “a year of assessment”, wherever those words occur in that sub-section, of the words and figures “a year of assessment commencing before April 1, 1958

Amendment of
section 11 of
the principal
enactment.

- (6) in sub-section (8) of that section by the substitution, for the word "ceasing", of the words and figures "ceasing in any year of assessment commencing before April 1, 1958,";
- (7) in sub-section (9) of that section by the substitution, for the words "year of assessment", of the words and figures "year of assessment commencing before April 1, 1958,"; and
- (8) in sub-section (10) of that section—
 - (a) by the substitution, in paragraph (ii) of the proviso to that sub-section, for the words "completed; and", of the word "completed;" ;
 - (b) by the substitution, in paragraph (iii) of such proviso, for the word "estate.", of the words "estate; and"; and
 - (c) by the addition of the following paragraph to such proviso :—

"(iv) the provisions of paragraphs (a) and (b) of this sub-section and the provisions of paragraph (ii) of this proviso shall apply only to a year of assessment commencing before April 1, 1958.".

Insertion of
new section
11A in the
principal
enactment.

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

Relief from
tax in
connection
with com-
mencement
and
cessation of
profession,
vocation or
employment.

11A. (1) Where a person has commenced to carry on or exercise a profession, vocation or employment in Ceylon on or after April 1, 1951, and before April 1, 1958, then,—

- (a) if he has not ceased to carry on or exercise that profession, vocation or employment on or before April 1, 1958, he shall be entitled to claim on or before April 1, 1960, by way of a refund or a set-off against the tax a sum equal to the excess, if any, of the tax assessed in

respect of him for the year of assessment in which he commenced to carry on or exercise that profession, vocation or employment and the two next succeeding years of assessment over the tax that would have been assessed in respect of him for those three years if the assessment were on the basis that sub-section (1) or sub-section (2) of section 11 applied, and that sub-sections (3), (4) and (5) of that section did not apply, to him in respect of that profession, vocation or employment; and

- (b) if he does not make such claim within the time allowed therefor,—
- (i) he shall, if he ceases to carry on or exercise that profession, vocation or employment in the year of assessment commencing on April 1, 1958, be entitled to have the provisions of sub-section (6) of section 11 applied to him in respect of that profession, vocation or employment as if the expression “in any year of assessment commencing before April 1, 1958” occurring in those provisions were omitted, and
- (ii) he shall, if he ceases to carry on or exercise that profession, vocation or employment in the year of assessment commencing on April 1, 1959, be entitled to a refund or set off against the tax of 95 per centum of the excess, if any, of

the tax assessed in respect of him for the year preceding the year of assessment in which he ceases to carry on or exercise that profession, vocation or employment and the two next succeeding years of assessment over the tax that would have been assessed in respect of him for those three years if sub-section (1) or sub-section (2) of section 11 did not apply, and sub-section (6) of that section applied in the manner specified in sub-paragraph (i) of paragraph (b) of this sub-section, to him in respect of those three years; and

- (c) if he ceases to carry on or exercise that profession, vocation or employment in any year of assessment commencing on or after April 1, 1960, he shall be entitled to a refund or set off against the tax of a portion, computed in accordance with the provisions of sub-section (2), of such excess of the tax, if any, as shall be determined in the same manner as the excess of the tax referred to in subparagraph (ii) of paragraph (b) of this sub-section for the year preceding the year of assessment in which he ceases to carry on or exercise that profession, vocation or employment and the two next succeeding years of assessment.

- (2) For the year of assessment commencing on April 1, 1960, the portion of the excess referred to in paragraph (c) of sub-section (1) shall be 90 per centum of

that excess, and for each of the next succeeding years of assessment such portion shall be 5 per centum less than that of the immediately preceding year of assessment.

(3) Where a person commences to carry on or exercise a profession, vocation or employment in Ceylon before April 1, 1951, then, if he ceases to carry on or exercise that profession, vocation or employment on or after April 1, 1958, the provisions of sub-paragraphs (i) and (ii) of paragraph (b) of sub-section (1), the provisions of paragraph (c) of sub-section (1) and the provisions of sub-section (2) shall apply to him in respect of that profession, vocation or employment as if those provisions were provisions of this sub-section.'

15. Section 13 of the principal enactment is hereby amended, in sub-section (1) of that section, as follows :—

Amendment of
section 13 of
the principal
enactment.

- (a) in paragraph (c) of that sub-section, by the substitution, for the full stop at the end of that paragraph, of a semi-colon; and
- (b) by the addition, at the end of that sub-section, of the following new paragraph:—

“(d) the amount of any loss which has been incurred in any year preceding the year of assessment by any corporation referred to in section 7A or any undertaking referred to in section 7B and which has not been deducted from the statutory income for a previous year of assessment.”.

16. The following Chapter is hereby inserted immediately after section 20A of the principal enactment:—

Insertion of
Chapter VIIA
in the
principal
enactment.

‘CHAPTER VIIA.

ASCERTAINMENT OF THE TAXABLE INCOME OF RESIDENT INDIVIDUALS FOR ANY YEAR OF ASSESSMENT COMMENCING ON OR AFTER APRIL 1, 1958, AND THE RATES OF THE TAX ON SUCH INCOME.

Persons to
whom this
Chapter
applies.

20B. This Chapter shall apply to every individual resident in Ceylon in the year preceding any year of assess-

ment commencing on or after April 1, 1958, but shall not apply to any receiver, trustee, executor or liquidator:

Provided that the preceding provisions of this section shall not be deemed to affect the application of section 23 or section 27 to any receiver, trustee or executor.

**Non-application,
or application
with modifica-
tions, of
certain provi-
sions of this
Ordinance to
persons to
whom this
Chapter
applies.**

20C. (1) In respect of any year of assessment commencing on or after April 1, 1958,—

- (a) the rate or rates of the tax referred to in section 5, and
- (b) the provisions of section 13 (3), section 15, section 16 and Chapter VII other than the provisions of sub-section (10) and sub-section (10A) of section 20,

shall not apply to a person to whom this Chapter applies.

(2) Sub-section (10A) of section 20 shall, in its application to an individual to whom this Chapter applies, have effect as if, for the words and figures "sections 43, 44, 44A, 44B, 45 (1) and 46", occurring in that sub-section, there were substituted the words and figures "sections 44, 44A, 44B, 45 (1), 46 and 53D".

(3) Sub-section (3) of section 21 shall, in its application to spouses to whom this Chapter applies, have effect as if, for the words and figures "the allowance under paragraph (d) of sub-section (1) of section 16", there were substituted the words and figures "the allowance under section 20F".

(4) Section 22 shall, in its application to a person to whom this Chapter applies, have effect—

(a) as if, for sub-section (2) of that section, there were substituted the following sub-section:—

"(2) Where tax is assessed separately on the income of the husband and on the income

of the wife as a result of a notice under sub-section (1), the incomes of the husband and the wife and of any person who, according to the returns of income furnished by the husband and the wife, is a child or dependent relative of either or both of those spouses shall be aggregated and the tax that would be payable by the husband if such notice had not been given shall be ascertained in accordance with the provisions of this Ordinance. The amount of the tax so ascertained shall be apportioned among the husband and the wife in the proportion which the assessable income of each of them bears to the total assessable income on which the tax was so ascertained.”; and

(b) as if in sub-section (3) of that section, for the words and figures “and no allowance which may be claimed under section 16 (1) (c) and (d) shall be granted.”, there were substituted the following:—

“ and no allowance under section 20F shall be allowed in respect of one of those spouses and no allowance under that section shall be allowed in respect of any child or dependent relative of either or both of those spouses.”.

(5) Sub-section (1) of section 54 shall, in its application to a person to whom this Chapter applies, have effect as if, for the words “ his income ”, there were substituted the words “ his income and, if he has a wife, child or dependent relative within the meaning of Chapter VIIA, the income of such wife, child or dependent relative ”.

Individuals
who are
deemed to be
a family.

20D. (1) Where, according to a return of income furnished under this Ordinance by a resident individual in respect of the year preceding any year of assessment, he had a wife and no child or dependent relative in such preceding year, then, for the purpose of the computation of the tax in respect of them for such year of assessment, they shall be deemed to be a family, and such individual shall be deemed to be the head of such family.

(2) Where, according to a return of income furnished under this Ordinance by a resident individual in respect of the year preceding any year of assessment, he had a wife and any child or dependent relative in such preceding year, then, for the purpose of the computation of the tax in respect of them for such year of assessment, they shall be deemed to be a family, and such individual shall be deemed to be the head of such family.

(3) Where, according to a return of income furnished under this Ordinance by a resident individual who is a widower, widow, bachelor or spinster in respect of the year preceding any year of assessment, such widower, widow, bachelor or spinster had any child or dependent relative in such preceding year, then, for the purpose of the computation of the tax in respect of them for such year of assessment, they shall be deemed to be a family, and such widower, widow, bachelor or spinster, as the case may be, shall be deemed to be the head of such family.

Taxable income
and the individ-
ual liable to
pay the tax on
such income.

20E. (1) The assessable incomes of the members of a family other than the head of such family for any year of assessment shall be aggregated, and such aggregated assessable income shall be deemed to form part of the assessable income of the head of such family for such year of assessment. From such assessable income of the head of such family there shall be deducted the allowances to which

he is entitled under section 20F, and the balance left after such deduction shall be his taxable income for such year of assessment and he shall be liable to pay the tax on such taxable income:

Provided that where the tax cannot be collected from the head of such family, then, if his wife or a child is included in such family, such portion of the tax as appears to the Commissioner to be attributable to the income of such wife or child may be collected from such wife or child notwithstanding that no assessment has been made upon such wife or child, and the provisions of this Ordinance as to collection and recovery of tax shall apply accordingly.

(2) Where in respect of any year of assessment an individual is not included in a family, his assessable income for such year less the allowance to which he is entitled under section 20F shall be his taxable income for such year and he shall be liable to pay the tax on such taxable income.

Allowances to
be deducted
from assess-
able income
in arriving
at taxable
income.

20F. (1) Where for any year of assessment a family consists of a husband and wife and no child or dependent relative, an allowance of two thousand rupees in respect of each of them shall be deducted from the assessable income of the head of such family for that year in arriving at his taxable income for that year.

(2) Where for any year of assessment a family consists of a husband and wife and one or more children or dependent relatives or one or more children and dependent relatives, an allowance of two thousand rupees in respect of each of such spouses and—

(a) if there is one child or dependent relative, an allowance of one thousand rupees in respect of such child or dependent relative,

- (b) if there are one child and one dependent relative, an allowance of one thousand rupees in respect of each of them,
- (c) if there are children or dependent relatives, an allowance of one thousand rupees in respect of each of not more than four of them, and
- (d) if there are children and dependent relatives, an allowance of one thousand rupees in respect of each of not more than four out of the total number of such children and dependent relatives,

shall be deducted from the assessable income of the head of such family for that year in arriving at his taxable income for that year.

(3) Where for any year of assessment a family consists of an individual and one child or dependent relative, an allowance of three thousand rupees in respect of such individual and an allowance of five hundred rupees in respect of such child or dependent relative shall be deducted from the assessable income of the head of such family for that year in arriving at his taxable income for that year.

(4) Where for any year of assessment a family consists of an individual and children or dependent relatives or children and dependent relatives, an allowance of two thousand rupees in respect of such individual and—

- (a) if there are children or dependent relatives, an allowance of one thousand rupees in respect of each of not more than five of them, and
- (b) if there are children and dependent relatives, an allowance of one thousand rupees in respect of each of not more than five out of the total number of such children and dependent relatives,

shall be deducted from the assessable income of the head of such family for that year in arriving at his taxable income for that year.

(5) Where for any year of assessment an individual is not included in a family, there shall be deducted from his assessable income for that year in arriving at his taxable income for that year an allowance which shall consist of—

- (a) a sum of three thousand rupees, and
- (b) an additional sum which—
 - (i) if such assessable income does not exceed forty thousand rupees, shall be equal to $7\frac{1}{2}$ per centum of such assessable income, and
 - (ii) if such assessable income exceeds forty thousand rupees, and does not exceed one hundred thousand rupees, shall be equal to 5 per centum of the difference between one hundred thousand rupees and such assessable income.

Units and fractions of units.

20G. For the purposes of section 20H,—

- (a) the head of a family shall be deemed to be one and half units;
- (b) the wife of the head of a family shall be deemed to be one half of a unit;
- (c) a child, or a dependent relative, who is included in a family shall be deemed to be one half of a unit; and
- (d) an individual who is not included in a family shall be deemed to be one and a half units.

Rates of the tax.

20H. (1) The rates of the tax in respect of one unit shall be as follows:—

On the first Rs. 1,500 of taxable income	...	5%
On the next Rs. 1,500 of taxable income	...	10%
On the next Rs. 1,500 of taxable income	...	15%
On the next Rs. 1,500 of taxable income	...	20%
On the next Rs. 1,500 of taxable income	...	25%
On the next Rs. 1,500 of taxable income	...	30%
On the next Rs. 1,500 of taxable income	35%
On the next Rs. 1,500 of taxable income	...	40%
On the next Rs. 3,000 of taxable income	45%
On the next Rs. 3,000 of taxable income	...	50%
On the next Rs. 3,000 of taxable income	...	55%
On the balance of taxable income	...	60%

(2) The tax on the taxable income of the head of a family shall be computed in accordance with the provisions of sub-section (1) subject to the modification that, for each sum specified in that sub-section, there shall be substituted the product of the multiplication of that sum by the aggregate of such units and fractions of units contained in that family in accordance with the provisions of section 20G as represent the members of that family who are entitled to allowances under section 20F.

(3) The tax on the taxable income of an individual who is not included in a family in respect of any year of assessment shall be computed in accordance with the provisions of sub-section (1) subject to the modification that, for each sum specified in that sub-section, there shall be substituted the product of the multiplication of that sum by one and a half.

(4) The provisions of sub-section (1) may be amended by resolution of the House of Representatives.

Proportionate allowances and proportionate charge of tax.

20J. Where an individual is chargeable to tax for any year of assessment as a resident in Ceylon for a part only of the year preceding that year of assessment,—

- (a) he shall be entitled for that year of assessment to the same proportion only of the allowances under section 20F as the number of days during which he is resident bears to the number of days in such preceding year, and
- (b) the provisions of sub-section (1) of section 20H shall, in their application, as modified in accordance with sub-section (2) and sub-section (3) of that section, to that individual, have effect as if each of the sums mentioned in those provisions were reduced in the proportion which the number of days during which he is resident bears to the number of days in such preceding year.

Interpretation of certain expressions in relation to an individual to whom this Chapter applies.

20K. In this Ordinance—

- (a) “ child ”, in relation to an individual to whom this Chapter applies, means a child under twenty-five years of age other than—
 - (a) a married child, and

- (b) a child over twenty-one years of age who is living apart from, and is not maintained by, the parents, and includes—
(i) a step child of that individual,
(ii) a child authorised by any adoption order made under the Adoption of Children Ordinance, No. 24 of 1941, to be adopted by that individual, and
(iii) where that individual is not a citizen of Ceylon and he satisfies the Commissioner that he has a child whom he has adopted in accordance with the law of the country of which he is subject or citizen, such child, but does not include any other adopted child or any illegitimate child; and
- (b) “dependent relative”, in relation to an individual to whom this Chapter applies, means a relative in respect of whom an allowance under section 16 would be made if that section were applicable to such individual.”.

17. Section 21 of the principal enactment is hereby amended by the addition, at the end of that section, of the following new sub-section:—

Amendment of section 21 of the principal enactment.

“(4) Any reference in this section to a period of subsistence of a marriage in any year of assessment commencing on or after April 1, 1958, shall be construed to mean a reference to such period in the year preceding that year of assessment.”.

18. Section 26 of the principal enactment is hereby amended by the substitution, for the words “that year.” occurring in paragraph (b) of that section, of the words “the year preceding that year of assessment.”.

Amendment of section 26 of the principal enactment.

19. Section 44 of the principal enactment, as amended by Act No. 36 of 1951, is hereby amended, in sub-section (1A) of that section, by the substitution, for all the words from “deduct tax” to “resident company;”, of the following:—

Amendment of section 44 of the principal enactment.

“deduct tax on such sum at a rate (hereafter in this section referred to as the “appropriate rate”) which shall, in respect of any year of

assessment commencing before April 1, 1959, be equal to the rate at which tax was in the preceding year of assessment chargeable upon the taxable income of a resident company, and, in respect of any year of assessment commencing on or after April 1, 1959, be equal to the percentage specified in sub-section (1) of section 53D for the preceding year of assessment;".

**Amendment of
section 44A of
the principal
enactment.**

20. Section 44A of the principal enactment, as amended by Act No. 36 of 1951, is hereby amended, in sub-section (2) of that section, as follows:—

- (a) in paragraph (ii) of that sub-section, by the substitution, for the words "income; or", of the word "income,";
- (b) by the omission of paragraph (iii) of that sub-section; and
- (c) by the substitution, for the words "is the least", of the words "is less".

**Amendment of
section 45 of
the principal
enactment.**

21. Section 45 of the principal enactment is hereby amended as follows:—

- (a) in sub-section (2) of that section—
 - (i) by the substitution, for the words "if he were resident", of the following:—" if, where that year of assessment commences before April 1, 1959, he were resident in Ceylon in that year of assessment and where that year of assessment commences on or after April 1, 1959, he were resident in Ceylon in the year preceding that year of assessment, ", and
 - (ii) by the substitution, for the first proviso to that sub-section, of the following proviso:—
" Provided that—
 - (a) where any such individual is non-resident for a part only of a year of assessment commencing before April 1, 1959, the relief shall be calculated by reference to the Ceylon income, total income, and Ceylon tax of that part of that year of assessment, and

- (b) where any such individual is non-resident for a part only of the year preceding a year of assessment commencing on or after April 1, 1959, the relief shall be calculated by reference to the Ceylon income, total income, and Ceylon tax of that part of that preceding year. " ; and
- (b) by the insertion, immediately after sub-section (2) of that section, of the following new sub-section:—

" (2A) In respect of any year of assessment commencing on or after April 1, 1958, sub-section (2) shall have effect as if it referred to a non-resident individual whose total income from all sources, wherever arising, does not exceed fifty thousand rupees. " .

22. The following Chapter is hereby inserted immediately after section 53 of the principal enactment:—

*Insertion of
Chapter VIII A
in the
principal
enactment.*

CHAPTER VIII A

TAX IN RESPECT OF COMPANIES

Certain provisions of this Ordinance not to apply to companies in respect of any year of assessment commencing on or after April 1, 1958.

53A. (1) In respect of any year of assessment commencing on or after April 1, 1958,—

- (a) the rate or rates of the tax referred to in section 5, and
- (b) the provisions of Chapter VII and the provisions of section 43 other than sub-section (1A) and sub-section (3) of that section,

shall not apply to any resident or non-resident company.

(2) The provisions of sub-section (1A) of section 43 shall not apply to any resident company after April 30, 1959, and the provisions of sub-section (3) of that section shall not apply to any person after March 31, 1960.

Tax to which
resident
companies
are liable.

53B. (1) In respect of any year of assessment commencing on or after April 1, 1958, the tax to which a company resident in Ceylon in the year preceding such year of assessment shall be liable shall consist of—

- (a) a sum equal to 45 per centum of the taxable income of such company for such year of assessment, and
- (b) a sum equal to $33\frac{1}{3}$ per centum of the aggregate amount of the gross dividends distributed by such company out of the profits on which the taxable income of such company is computed for such year of assessment:

Provided that where it is proved to the satisfaction of the Commissioner that a resident company—

- (i) being a company which has ceased to have the exemption from tax under section 7A or section 7B, has not made an average annual profit of more than one hundred and fifty thousand rupees computed by reference to any three consecutive years of assessment after that company ceased to have that exemption, or
- (ii) had as average profits or income for each of the last three years of assessment an amount not exceeding one hundred and fifty thousand rupees and either fifty per centum or more of the shares in the capital of that company during the last three years of assessment were held by any individual or family to whom that company was the chief

source of income, or fifty per centum or more of the shares in the capital of that company are owned by shareholders none of whom has an annual income from all sources exceeding thirty thousand rupees,

there shall be deducted from the amount of the tax computed under paragraph (a) of this sub-section in respect of that company a sum equal to one half of the tax under that paragraph on the first Rs. 50,000 of the taxable income of that company for the year of assessment, or a sum equal to one third of the tax under that paragraph on the amount by which one hundred and fifty thousand rupees exceeds the amount of the taxable income of that company for the year of assessment, whichever sum is less.

(2) Where a dividend is paid by any resident company to any other resident company and tax in respect of that dividend is paid by the first mentioned company and that dividend is included in the assessable income of such other company, that dividend shall, notwithstanding anything to the contrary in any other provision of this Ordinance, be deducted from such assessable income in arriving at the taxable income of such other company.

(3) In sub-section (1), "amount of the gross dividends" of a company means the amount of the dividends before such deductions as the company is entitled to make under this Ordinance for tax are made from the dividends.

(4) The provisions of paragraph (a) or paragraph (b) of sub-section (1) may be amended by resolution of the House of Representatives.

Tax to which
non-resident
companies
are liable.

53C. (1) In respect of any year of assessment commencing on or after April 1, 1958, the tax to which a non-resident company shall be liable—

(a) shall, where there are remittances of such company in the year preceding such year of assessment, consist of a sum equal to 45 per centum, and an additional 6 per centum, of the taxable income of such company for such year of assessment and a sum which shall, if the aggregate amount of such remittances is less than one third of such taxable income, be equal to $33\frac{1}{3}$ per centum of such aggregate amount, and, if such aggregate amount is not less than one third of such taxable income, be equal to $33\frac{1}{3}$ per centum of one third of such taxable income; and

(b) shall, where there are no such remittances, consist of a sum equal to 45 per centum, and an additional 6 per centum, of such taxable income.

(2) In sub-section (1), “remittances”, with reference to a non-resident company, mean—

(a) sums remitted abroad out of the profits of that company,

(b) such part of the proceeds of the sale abroad of products exported by that company as is retained abroad, and

(c) in respect of any products exported by that company and not sold in a wholesale market or not sold at all, such part of the profits deemed under section 38 to be derived from Ceylon as is retained abroad.

(3) Where a dividend is paid by any resident company to any non-resident company and from that dividend the resident company has deducted such tax as it is entitled under sub-section (1) of section 53D to deduct and that dividend is included in the assessable income of the non-resident company, then, in order to arrive at the taxable income of the non-resident company for the purposes only of computing the sum equal to 45 per centum of the taxable income referred to in sub-section (1), that dividend shall, notwithstanding anything to the contrary in any other provision of this Ordinance, be deducted from such assessable income in arriving at the taxable income of the non-resident company.

(4) The rates of the tax specified in sub-section (1) may be amended by resolution of the House of Representatives.

53D. (1) Subject to the provisions of sub-section (2) and sub-section (3), every resident company shall be entitled to deduct, from the amount of any dividend which becomes payable during any year of assessment commencing on or after April 1, 1959, to any shareholder in the form of money or of an order to pay money, tax equal to $33\frac{1}{2}$ per centum of such amount.

(2) The Commissioner may give notice in writing for any year of assessment commencing on or after April 1, 1959, to a resident company requiring it to deduct from the amounts of dividends payable to a particular shareholder tax on such amounts at a rate greater than $33\frac{1}{2}$ per centum but not greater than the highest rate at which tax is chargeable for such year of assessment on the taxable income of an individual; and where such notice is given, such company shall deduct from the amounts of all dividends payable during such year of assessment to such shareholder tax on such amounts at the

Resident
company
entitled to
deduct from
any dividend
tax of $33\frac{1}{2}$
per centum
and if so
requested by the
Commissioner,
tax at a
higher rate.

rate specified in such notice; and such part of the tax required to be so deducted as exceeds $33\frac{1}{3}$ per centum of the amounts of such dividends shall be a debt due from such company to the Crown and shall be recoverable forthwith as such, or may be assessed and charged upon such company in addition to any tax otherwise payable by it.

(3) Where a resident company has obtained or is entitled to obtain relief in respect of double taxation under the provisions of section 45 or section 46, the rate at which such company may deduct tax from the dividends payable during any year of assessment commencing on or after April 1, 1959, shall be reduced as the Commissioner may direct.

(4) Notwithstanding that the whole or any part of the amount of a dividend payable to any shareholder during any year is exempt from the tax by virtue of section 7B, any deduction which may be made under the preceding provisions of this section shall be calculated on the total amount of the dividend; and where such deduction is made—

(a) if the whole of the amount of the dividend is exempt from tax, there shall be due from the company as a debt to the Crown the total sum actually deducted under such preceding provisions; and

(b) if only a part of the amount of the dividend is exempt from the tax, there shall be due from the company as a debt to the Crown the difference between—

(i) the total sum actually deducted under such preceding provisions, and

(ii) the sum which would have been deducted thereunder if the dividend

had been reduced by such part thereof as is exempt from the tax.

Any such debt shall be recoverable forthwith or may be assessed and charged upon the company in addition to any tax otherwise payable by the company under this Ordinance.

(5) Every person who issues a warrant, cheque or other order drawn or made in payment of any dividend which becomes payable by a resident company during any year of assessment commencing on or after April 1, 1959, shall annex thereto a statement in writing showing—

- (a) the gross amount which after deduction of tax thereon corresponds to the net amount actually paid;
- (b) the sum deducted as tax; and
- (c) the net amount actually paid.

(6) Where the assessable income of a person includes a dividend from a resident company in the form of money or of an order to pay money, he shall be entitled, on production of a statement relating to such dividend made in accordance with sub-section (5), to a set-off against the tax payable by him of the amount of tax shown on such statement:

Provided that where the rate at which tax may be deducted from such dividend has been reduced under the provisions of sub-section (3), the set-off shall be adjusted as the Commissioner may direct.

(7) Where for any year of assessment commencing on or after April 1, 1960, the assessable income of a person includes a dividend from a resident company in the form of shares or debentures, he shall be entitled to a set-off, against the tax payable by him, of an amount equal to that which the company is entitled under sub-section (1) to deduct as tax on such dividend.

(8) Where the assessable income of a person includes a dividend from a company which, although not resident in Ceylon, has paid Ceylon income tax on any part of its profits, he shall be entitled to a set-off of tax in respect of a similar part of the dividend, the amount of which shall be decided by the Commissioner.

Amendment of
section 64 of
the principal
enactment.

23. Section 64 of the principal enactment is hereby amended, in sub-section (1) of that section, by the substitution, in the proviso to that sub-section, for the words "any time", of the words "any time, whether or not such time is before the commencement of the year of assessment to which the assessment relates,".

Amendment of
section 65 of
the principal
enactment.

24. Section 65 of the principal enactment is hereby amended as follows:—

- (a) by the substitution, for the words "three years", of the words "six years"; and
- (b) in the proviso to that section, by the substitution, for the words "at any time within ten years", of the words "at any time".

Amendment of
section 69 of
the principal
enactment.

25. Section 69 of the principal enactment is hereby amended, in sub-section (1) of that section, by the substitution, for the words "may within twenty-one days", of the words "or by the amount at which any property has been valued for the purpose of any capital gains may within thirty days".

Insertion of
new section
75B in the
principal
enactment.

26. The following section is hereby inserted immediately after section 75A of the principal enactment, as amended by Act No. 3 of 1956, and shall have effect as section 75B of that enactment:—

"Reduction of
the tax in
certain
circumstances.

75B. Where the aggregate of—

- (a) the contribution which a person is liable to make in respect of his taxable wealth to the Personal Tax for any year of assessment, and
- (b) the income tax to which he is liable for that year of assessment,

exceeds eighty per centum of his assessable income for that year of assessment, such excess shall be set off against the income tax to which he is liable.".

Amendment of
section 87 of
the principal
enactment.

27. Section 87 of the principal enactment is hereby amended, in sub-section (1) of that section, as follows:—

- (a) by the substitution, for the words "thereby evades", of the words "thereby evades or attempts to evade"; and
- (b) by the substitution, for the words "to evade", of the words "to evade or to attempt to evade".

Amendment of
section 90 of
the principal
enactment.

28. Section 90 of the principal enactment is hereby amended as follows:—

- (a) in sub-section (1) of that section by the substitution, for the words "The Board of Income Tax", of the words "The Minister";
- (b) in sub-section (4) of that section by the substitution, for the words "section shall", of the words "section, other than a rule prescribing a penalty for the contravention of or failure to comply with a rule, shall";
- (c) by the insertion, immediately after sub-section (5) of that section, of the following sub-section:—

"(5A) A rule prescribing a penalty for the contravention of or failure to comply with a rule shall not come into operation until it is approved by the Senate and the House of Representatives and notice of such approval is published in the *Gazette*."; and
- (d) in sub-section (6) of that section by the substitution, for the words "All such rules shall", of the words "All such rules, other than a rule prescribing a penalty for the contravention of or failure to comply with a rule, shall".

29. Section 91 of the principal enactment is hereby amended as follows:—

- (a) by the substitution, for the words "The Board of Income Tax", of the words "The Minister"; and
- (b) in the marginal note to that section by the substitution, for the words "Board of Income Tax", of the word "Minister".

Amendment
of section
91 of the
principal
enactment.

30. The following new section is hereby inserted immediately after section 91, and shall have effect as section 91A, of the principal enactment:—

Insertion of
new section
91A in the
principal
enactment.

"Power to
search
buildings
or places.

91A. (1) Any officer appointed for the purposes of this Ordinance who is specially authorised by the Commissioner in that behalf may, accompanied by a peace officer, do all or any of the following:—

- (i) enter and search any building or place where he has reason to believe that any articles, books of account or other documents which in his opinion will be useful for, or relevant to, any proceeding under this Ordinance may be found and examine them, if found;
- (ii) seize any such articles, books of account or other documents or place marks of identification thereon or make extracts or copies therefrom;
- (iii) 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 Ordinance;

and the provisions of the Criminal Procedure Code relating to searches shall apply so far as may be to searches under this section.

In this sub-section "peace officer" shall have the same meaning as in the Criminal Procedure Code.

(2) Before authorising any officer to exercise the powers under sub-section (1), the Commissioner shall record the circumstances which necessitate the exercise of those powers by that officer.".

31. The Appropriation Act, No. 32 of 1958, is hereby amended in the First Schedule thereto, by the substitution, for the expression "Department of Income Tax, Estate Duty and Stamps", wherever that expression occurs with reference to Head 25 in that Schedule, of the expression "Department of Inland Revenue".

32. The amendments made in the principal enactment by this Act shall not apply to an assessment under the principal enactment for the year of assessment commencing on April 1, 1958, in respect of any person who ceases to be resident in Ceylon during that year of assessment.

In this section the expression "resident in Ceylon" shall have the same meaning as in the principal enactment.

Provision in regard to assessment for year of assessment commencing on April 1, 1958, in respect of persons who have ceased to be residents in Ceylon.

33. The Profits Tax Act, No. 5 of 1948, is hereby repealed with effect from April 1, 1958:

Provided that the repeal of such Act shall not affect the liability to profits tax—

Repeal of the Profits Tax Act, No. 5 of 1948.

- (a) in the case of an individual, in respect of any period prior to April 1, 1958, and
- (b) in the case of a company, in respect of any period prior to the period the profits or income for which are or is included in the assessable income of such company, for the purposes of income tax, for the year of assessment commencing on April 1, 1958,

and accordingly, for the purposes of all matters under such Act in respect of any such period, such Act shall be deemed to be in operation.

Savings.

34. (1) All suits, prosecutions, appeals or other legal proceedings, civil or criminal, instituted by or against the Commissioner of Income Tax before the date on which this Act comes into operation may be continued by or against the Commissioner of Inland Revenue.

(2) Any proxy signed by the Commissioner of Income Tax and filed of record in any legal proceedings pending on the day immediately preceding the date on which this Act comes into operation shall on and after that date have effect as if it had been signed by the Commissioner of Inland Revenue.

(3) All decrees or orders made by any competent court in favour of, or against, the Commissioner of Income Tax before the date on which this Act comes into operation shall on and after that date be deemed to have been made in favour of, or against, the Commissioner of Inland Revenue.

(4) All notices, certificates, other documents, orders, or appointments issued or made under the principal enactment by the Commissioner of Income Tax before the date on which this Act comes into operation shall on and after that date have effect as if they were issued or made by the Commissioner of Inland Revenue.

(5) Any authorization issued to any person by the Commissioner of Income Tax and in force on the day immediately preceding the date on which this Act comes into operation shall on and after that date have effect as if it had been issued by the Commissioner of Inland Revenue.

(6) Every contract, agreement, or other instrument made or executed by or in favour of the Commissioner of Income Tax and in force on the day immediately preceding the date on which this Act comes into operation shall on and after that date be deemed to have been made or executed by or in favour of the Commissioner of Inland Revenue.

(7) Any appeal made under the principal enactment to the Commissioner of Income Tax and pending on the day immediately preceding the date on which this Act comes into operation shall on and after that date be deemed to have been made to the Commissioner of Inland Revenue.

(8) Any appeal referred under the principal enactment to the Board of Review by the Commissioner of Income Tax and pending on the day immediately preceding the date on which this Act comes into operation shall on and after that date be deemed to have been referred by the Commissioner of Inland Revenue.

(9) Any act or proceeding commenced under the principal enactment by the Commissioner of Income Tax and not completed before the date on which this Act comes into operation may be completed by the Commissioner of Inland Revenue.

(10) Any notice, assessment, certificate or order issued or made under the principal enactment by a Deputy Commissioner of Income Tax or an Assistant Commissioner of Income Tax before the date on which this Act comes into operation shall on and after that

date have effect as if it was issued or made by a Deputy Commissioner of Inland Revenue or an Assistant Commissioner of Inland Revenue.

(11) Any act or proceeding commenced under the principal enactment by a Deputy Commissioner of Income Tax or an Assistant Commissioner of Income Tax and not completed before the date on which this Act comes into operation may be completed by a Deputy Commissioner of Inland Revenue or an Assistant Commissioner of Inland Revenue.

(12) The reference to Commissioner of Income Tax in any written law shall, on or after the date on which this Act comes into operation, be deemed to be a reference to the Commissioner of Inland Revenue.