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Inland Revenue (Amendment) Act, No. 31 of 1971

Date of Assent : August 31, 1971

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Inland Revenue (Amendment) Act, No. 31 of 1971

L. D.—O. 27/71.

**AN ACT TO AMEND THE INLAND REVENUE ACT, NO. 4
OF 1963.**

[Date of Assent: August 31, 1971]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the House of Representatives of Ceylon in this present Parliament assembled, in accordance with the provisions of section 33 of the Ceylon (Constitution) Order in Council, 1946, and by the authority of the same, as follows:—

1. This Act may be cited as the Inland Revenue (Amendment) Act, No. 31 of 1971. Short title.

2. Section 2 of the Inland Revenue Act, No. 4 of 1963, hereafter in this Act referred to as the "principal Act", is hereby amended as follows:—

**Amendment of
section 2 of
Act No. 4 of
1963.**

(1) in sub-section (1) of that section by the substitution, for the words and figures "commencing on or after April 1, 1963,", of the words and figures "commencing on or after April 1, 1963, but not after April 1, 1970,"; and

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

"(1A) Income tax shall, subject to the provisions of this Act, be charged at the appropriate rates specified in the First and Second Schedules to this Act for every year of assessment commencing on or after April 1, 1971, in respect of the profits and income of every person from any employment for that year of assessment and from any source other than employment for the year preceding that year of assessment—

(a) wherever arising, in the case of a person who was resident in Ceylon in the year preceding the year of assessment, and

2 Inland Revenue (Amendment) Act, No. 31 of 1971

(b) arising in or derived from Ceylon, in the case of every other person,

but without prejudice to any provisions of this Act which enact that tax is to be charged in particular cases in respect of profits and income of any other period.”.

Amendment of section 5 of the principal Act.

3. Section 5 of the principal Act is hereby amended by the insertion, immediately after sub-section (3) of that section, of the following new sub-section:—

“(4) Where for any year of assessment commencing on or after April 1, 1971, the profits and income of an individual consist—

(a) only of profits from employment carried on or exercised by him, or by him and any member of his family (other than occupational income), during that year of assessment, such profits not exceeding twelve thousand rupees; and

(b) of profits and income of such individual and any member of his family, such profits and income not exceeding six hundred rupees from any source other than a trade, business, profession or vocation carried on or exercised by him or by any member of his family during the year preceding that year of assessment,

the profits and income not exceeding six hundred rupees derived from sources other than a trade, business, profession or vocation, shall be exempt from income tax.”.

Amendment of section 13 of the principal Act.

4. Section 13 of the principal Act is hereby amended by the insertion, immediately after sub-section (2) of that section, of the following new sub-section:—

“(3) Nothing in the preceding provisions of this section shall apply to any person who ceases to carry on or exercise an employment on or after April 1, 1970.”.

5. The following new section is hereby inserted immediately after section 16c, and shall have effect as section 16D, of the principal Act:—

*"Allowances
to be deducted
from assessable
income in
arriving at
taxable income
in respect of
profits and
income not
exceeding
certain limits.*

*Insertion of
new section
16D in the
principal Act.*

16D. Where for any year of assessment commencing on or after April 1, 1971, the assessable income of an individual who is the head of a family within the meaning of section 19 or an individual who is not included in a family, consists of profits and income specified in section 5 (4), an allowance of six hundred rupees shall be deducted from such assessable income in arriving at his taxable income for that year of assessment:

Provided that a deduction under this section shall not be made if such individual has been allowed a deduction under paragraph (d) or paragraph (e) of sub-section (1) of section 10 or paragraph (a) of sub-section (1) of section 15 or section 16A or section 16B or section 16c. ”.

6. Section 17 of the principal Act is hereby amended by the insertion, immediately after sub-section (3) of that section, of the following new sub-section:—

“(4) Notwithstanding anything contained in any other provisions of this Act, where the profits from employment of any individual arising during the period from April 1, 1970, to September 30, 1971, include a sum specified in section 3 (4) (a) (ii), such sum shall be deemed to be profits arising on October 1, 1971.”.

7. Section 44 of the principal Act is hereby amended as follows:—

(1) in sub-section (2) of that section by the substitution, for the words “Where in the case of”, of the words and figure “Subject to the provisions of sub-section (2B), where in the case of”;

*Amendment of
section 17
of the
principal Act.*

*Amendment of
section 44
of the
principal Act.*

4 Inland Revenue (Amendment) Act, No. 31 of 1971

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

“ (2A) Where in the case of a married woman the marriage ceases to subsist or is deemed not to subsist during any year of assessment commencing on or after April 1, 1971,—

(a) the provisions of Chapter V shall apply only to such part of the wife's assessable income for that year of assessment as bears to the whole of such income the same proportion as the number of days during which the marriage subsists in that year of assessment bears to the total number of days in that year of assessment;

(b) the provisions of Chapter VII shall apply only to such part of the wife's net wealth for that year of assessment as bears to the whole of such net wealth the same proportion as the number of days during which the marriage subsists in that year of assessment bears to the total number of days in that year of assessment; and

(c) such part of her assessable income for that year of assessment to which the provisions of paragraph (a) do not apply and such part of her net wealth for that year of assessment to which the provisions of paragraph (b) do not apply shall be assessed on her separately and the provisions of this Act as to collection and recovery shall apply to her accordingly.

- (2B) Where in the case of a married woman the marriage ceases to subsist or is deemed not to subsist during the year preceding any year of assessment commencing on or after April 1, 1971, she shall, notwithstanding anything in any other provisions of this Act, be assessed separately for that year of assessment on her assessable income in respect of income tax and on her net wealth in respect of wealth tax and the provisions of this Act as to collection and recovery shall apply to her accordingly. ";
- (3) in sub-section (4) of that section, by the substitution, for the words "Where in the case of ", of the words and figure "Subject to the provisions of sub-section (4B), where in the case of "; and
- (4) by the insertion, immediately after sub-section (4) of that section, of the following new sub-sections:—
- "(4A) Where in the case of a married woman the marriage takes place on or after the first day of April in any year of assessment commencing on or after April 1, 1971, she shall, if prior to the date of marriage she was an individual not included in a family, be assessed separately for that year of assessment on her assessable income in respect of income tax and on her net wealth in respect of wealth tax, and the provisions of this Act as to collection and recovery shall apply to her accordingly.
- (4B) Where in the case of a married woman the marriage takes place on a date within the year preceding any year of assessment commencing on or after April 1, 1971, the entirety of her assessable income and net wealth for that year of assessment shall be aggregated with that of her husband and she shall not be assessed separately in respect of her income or wealth. "

6 Inland Revenue (Amendment) Act, No. 31 of 1971

**Amendment of
section 54
of the
principal Act.**

8. Section 54 of the principal Act is hereby amended by the insertion, immediately after sub-section (6) of that section, of the following new sub-section:—

“ (7) Where an individual arrives in Ceylon in any year of assessment commencing on or after April 1, 1971, and commences to carry on or exercise any employment in that year of assessment, the Commissioner may direct that such individual shall be deemed to have been resident for the whole or a part of the year preceding that year of assessment for the purpose of granting such relief as the circumstances of the case may require. ”.

**Insertion of
new heading
and new
section 69B
in the
principal Act.**

9. (1) The following heading is hereby inserted immediately after section 69A of the principal Act:—

“ **LLL.—SPECIAL RELIEF IN RESPECT OF
EMPLOYMENT INCOME** ”.

(2) The following section is hereby inserted in the principal Act immediately after the heading inserted therein by sub-section (1) of this section, and shall have effect as section 69B of that Act:—

“ **Deduction
from
income tax in
respect of
profits from
employment in
the year of
assessment
commencing on
April 1, 1971.** ”

69B. Where the profits and income of an individual for the year of assessment commencing on April 1, 1971, include profits from employment, such individual, or if such individual is a member of a family, the head of such family, shall be entitled to a deduction from the income tax payable by him or by the head of the family of which he is a member, as the case may be, for that year of assessment, of a sum equal to income tax at the effective rate on such part of the profits from employment as bears to the total profits from employment the same proportion as the number of days during which such individual carried on or exercised an employment during the period from April 1, 1971, to September 30, 1971, bears to the total number of days during which he carried on or exercised an employment in that year of assessment:

Provided that such profits from employment for the purposes of this section shall not include any sum falling within section 3 (4) (a) (ii).

For the purposes of this section, the effective rate of tax for the year of assessment commencing on April 1, 1971, shall be the percentage which the amount of tax payable for that year of assessment without any deduction for any relief under section 27, or section 66, or section 70 or section 71 bears to the amount of the assessable income for that year of assessment.”.

10. Section 81 of the principal Act is hereby amended by the insertion, immediately after sub-section (2) of that section, of the following new sub-sections:—

Amendment of
section 81 of
the principal
Act.

“(3) Nothing in sub-section (1) shall be deemed to require any individual resident in Ceylon to give notice to the Commissioner under that sub-section in respect of his income for any year of assessment commencing on or after April 1, 1971,—

(a) if such income consists—

- (i) only of profits from an employment carried on or exercised by him and which do not exceed twelve thousand rupees for that year of assessment; or
- (ii) only of profits from an employment carried on or exercised by his spouse and which do not exceed twelve thousand rupees for that year of assessment; or
- (iii) only of profits from an employment carried on or exercised by him and from an employment carried on or exercised by his spouse and the aggregate of which does not exceed twelve thousand rupees for that year of assessment; or
- (iv) of such profits from employment not exceeding twelve thousand rupees as are referred to in sub-paragraphs (i), (ii) or (iii), and of profits and income

8 Inland Revenue (Amendment) Act, No. 31 of 1971

not exceeding six hundred rupees from any source other than a trade, business, profession or vocation and assessable for that year of assessment; and

- (b) if the employer of that individual has commenced to deduct in accordance with the provisions of Chapter XIII A the income tax payable on the profits from employment of that individual for that year of assessment; and
 - (c) if such individual is not chargeable with wealth tax or gifts tax for that year of assessment.
- (4) Notwithstanding the provisions of sub-section (1), for the year of assessment commencing on April 1, 1971, notice under that sub-section shall be given within a period of nine months after the commencement of that year of assessment.”.

Amendment of
section 82
of the
principal Act.

11. Section 82 of the principal Act is hereby amended in sub-section (1) of that section as follows:—

- (1) by the substitution, for the words “income derived from any source,”, of the words “income from any source,”;
- (2) in paragraph (a) of that sub-section, by the substitution, for the words “such accounts, and”, of the words “such accounts,”;
- (3) in paragraph (b) of that sub-section, by the substitution, for the words “from that source.”, of the words “from that source, and”; and
- (4) by the insertion, immediately after paragraph (b) of that sub-section, of the following new paragraph:—

“(c) in the case of profits from employment in respect of a period which has not expired at the time the return is made, be the amount which the person furnishing the return estimates in good faith to be the amount of profits from that source.”.

12. Section 93 of the principal Act is hereby amended by the insertion, immediately after sub-section (3) of that section, of the following new sub-section:—

“ (4) Notwithstanding the preceding provisions of this section, where for any year of assessment commencing on or after April 1, 1971, income tax has been deducted from the remuneration of an individual resident in Ceylon referred to in section 81 (3) in accordance with the provisions of Chapter XIIIIA, no assessment shall be made on such individual in respect of that year of assessment, if the difference between the amount of income tax with which he is properly chargeable for that year of assessment and the total income tax so deducted in respect of that year of assessment does not exceed forty-five rupees.”.

Amendment of
section 93 of
the principal
Act.

13. Section 95 of the principal Act is hereby amended in sub-section (1) of that section, by the substitution, for the word “ charged.”, of the following:—

“ charged:

Provided that where such notice is given to an employer under the provisions of Chapter XIIIIA, it shall be sufficient to state therein the amount of tax charged.”.

Amendment of
section 95 of
the principal
Act.

14. Section 107 of the principal Act is hereby amended as follows:—

- (1) in sub-section (1) of that section, by the substitution, for the words “ Where the remuneration ”, of the words and figure “ Subject to the provisions of sub-section (6A), where the remuneration ”;
- (2) by the renumbering of sub-section (1A) of that section as sub-section (1B) of that section;

Amendment of
section 107 of
the principal
Act.

10 Inland Revenue (Amendment) Act, No. 31 of 1971

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

“(1A) The Commissioner may, by notice in writing given to any employer of an employee or to the person responsible for the payment of remuneration of an employee, direct such employer or person to deduct during such period as may be specified in such notice from the remuneration of such employee the amount of income tax and wealth tax or income tax or wealth tax payable by such employee in respect of any year of assessment commencing on or before April 1, 1970, in such number of monthly instalments as may be specified in such notice. The amount so deducted each month from the remuneration of an employee shall be paid to the Commissioner by the employer or the person responsible for the payment of such remuneration.”;

- (4) in sub-sections (1B), (2), (4), (5) and (6) of that section, by the substitution, for the expression “sub-section (1)”, wherever that expression occurs in each of those sub-sections, of the expression “sub-section (1) or sub-section (1A)”;

- (5) by the insertion, immediately after sub-section (6) of that section, of the following new sub-section:—

“(6A) Nothing in the preceding provisions of this section shall apply in respect of any tax payable for any year of assessment commencing on or after April 1, 1971.”; and

- (6) by the substitution, for the marginal note to that section, of the following new marginal note:—

“Employer to deduct income tax and wealth tax due from employee in respect of any year of assessment ending not later than March 31, 1971, from his remuneration.”.

15. The following new Chapter is hereby inserted, immediately after Chapter XIII, and shall have effect as Chapter XIII A, of the principal Act:—

Insertion of
new Chapter
XIII A in the
principal Act.

CHAPTER XIII A

PAY AS YOU EARN SCHEME

DEDUCTION OF INCOME TAX FROM REMUNERATION OF EMPLOYEES BY EMPLOYERS.

Year of assessment from which the PAYE Scheme operates.

107A. The provisions of this Chapter shall apply for any year of assessment commencing on or after April 1, 1971, in respect of profits from employment.

Employers to deduct income tax.

107B. (1) Every employer shall deduct income tax in accordance with the provisions of this Chapter from the remuneration of his employees at the time of payment of remuneration for each pay period commencing on or after October 1, 1971.

(2) Income tax deducted from the remuneration of an employee under subsection (1) shall be deemed to have been paid by such employee to the Commissioner on the date on which such deduction was made.

Employers to give notice to Commissioner.

107C. (1) Every employer who employs—

(a) any person who is a single individual or a married person whose spouse does not carry on an employment, and who receives remuneration in excess of five hundred rupees per mensem or six thousand rupees per annum, or

(b) any person whose spouse is employed and the remuneration of both spouses exceeds five hundred rupees per mensem or six thousand rupees per annum, or

(c) any non-resident person receiving remuneration for services rendered in Ceylon in excess of

eighty-five rupees per mensem or one thousand rupees per annum,

shall give notice to the Commissioner not later than August 31, 1971, that he has in his employ such person (hereafter in this Chapter referred to as a "specified employee").

(2) Where an employer commences, on a date subsequent to August 31, 1971, to employ any specified employee or to pay remuneration to any specified employee, such employer shall within seven days of such commencement give notice to the Commissioner that he has in his employ such employee:

Provided that the preceding provisions of this sub-section shall not apply to an employer who has given notice under sub-section (1).

(3) Any notice given by an employer under sub-section (1) or sub-section (2) shall be in such form and contain such particulars as may be prescribed by the Commissioner.

(4) Notwithstanding that an employer has failed to give notice under sub-section (1) or sub-section (2), such employer shall deduct income tax from the remuneration of each of his specified employees in accordance with the provisions of this Chapter.

Employees to furnish declarations.

107D. (1) Every specified employee other than a non-resident employee shall furnish to his employer a declaration in such form and containing such particulars as may be prescribed by the Commissioner—

(a) on or before the third day of October, 1971, in respect of the year of assessment commencing on April 1, 1971, and

(b) on or before the third day of April, 1974, in respect of the year of assessment commencing on

April 1, 1974, and on or before the third day of April of every third year from the year 1974, in respect of the year of assessment commencing on April 1, of such year, and

- (c) within one week of—
 - (i) such employee commencing to carry on an employment,
 - (ii) the transfer of such employee from the office of one employer to the office of another or from one paying office where accounting records relating to payment of remuneration and deductions of income tax are maintained to another such paying office,
 - (iii) such employee or such employee and his spouse jointly, as the case may be, commencing to receive remuneration specified in section 107c (1),
 - (iv) the spouse of such employee commencing or ceasing to carry on an employment,
 - (v) the marriage of such employee taking place or ceasing to subsist,
 - (vi) a child or dependent relative of such employee ceasing to be a child or dependent relative within the meaning of section 129 (1), and
 - (vii) such employee becoming entitled to an allowance in respect of a child or dependent relative other

14 Inland Revenue (Amendment) Act, No. 31 of 1971

than a child or dependent relative mentioned in any declaration previously made under this section, and

(d) as and when required by the Commissioner.

(2) Every employer shall issue to each of his employees resident in Ceylon and receiving remuneration in excess of two hundred and seventy-five rupees per mensem or three thousand three hundred rupees per annum the declaration form prescribed under sub-section (1), whether or not such employee has made a request for such form—

(i) on or before September 15, 1971,

(ii) once in every three years on the fifteenth day of March commencing from the fifteenth day of March, 1974, and

(iii) whenever directed to do so by the Commissioner.

(3) Every employer shall issue the declaration form prescribed under sub-section (1) to an employee when such employee—

(a) commences to carry on an employment and receives remuneration specified in sub-section (2); or

(b) commences to receive remuneration specified in sub-section (2).

(4) Every employee who is issued a declaration form under sub-section (2) shall furnish the declaration on or before the days specified in paragraph (a), or paragraph (b), as the case may be, of sub-section (1):

Provided that in the case of a declaration form issued on the direction of the Commissioner, the employee shall furnish the declaration on or before such date as may be specified in such direction.

(5) Every employee who is issued a declaration form under sub-section (3) shall furnish the declaration within one week of the date of issue of such form.

(6) The declaration form referred to in sub-section (1) shall be issued by an employer to any of his employees whenever such employee makes a request therefor.

(7) Every declaration furnished by an employee under this section shall be retained by the employer unless specifically required by an Assessor to be transmitted to him.

**Application of
tax groups.**

107E. (1) For any year of assessment commencing on or after April 1, 1971, the amount of income tax to be deducted by an employer in terms of section 107B (1) shall be in accordance with the income tax tables prescribed by the Commissioner and applicable to that year of assessment.

(2) Subject as hereinafter provided in this section, the tax group in an income tax table applicable for any pay period in a year of assessment to any employee who is resident in Ceylon shall be one of the following groups determined in accordance with the declaration furnished by such employee to the employer under section 107D:—

Tax Group I—

Applicable to an employee who was a single individual in the year preceding that year of assessment.

Tax Group II—

Applicable to a married employee with a spouse or to a single individual with one or two children or dependent relatives, in the year preceding that year of assessment.

Tax Group III—

Applicable to a married employee with a spouse, and one or two children or dependent relatives, or to a single individual with three or more children or dependent relatives, in the year preceding that year of assessment.

Tax Group IV—

Applicable to a married employee with a spouse and three or more children or dependent relatives, in the year preceding that year of assessment.

(3) The tax group determined in accordance with the declaration furnished by an employee under section 107D shall apply to such employee until a new tax group becomes applicable under sub-section (5) in accordance with a subsequent declaration furnished by such employee.

(4) Where an employee has not furnished before the third day from the commencement of any pay period the declaration required to be furnished on or before the dates specified in paragraph (a) or paragraph (b), as the case may be, of section 107D (1) or, in the case of a declaration form issued on the direction of the Commissioner under paragraph (d) of section 107D (1), on or before the date specified in that direction, Tax Group I shall be applied by the employer to such employee for such pay period.

(5) A new tax group in accordance with the declaration furnished by an employee shall be applicable—

(a) where a marriage ceases to subsist, from the pay period following the date on which the marriage ceased to subsist; and

- (b) in all other cases from the first day of the year of assessment following that in which the event which made the new tax group applicable took place.

Application of income tax tables.

107F. (1) Income tax shall be deducted in respect of a pay period in accordance with the income tax table applicable to regular profits from employment from the remuneration for such pay period of every employee in respect of regular profits from employment, and all such profits in respect of a pay period shall be aggregated and be deemed to be one payment for the purposes of application of the income tax table.

Regular profits from employment in respect of any pay period shall include—

- (a) wages, salary, allowances or pension payable in respect of such pay period or such other profits from employment which arise or accrue regularly and are payable in respect of such pay period;
 - (b) such profits from employment as are referred to in section 3 (4) (a) (iii) or section 3 (4) (a) (iv) and such profits from employment in the form of perquisites or benefits other than those referred to in subsections (2) and (3), as accrued in respect of such pay period; and
 - (c) such profits from employment as are not included in paragraph (a) or paragraph (b) or in section 3 (4) (a) (ii) where the total of such profits for such pay period does not exceed five hundred rupees.
- (2) Income tax shall be deducted in respect of such profits from employment as are referred to in section 3 (4) (a) (ii)

in accordance with the income tax table applicable to such profits.

(3) Income tax shall be deducted in respect of such profits from employment as are received by an employee by way of bonus, commission or any other benefits of a similar nature in accordance with the income tax table applicable to such profits.

(4) Income tax shall be deducted in respect of any pay period in a year of assessment from the remuneration of an employee who had a spouse in the year preceding that year of assessment and whose spouse carries on an employment in that year of assessment, in accordance with the income tax table applicable to a married employee whose spouse carries on an employment:

Provided that—

- (a) in the year of assessment in which the spouse commences to carry on an employment, such tax table shall be applied from the pay period in which such commencement took place;
- (b) in the year of assessment in which the spouse ceases to carry on an employment, such tax table shall cease to be applied from the pay period following that in which such cessation of employment took place, and the income tax table applicable to an employee whose spouse is not employed shall be applied from that pay period; and
- (c) in the year of assessment during which the marriage ceases to subsist, such tax table shall cease to be applied from the pay period following that in which such cessation took place, and the income tax table applicable to an employee whose spouse is not employed shall be applied from that pay period.

(5) Income tax shall be deducted in respect of any pay period from the remuneration of an employee other than an employee referred to in sub-section (4), in accordance with the income tax table applicable to an employee who has no spouse or whose spouse is not employed, as the case may be.

(6) Where the income tax tables are altered, the income tax tables as altered shall be applied from the pay period following the date on which the altered income tax tables take effect:

Provided that, in the case of individuals referred to in section 81 (3), no additional assessment or repayment of tax shall be made only on account of such alteration of income tax tables.

(7) Where any profits from employment are not paid but are credited or applied to the account or benefit of an employee or to the account or benefit of any other person on behalf of an employee, such profits shall be deemed to be paid when they are so credited or applied.

(8) Where the remuneration of an employee is not paid monthly, the aggregate of the payments made in each calendar month shall be deemed to be a monthly payment and such employee shall be deemed to be an employee to whom remuneration is paid monthly and the deduction of income tax appropriate to such payments may be made from any one or more of the payments made during the month:

Provided that the Commissioner may, on application made by an employer or employee, specify some other method in which such deduction shall be made.

(9) For the purposes of this Chapter, the amount of any commission paid to any employee shall be deemed to be profits from employment arising on the date of such payment.

(10) Where the Commissioner is satisfied on application made by an employer that it is impracticable for such employer to make payments for work done overtime for any pay period at the same time as the other regular remuneration for such pay period is paid, payments made for such work to an employee may, for the purpose of determining the amount of income tax deduction, be aggregated with the employee's regular remuneration for a succeeding pay period.

(11) If any remuneration is paid by the employer after the date of death of an employee in respect of his employment with such employer, the employer shall on making such payment, deduct income tax as if the deceased employee were still in his employment.

Direction to employers.

107G. (1) Any employee from whose remuneration income tax is deducted by his employer in accordance with the provisions of this Chapter may, if the amount of income tax payable by him for any year of assessment is less than the income tax deductible under this Chapter, or if income tax has been deducted from his remuneration in excess of the amount that should have been deducted, make an application in such form and containing such particulars as may be prescribed by the Commissioner, to the Commissioner that a direction be issued to his employer to make the necessary adjustments in the deduction of income tax for that year of assessment.

(2) The Commissioner, or any officer authorized by the Commissioner, may, on an application made by an employee under sub-section (1), issue to the employer of such employee the necessary direction in writing (a copy of which shall be issued to the employee) and such employer shall deduct income

tax from the remuneration of such employee in accordance with such direction:

Provided that any such direction issued may at any time be varied.

(3) Any employee who is dissatisfied with a direction issued under sub-section (2) may, within a period of thirty days after the date of issue of such direction, appeal to the Commissioner in writing setting out precisely the grounds of such appeal. The decision of the Commissioner on such appeal shall be final and conclusive.

**Employers to
maintain
proper records.**

107H. (1) Every employer who makes any payment of remuneration to any specified employee shall keep a proper record of payment of such remuneration in such pay sheet and in such manner as may be prescribed by the Commissioner.

(2) Every employer shall take all reasonable precautions for the safe custody of all employees' declarations, pay sheets, receipts for payment of remuneration to employees and all other accounting records pertaining to the remuneration of the employees and to the income tax deducted and paid to the Commissioner, and shall retain all such records and documents for a period of not less than seven years after the end of the year of assessment to which such records and documents relate.

(3) Every employer shall permit any officer authorized in writing by the Commissioner to inspect any record or document maintained by him and referred to in sub-sections (1) and (2).

**Duties of
employers
following
deduction of
income tax.**

107J. Every employer who is required to make income tax deductions from the remuneration paid to his employees under the provisions of this Chapter shall—

- (1) not later than the fifteenth day of the month following the month in which he made any such deductions, pay to the Commissioner the amount of such deductions and at the same time furnish to the Commissioner a monthly declaration in such form and in such manner as may be prescribed by the Commissioner;
- (2) not later than the thirtieth day of April in each year deliver to each employee from whose remuneration income tax has been deducted under the provisions of this Chapter, a certificate in respect of the deductions so made in the preceding year of assessment in such form and containing such particulars as may be prescribed by the Commissioner;
- (3) within thirty days after the cessation of employment of any employee deliver to such employee a certificate, in such form as may be prescribed by the Commissioner, specifying the amount of income tax deducted in respect of the period commencing from the first day of the year of assessment during which the cessation of employment took place and ending on the date of such cessation;
- (4) not later than the thirtieth day of April in each year furnish to the Commissioner in respect of the preceding year of assessment an annual declaration in

such form and containing such particulars as may be prescribed by the Commissioner, together with an income tax deduction card in such form as may be prescribed by the Commissioner in respect of each employee from whose remuneration income tax was deducted under the provisions of this Chapter during the year of assessment to which the annual declaration relates; and

- (5) not later than the last day of the month following the month in any year of assessment in which the employer ceased to carry on or exercise any trade, business, profession or vocation, comply with the provisions of paragraph (4) in respect of the trade, business, profession or vocation which he ceases to carry on or exercise, as if the period from the first day of that year of assessment to the date of such cessation were the preceding year of assessment referred to in that paragraph.

**Adjustments
of amount
of income tax
not paid or
paid in
excess.**

107K. (1) Where an employer fails to deduct the amount of income tax required to be deducted under the provisions of this Chapter, or part thereof, from the remuneration paid to any employee, such employer shall on becoming cognizant of such failure, furnish to the Commissioner a declaration in the form prescribed under section 107J (1), and remit such amount of income tax as was not deducted to the Commissioner together with such amounts as may be due under section 107R.

(2) Where during any year of assessment an employer has remitted to the Commissioner in respect of any pay period any sum in excess of the amount deducted, the employer may deduct such

excess payment from the remittance in respect of any subsequent pay period in that year of assessment, and notify the Commissioner accordingly.

**Employee
to give
notice
when
necessary
deductions
are not made.**

107L. (1) Where for any reason a deduction of income tax is not made or is not made in full at the time of making payment of remuneration to an employee, such employee shall, if such remuneration is chargeable with income tax, give notice in writing to the Commissioner within fifteen days of receipt of such remuneration that he has received such remuneration without such deduction having been made.

(2) A notice under sub-section (1) shall contain the full name and address of the person giving such notice, the full name and address of his employer, and full particulars relating to his remuneration.

**Income tax
deducted
not to form
part of
assets of
employers.**

107M. Notwithstanding anything in any other law, the amount of every tax deduction made under the provisions of this Chapter and held by the employer for remittance to the Commissioner shall not be such property of such employer as is liable to execution or administration in the event of bankruptcy, liquidation, dissolution or death of such employer or to assignment for the benefit of creditors, and such amount shall remain apart from, and form no part of, the estate in bankruptcy, liquidation, assignment or death of such employer.

**Default in
the deduction or
payment of
income tax.**

107N. (1) Where any employer fails to deduct income tax in accordance with the provisions of this Chapter from the remuneration of any employee, or where any employer has deducted income tax for any pay period from the remuneration of an employee and has not paid the full amount of such deduction to the Commissioner on or before the fifteenth day of the following month, such employer shall be personally liable for

the entire amount of the tax he was required to deduct under the provisions of this Chapter but has not so deducted or, as the case may be, for the entire amount or part of the amount of the tax deducted which was not remitted to the Commissioner, and such amount shall be deemed to be in default from the day following the day on or before which such amount should have been remitted to the Commissioner, and such employer shall be deemed to be a defaulter, and such amount may be recovered from such employer by any means provided in this Act.

(2) Notwithstanding the provisions of sub-section (1), the Commissioner may recover from the employee the amount of the income tax or any part thereof which the employer had failed to deduct from the remuneration of the employee.

(3) Nothing in this section shall be construed as preventing the Commissioner from taking such steps as he thinks fit to recover the amount of income tax referred to in sub-section (2) from the employer and from the employee or from recovering that amount wholly from the employer or wholly from the employee or partly from the employer and partly from the employee.

Issue of assessments on employers.

107P. (1) Where an employer who is required under the provisions of this Chapter to deduct income tax from the remuneration paid to his employees—

- (a) fails to deduct the whole or any part of the income tax for any pay period;
- (b) fails to remit to the Commissioner the whole or any part of the income tax deducted for any pay period; or
- (c) fails to furnish any monthly or annual declaration under section 107J,

an Assessor may at any time during the year of assessment within which that pay period falls or within six years from the end of that year of assessment, assess the amount of income tax or the additional amount of income tax which such employer in the opinion of the Assessor should have deducted and paid to the Commissioner for such pay period, and shall by notice in writing require such employer to pay such amount forthwith together with such amount as may be due under section 107R.

(2) Where it appears to an Assessor that for any pay period in any year of assessment an employer has been assessed under sub-section (1) at less than the proper amount of income tax, the Assessor may, at any time during that year of assessment or within six years from the end of that year of assessment, assess such employer at the additional amount of income tax at which such employer in the opinion of the Assessor should have been assessed.

Appeals.

107Q. (1) Any employer aggrieved by the amount of any assessment made under the provisions of this Chapter may appeal in writing against such assessment to the Commissioner within a period of thirty days after the date of the notice of such assessment:

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

(2) Where the assessment appealed against under sub-section (1) has been made in the absence of a monthly declaration, or an annual declaration, as the case may be, required to be furnished under section 107J, the petition of appeal shall be sent together with such declaration.

(3) The amount of income tax charged by an assessment shall be paid by the employer notwithstanding that an appeal against such assessment has been preferred under sub-section (1).

(4) The provisions of sections 97 (6) to 102 shall *mutatis mutandis* apply to any appeal preferred under sub-section (1).

(5) Where no valid appeal has been preferred within the period specified in sub-section (1) against an assessment made in accordance with the provisions of this Chapter, or where an agreement is reached under section 97 (6) as regards an assessment, or where an assessment has been determined on appeal, the assessment made or agreed or determined on appeal, as the case may be, shall be final and conclusive for all purposes of this Act:

Provided that nothing in this Act shall prevent an Assessor from making an assessment or additional assessment for any pay period in any year of assessment which does not involve re-opening any matter which has been determined on appeal.

Penalty for default.

107R. Where any income tax payable by an employer under the provisions of this Chapter is in default, such employer shall pay in addition to such tax,—

(a) a penalty of a sum equivalent to five *per centum* of such tax; and

(b) where such tax is not paid before the expiry of thirty days after such tax has begun to be in default, a further penalty of a sum equivalent to one *per centum* of such tax in respect of each further period of thirty days or part thereof during which such tax is in default:

Provided that the Commissioner may waive or reduce the amount of any such penalty payable by the defaulter if such defaulter proves to the satisfaction of the Commissioner that the failure to pay was due to circumstances beyond his control and that he has paid the amount of the tax in default and has furnished the declaration required to be furnished at the time of such payment.

Credit for tax paid.

107s. Where the assessable income of an employee for any year of assessment includes any remuneration in respect of which income tax has been deducted in accordance with the provisions of this Chapter such employee shall be entitled on production of a certificate of deduction of tax relating to such remuneration issued in accordance with the provisions of sub-section (2) or sub-section (3) of section 107J, to a set-off against the tax payable by him for that year of assessment of the amount of tax shown in such certificate to have been deducted.

Interpretation.

107T. In this Chapter, unless the context otherwise requires,—

“employee” includes—

- (a) any director of a company or corporation;
- (b) any person who holds a paid office as a servant of the Crown;
- (c) any working partner of a partnership;
- (d) any person receiving remuneration for past services of himself or any other person;
- (e) the President and the Deputy President of the Senate;
- (f) the Speaker, the Deputy Speaker, the Deputy Chairman of Committees

and the Leader of the Opposition of the House of Representatives;

(g) the Clerk to the Senate, the Clerk to the House of Representatives or a member of the staff of the Clerk to the Senate or the Clerk to the House of Representatives;

(h) a Minister, a Parliamentary Secretary and the Chief Government Whip;

(i) a Senator or a Member of Parliament, by reason only of the fact that he receives any remuneration as a Senator or such Member;

(j) a member of the Public Service Commission;

(k) a member of the Judicial Service Commission;

(l) a member of the Local Government Service Commission; and

(m) a Judge of the Supreme Court of Ceylon;

“ employer ” includes any person, partnership, body of persons or any organization—

(a) for whom an individual renders services as an employee;

(b) paying any profits from employment within the meaning of section 3 (1) (b); or

(c) paying any pension or other remuneration to a former employee or to any other person for the past services of such employee,

and includes in the case of a body, institution or person specified in Column I hereunder, the person specified in the corresponding entry in Column II.

Column I *Column II*

1. A company or body of persons whether corporate or unincorporate	The secretary, manager or other principal officer of such company or body of persons.
2. A partnership	The precedent partner or any active partner resident in Ceylon, and in the case of a partnership of which no active partner is resident in Ceylon, the agent of such partnership in Ceylon.
3. The estate of a deceased person	The executor or administrator of the estate.
4. A trust	The trustee or trustees of the trust.
5. A non-resident person	The agent or attorney of such person in Ceylon.
6. A Government institution	The head of such institution.
7. A local authority	The head of such local authority.
8. Any person mentioned in paragraphs (e) to (m) of the definition of employee	The person responsible for the payment of remuneration to such person.

" pay period " means a month, a week or such other period in respect of which remuneration is calculated and paid by an employer to an employee;

" remuneration " means profits from employment within the meaning of section 3 (1) (b);

" single individual ", in relation to any year of assessment, means an individual who was not married or whose marriage did not subsist or whose marriage was deemed not to subsist under section 44 (5), or who was a widow or widower, throughout that year of assessment.

16. Section 108 of the principal Act is hereby amended by the substitution, for the words " includes any sum ", of the words " includes any tax which an employer is required to pay under the provisions of Chapter XIII A and any sum added to such tax by reason of default, any sum ".

*Amendment of
section 108 of
the principal
Act.*

17. Section 117 of the principal Act is hereby amended as follows:—

(1) in sub-section (1) of that section, by the substitution, for the words " by deduction or otherwise, ", of the words " by deduction (other than by deduction under the provisions of Chapter XIII A) or otherwise, " ; and

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

*Amendment of
section 117 of
the principal
Act.*

" (5) Where it is proved to the satisfaction of the Commissioner by a claim made by any employee, in such form and containing such particulars as may be prescribed by the Commissioner, within twelve months of the end of a year of assessment, that such employee has paid income tax by deduction under the provisions of Chapter XIII A for that year of assessment a sum in excess of the amount with which he was properly

chargeable for that year of assessment, such employee shall be entitled to have refunded the amount so paid in excess:

Provided that in the case of an individual referred to in section 81 (3) the refund shall be made only if the amount paid in excess is more than forty-five rupees:

Provided further that where the assessable income of an employee is not liable to tax under the provisions of this Act for that year of assessment, the entire amount of the tax so deducted shall be refunded.

(6) Where it is proved to the satisfaction of the Commissioner by a claim made in writing by any employer within twelve months of the end of a year of assessment that he has paid to the Commissioner under the provisions of Chapter XIII A for that year of assessment a sum in excess of the amount which he should have paid for that year of assessment, such employer shall be entitled to have refunded the amount so paid in excess:

Provided that the preceding provisions of this sub-section shall not apply where payment of income tax has been made on an assessment made under section 107P.”.

Amendment of
section 118 of
the principal
Act.

18. Section 118 of the principal Act is hereby amended as follows:—

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

“(1A) Every person who, being an employer for the purposes of Chapter XIII A,—

(i) fails to give notice to the Commissioner in terms of sub-section (1) or sub-section (2) of section 107C; or

(ii) fails to deduct the whole or any part of the income tax required to be deducted under the provisions of section 107B (1); or

(iii) fails to comply with the requirements of sections 107B (1), 107D (2), 107D (3), 107D (6), 107D (7), 107G (2), 107H (1), 107H (2), 107H (3), 107J (1), 107J (2), 107J (3), 107J (4) or 107J (5),

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

(1B) Every person who being an employee for the purposes of Chapter XIII A fails to comply with the requirements of sections 107D (1), 107D (4), 107D (5), or 107L (1) shall be guilty of an offence and shall for each such offence be liable on conviction after summary trial before a Magistrate to a fine not exceeding five hundred rupees."; and

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

"(2A) Every person who, being an employer for the purposes of Chapter XIII A, without reasonable cause makes an incorrect declaration by omitting or understating the amount of remuneration of any employee in his employ or omits or understates the amount of income tax deducted from the remuneration of any employee shall be guilty of an offence and shall be liable on conviction after summary trial before a Magistrate to a fine not exceeding two thousand rupees or to imprisonment of either description for a term not exceeding six months, or to both such fine and imprisonment.

(2B) Every person who, being an employee for the purposes of Chapter XIII A, makes an incorrect declaration under sections 107D (1), 107D (4), 107D (5), or 107L (1) shall be guilty of an offence,

34 Inland Revenue (Amendment) Act, No. 31 of 1971

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

**Amendment of
section 120 of
the principal
Act**

19. Section 120 of the principal Act is hereby amended by the insertion, immediately after sub-section (1) of that section, of the following new sub-section—

“ (1A) Every person who, being an employer for the purposes of Chapter XIII A,—

- (i) omits from a declaration made under paragraph (1) or paragraph (4) or paragraph (5) of section 107J, any remuneration of an employee in his employ, or understates such remuneration or omits or understates in such declaration the amount of income tax deducted from such remuneration; or
- (ii) delivers a false certificate of income tax deduction under paragraph (2) or paragraph (3) of section 107J,

and thereby evades or attempts to evade income tax or assists any other person to evade or attempt to evade such tax, shall be guilty of an offence and shall for each such offence be liable on conviction after summary trial before a Magistrate to a fine not exceeding five thousand rupees or to imprisonment of either description for a term not exceeding six months or to both such fine and imprisonment.”.