



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

INLAND REVENUE ACT, No. 10 OF 2006

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TABLE OF SECTIONS

<i>Sections</i>	<i>Page</i>
1. Short title	1
 CHAPTER I	
Imposition of Income Tax	
2. Imposition of income tax	1
 CHAPTER II	
Income Chargeable with Tax	
3. Income chargeable with Tax	2
4. Profits from employment	3
5. Net annual value of land and improvements thereon or of any place of residence	6
6. Profits or income arising from rents of land and improvements thereon	7
 CHAPTER III	
Exemptions From Income Tax	
7. Exemptions from income tax of certain persons (other than individuals) on the whole or any part of their profits and income	7
8. Exemption from income tax of certain profits and income of certain officers and employees	18
9. Exemption from income tax of certain interest received	25
10. Exemption from income tax of certain dividends	27

<i>Sections</i>	<i>Page</i>
11. Exemption from income tax of certain profits and income from lands and improvements thereon	31
12. Exemption from income tax of certain subsidies	32
13. Miscellaneous exemptions from income tax	33
14. Exemption of certain profits and income of any resident guest	39
15. Exemptions of profits and income derived from outside Sri Lanka	39
16. Exemption from income tax of profits and income from agricultural undertaking	39
17. Exemption from income tax of the profits and income of any company from any specified undertaking	40
18. Exemption from income tax of certain undertakings for infrastructure development	43
19. Exemption from income tax of small scale infrastructure undertakings	43
20. Exemption of the profit and income of any new industrial undertaking.	44
21. Exemption of profits and income of any relocated undertaking	47
22. Exemption from income tax of any company engaged in research and development	48
23. Exemption from income tax of any venture capital company	48
24. Exemption from income tax of any person engaged in the business of providing Manor Houses or Thematic Bungalows to tourists	52

<i>Sections</i>	<i>Page</i>
CHAPTER IV	
Ascertainment of profits or Income	
25. Deductions allowed in ascertaining profits and income	52
26. Deductions not allowed in ascertaining profits and income	68
27. Deduction of head office expenses incurred by any non resident company	77
CHAPTER V	
Ascertainment of Total Statutory Income	
28. Basis for computing statutory income	78
29. Apportion-ment of profits	80
30. Total statutory income	80
31. Aggregation of the total statutory income of a child with that of his parent	80
CHAPTER VI	
Ascertainment of Assessable Income	
32. Deductions from total statutory income in arriving at assessable income	81
CHAPTER VII	
Ascertainment of Taxable Income	
33. Taxable Income	89
34. An allowance in respect of qualifying payments	90

CHAPTER VIII

Rates of Income Tax on persons other than Companies

- | | | |
|-----|---|----|
| 35. | Rates of income tax on persons other than companies | 98 |
|-----|---|----|

CHAPTER IX

Special Provisions Relating to the Taxation of Certain Profits and of Dividends out of Such Profits

- | | | |
|-----|---|-----|
| 36. | Special provision relating to taxation of interest on compensation payable in respect of property vested in the Government, the Land Reform Commission or a public corporation or a local authority | 101 |
| 37. | Deduction of income tax from interest payable on certain deposit accounts | 102 |
| 38. | Rates of income tax on the gross interest on loans granted by a company, partnership or other body of persons outside Sri Lanka | 104 |
| 39. | The rate of income tax on royalty payable to any company partnership or other body of persons outside Sri Lanka | 105 |
| 40. | The rate of income tax on profits from employment, for a specified period of a non-citizen employed in Sri Lanka | 105 |
| 41. | Rate of income tax on profits and income of any foreign currency banking unit arising from any off-shore foreign currency transaction | 106 |
| 42. | Rate of income tax on profits and income arising in Sri Lanka to the consignor or consignee from certain exports | 106 |
| 43. | Rate of income tax on profits and income arising from certain undertaking approved by Minister | 107 |

<i>Sections</i>	<i>Page</i>
44. Rate of income tax on sale of any share or a warrant	107
45. Rates of income tax on profits from certain undertakings carried on by a person other than a company	108
46. Rate of income tax on profits from certain undertakings carried on by a company	110
47. Rate of income tax applicable to specialized housing banks	110
48. Rate of income tax applicable to certain companies after the expiry of tax exemption	111
49. Rate of income tax on dividends paid out of profits taxed in accordance with section 46	111
50. Rate of income tax on qualified export profits and income of person not being a company, who commenced to carry on any specified undertaking	112
51. Rate of income tax on qualified export profits and income of a company which commenced to carry on any specified undertaking	112
52. Rate of income tax on qualified export profits and income of a company which carries on any specified undertaking	113
53. Rate of income tax on dividends out of exports profits and income	113
54. Rate of income tax on certain dividends	115
55. Rate of income tax on dividend received from outside Sri Lanka	116
56. Rate of income tax on deemed exports of any person or partnership	116
57. Rate of income tax on profits and income from services rendered outside Sri Lanka by any resident company or partnership	118

<i>Sections</i>	<i>Page</i>
58. Rate of tax on profits and income from the supply of certain services to garment exporters	119
59. Rate of tax on profits from transshipment agency fees	120
60. Interpretation	120

CHAPTER X

Companies

61. Income tax to which any resident company is liable	122
62. Income tax to which any non-resident company is liable	124
63. Certain dividends not to form part of the assessable income of the receiving company	125
64. Profits of a company from transactions with its shareholders	125
65. Resident company entitled to deduct tax from any dividend	125
66. Certain undistributed profits to be treated as distributed	127
67. Provisions applicable where the profits and income of a company are appropriated by the director & c. of that company	130
68. Provisions of this Chapter not to apply to charitable institutions etc	130

CHAPTER XI

Special Cases

A – CHILDREN

69. Assessment of child's income	130
----------------------------------	-----

<i>Sections</i>	<i>Page</i>
B-RECEIVER, TRUSTEE, EXECUTOR, &C.,.	
70. Returns to be furnished by receiver and trustee and their liability to tax	131
71. Chargeability to tax of trustee of an incapacitated person	133
72. Liability of executor to tax payable by deceased person	133
73. Return to be furnished by executor and chargeability of an executor and beneficiary	134
74. Joint trustees and executors	135
C-UNIT TRUSTS	
75. Every unit trust deemed to be a company	135
D-PARTNERSHIPS	
76. Assessment of partnership income	136
77. Assessment to be made in the name of the partnership in certain circumstances	139
78. Tax chargeable on partnerships	140
E – RESIDENCE	
79. What constitutes residence	141
F – LIABILITY OF NON-RESIDENT PERSONS	
80. Chargeability of certain profits of non resident persons	143
81. Persons assessable on behalf of a non-resident person	144
82. Liability of certain non- resident persons	144

<i>Sections</i>	<i>Page</i>
83. Profits of certain businesses to be computed as a percentage of the receipts	145
84. Profits of non-resident person from sale of exported produce	146
85. Liability to income tax of certain profits of non-resident person	146
86. Exemption from income tax of non-resident persons in certain cases and liability of certain non-resident persons to income tax at reduced rates	146
G – SHIPPING AND OPERATION OF AIRCRAFT	
87. Profits of non-resident shipowners or charterers	147
88. Master of ship to be an agent	148
89. Refusal of clearance for ship where income tax is in arrears	148
90. Profits of non-resident owners or charterers of aircraft	148
91. Application of subsection (2) of section 87, section 88, and section 89, to profits of non-resident owners or charterers of any aircraft	150
H – INSURANCE	
92. Ascertainment of profits of insurance companies	151
I – INTEREST, ETC. PAYABLE TO PERSONS OUTSIDE SRI LANKA	
93. Interest on certain loans deemed to be profits and income	153
94. Certain royalties deemed to be profits and income	153
95. Deduction of income tax from interest, & c, payable to persons outside Sri Lanka	154

<i>Sections</i>	<i>Page</i>
96. Deduction of income tax from payment made to any foreign entertainer or artiste	155
J – RELIEF IN CASES OF DOUBLE TAXATION	
97. Effect of agreements for double taxation relief	157
98. Relief in respect of Sri Lanka income tax	159
K – MISCELLANEOUS	
99. Applicability of provisions relating to particular sources of profits or income	161
100. How certain receipts of insurance are to be treated	161
101. Ascertainment of income of clubs, trade associations etc	162
102. Profits and income of non governmental organisations to be chargeable with income tax	163
103. Certain transactions and dispositions to be disregarded	164
104. Profits and income or loss from transactions between associated undertakings to be determined having regard to the arm's length price	165
L – PETROLEUM EXPLORATION AND EXPLOITATION	
105. Ascertainment of profits and income from business of petroleum exploitation under a Petroleum Resources Agreement	166
CHAPTER XII	
Returns &c.	
106. Returns and information to be furnished	167

<i>Sections</i>	<i>Page</i>
107. Audit reports to be furnished by partners etc	174
108. Returns and other documents to contain the national identity card number or passport number	177
109. Returns to be furnished of income received on account of or paid to other persons	178
110. Occupiers to furnish returns of rent payable	178
111. Return of lodgers and inmates	178
112. Power of Commissioner-General to impose penalty for failure to furnish return	179

CHAPTER XIII

Payment of Tax by Self-Assessment

113. Payment of tax by self assessment	180
--	-----

CHAPTER XIV

Deduction of Income Tax from Remuneration of Employees by Employers

114. Employers to deduct income tax	181
115. Employers to give notice to Commissioner - General	182
116. Application of income tax tables	183
117. Deduction of tax at special rates	185
118. Directions to employers	186
119. Employers to maintain proper records	188
120. Duties of employer following deduction of income tax	188

<i>Sections</i>	<i>Page</i>
121. Adjustments of amount of income tax not paid or paid in excess	190
122. Employee to give notice when necessary deductions are not made	190
123. Income tax deducted not to form part of assets of employers	190
124. Default in the deduction or payment of income tax	191
125. Issue of assessments on employers	191
126. Appeals	192
127. Penalty for default	194
128. Penalty on default	195
129. Credit for tax paid	195
130. Compliance with the provisions of this Chapter relating to forms	196
131. Interpretation	196

CHAPTER XV

Provisions Relating to the payment of Income Tax by a Government Institution

132. Payment of income tax by a Government institution of its employees	198
---	-----

CHAPTER XVI

Deductions from interest paid by Banks and Financial Institutions

133. Banks and financial institutions to deduct income tax	199
--	-----

<i>Sections</i>	<i>Page</i>
134. Deducting tax from interest on securities, treasury bonds etc,	202
135. Companies issuing corporate debt securities to deduct income tax	202
136. Credit for tax deducted	203
137. A notional tax credit on secondary market transactions	204
138. Refund of income tax paid on interest liable to withholding tax	204
139. Issue of directions where deductions are made under sections 133 or 136	205
140. Duties of bank and financial institution following deductions of income tax	207
141. Penalty for tax avoidance	207
142. Default in the deduction of income tax	208
143. Issue of assessments on banks and financial institutions	208
144. Appeals	209
145. Penalty for default	210
146. Penalty and interest on default	211
147. Interpretation	211
148. Person or Partnership chargeable with income tax	212
149. Registered co-operative societies deemed to be companies	212
150. Registration of banks and financial institutions	212

CHAPTER XVII

Deduction of Income Tax from specified fees paid by specified persons

151.	Registration of specified persons	212
152.	Registration of persons liable to deduct tax from rent, lease rent or other similar payments	213
153.	Specified persons to deduct income tax from specified fees	213
154.	Provisions of Chapter XVI to apply in relation to the deduction under this Chapter of income tax from specified fees.	214

CHAPTER XVIII

Deduction of Income Tax from rent, Lease rent or Other Payment Paid by any Person or Partnership for the use or Occupation of any Land or Building Other than for Residential Purposes

155.	Persons paying rent, lease rent etc. to deduct income tax	215
156.	Application of the provisions of Chapter XVI to this Chapter	215

CHAPTER XIX

Deduction of Income Tax from, Reward Payments made by any Government Institution to Informants and Others and shares of Fines paid to any person and Lottery Prizes, Winnings from Gambling or Winnings from Betting, Paid by any person or Partnership

157.	Government institution paying rewards or fines or other person or partnership paying lottery prizes etc. to deduct income tax	216
158.	Provisions of Chapter XVI to apply in relation to any deduction under this Chapter	217

<i>Sections</i>	<i>Page</i>
159. Registration of persons conducting lotteries or betting or gambling activities	219

CHAPTER XX

Deduction of Income Tax from any Annuity or Royalty paid or any Management Fee Paid or Similar Payment made by any Person or Partnership

160. Persons paying annuity, royalty, management fee or similar payment to deduct income tax	220
161. Application of the provisions of Chapter XVI to this Chapter	220

CHAPTER XXI

Retention of Moneys in Certain Provident Funds

162. Retention of fifteen <i>per centum</i> of moneys lying to the credit of a contributor to a specified provident fund, to meet any tax payable	221
---	-----

CHAPTER XXII

Assessments

163. Assessments and additional assessments	222
164. Notice of Assessment	226

CHAPTER XXIII

Appeals

A-APPEALS TO THE COMMISSIONER-GENERAL

165. Appeals to the Commissioner-General	227
--	-----

<i>Sections</i>	<i>Page</i>
B - APPEALS TO THE BOARD OF REVIEW	
166. Constitution of the Board of Review	231
167. Appeals to the Board of Review	232
168. Commissioner-General may refer appeals to the Board of Review	232
169. Hearing and determination of appeals by the Board of Review	232
C - APPEALS TO THE COURT OF APPEAL	
170. Appeal on a question of law to the Court of Appeal	235
CHAPTER XXIV	
Finality of Assessments and Penalty for Incorrect Returns	
171. Assessments or amended assessments to be final	237
172. Penalty for incorrect return	238
CHAPTER XXV	
Tax in Default and Sums Added Thereto	
173. Tax in default and sums added thereto	239
174. Punishment for tax in default	243
CHAPTER XXVI	
Recovery of Tax	
175. Tax to include fines etc	244
176. Tax to be a first charge	245

<i>Sections</i>	<i>Page</i>
177. Notice to defaulter	246
178. Recovery of tax by seizure and sale	247
179. Proceedings for recovery before Magistrate	249
180. Recovery of tax out of debts & c.	251
181. Transfer of immovable property to Government in lieu of payment of tax in cash	254
182. Tax in default to be recovered from remuneration of employee	255
183. Tax in default of partner to be recovered from the assets of a partnership	257
184. Recovery of income tax from the income of a child	257
185. Recovery of income tax payable by a beneficiary from the trustee	257
186. Recovery of income tax payable by a beneficiary from the executor	257
187. Gift tax to be recovered from the donee in certain circumstances	258
188. Recovery of tax from persons leaving Sri Lanka	258
189. Use of more than one means of recovery	259
190. Power of Commissioner-General to obtain information for the recovery of tax	259
191. Liability of directors of private company in liquidation	259
192. Delegation of Commissioner-General's powers and functions	260

<i>Sections</i>	<i>Page</i>
193. Action not to commence after expiry of five years in certain circumstances	260
CHAPTER XXVII	
Miscellaneous	
194. Signature and service of notice	260
195. Validity of notices, assessments etc	261
196. Precedent partner to act on behalf of a partnership	262
197. Principal officer to act on behalf of company or body of persons	262
198. Who may act for incapacitated or non-resident person	263
199. Indemnification of representative	263
CHAPTER XXVIII	
Repayment	
200. Tax paid in excess to be refunded	264
201. Interest payable on the amount of a refund in certain circumstances	267
CHAPTER XXIX	
Penalties and Offences	
202. Penalties for failure to make returns making incorrect returns &c.	268
203. Breach of secrecy and other matters to be offences	271
204. Penal provisions relating to fraud &c.	271
205. Tax to be payable notwithstanding any prosecution or conviction for an offence under this Act	273

<i>Sections</i>	<i>Page</i>
206. Prosecution to be with the sanction of the Commissioner-General	274
207. Admissibility of statements and documents in evidence	274
CHAPTER XXX	
Administration	
208. Officers	274
209. Official Secrecy	275
210. Inland Revenue Incentive Fund	282
211. Commissioner-General may pay rewards to informants	282
CHAPTER XXXI	
General	
212. Regulations.	283
213. Forms	284
214. Power to search buildings or places	284
215. Power to search business premise	287
216. Sinhala text to prevail in case of inconsistency	289
CHAPTER XXXII	
Interpretation	
217. Interpretation	289
CHAPTER XXXIII	
Application of the Inland Revenue Act, No. 38 of 2000	
218. Application of the Inland Revenue Act, No.38 of 2000	301

Inland Revenue Act, No. 10 of 2006

[Certified on 31st March, 2006]

L.D. —O. 01/2006.

AN ACT TO PROVIDE FOR THE IMPOSITION OF INCOME TAX FOR ANY YEAR
OF ASSESSMENT COMMENCING ON OR AFTER APRIL 1, 2006

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

1. This Act may be cited as the Inland Revenue Act, Short title
No. 10 of 2006.

CHAPTER I

IMPOSITION OF INCOME TAX

2. (1) Income tax shall, subject to the provisions of this
Act, be charged at the appropriate rates specified in the First,
Second, Third, Fourth and Fifth Schedules to this Act, for
every year of assessment commencing on or after April 1,
2006 in respect of the profits and income of every person for
that year of assessment—

Imposition of
income tax.

- (a) wherever arising, in the case of a person who is
resident in Sri Lanka in that year of assessment; and
- (b) arising in or derived from Sri Lanka, in the case of
every other person.

(2) For the purposes of this Act, “profits and income
arising in or derived from Sri Lanka” includes all profits
and income derived from services rendered in Sri Lanka or
from property in Sri Lanka, or from business transacted in
Sri Lanka, whether directly or through an agent.

CHAPTER II

INCOME CHARGEABLE WITH TAX

Income
chargeable with
Tax.

3. For the purpose of this Act, “profits and income” or “profits” or “income” means-

- (a) the profits from any trade, business, profession or vocation for however short a period carried on or exercised;
- (b) the profits from any employment;
- (c) the net annual value of any land and improvements thereon occupied by or on behalf of the owner, in so far as it is not so occupied for the purposes of a trade, business, profession or vocation;
- (d) the net annual value of any land and improvements thereon used rent-free by the occupier, if such net annual value is not taken into account in ascertaining profits and income under paragraphs (a), (b) or (c) of this section, or where the rent paid for such land and improvements is less than the net annual value, the excess of such net annual value over the rent to be deemed in each case the income of the occupier;
- (e) dividends, interest or discounts;
- (f) charges or annuities;
- (g) rents, royalties or premiums;
- (h) winnings from a lottery, betting or gambling ;
- (i) in the case of a non governmental organisation, any sum received by such organisation by way of grant, donation or contribution or any other manner ; and

- (j) income from any other source whatsoever, not including profits of a casual and non-recurring nature.

4. (1) Profits from any employment include—

Profits from
employment.

- (a) (i) any wages, salary, allowance, leave pay, fee, pension, commission, bonus, gratuity, perquisite or such other payment in money which an employee receives in the course of his employment;
- (ii) the value of any benefits to the employee or to his spouse, child or parent, including the value of any holiday warrant or passage;
- (iii) any payment to any other person for the benefit of the employee or of his spouse, child or parent,

whether received or derived from the employer or others ;

- (b) the value of any conveyance granted free of any charge by an employer to any employee, or any sum so granted for the purchase of any conveyance;
- (c) (i) any retiring gratuity or any sum received in commutation of pension;
- (ii) any sum paid from a provident fund approved by the Commissioner-General to any employee at the time of his retirement from such fund, other than such part of that sum as represents his contributions to that fund;
- (iii) any sum paid from a regulated provident fund to an employee other than—
 - (A) such part of that sum as represents his contributions to that fund; and

- (B) such part of that sum as represents the contributions made by the employer to that fund prior to April 1, 1968, and the interest which accrued on such contributions, if tax at the rate of fifteen *per centum* has been paid by such employer in respect of such contributions and interest;
- (iv) any sum received as compensation for loss of any office or employment;
- (v) any sum paid from the Employees Trust Fund established by the Employees' Trust Fund Act, No. 46 of 1980 ;
- (d) the rental value of any place of residence provided rent-free by the employer or where a place of residence is provided by an employer at a rent less than the rental value, the excess of the rental value over such rent.

For the purpose of this paragraph the rental value of any place of residence shall be—

- (i) the net annual value as defined in section 5 with the addition of the rates paid by the owner and of thirty three and one-third *per centum* of such net annual value on account of repairs and other expenses; or
- (ii) the gross rent paid for such place of residence, whichever is higher :

Provided that, for any year of assessment, any excess of the rental value—

- (A) over one hundred and twenty thousand rupees, where the aggregate of profits referred to in paragraph (a), does not exceed one hundred and fifty thousand rupees ; and

- (B) over one hundred and eighty thousand rupees where the aggregate of the profits referred to in paragraph (a), exceeds one hundred and fifty thousand rupees,

shall be disregarded ;

- (e) the value at the time of its disposal, of any share of a company received as a benefit from the employer or on behalf of the employer at no cost or at a price which is less than the prevailing market value of such share of that company, whether directly or through a share option scheme.

The value at the time of its disposal of such share shall be the surplus over the cost of acquisition of such share—

- (i) in the case of a sale, the sale price or the market value of such share as at the date of sale, whichever is higher;
- (ii) in the case of disposal otherwise than by way of sale, the market value of such share as at the date of disposal;
- (iii) in the case of an employee ceasing to be in the employment of such employer without selling or disposing of such share, the market value as at the last date of his employment with such employer, which date shall be deemed to be the date of the disposal of such share:

Provided however, in the event of the death of such employee during his period of employment with such employer, the value of such share shall be zero.

For the purpose of this paragraph, the profits from employment arising in accordance with the preceding provisions shall be charged with income tax in the

year of assessment during which such sale, disposal or cessation of employment took place, on the basis that such profits form the sole taxable income within the meaning of Chapter VII for that year of assessment, and such tax shall be recovered in accordance with the provisions of Chapter XIV of this Act:

Provided that where the employer was not instrumental in the disposal of such share, such employee shall pay the tax due on such profit from employment in accordance with the provisions of Chapter XIII of this Act.

(2) For the purposes of this section, “the value of any benefit”, in relation to an individual who has received, or derived such benefit, means—

- (a) where the market value of such benefit can be readily ascertained, such market value; or
- (b) where the market value of such benefit cannot be readily ascertained or such benefit has no market value, the cost that would have to be incurred by any other individual to obtain such benefit:

Provided that the Commissioner-General may, having regard to the market value of that benefit or the cost that would have to be incurred by any other individual to obtain that benefit, by Order published in the Gazette, specify the value to be placed on any benefit, and where a value is so specified in respect of a benefit, such value shall be deemed to be the value of such benefit.

Net annual value of land and improvements thereon or of any place of residence.

5. (1) The net annual value of any land and improvements thereon or of any place of residence shall be determined on the basis of the rent which a tenant might reasonably be expected, taking one year with another, to pay for such land and improvements or for such place of residence (the tenant paying rates and the owner bearing the cost of repairs) subject to a deduction of twenty-five *per centum* on account of repairs and other expenses.

(2) Where the annual value of any land and improvements thereon or of any place of residence has been assessed for rating purposes by a local authority, such annual value less a deduction of twenty-five *per centum* on account of repairs and other expenses, shall be the net annual value, unless in the opinion of the Commissioner-General the assessment made by the local authority does not accurately represent the annual value of such land and improvements or place of residence, in the year for which the net annual value is being determined.

6. The profits or income arising from rents of land and improvements thereon, shall be the gross rent which is receivable and can be recovered after deducting therefrom rates borne by the owner and where the owner undertakes to bear the cost of repairs, twenty-five *per centum* of the balance, but shall, where the rent recoverable in respect of such land and improvements is not restricted by any law for the time being in force, be not less than the net annual value after deducting therefrom any part thereof which is the income of the occupier within the meaning of paragraph (d) of section 3, due provision being made for any period in respect of which no rent is receivable or can be recovered.

Profits or income arising from rents of land and improvements thereon.

CHAPTER III

EXEMPTION FROM INCOME TAX

7. There shall be exempt from income tax—

(a) the profits and income of—

- (i) the World Tourism Organization;
- (ii) the United Nations Organization, including the net annual value of any land and improvements thereon in Sri Lanka owned by and occupied by or on behalf of the Organization;
- (iii) the International Development Association;

Exemptions from income tax of certain persons (other than individuals) on the whole or any part of their profits and income.

- (iv) the Asian Development Bank;
- (v) the International Finance Corporation;
- (vi) the International Bank for Reconstruction and Development or any other international or foreign organization approved by the Minister, being profits and income attributable to the interest and other charges on any loan granted to the Development Finance Corporation;
- (vii) the International Irrigation Management Institute;
- (viii) the Trust Fund set up with European Economic Community Funds for the benefit of the settlers in—
 - (i) Zones 2 and 3 of System B area ; and
 - (ii) System G area ;demarcated and administered by the Mahaweli Authority of Sri Lanka, established by the Mahaweli Authority Act, No. 23 of 1979;
- (ix) the International Committee of the Red Cross;
- (x) the Overseas Private Investment Corporation of the United States of America;
- (xi) the Overseas Economic Co-operation Fund of Japan;
- (xii) the World Conservation Union;
- (xiii) the Commonwealth Development Corporation;

- (xiv) the India - Sri Lanka Foundation incorporated under the Companies Act, No. 17 of 1982;
- (xv) the European Investment Bank;
- (xvi) the Nordic Development Fund established pursuant to the treaty entered between the Governments of Denmark, Finland, Iceland, Norway and Sweden on November 2, 1988 ;
- (xvii) the Nordic Investment Bank ;
- (b) Profits and income, other than profits and income from dividends or interest of any person being –
 - (i) the Incorporated Council of Legal Education, established by Council of Legal Education Act, (Chapter 276) ;
 - (ii) the Institute of Chartered Accountants of Sri Lanka, established by the Institute of Chartered Accountants of Sri Lanka Act, No. 23 of 1959 ;
 - (iii) the Sri Lanka Tea Board, established by the Sri Lanka Tea Board Law, No. 14 of 1975;
 - (iv) the Ceylon National Library Services Board, established by the Ceylon National Library Services Board Act, No. 17 of 1970 ;
 - (v) any University which is established or deemed to be established under the Universities Act, No. 16 of 1978;
 - (vi) the Coconut Development Authority, the Coconut Research Board and the Coconut Cultivation Board, established by or under the Coconut Development Act, No. 46 of 1971;
 - (vii) the Widows' and Orphans' Pension Fund for Public Officers of Sri Lanka (Chapter 431) ;

- (viii) any Widows' and Orphans' Pension Fund or Scheme established for the Local Government Service ;
- (ix) any institution or trust of a public character established by any written law, solely for the purposes of scientific research;
- (x) the S.W.R.D Bandaranaike National Memorial Foundation, established by the S.W.R.D Bandaranaike National Memorial Foundation Law, No. 2 of 1975;
- (xi) the National Science Foundation, established by the Science and Technology Development Act, No. 11 of 1994 ;
- (xii) the Industrial Technology Institute, established by the Science and Technology Development Act, No. 11 of 1994;
- (xiii) the Sri Lanka Standards Institution, established by the Sri Lanka Standards Institution Act, No. 6 of 1984;
- (xiv) any Resort Authority, constituted under subsection (1) of section 57 of the Tourist Development Act, No. 14 of 1968;
- (xv) the Ceylon Tourist Board, established by the Ceylon Tourist Board Act, No. 10 of 1966;
- (xvi) the Monetary Board, established by the Monetary Law Act (Chapter 422) being the profits and income of the Central Bank of Sri Lanka;
- (xvii) any registered society within the meaning of the Co-operative Societies Law, No. 5 of 1972,

the majority of the members of which are resident in Sri Lanka, being profits and income of that society arising out of any business specified by the Minister by notice published in the *Gazette*, having regard to Government policy in relation to the Co-operative movement.

For the purpose of ascertaining the membership of a registered society of which another registered society is a member, each of the members of the second-mentioned society shall be deemed to be a member of the first mentioned society;

- (xviii) the Sri Lanka Foundation Institute, established by the Sri Lanka Foundation Law, No. 31 of 1973;
- (xix) the Sri Lanka Inventors Commission, established by the Sri Lanka Inventors Incentives Act, No. 53 of 1979;
- (xx) the Ceylon Medical Council, established by the Medical Ordinance (Chapter 105);
- (xxi) Ayurvedic Medical Council, established by the Ayurveda Act, No. 31 of 1961;
- (xxii) the Homoeopathic Council, established by Homoeopathy Act, No. 7 of 1970.
- (xxiii) the Sri Lanka College of Physicians, established by the Sri Lanka College of Physicians (Incorporation) Act, No. 9 of 1971;
- (xxiv) the Institute of Engineers, Ceylon, incorporated by the Institute of Engineers, Ceylon Act, No. 17 of 1968.

- (xxv) the Sri Lanka Export Credit Insurance Corporation, established by the Sri Lanka Export Credit Insurance Corporation Act, No. 15 of 1978;
- (xxvi) the Sri Lanka Export Development Board, established by the Sri Lanka Export Development Board Act, No. 40 of 1979.
- (xxvii) the Sri Lanka Ex-Servicemen's Association, established by the Sri Lanka Ex-Servicemen's Association Law, No. 8 of 1976;
- (xxviii) a company registered under Part VIII of the Companies Act, No. 17 of 1982, being profits and income arising to such company from a ship which is—
 - (i) engaged in international operations;
 - (ii) owned or chartered by such company; and
 - (iii) deemed to be a Sri Lanka ship by reason of a determination made under paragraph (c) of section 30 of the Merchant Shipping Act, No. 52 of 1971,other than profits and income arising to such company from the carriage, by that ship, of passengers, mails, livestock and goods, to or from a port in Sri Lanka;
- (xxix) the Institute of Fundamental Studies Sri Lanka, established by the Institute of Fundamental Studies, Sri Lanka Act, No. 55 of 1981;
- (xxx) the International Winged Beans (Dambala) Institute, established by the International Winged Beans (Dambala) Institute Act, No. 7 of 1982;

- (xxxi) the Buddhist and Pali University of Sri Lanka and any Higher Educational Institution, established by or under, the Buddhist and Pali University of Sri Lanka Act, No. 74 of 1981;
- (xxxii) the Sri Lanka Institute of Printing, established by the Sri Lanka Institute of Printing Act, No. 18 of 1984.
- (xxxiii) the Energy Conservation Fund, established by the Energy Conservation Fund Act, No. 2 of 1985;
- (xxxiv) the Tea Small Holdings Development Authority, established by the Tea Small Holdings Development Law, No. 35 of 1975;
- (xxxv) the Co-operative Development Fund, established under the Finance Act, No. 11 of 1963;
- (xxxvi) the Board of Investment of Sri Lanka, established by the Board of Investment of Sri Lanka Law, No. 4 of 1978;
- (xxxvii) the National Defence Fund, established by the National Defence Fund Act, No. 9 of 1985;
- (xxxviii) the Sri Lanka Institute of Architects, incorporated by the Sri Lanka Institute of Architects Law, No. 1 of 1976;
- (xxxix) the Surveyors' Institute of Sri Lanka, incorporated by the Surveyors' Institute of Sri Lanka Act, No. 22 of 1982;
- (xl) the Institute of Chemistry, Ceylon, incorporated by the Institute of Chemistry (Ceylon) Act, No. 15 of 1972;

- (xli) the Sri Lanka Institute of Development Administration, established by the Sri Lanka Institute of Development Administration Act, No. 9 of 1982;
- (xlii) the Agricultural and Agrarian Insurance Board, established by the Agricultural and Agrarian Insurance Law, No. 20 of 1999;
- (xliii) the Superior Courts Complex Board of Management, established by the Superior Courts Complex Board of Management Act, No. 50 of 1987;
- (xliv) the Institute of Policy Studies of Sri Lanka, established by the Institute of Policy Studies of Sri Lanka Act, No. 53 of 1988;
- (xlv) the Credit Information Bureau of Sri Lanka, established by the Credit Information Bureau of Sri Lanka Act, No. 18 of 1990;
- (xlvi) Rubber Research Board, established under the Rubber Research Ordinance, (Chapter 439);
- (xlvii) the Buddha Sasana Fund, established by the Buddha Sasana Fund Act, No. 35 of 1990;
- (xlviii) the J R Jayawardena Centre, established by the J R Jayawardena Centre Act, No. 77 of 1988;
- (xlix) the Institute of Supply and Materials Management, Sri Lanka, established by the Institute of Supply and Materials Management, Sri Lanka Act, No. 3 of 1981;
- (I) the Stabilization fund for Tea, Rubber and Coconut, established under Part IV of the Finance Act, No. 38 of 1971;

- (Ii) the Janasaviya Trust Fund, incorporated under the Trust Ordinance (Chapter 96);
- (Iii) the Institute of Bankers of Sri Lanka, established by the Institute of Bankers of Sri Lanka Act, No. 26 of 1979;
- (Iiii) the Institute of Personnel Management, Sri Lanka, incorporated by the Institute of Personnel Management, Sri Lanka Law, No. 24 of 1976;
- (Iiv) Public Enterprises Reform Commission of Sri Lanka, established by the Public Enterprises Reform Commission of Sri Lanka, Act, No. 1 of 1996;
- (Iv) the Securities and Exchange Commission of Sri Lanka, established by the Securities and Exchange Commission of Sri Lanka Act, No. 36 of 1987;
- (Ivi) the Bandaranaike Museum Committee, incorporated under the Bandaranaike Museum Committee (Incorporation) Act, No. 28 of 1997;
- (Ivii) the Geological Survey and Mines Bureau, established under the Mines and Minerals Act, No. 33 of 1992;
- (Iviii) Management Corporation, established under the Apartment Ownership Law, No. 11 of 1973 as last amended by Act No. 39 of 2003 ;
- (Iix) the Sri Lanka Institute of Taxation, incorporated by the Sri Lanka Institute of Taxation (Incorporation) Act, No. 21 of 2000.

- (c) the income of any local authority or Government institution, exclusive of—
 - (i) the income of any trust or other matter vested in or administered by such authority or institution, being income to which such authority or institution is not beneficially entitled; and
 - (ii) the profits and income for any period commencing on the date of acquisition or vesting, as the case may be, of any business undertaking acquired by or vested in the Government, under the Business Undertakings (Acquisition) Act, No. 35 of 1971;
- (d) the profits and income of —
 - (i) the Government of any foreign country, being profits and income derived by that Government either directly or through any agency of that Government from aid granted in money, goods, services or in any other form by that Government, to the Government of Sri Lanka;
 - (ii) the Government of the People's Republic of China, or of any agency of that Government, being profits and income derived from the business of ship-owner or charterer, and referred to in any agreement entered into between that Government and the Government of Sri Lanka;
- (e) the profits and income of a charitable institution, being—
 - (i) the profits of a business carried on by that institution, if such profits are applied solely to a charitable purpose of that institution, and—
 - (A) either the business is carried on in the course of the actual carrying out of a

primary purpose of that institution or the work in connection with the business is mainly performed by the beneficiaries of that institution; or

- (B) such institution receives grants from the Government of Sri Lanka and is approved by the Minister for the purposes of this paragraph, and the business is of a casual nature;

(ii) the net annual value of—

- (A) any place of public worship and its premises administered by such institution;
- (B) any place or premises owned and occupied by such institution solely for any of the purposes of that institution;

(iii) the profits and income from any property donated by royal or other grant before March 2, 1815, to any place of public worship administered by such institution, in so far as such profits and income are applied to the purposes for which such grant was made;

(f) the profits and income of any undertaking for operating yachts and pleasure crafts registered with the Director of Merchant Shipping, if such undertaking is—

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

- (ii) approved by the Minister;
- (g) the profits and income of –
 - (i) the Tower Hall Theatre Foundation, established by the Tower Hall Theatre Foundation Act, No. 1 of 1978 ;
 - (ii) the Central Cultural Fund, established by the Central Cultural Fund Act, No. 57 of 1960 ; and
 - (iii) the Presidents Fund, established by the Presidents Fund Act, No. 7 of 1978.

Exemption from income tax of certain profits and income of certain officers and employees.

- 8. (1)** There shall be exempt from income tax–
- (a) the emoluments, pension and any other benefits arising to any person from the office of the President of the Republic of Sri Lanka;
 - (b) one half of the official emoluments paid to–
 - (i) any individual who holds any paid office under the Republic, out of the Consolidated Fund;
 - (ii) any employee of any public corporation, being a public corporation which pays such emoluments or such pension or such profits from employment wholly or partly out of the sums voted annually by Parliament to such corporation, from the Consolidated Fund;
 - (iii) the Governor of any Province, appointed under Article 154B of the Constitution;
 - (iv) any member of any Provincial Council;
 - (v) any employee of any Provincial Council or to any officer of any Provincial Public Service;

- (vi) any member of any local authority;
 - (vii) any employee of any local authority;
 - (viii) any employee of any University which is established or deemed to be established, by the Universities Act, No. 16 of 1978;
 - (ix) any employee of the Institute of Policy Studies of Sri Lanka, established by the Institute of Policy Studies of Sri Lanka Act, No. 53 of 1988;
 - (x) a member or employee of any board or commission of inquiry established by or under any law, being a board or commission all the members of which are appointed by the President or by a Minister;
- (c) such pension or any such profits from employment referred to in paragraph (c) of subsection (1) of section 4, as are received by any person in respect of past services performed by such person or by any other person, whether before or after the commencement of this Act, as an individual, an employee, the Governor, a member an officer or an employee, as the case may be, referred to in paragraph (b) ;
- (d) the emoluments arising in Sri Lanka and any income not arising in Sri Lanka of any individual who is a scientist, technician, expert or adviser, who is not a citizen of Sri Lanka and who is brought to and employed in Sri Lanka by any undertaking, being an enterprise with which an agreement has been entered into by the Board of Investment under section 17 of the Board of Investment of Sri Lanka Law, No. 4 of 1978, for the purposes of that undertaking;

Provided that emoluments of an individual shall not be exempt from income tax, after the date of the cessation of employment of such individual in such undertaking or the date on which the exemption from tax granted by such agreement ends, whichever is the earlier;

- (e) the official emoluments arising in Sri Lanka, and any income not arising in or derived from Sri Lanka of—
 - (i) the Diplomatic Representative in Sri Lanka (by whatever name or title designated) of the Government of any other country;
 - (ii) any such member of the staff of any Diplomatic Representative referred to in subparagraph (i), any such Consul or Trade Commissioner, and any such member of the staff of such Consul or Trade Commissioner, as is a citizen or subject of the country represented by that Diplomatic Representative, Consul or Trade Commissioner, if the Minister, on being satisfied that a corresponding official of the Government of Sri Lanka resident in the country represented by that person is or would be granted similar exemption from income tax by that country, declares that the exemption shall apply in that case :

Provided that the exemption shall not apply in the case of any person, if such person carries on or exercises in Sri Lanka any other employment or any trade, business, profession or vocation;

- (iii) any expert, adviser, technician or official who is brought to Sri Lanka by the Government of Sri Lanka through any Specialized Agency of the United Nations Organisation, or under the

Point Four Assistance Programme of the Government of the United States of America, or through the Colombo Plan Organisation (including its Technical Assistance Bureau) or through the Asia Foundation or any other organization approved by the Minister as being of a similar character, and whose salary or principal emolument is—

- (A) payable out of the funds provided by way of a grant or other assistance to the Government of Sri Lanka by any such Organisation, Programme or Foundation or any other organization, as the case may be; or
 - (B) not payable by the Government of Sri Lanka;
- (iv) any trainee from abroad who is sent to Sri Lanka under any of the Technical Co-operation Programmes of the United Nations Organisation and its Specialized Agencies, or of the Colombo Plan Organisation, or of any other organization approved by the Minister as being of a similar character;
 - (v) any official of the United Nations Organisation who is resident in Sri Lanka, and who is not a citizen of Sri Lanka;
 - (vi) members of any naval, military or air force of any country other than Sri Lanka, who are in Sri Lanka at the request or with the concurrence, of the Government of Sri Lanka;
 - (vii) persons employed in any civil capacity by the Government of any country other than Sri Lanka who, not being persons resident in Sri

Lanka for a period exceeding three months immediately prior to the date of commencement of such employment, are so employed in or visit Sri Lanka for any purpose connected with the presence in Sri Lanka, of such members of any naval, military or air forces, as are referred to in sub-paragraph (vi); and

- (viii) any person who is not a citizen of Sri Lanka and who is employed in Sri Lanka, by the Asia Foundation or by the Overseas Economic Co-operation Fund of Japan or the Commonwealth Secretariat in any of its programmes for technical co-operation with Sri Lanka or the Commonwealth Development Corporation :

Provided that the liability to income tax of any person referred to in subparagraphs (i), (ii), (iii), (iv) or (v) as regards other income arising in or derived from Sri Lanka, shall be the same as though he was a non-resident person;

- (f) the official emoluments of any citizen of Sri Lanka who is employed as an expert, technician or official by the United Nations Organisation or by any Specialized Agency of that Organisation;
- (g) the official emoluments of any individual who is employed by the World Tourism Organisation, the International Irrigation Management Institute, the Colombo Plan Bureau, the Asian Development Bank, the World Bank, the International Committee of the Red Cross, the World Conservation Union or the European Investment Bank;
- (h) the value of any travel warrant or passage granted to a person who is not a citizen of Sri Lanka, a to enable him to come to Sri Lanka to assume duties or to visit

his home abroad, or to return from Sri Lanka on the termination of his services, whether on retirement or otherwise, or of any travel warrant or passage granted to the wife or any son or daughter of such person to come to Sri Lanka or to visit his or her home abroad or to return from Sri Lanka, on the termination of the services of such person;

(i) any allowance granted by an employer to his employee for travelling, subsistence and lodging, in respect of travel by such employee outside Sri Lanka, in connection with his employment;

(j) the emolument earned or the pension arising in any year of assessment, in foreign currency, by or to any individual resident in Sri Lanka in respect of—

(i) services rendered by him in that year of assessment; or

(ii) past services rendered by him or his spouse,

outside Sri Lanka in the course of any employment carried on, or exercised by him or his spouse, if such emoluments or pension are paid to him in Sri Lanka or such emoluments or pension (less such amount expended by such individual outside Sri Lanka as is considered by the Commissioner-General to be reasonable expenses) are remitted by him to Sri Lanka;

(k) the value of any free transport by motor coach provided by an employer to an employee for travel by such employee, from his residence to his place of work or from his place of work to his residence;

(l) such part of any sum paid to an employee at the time of his retirement, from any provident or pension fund or the Employees Trust Fund established by the Employees Trust Fund Act, No. 46 of 1980, as

represents income derived by that fund, for any period commencing on or after April 1, 1987, from investments made by it;

- (m) such part of any sum referred to in paragraph (c) of subsection (1) of section 4, paid to any employee at the time of his retirement from any employment in any company formed under the Conversion of Public Corporations or Government Owned Business Undertakings into Public companies Act, No, 23 of 1987, as is attributable to his period of service ending before April 1, 1997, in any public corporation or any Government Owned Business Undertaking, as the case may be;
- (n) such part of any sum referred to in paragraph (c) of subsection (1) of section 4, paid to any employee at the time of his retirement from any employment in any public corporation or at any subsequent time, as is attributable to the period of service of such employee prior to April 1, 1997, in such public corporation;
- (o) such part of any sum as does not exceed two million rupees, paid to any employee by the employer of such employee, being a sum paid as compensation for loss of any office or employment consequent to—
 - (i) the voluntary retirement by such employee in accordance with a scheme which in the opinion of the Commissioner- General, is uniformly applicable to all employees employed by such employer; or
 - (ii) the retrenchment of such employee by such employer in accordance with a scheme approved by the Commissioner of Labour.

(2) Nothing in paragraph (d) of subsection (1) shall apply to or in relation to any individual who is not a citizen of Sri Lanka, and who—

- (a) has entered into a contract of employment; or
- (b) is brought to and employed in Sri Lanka,

with or by any undertaking, other than an undertaking being an enterprise with which an agreement has been entered into prior to December 31, 1994, on an application made in that behalf prior to November 11, 1993 by the Board of Investment of Sri Lanka, under section 17 of the Board of Investment of Sri Lanka Law, No. 4 of 1978.

(3) Notwithstanding the provisions of the proviso to paragraph (d) of subsection (1) and of subsection (2), the emoluments of any individual who is not a citizen of Sri Lanka and who is brought to and employed in Sri Lanka by an enterprise with which an agreement has been entered into by the Board of Investment of Sri Lanka under section 17 of the Board of Investment of Sri Lanka Law, No. 4 of 1978, and which has opted to be charged with income tax in lieu of the exemption from income tax granted under such agreement, shall be exempt from income tax upto the date of cessation of employment of such individual in such enterprise or the date on which the exemption from income tax granted in respect of such enterprise would, but for such option, have ended, whichever is the earlier.

9. There shall be exempt from income tax—

- (a) the interest accruing to any company, partnership or other body of persons outside Sri Lanka, from any loan granted by that company, partnership or body of persons to the Government of Sri Lanka or to any public corporation or to any Government institution or to any commercial bank for the time being operating in Sri Lanka or to any other undertaking, if such loan is approved by the Minister as being essential for the economic progress of Sri Lanka;

Exemption
from income
tax of certain
interest received.

- (b) the interest accruing to any person or partnership outside Sri Lanka, from any security, note or coupon issued by the Government of Sri Lanka in respect of a loan granted in foreign currency by that person or partnership to the Government of Sri Lanka, if such loan is approved by the Minister as being essential for the economic progress of Sri Lanka;
- (c) the interest accruing to any person from moneys lying to his credit in a special account opened by him or on his behalf in a commercial bank with the approval of the Central Bank of Sri Lanka, for the deposit in accordance with the conditions imposed by the Central Bank of Sri Lanka, of sums obtained by him by the exchange of foreign currency held by him outside Sri Lanka;
- (d) the interest accruing to any person on moneys lying to his credit in foreign currency in any account opened by him or on his behalf, in any commercial bank or in any specialised bank, with the approval of the Central Bank of Sri Lanka;
- (e) the interest accruing to any person on moneys invested in Reconstruction Bonds issued by the Government of Sri Lanka, denominated in United States Dollars;
- (f) the interest accruing to any person on moneys invested in Sri Lanka Development Bonds denominated in United States Dollars, issued by the Central Bank of Sri Lanka;
- (g) the interest accruing to any person on moneys lying to his credit in foreign currency with any foreign currency banking unit;
- (h) such part of any interest as does not exceed two hundred thousand rupees accruing or arising in any year of assessment to any individual who is a citizen

of Sri Lanka and resident in Sri Lanka and who is more than fifty nine years old the first day of that year of assessment, from any deposit maintained in the National Savings Bank established by the National Savings Bank Act, No. 30 of 1971 or by the Bank of Ceylon established by the Bank of Ceylon Ordinance (Chapter 397) or the People's Bank established by the People's Bank Act, No. 29 of 1961 or the State Mortgage and Investment Bank established by the State Mortgage and Investment Bank Law, No. 13 of 1975 or the Housing Development Finance Corporation Bank of Sri Lanka established by the Housing Development Finance Corporation of Sri Lanka Act, No. 7 of 1997 as amended by Act, No. 15 of 2003 or the SME Bank Ltd. and Lanka Puthra Development Bank Limited incorporated under the Companies Act, No. 17 of 1982 or any bank established under the Regional Development Banking Act, No. 6 of 1997;

- (i) the interest or discount accruing or arising to any individual from a Sri Lanka Nation Building bond denominated in foreign currency and issued by or on behalf of the Government of Sri Lanka, being a bond purchased by such individual ;
- (j) the interest accruing in any year of assessment to any charitable institution, where it is proved to the satisfaction of the Commissioner-General in relation to that year of assessment, that such interest is applied solely for the purpose of providing care for the children, the elderly or the disabled, in a home maintained by such charitable institution.

10. (1) There shall be exempt from income tax—

- (a) any dividend paid by a company with which an agreement has been entered into by the Board of Investment of Sri Lanka under section 17 of the Board of Investment of Sri Lanka Law, No. 4 of

Exemption from income tax of certain dividends.

1978, being an agreement which has been entered into prior to December 31, 1994, on an application made in that behalf prior to November 11, 1993—

- (i) to any person, during the period for which the profits and income of that company are exempt from income tax under the terms of that agreement or within one year thereafter, out of the profits and income of the company which are exempt from income tax;
 - (ii) to any person, who is not resident in Sri Lanka notwithstanding anything to the contrary in subsection (1) of section 53;
- (b) any dividend paid to a unit holder of a unit trust or a mutual fund, out of the taxable profit and income of such unit trust or mutual fund.
- (c) any dividend paid by a flagship company with which an agreement has been entered into by the Board of Investment of Sri Lanka, to any shareholder during the period for which the profits and income of that company are exempt from income tax under the terms of that agreement or within one year thereafter, out of the profits and income of such company which are exempt from income tax.

In this paragraph, “flagship company” means any company which has entered into an agreement with the Board of Investment of Sri Lanka under section 17 of the Board of Investment of Sri Lanka Law, No. 4 of 1978 and which has in accordance with such agreement invested in Sri Lanka, within the period specified in such agreement, not less than fifty million United State Dollars or its equivalent in any other foreign currency :—

- (i) in the purchase or construction of any building or in the purchase of any land, plant, machinery or furniture; and

- (ii) in the acquisition of any asset not included in sub-paragraph (i),

for the use of the undertaking carried on by that company;

- (d) any dividend paid by a company with which an agreement has been entered into on or after November 8, 1995, by the Board of Investment of Sri Lanka under section 17 of the Board of Investment of Sri Lanka Law, No. 4 of 1978, to any shareholder of that company during the period for which the profits and income of that company are exempt from income tax under the terms of that agreement or within one year thereafter, out of the profits and income which are exempt from income tax ;
- (e) any dividend out of the profits of any company with which an agreement has been entered into by the Board of Investment of Sri Lanka under section 17 of the Board of Investment of Sri Lanka Law, No. 4 of 1978, from the operation by such company of a hospital with facilities for paying and non-paying patients for indoor and outdoor treatment, paid to any shareholder of such company during the period of five years reckoned from the commencement of the year of assessment in which such hospital commences operations ;
- (f) any dividend out of the profits within the meaning of paragraph (a) of section 3 of a company—
 - (i) with which an agreement has been entered into by the Board of Investment of Sri Lanka under section 17 of the Board of Investment of Sri Lanka Law, No. 4 of 1978 ; and

- (ii) to which a mining licence issued under the Mines and Minerals Act, No. 33 of 1992 has been assigned,

paid to any share holder of such company during the period for which the profits and income of that company are chargeable with income tax, at such rate as is determined in accordance with subparagraph (a) of the further proviso to paragraph (iv) of regulation 2 of Regulation No. 1 of 1995, made under section 24 of the Board of Investment of Sri Lanka Law, No. 4 of 1978, as last amended by Regulation published in Gazette 1019/13 of March 19, 1998 and specified in such agreement or within one year thereafter ;

- (g) any dividend paid to a shareholder of a company out of such profits and income of that company arising on or after April 01, 1977, which are exempt from income tax under section 15, 17, 18, 18A, 19, 20, 20A, 21, 21A, 21B, 21C, 21D, 21E, 21F, 21G or 21H of the Inland Revenue Act, No. 38 of 2000 or section 8(a) (xxxviii), 15, 16A, 16B, 16C, 16D, 17A, 17C, 17D, 17J, 17JJ, 17K, 17KK, 17L, 17M, 18, 19, 20, 20A 20B, 20C, 21, 22, 22A, 22B, 22C, 22D, 22DDD, or 22DDDD of the Inland Revenue Act, No. 28 of 1979 or under the Inland Revenue Act, No. 4 of 1963, if such dividend is paid during the period for which such profits and income of that company are exempt from income tax under any of those provisions or within one year thereafter ;
- (h) any dividend paid to a shareholder of a company out of any such dividend received by that company during the period for which the dividends as is referred to in paragraphs (a), (c), (d), (e), (f), or (g) respectively, are exempt from income tax, if the first mentioned dividend is paid during any year of assessment in which the second mentioned dividend was received by that company or within one year thereafter ;

- (i) any dividend paid to a shareholder of a company out of any such dividend as is referred to in paragraphs (a), (c), (d), (e), (f) or (g) respectively, received by that company through one or more intermediary companies during the period for which the dividends referred to in paragraphs (a), (c), (d), (e), (f), (g) are exempt from income tax, or within two years thereafter, if the first mentioned dividend is paid during the year of assessment in which the second mentioned dividend was received or within one year thereafter.
- (2) (a) The provisions of paragraphs (c), (d), (e), or (f) of subsection (1) shall not apply to any dividend paid on or after April 1, 2004 in relation to any agreement referred to therein which has been entered into on or after November 6, 2002; or
 - (b) The provisions of paragraphs (g) of subsection (1) shall not apply to any dividend paid on or after April 1, 2004 by any company referred to in that paragraph which qualified for an exemption on or after November 6, 2002.
- 11.** (1) There shall be exempt from income tax—
 - (a) the net annual value of not more than one place of residence, owned by and occupied by or on behalf of an individual;
 - (b) the income accruing to the owner of a house which is converted into two or more places of residence, each such place of residence being separately assessed for the purpose of rates, such income accruing being the income from any such place of residence for—
 - (i) the year of assessment in which such conversion was effected and for the five years of assessment immediately succeeding that year of assessment, if the floor area of such place of residence does not exceed one thousand square feet; or

Exemption from income tax of certain profits and income from lands and improvements thereon.

- (ii) the year of assessment in which such conversion was effected and for the three years of assessment immediately succeeding that year of assessment, if the floor area of such place of residence exceeds one thousand square feet but does not exceed two thousand square feet;
- (c) the net annual value of any land and improvements thereon owned by a body of persons, the primary object of which is the promotion of any sport which is recognized as a sport for the purposes of the Sports Law, No. 25 of 1973 and used for that object by that body.

(2) There shall be exempt from income tax the income accruing to the owner of any house from such house for the year of assessment in which the construction of such house was completed, and for the four years of assessment immediately succeeding that year of assessment, if such house is used solely for residential purposes :

Provided that where the floor area of the house is one thousand and five hundred square feet or less, the income accruing to the owner shall be exempt from income tax for the year of assessment in which the construction of that house is completed and for the six years of assessment immediately succeeding that year of assessment.

(3) For the purposes of this section “owner” includes a co-owner.

Exemption from income tax of certain subsidies.

12. There shall be exempt from income tax any sum paid to any person as a subsidy or grant—

- (a) out of the Capital Fund, established under the Sri Lanka Tea Board Law, No. 14 of 1975;
- (b) out of the rubber Replanting Subsidy Fund, established under the Rubber Replanting Subsidy Act, (Chapter 437) :

- (c) by the Coconut Cultivation Board, established under the Coconut Development Act, No. 46 of 1971;
- (d) by the Ministry of the Minister in charge of the subject of Fisheries, for the purchase by such person of fishing boats, marine engines, fishing gear and other fishing equipment;
- (e) out of the Export Development Fund, established by the Sri Lanka Export Development Act, No. 40 of 1979;
- (f) under any other scheme for the planting or replanting of any other agricultural plant ;
- (g) out of the Mill Development Fund, administered by the Coconut Development Authority established under the Coconut Development Act, No. 46 of 1971, for the modernization of machinery.

13. There shall be exempt from income tax—

Miscellaneous
exemptions
from income
tax.

- (a) the emoluments earned in any year of assessment in foreign currency by any individual resident in Sri Lanka, in respect of services rendered by him in that year of assessment outside Sri Lanka in the course of any vocation carried on or exercised by him, if such emoluments (less such amount expended by such individual outside Sri Lanka as is considered by the Commissioner General to be reasonable personal expenses) are remitted by him to Sri Lanka;
- (b) the profits and income earned in foreign currency by a resident company or partnership carrying on or exercising any trade, business or vocation, in any year of assessment—
 - (i) in respect of services rendered by that company or partnership in that year of assessment outside Sri Lanka (including services relating to any construction project) ;
and

- (ii) in respect of any off-shore business which does not in any way involve any goods manufactured or produced in Sri Lanka or any goods imported into Sri Lanka,

in the course of carrying on or exercising such trade, business or vocation, if such profits and income (less any such amount expended by that company or partnership outside Sri Lanka as is considered by the Commissioner General to be reasonable expenses) are remitted to Sri Lanka through a bank ;

- (c) the profits and income earned in foreign currency by any partnership in Sri Lanka or any individual from any services rendered in or outside Sri Lanka, to any person or partnership outside Sri Lanka, being services rendered in the course of any profession, carried on or exercised by such individual or partnership, if such profits and income (less such reasonable amount as may be determined by the Commissioner-General for personal expenses incurred outside Sri Lanka, where the services are rendered outside Sri Lanka by an individual) are remitted from outside Sri Lanka to such individual or partnership through a bank in Sri Lanka ;
- (d) the profits and income earned in foreign currency by any company resident in Sri Lanka from services rendered outside Sri Lanka, to any person or partnership outside Sri Lanka, in the course of carrying on or exercising any profession, if such profits and income are remitted to such company through a bank in Sri Lanka ;
- (e) the income accruing to a person receiving instruction at any university, college, school or other educational establishment from a scholarship, exhibition, bursary, or similar educational endowment;
- (f) any capital sum received by way of death gratuity or as compensation for death or injuries;

- (g) wound and disability pensions granted to members or ex-members of the Forces of Her Majesty, the Queen of the United Kingdom;
- (h) United States Government disability pensions;
- (i) the profits and income within the meaning of paragraph (a) of section 3 arising to any person from the export of gold, gems or jewellery ;
- (j) such part of the profits and income arising from the sale for payment in foreign currency, of any gem or jewellery, being a sale made in Sri Lanka by any person authorized by the Central Bank of Sri Lanka to accept payment for such sale in foreign currency;
- (k) any prize received by a person as an award made by the President of the Republic of Sri Lanka;
- (l) any prize received by a person as an award made by the Government in recognition of an invention created, or any research undertaken, by such person;
- (m) any sum received by a person from the President's Fund established by the President's Fund Act, No. 7 of 1978;
- (n) any sum received by a person from the National Defence Fund established by the National Defence Fund Act, No. 9 of 1985;
- (o) such part of any sum as does not exceed three thousand rupees paid by the Sri Lanka Bureau of Foreign Employment, established by the Sri Lanka Bureau of Foreign Employment Act, No. 21 of 1985, to any person or partnership licensed by such Bureau, to carry on the business of a foreign employment agency, in respect of any Sri Lankan for whom employment outside Sri Lanka has been provided or secured by such person or partnership;

- (p) such part of any sum as does not exceed three thousand rupees received in any year of assessment by the Sri Lanka Bureau of Foreign Employment, established by the Sri Lanka Bureau of Foreign Employment Act, No. 21 of 1985, in respect of any Sri Lankan for whom employment outside Sri Lanka has been provided or secured by such Bureau;
- (q) such part of any sum or the aggregate of sums as does not exceed one hundred thousand rupees received by any individual, as an award or awards in recognition of his excellence in the field of fine arts, literature or sports, being an award made with the prior written approval of the Minister in charge of the subject of fine arts, literature or sports, as the case may be;
- (r) any interest or discount accruing to the “Sudu Nelum Movement”, established by the Government and registered under section 114 of the Trust Ordinance, being interest or discount on any sum of money deposited by the Sudu Nelum Movement with any commercial bank;
- (s) any profits and income within the meaning of paragraph (a) of section 3, derived by, arising from or accruing to any person from the sale of any bond, debenture or other debt instrument issued by a company and held by him, being a bond, debenture or other debt instrument which at the time of such sale is quoted in any official list published by any Stock Exchange, licensed by the Securities and Exchange Commission of Sri Lanka;
- (t) any profits and income derived by or accruing to any person or partnership other than any unit trust, mutual fund or any venture capital company, from the sale of any share, a right to any share, a bonus share or a share warrant in respect of which the share transaction levy under section 7 of the Finance Act, No. 5 of 2005, has been charged ;

- (u) the profits and income earned in any year of assessment in foreign currency by any National Association of Sports registered under the Sports Law, No. 25 of 1973, in respect of services rendered by such Association, or in the course of taking part in any sport within the meaning of the Sports Law, in that year of assessment outside Sri Lanka, if such profits and income (less such amount as the Commissioner – General considers to be reasonable expenses incurred outside Sri Lanka) are remitted by such Association to Sri Lanka ;
- (v) the profits and income of any person or any partnership derived from the participation as a competitor, official or organizer of any sporting or athletic event held in Sri Lanka and at which competitor from outside Sri Lanka participates.

For the purpose of this paragraph :—

- (i) “organizer” means any body of persons, corporate or unincorporate, established in accordance with any law for the time being in force in the country represented at such event by such body of persons or by one or more individuals or one or more teams nominated by or with the concurrence of such body of persons, being a body of persons which governs the conduct of any sporting or athletic event in the country so represented, and includes any body of persons the rules made by which, govern the conduct of such event ; and
- (ii) “competitor” in relation to any sporting or athletic event, means any team which participates in any such event or any individual who participates in any such event either as an individual or as a member of such team ;

- (w) any annuity accruing in any year of assessment to any individual who reaches in that year of assessment or had reached in any previous year of assessment the age of sixty years, being an annuity for life or for a period of not less than ten years, purchased from any bank or any insurance company registered under the Regulation of Insurance Industry Act, No. 43 of 2000, and which accrues, in return for full consideration in money or moneys worth paid for the purchase of such annuity ;
- (x) interest received by a bank in Sri Lanka in respect of any loan granted to a company, the full amount of which is -
 - (i) invested in the manner referred to in paragraph (c) of subsection (2) of section 20, where such company is a company referred to in that section ; or
 - (ii) utilized to meet the expenditure referred to in paragraph (c) of subsection (2) of section 21, where such company is a company referred to in that section;
- (y) any royalty received by a non-resident person from a company with which an agreement has been entered into before April 1, 2004 by the Board of Investment of Sri Lanka under section 17 of the Board of Investment of Sri Lanka Law, No. 4 of 1978, in respect of any period during which the profits and income of that company are exempt from income tax under the terms of that agreement :

Provided that where such company opts, in lieu of the exemption from income tax under the terms of such agreement, to be charged with income tax, the exemption from income tax granted by this paragraph shall apply to any royalty received by any non-resident person from such company in

respect of the period during which the profits and income of such company would, but for such option, have been so exempt from income tax.

- (z) any winning from a lottery, the gross amount of which does not exceed five hundred thousand rupees .

14. (1) The profits and income of any resident guest—

- (a) not being profits and income arising in or, derived from Sri Lanka; and
- (b) accruing from moneys lying to his credit in any account opened by him in a commercial bank, for the deposit of sums remitted to him in foreign currency from any country outside Sri Lanka,

Exemption of certain profits and income of any resident guest.

shall be exempt from income tax.

(2) For the purpose of this section “resident guest” means a person to whom a tax exemption has been granted under the Resident Guest (Tax Exemption) Act, No. 6 of 1979.

15. Notwithstanding anything to the contrary in any other provision of this Act, the profits and income derived from outside Sri Lanka by any individual who has been a non resident of Sri Lanka and who arrives and stays in Sri Lanka, shall be exempt from income tax, if such individual is a citizen of both Sri Lanka and any other country, at the time of such arrival and during the whole of such stay.

Exemptions of profits and income derived from outside Sri Lanka.

16. (1) The profits and income of any person or partnership from any agricultural undertaking carried on in Sri Lanka, shall be exempt from income tax for each year of assessment within the period of five years, commencing on April 1, 2006.

Exemption from income tax of profits and income from agricultural undertaking.

(2) In this section “agricultural undertaking” means—

- (a) an undertaking for the purpose of the production of any agricultural, horticultural or any dairy produce ;

- (b) an undertaking for the cleaning, sizing, sorting, grading, chilling, dehydrating, packaging, cutting, canning for the purpose of changing the form, contour or physical appearance of any produce referred to in paragraph (a), in preparation of such produce for the market, other than an undertaking for the manufacture of tea ; and
- (c) any undertaking for the conversion of any produce referred to in paragraph (a) into such product as may be specified by the Commissioner-General, by Order published in the Gazette.

(3) For the purpose of this section and in relation to an undertaking consisting of the production of green leaf and the manufacture of tea therefrom, the green leaf so produced shall be deemed to have been sold for the manufacture of tea at the open market price prevailing at the time of such deemed sale and the profits and income from the production of green leaf shall be deemed to be the profits and income from such deemed sale.

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

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

(2) For the purposes of subsection (1) “specified undertaking” means —

- (a) an undertaking carried on by a company —
 - (i) incorporated before April 1, 2002, with a minimum investment of rupees fifty million invested in such undertaking ; or

- (ii) incorporated with a minimum investment of rupees ten million invested in such undertaking ,

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

- (b) any designated project carried on by a company which qualify under the same investment criteria as referred to in sub paragraph (i) of paragraph (a) of this subsection and which conforms to the prescribed guidelines ; and
- (c) an undertaking of a pioneering nature as determined by the Minister by Order published in the Gazette, carried on by a company with an investment in excess of rupees two hundred and fifty million.

(3) (a) Notwithstanding the provisions of sub section (1), for any company having an investment not less than rupees one thousand million in any pioneering undertaking as determined by the Minister, the period of exemption shall be the corresponding period referred to in Column II below, provided the corresponding minimum investment as given in Column I has been made—

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

- (b) The amount of investment referred to in paragraph (b) of subsection (2), shall not be applicable to any Export Production Village Company ;

- (c) In case of a company receiving income from any other trade or business in addition to the income from any specified undertaking referred to in subsection (2), the exemption provided under this section shall be applicable only in respect of the profits and income from the relevant specified undertaking as referred to in that subsection.
- (4) For the purposes of this section —
 - (a) “agriculture” means the cultivation of land with plants of any description, rearing of fish or animal husbandry, including poultry farms, veterinary and artificial insemination services and other support services ;
 - (b) “agro processing” means the processing of any agricultural product or fishing product including deep sea fishing, but excludes the processing of black tea in bulk and the manufacture of liquor ;
 - (c) “non-traditional products” means any goods (other than black tea in bulk, crepe rubber, sheet rubber, scrap rubber, latex and fresh coconuts), including deemed export of such goods, where not less than eighty *per centum* of the total turnover of such undertaking is from export or deemed export of such non traditional goods, for any year of assessment ;
 - (d) “deemed export” means the production or manufacture and supply by any person or partnership of any commodities (other than black tea in bulk, crepe rubber, sheet rubber, scrap rubber, latex and fresh coconuts) to any exporter of such goods without further production or manufacture by such exporter or the production or manufacture and supply of any goods to any exporter for the production, manufacture or packaging for export of any commodity which is a non traditional product.

18. (1) The profits and income within the meaning of paragraph (a) of section 3 (other than any profits and income from the sale of capital assets) of any company from any specified undertaking referred to in subsection (2), shall be exempt from income tax for a period not less than six years but not more than twelve years as may be determined by the Minister by Order published in the *Gazette*, if the amount of the investment made by such company in such undertaking is not less than one thousand million rupees. Such period shall be reckoned, from commencement of the year of assessment in which the undertaking commences to make profits or any year of assessment not later than two years reckoned from the date on which the undertaking commences to carry on commercial operations, whichever is earlier.

Exemption from income tax of certain undertakings for infrastructure development.

(2) For the purposes of subsection (1) “specified undertaking” in relation to a company means an undertaking carried on by such company and which is engaged in any such activity relating to infrastructure development as may be determined by the Minister by Order published in the *Gazette*, having regard to the interests of the national economy.

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

Exemption from income tax of small scale infrastructure undertakings.

(2) For the purpose of subsection (1) “specified undertaking” in relation to a company means an undertaking carried on by such company and which is engaged in infrastructure development for the generation of power,

tourism, recreation, warehousing and cold storage, garbage collection or disposal, construction of houses or construction of hospitals, and the total amount invested within one year from the commencement of the undertaking is not less than ten million rupees but not exceeding fifty million rupees.

Exemption of the profit and income of any new industrial undertaking.

20. (1) The profits and income within the meaning of paragraph (a) of section 3, (other than any profits and income from the sale of any capital asset,) of any company, form any new undertaking referred to in subsection (2), shall be exempt from income tax for every year of assessment falling within the period determined in accordance with subsection (3) and subsection (4).

(2) For the purpose of subsection (1), a “new undertaking” in relation to any company and to any year of assessment, means an undertaking—

- (a) carried on by such company ;
- (b) located in any area outside the administrative districts of Colombo and Gampaha and specified in part A or Part B of the Second Schedule to this section ;
- (c) in which the sum invested before April 1, 2008 –
 - (i) in any plant, machinery, furniture, building or land used in such undertaking, where such undertaking is an agricultural undertaking ; or
 - (ii) in any plant, machinery, furniture or building used in such undertaking, where such undertaking is an undertaking other than an agricultural undertaking,

is not less than thirty million rupees ;

- (d) not formed by the splitting up or reconstruction or acquisition of any undertaking which was previously in existence ;
 - (e) in which the number of employees employed at any time prior to April 1, 2008 and thereafter throughout that year of assessment, is not less than –
 - (i) fifty, where such undertaking is an undertaking for the provision of information technology enabling services or printing on paper or the manufacture of any packing materials ; or
 - (ii) two hundred, where such undertaking is an undertaking other than an undertaking referred to in subparagraph (i).
- (3) Where the sum invested in accordance with paragraph (c) of subsection (2) falls within the range specified in any entry in Column I of the First Schedule hereto, the period for which the profits and income are exempt from income tax, shall be the period specified in the corresponding entry —
- (a) in sub Column A of Column II, where the undertaking referred to in that subsection is located within any administrative district referred to in Part A of the Second Schedule hereto ; and
 - (b) in sub Column B of Column II, where the undertaking referred to in that subsection is located within any administrative district referred to in Part B of the Second Schedule hereto.

FIRST SCHEDULE

<i>Column I</i>	<i>Column II</i>	
Sum invested in rupees million	Period in years	
	<i>Sub Column A</i>	<i>Sub Column B</i>
More than 30 but not more than 50	5	7
More than 50 but not more than 100	6	8
More than 100	8	10

SECOND SCHEDULE

<i>Part A</i>	<i>Part B</i>
Any administrative district, part of the boundary of which overlaps with part of the boundary of the administrative district of Colombo or of Gampaha.	Any administrative district other than – <ul style="list-style-type: none"> - any administrative district specified in part A and - administrative districts of Colombo and Gampaha

(4) The period specified in each entry in sub-Column A or sub-Column B of Column II of the First Schedule to subsection (3), shall commence from the commencement of the year of assessment —

- (a) in which the new undertaking referred to in subsection (1) commences to make profits from the transactions entered into in that year of assessment ;
or
- (b) which occurs not later than three years reckoned from the commencement of the year of assessment in which such undertaking commences commercial operations,

whichever occurs earlier.

21. (1) The profits and income, within the meaning of paragraph (a) of section 3, (other than any profits and income from the sale of any capital asset) of any company, from any relocated undertaking referred to in subsection (2), shall be exempt from income tax for each year of assessment within the period of five years determined in accordance with subsection (3).

Exemption of profits and income of any relocated undertaking.

(2) For the purposes of subsection (1), a “relocated undertaking” in relation to any company and to any year of assessment referred to in subsection (1), means an undertaking—

- (a) which prior to November 1, 2005, was being carried on by that company in a location within the administrative district of Colombo or of Gampaha, with not less than one hundred individuals employed therein ;
- (b) which is relocated in any location outside the administrative districts of Colombo and Gampaha and commencing from a date not later than March 31, 2008, continues :-
 - (i) to carry its commercial operations ; and
 - (ii) to employ such number of individuals as is not less than the number employed as at November 1, 2005,

throughout that year of assessment ; and

- (c) in respect of which the expenditure incurred in the relocation, is not less than one hundred million rupees.

(3) The period of five years referred to in subsection (1), shall commence from the commencement of the year of assessment in which the relocated undertaking commences commercial operations.

Exemption from income tax of any company engaged in research and development.

22. (1) The profits and income within the meaning of paragraph (a) of section 3 (other than any profits and income from the sale of capital assets) of any new undertaking of a company which is engaged solely in research and development, with an investment of not less than two million rupees made within one year from the commencement of such undertaking, shall be exempt from income tax for a period of five years, reckoned from the year of assessment in which the undertaking commences to make profits or any year of assessment not later than two years, reckoned from the date on which the undertaking commences to carry on commercial operations whichever is earlier.

(2) For the purpose subsection (1) “research and development” means any systematic or intensive study carried out in the field of science or technology with the object of using the results thereof for the production or improvement of materials, devices, products, produce or process (other than quality control of products or routine testing materials, devices, research in social science or humanities, routine data collection, efficiency surveys or management studies and market research or sales promotion).

Exemption from income tax of any venture capital company.

23. (1) The profits and income within the meaning of paragraph (a) of section 3 (other than profits and income from the sale of any capital asset within the meaning of paragraph (b) of subsection (7) of section 25) of any venture capital company shall be exempt from income tax, for a period of five years commencing from the year of assessment in which the company commences to carry on commercial operations, where such company invests a sum of money as specified in subsection (2), which investment shall be identified as a specific investment, for the purchase of ordinary shares in a company engaged in—

- (a) a project which is of a pioneering nature and the operation of which results in value addition and the promotion of economic development;

- (b) a project which is engaged in the business of information technology;
- (c) any other project as may be specified by the Minister by Order published in the *Gazette*,

and such investment shall be for the financing of seed capital or start up or early stage financing of the investee company :

Provided however—

- (i) the venture capital company shall not have commenced commercial operations prior to April 1, 2003; and
- (ii) the specific investment shall not be made in relation to a company which is at the time of making the first investment, an associate company.

(2) In order to qualify for the tax exemption provided for in subsection (1), the venture capital company shall have invested a sum—

- (a) not less than forty *per centum* of the total equity capital of such company, during the second year from the year in which such company commenced its commercial operations, on or before the end of that second year;
- (b) not less than eighty *per centum* of the total equity capital of such company, during the third year from the year in which such company commenced its commercial operations, on or before the end of that third year;
- (c) not less than eighty *per centum* of the total equity capital of such company, during the fourth and fifth years from the year of commencement of commercial operations, on or before the end of such fourth and fifth years respectively,

in any project specified in subsection (1) :

Provided that if a company which has claimed exemption under this section fails to comply with the provisions of this subsection, or any dividends have been declared during the first two years from the year of assessment in which the company commences to carry on commercial operations or more than twenty *per centum* of the total specific investment made in any year has been made in one or more associate companies of such venture capital company, the exemption afforded to such company shall be withdrawn and the assessment shall be issued for the relevant years.

(3) Investment may be made in foreign companies, and such investments shall be considered as a specific investment for the purpose of this section in the second year and thereafter, where such investment is not more than ten *per centum* of equity capital of such company during the second year and not more than twenty *per centum* of equity capital of such company during the third year and subsequent years respectively, from the year in which such company commences its commercial operations.

(4) During the first three years including the year in which such company commences its commercial operations, any equity capital in excess of the minimum investments required by subsection (2) may be invested in Government Securities and such investment shall be considered as a specific investment.

(5) The year of commencement of commercial operations for the purpose of this section, shall be the year in which the issued equity capital of the venture capital company has reached one hundred million rupees and shall not apply in respect of commercial operations commencing on or after April 1, 2008.

(6) For the purposes of this section :—

“associate company” means any company within a group of companies which includes a parent

company and all its subsidiaries where the parent company has one or more subsidiaries and such subsidiaries are controlled by the parent company either by appointing a majority of the Board of Directors of such subsidiary or by holding more than one half in nominal value of the equity share capital of such subsidiary ;

“non performing” means the failure to carry out commercial operations ;

“under performing” means incurring of operational losses for a period not less than two consecutive years of assessment ; and

“venture capital company” means any company registered under the Companies Act, No. 17 of 1982 with a minimum issued share capital of rupees one hundred million and which is engaged in the business of providing equity investment in relation to any project as is specified in subsections (1), (2), (3) and (4), and–

- (a) which has entered into a Technical Service Agreement with a management company possessing the required experience in the relevant area of investment; or
- (b) which has in its employment, professional staff who have been trained by foreign venture capital companies and other local staff possessing the required professional venture capital management experience.

Exemption from income tax of any person engaged in the business of providing Manor Houses or Thematic Bungalows to tourists.

24. (1) The profits and income within the meaning of paragraph (a) of section (3) (other than any profits and income from the sale of capital assets) of any person engaged in business as specified in subsection (2), shall be exempt from income tax for a period of three years commencing from the year of assessment in which such person commences to make profits in such business or any year of assessment not later than two years reckoned from the date of commencement of commercial operation, whichever is earlier.

(2) The provisions of subsection (1) shall apply to any person registered with the Ceylon Tourist Board established by the Ceylon Tourist Board Act, No. 10 of 1966 on or after April 1, 2003, under the scheme for providing accommodation to tourist in Manor Houses or Thematic Bungalows, for a period of ten years from the date of registration.

CHAPTER IV

ASCERTAINMENT OF PROFITS OR INCOME

Deductions allowed in ascertaining profits and income.

25. (1) Subject to the provisions of subsections (2) and (4), there shall be deducted for the purpose of ascertaining the profits or income of any person from any source, all outgoings and expenses incurred by such person in the production thereof, including—

- (a) an allowance for depreciation by wear and tear of the following assets acquired, constructed or assembled and arising out of their use by such person in any trade, business, profession or vocation carried on by him—
 - (i) information technology equipments and calculating equipment including accessories and software, acquired by such person, at the rate of twenty five *per centum per annum* on the cost of acquisition of such equipments, accessories and software, as the case may be;

- (ii) any motor vehicle or furniture acquired by such person, at the rate of twenty *per centum per annum*, on the cost of acquisition;
- (iii) any other machinery or equipment not referred to in sub-paragraphs (i) and (ii) above and any plant, other than any plant referred to in sub-paragraph (v), acquired or assembled by such person, at the rate of twelve and one half *per centum per annum*, on the cost of acquisition or assembly;
- (iv) any bridge, railway track, reservoir, electricity or water distribution line and toll roads constructed by such person or acquired from a person who has constructed such assets, at the rate of six and two third *per centum per annum*, on the cost of construction or cost of acquisition, as the case may be;
- (v) any qualified building, any unit of a condominium property acquired and which is approved by the Urban Development Authority established by the Urban Development Authority Law, No. 41 of 1978, and constructed to be used as a commercial unit or any hotel building (including a hotel building complex) or any industrial building (including any industrial building complex) acquired from a person who has used such buildings in any trade or business, at the rate of six and two third *per centum per annum*, on the cost of construction or cost of acquisition, as the case may be;

Provided that —

- (a) where any software acquired is software developed in Sri Lanka, the rate shall be one hundred *per centum* on the cost of acquisition ;

- (b) where any plant or machinery acquired is used in any business of providing health care, printing on paper, gem cutting and polishing, packaging of any commodity for commercial purposes, rice milling, or such other business as may be prescribed by the Commissioner-General by Order published in the *Gazette*, the rate shall be $33 \frac{1}{3}$ per centum on the cost of acquisition ;

Provided further, that no deduction under the preceding provisions of this paragraph shall be allowed to a person in respect of any capital asset referred to in sub-paragraphs (i), (ii), (iii) or (iv) of this paragraph in respect of which the total of the allowances granted for depreciation in the preceding years of assessment, is equal to the cost of acquisition or cost of construction or assembling, as the case may be, of such capital asset by such person ;

- (b) (i) a sum equal to one fourth of any payment made by such person as consideration for obtaining a licence in his favour of any manufacturing process used by such person in any trade or business carried on by such person ;
- (ii) a sum equal to one tenth of the cost of acquisition of any intangible asset, other than goodwill, acquired by such person :

Provided that no deduction under the provisions of this paragraph shall be allowed to any person in respect of any such payment if the total of the sums deducted in the preceding years of assessment is equal to the amount of such payment ;

- (c) any sum expended by such person for the renewal of any capital asset employed by such person for producing such profits or income, if no allowance for the depreciation thereof is deductible in respect of that asset;
- (d) any sum expended by such person for the repair (not renewal) of any plant, machinery, fixtures, building, implement, utensil or article employed for producing such profits and income :

Provided that, in the case of a company carrying on the business of letting premises, the sum deductible under this paragraph shall, in so far as such sum relates to the repairs of such premises, not exceed twenty five *per centum* of the gross rent receivable by such company for such premises ;

- (e) a sum equal to the bad debts incurred by such person in any trade, business, profession, vocation or employment which have become bad debts during the period for which the profits are being ascertained, and such sum as the Commissioner-General considers reasonable for doubtful debts to the extent that they are estimated to have become bad during the period, notwithstanding that such bad or doubtful debts were due and payable prior to the commencement of that period:

Provided that all sums recovered during that period on account of the amounts previously written off or allowed in respect of bad or doubtful debts shall for the purposes of this Act, be treated as receipts of that period of that trade, business, profession, vocation or employment and for the purpose of this proviso, sums recovered shall be deemed to include any reductions as at the last date of such period in any estimated amount of a doubtful debt previously allowed as a deduction;

- (f) interest paid or payable by such person;
- (g) any contribution by an employer to a pension, provident or savings fund or to a provident or savings society, which is approved by the Commissioner-General subject to such conditions as he may specify;
- (h) tax payable under any Statute enacted by a Provincial Council which such person is liable to pay for the period for which the profits and income are being ascertained in respect of any trade, business, profession or vocation carried on or exercised by him :

Provided that where at the time of making any assessment it appears to an Assessor that any such tax so payable has not been paid, he may refuse to allow any deduction in respect of such tax:

Provided further that, where it appears to an Assessor that any such tax in respect of which a deduction has been refused, has been paid within a period of three years from the end of the year of assessment to which such assessment relates, he shall, on an application made in writing within twelve months of making such payment and supported by such proof as he may require, make an amended assessment allowing such deduction, notwithstanding the provisions of section 171, and any tax found to have been paid in excess as a result of such amended assessment shall be refunded, notwithstanding the provisions of section 200 ;

- (i) the expenditure, including capital expenditure incurred by such person in carrying on any scientific, industrial, agricultural or any other research for the upgrading of any trade or business carried on by such person ;

- (j) any expenses incurred by such person in—
 - (i) opening up any land for cultivation or for animal husbandry;
 - (ii) cultivating such land with plants of whatever description;
 - (iii) the purchase of livestock or poultry to be reared on such land; or
 - (iv) the construction of tanks or ponds or the clearing or preparation of any inland waters for the rearing of fish and the purchase of fish to be reared in such tank, pond or inland waters, as the case may be;
- (k) the actual expenses incurred by such person or any other person in his employment in travelling within Sri Lanka in connection with the trade, business, profession or vocation of the first-mentioned person:

Provided that no deduction under the preceding provisions of this paragraph shall be allowed to any person—

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

provided to any employee of such person or to any non-executive director or to any other individual who is not an employee but rendering services in the trade, business profession or vocation carried on by such person, if such vehicle is not the first vehicle provided to such employee or non-executive director or such other individual, as the case may be;

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

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

- (v) in respect of any expenses incurred by such person by reason of any travelling done by any other person in his employment between the residence of such other person and his place of employment or *vice versa*;
- (l) in the case of a company, expenditure incurred in the formation or liquidation of that company;
- (m) the expenditure incurred by such person in operating a motor coach used for transporting employees of such person to and from their place of work;
- (n) the expenditure incurred by such person in the payment of gratuity to an employee on the termination of employment of such employee, due to cessation of the trade, business, profession or vocation carried on by such person;
- (o) any annual payment made by such person to any fund, approved for the purposes of this paragraph by the Commissioner-General and maintained for the purposes of payment under the Payment of Gratuity Act, No.12 of 1983, of gratuities to employees on the termination of their services;
- (p) such part of the lump sum payment which not being an advance payment made by such person to any other person in connection with the letting or lease, to the first-mentioned person, of any commercial premises, as bears to the total lump sum payment the same proportion as the number of months in the year for which lease rent is payable bears to the total number of months comprised in the lease;
- (q) expenditure incurred by any person in the training, in any recognized institution of any employee employed by such person in any trade or business

carried on by such person, if it is proved to the satisfaction of the Commissioner-General that such training is—

- (i) directly relevant to the duties performed by such employee before the commencement of such training;
- (ii) essential for upgrading the skills or performance of such employee, in such trade or business; and
- (iii) necessary for improving the efficiency and performance of such trade or business.

For the purpose of this paragraph—

“training” includes participation in any seminar or workshop;

“employee” includes any partner of any partnership carrying on a profession.

(2) Where any person is entitled to a deduction in respect of any outgoing or expense under two or more paragraphs of subsection (1), in ascertaining the profits and income of such person from any source, such person shall be allowed a deduction only under one such paragraph.

- (3) (a) Where any person disposes of any capital asset used by him in producing the profits and income of any trade, business, profession or vocation and a total amount equal to the cost of acquisition or the cost of construction, as the case may be, of such capital asset has been granted as allowance for depreciation of such capital asset, the full amount of the proceeds of such disposal, whether such disposal takes place while such trade, business, profession or vocation continues or on or after its cessation, shall be treated as a receipt of

such trade, business, profession or vocation in ascertaining the profits and income within the meaning of paragraph (a) of section 3.

- (b) Where any person disposes of any capital asset used by him in producing the profits and income of any trade, business, profession or vocation carried on or exercised by him and an allowance for depreciation has been granted in respect of that capital asset but the total amount of such allowance is less than the cost of acquisition or the cost of construction, as the case may be, of such capital asset, the excess of the proceeds of such disposal over the difference between the cost of acquisition or the cost of construction of such capital asset, and the total allowance for depreciation granted in respect of such capital asset, shall, whether such disposal takes place while such trade, business, profession or vocation continues or after its cessation, be treated as a receipt of such trade, business, profession or vocation, in ascertaining the profits and income of such trade, business, profession or vocation, within the meaning of paragraph (a) of section 3 :

Provided that where such difference exceeds the proceeds of such disposal, the excess shall be treated for the purposes of subsection (1), as an expense incurred in the production of income:

Provided further that nothing in this paragraph shall apply to—

- (i) the transfer of any such capital asset to a company formed by the conversion of a business carried on by an individual either solely or in partnership ;

- (ii) the disposal by any person of any such capital asset, if the full proceeds of disposal are used by such person, within one year of the disposal for the replacement of such capital asset to be used by him for producing income in any trade, business, profession or vocation carried on or exercised by him; or
 - (c) Where a person carrying on any undertaking, the profit and income of which are wholly or partly exempt from income tax under this Act, disposes of any capital asset used for the purposes of that undertaking, such person shall be liable to income tax on an amount equal to the amount ascertained under paragraph (a) or paragraph (b).
- (4) Subject to as hereinafter provided, income arising from interest shall be the full amount of interest falling due, whether received or not, without any deduction for outgoing or expenses:

Provided that—

- (a) where it appears to an Assessor that any interest is unpaid and cannot be recovered, any assessment which includes such interest shall, notwithstanding the provisions of section 171, be reduced by the amount of the interest included which has been shown to be unpaid and irrecoverable or, if income tax has been paid in respect of such interest, such tax may be refunded on a claim in writing made within three years of the end of the year of assessment in respect of which such tax was paid;
- (b) where any interest falling due in any year of assessment in respect of a loan has not been received and is likely to be irrecoverable, the person to whom such interest is due may exclude such interest from the profits and income chargeable with income tax for that year of assessment;

- (c) where it appears to an Assessor that any interest which has been excluded from an assessment under paragraph (b) has subsequently been received and that income tax has not been paid in respect of such interest, he shall, notwithstanding anything in subsection (5) of section 163 limiting the period within which an assessment or additional assessment may be made, make an assessment or additional assessment including such interest.

(5) No deduction under paragraph (a) or paragraph (b) or paragraph (c), or paragraph (d) of subsection (1) in respect of any capital asset, shall be allowed to any person if—

- (a) such person has let on hire such capital asset –
 - (i) to any undertaking the whole or any part of the profits and income within the meaning of paragraph (a) of section 3, of which are exempt from income tax; or
 - (ii) for the use in any undertaking carried on by the person from whom it was acquired or by any member of the family of that person or any member of his family in partnership with any other person or persons; or
- (b) such person uses such capital asset in any undertaking carried on by him in partnership with the person from whom it was acquired or with any member of the family of the person from whom it was acquired:

Provided that the provisions of sub paragraph (i) of paragraph (a) shall not apply in respect of any capital asset let on hire by any person, if such person is a company engaged in the business of letting capital assets on hire.

(6) The profits and income received by one spouse for services rendered in any trade, business, profession or vocation carried on or exercised—

- (a) by the other spouse; or

- (b) by a partnership of which that other spouse is a partner,

shall be deemed to be the profits and income of that other spouse.

(7) For the purpose of this section—

- (a) “allowance for depreciation”, in relation to any capital asset, means any allowance which is deductible in respect of that asset under-
 - (i) paragraph (a) of subsection (1) of this section;
 - (ii) paragraphs (a), (b), (bb) or (d) of subsection (1) of section 23 of the Inland Revenue Act; No. 38 of 2000 ; or
 - (iii) paragraphs (a), (b), (c), (d), (e), (ee), (eee) or (eeee) of subsection (1) of section 23 of the Inland Revenue Act, No. 28 of 1979;
- (b) “capital asset” in relation to a trade, business, profession or vocation means any plant, machinery, fixture, fitting, utensils, articles or equipment used for the purpose of producing the income in such trade, business, profession or vocation or building constructed for the purposes of such trade, business, profession or vocation;
- (c) “proceeds” in relation to the disposal of any capital asset means—
 - (i) the sale price of such asset, where the disposal is by sale; or
 - (ii) the market value of such asset at the time of disposal, where the disposal is otherwise than by sale,

after deducting from such sale price or market value, as the case may be, the amount of value added tax chargeable under the Value Added Tax Act, No. 14 of 2002, on the disposal of such capital asset, if such tax is included in such sale price or market value, as the case may be;

- (d) “disposal”, in relation to the disposal of any capital asset by any person includes—
 - (i) sale, exchange, or other transfer in any manner whatsoever of such asset by such person;
 - (ii) discard of such asset by such person;
 - (iii) cessation of the use of such asset by such person in any undertaking carried on by him in ascertaining the profits and income of which, an allowance for depreciation could be deducted;
- (e) “qualified building” means a building constructed to be used for the purpose of a trade, business, profession or vocation, other than to be used as a dwelling house by an executive officer employed in that trade, business, profession or vocation;
- (f) (i) where any capital asset which is used in any trade, business, profession or vocation carried on or exercised by any person and in respect of which an allowance for depreciation has been granted is sold, and the full proceeds of sale used within one year of the sale for the acquisition of another capital asset to replace the capital asset so sold, and to be used in such trade, business, profession or vocation, the cost of acquisition of such other capital asset shall be deemed to be the difference between the actual cost of acquisition of such other capital asset and the profits from the sale of the capital asset sold.

For the purposes of this sub-paragraph the profits from the sale, in relation to any capital asset, shall be the excess of the proceeds of sale of such asset over the difference between—

- (A) the cost of acquisition or the cost of construction, as the case may be, of such asset; and
 - (B) the total allowance for depreciation granted in respect of such capital asset;
- (ii) where any plant, machinery or fixtures is acquired otherwise than by way of purchase by any person to be used in any trade, business, profession or vocation carried on or exercised by him, the cost of acquisition of such plant, machinery or fixtures shall be the market value of such plant, machinery or fixtures on the date of such acquisition;
- (iii) where a company incorporated to take over the business (including the capital assets) carried on by an individual either solely or in partnership with others, acquires the capital assets of such business being carried on by such individual or partnership, the cost of acquisition of each capital asset by such company shall be deemed to be the cost of acquisition of such capital asset by such individual or partnership, reduced by the amount of any allowance for depreciation granted in respect of such asset to such individual or partnership, and the date of acquisition of such capital assets by such company, shall be deemed to be the date of acquisition of such capital asset by such individual or partnership;

- (iv) where any person is entitled under the Value Added Tax Act, No. 14 of 2002, to claim credit for input tax paid in relation to the acquisition or the construction of any capital asset, the cost of acquisition or the cost of construction, as the case may be, of such capital asset shall not include such input tax.
- (v) where any asset used in the business of leasing as part of the leasing stock is disposed of either by transferring such assets out of the leasing stock or by transferring such asset to the lessee of such asset, the market value as at the time of such transfer of such asset shall be deemed to be a receipt from such trade or business of the lessor, unless such lessor proves to the satisfaction of the Assessor that all sums due from the lessee under the agreement relating to such lease have been treated as taxable receipts, in computing profits or income from such business;
- (vi) where any person has obtained an asset under a lease agreement and the relevant lease rentals have been allowed to such person as expenditure incurred in any trade, business profession or vocation, either fully or partly, the proceeds of disposal of such asset, less any cost of acquisition other than lease rental paid on such asset by such person acquiring it directly or through a nominee, shall be treated as a receipt from such trade, business, profession or vocation of such lessee;

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

Deductions not allowed in ascertaining profits and income.

26. (1) For the purpose of ascertaining the profits or income of any person from any source, no deduction shall be allowed in respect of—

- (a) domestic or private expenses, including the cost of travelling between the residence of such person and his place of business or employment;
- (b) expenses incurred in connection with his employment, other than the expenses referred to in paragraph (e) and paragraph (g) of subsection (1) of section 25;
- (c) any expenditure incurred in travelling outside Sri Lanka in connection with any trade, business, not being a business referred to in paragraph (d), profession or vocation carried on or exercised in Sri Lanka by such person, other than the expenses incurred in travelling outside Sri Lanka, solely in connection with the—
 - (i) promotion of the export trade of any article or goods; or
 - (ii) provisions of any services for payment in foreign currency;

- (d) any expenditure incurred in travelling outside Sri Lanka in connection with the business of any undertaking of operating any hotel for tourists, carried on by such person, other than the expenditure incurred in travelling outside Sri Lanka solely in carrying out a programme approved by the Ceylon Tourist Board for the promotion of tourism;
- (e) entertainment expenses incurred by such person or his employee or on his behalf in connection with any trade, business, profession or vocation carried on or exercised by him;
- (f) entertainment allowances paid by such person to his executive officer ;
- (g) any disbursements or expenses of such person, not being money expended for the purpose of producing such profits or income;
- (h) any expenditure of a capital nature or any loss of capital incurred by such person;
- (i) the cost of any improvements effected by such person;
- (j) any sum recoverable under a contract of insurance or indemnity, if the amount received under such contract is not treated as a receipt from such trade, business, profession or vocation under section 89 of the Inland Revenue Act, No. 28 of 1979 or under section 95 of the Inland Revenue Act, No. 38 of 2000 or section 100 of this Act ;
- (k) rent of, or expenses in connection with, any premises or part of a premises not occupied or used for the purposes of producing such profits and income;

- (l) any amount paid or payable by such person by way of—
- (i) income tax, or super tax or surtax or any other tax of a similar character in any country with which an agreement made by the Government of Sri Lanka for the avoidance of double taxation is in force (other than the excess of any such income tax, or super tax or surtax or any other tax of a similar character over such maximum amount of the credit in respect of Sri Lanka income tax as is allowed by paragraph (c) of subsection (1) of section (97); or
 - (ii) Sri Lanka income tax; or
 - (iii) any prescribed tax or levy; and
 - (iv) any Economic Service Charge levied under Economic Service Charge Act, No. 13 of 2006 ;
 - (v) any Value Added Tax on Financial Services levied under Chapter IIIA of the Value Added Tax Act, No. 14 of 2002 ;
 - (vi) any Social Responsibility Levy levied under item IV of the First Schedule to the Finance Act, No. 5 of 2005,

Any regulation prescribing a tax or levy for the purpose of this paragraph may be declared to take effect from a date earlier than the date on which such regulation is made ;

- (m) any annuity, ground rent, or royalty paid by such person;

- (n) any payment by such person to any pension, provident, savings, widows' and orphans' pension, or other society or fund, except such payments as are allowed under paragraph (g) of subsection (1) of section 25;
- (o)
 - (i) one half of the excess of any expenditure in relation to any employee where profits from employment under paragraph (a) of subsection (1) of section 4, does not exceed six hundred thousand rupees per year ; and
 - (ii) three fourths of the excess of any expenditure in relation to any employee whose profits from employment under paragraph (a) of subsection (1) of section 4 exceeds six hundred thousand rupees per year,

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

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

- (p) such part of the rental paid by him under any finance leasing agreement entered into by him in respect of—
 - (i) any motor vehicle, furniture, plant, machinery or equipment other than information technology equipment and calculating equipment including accessories and computer

software and other computing or calculating machine referred to in paragraph (a) of subsection (1) of section 25, as is in excess of one-fifth of the total rental payable under such agreement; and

- (ii) any information technology equipment and calculating equipment including accessories and computer software as referred to in paragraph (a) of subsection (1) of section 25, as is in excess of one-fourth of the total rental payable under such agreement;
- (q) any sum transferred to any reserve or provision (other than any annual payment referred to in paragraph (o) of subsection (1) of section 25, for the payment of any sum referred to in subsection (2) of section 35;
- (r) such part of any sum paid or payable by such person, not being any venture capital company, any unit trust or any mutual fund, as consideration for the management of any trade, business, profession or vocation carried on or exercised by him, as exceeds—
 - (i) one million rupees or one *per centum* of the turnover of such trade, business, profession or vocation during the period for which profits and income are being ascertained, whichever is lower or;
 - (ii) such amount as may be determined by the Commissioner-General having regard to all the circumstances of the case, as being reasonable and commercially justifiable as such consideration,

whichever is higher.

For the purposes of this paragraph, the term “turnover” in relation to any trade, business, profession or vocation and to any period, means the total amount received or receivable from transactions entered into or for services performed in that period, in carrying on or exercising such trade, business, profession or vocation, excluding any amount received or receivable from the sale of capital assets ;

- (s) any expenditure or outgoing in relation to any asset provided by such person to any employee to be used in the residence of such employee;
- (t) any expenditure or outgoing in relation to any movable or immovable property given by such person to any employee at a price, less than market value at the time of giving such property ;
- (u) any expenditure or outgoing in relation to any loan, other advance or credit granted to any employee which is subsequently written off as a bad debt by such person ;
- (v) one half of such person’s cost of advertisement in connection with any trade, business, profession or vocation carried on or exercised by him other than the cost of advertisement outside Sri Lanka incurred solely in connection with the export trade of any article or goods or the provisions of any services for payment in foreign currency ;
- (w) any expenditure incurred in any trade or business carried on in Sri Lanka by any non resident company being expenditure in the nature of head office expenditure, incurred in any period by reference to the profits and income of which the statutory income from such trade or business is computed.

For the purpose of this paragraph, the expression “head office expenditure” shall have the same meaning as given in section 27 of this Act ;

- (x) the excess, if any, of the aggregate amount of the interest payable for any year of assessment by any subsidiary company (hereinafter referred to as the first mentioned subsidiary company) of any holding company, in respect of any loan obtained from such holding company or any other subsidiary company or subsidiary companies (hereinafter referred to as the second mentioned subsidiary company or subsidiary companies), over such part of the interest so payable, as is attributable to such part of such loan, as is equal to thrice the aggregate of the issued share capital and reserves at the end of that year of assessment of the first mentioned subsidiary company, where such first mentioned subsidiary company is a manufacturer:

Provided that where such first mentioned subsidiary company is not a manufacturer the provisions of the preceding paragraph shall apply as if for the reference in that paragraph to the words “thrice the aggregate of the issued share capital and reserves”, there were substituted a reference to the words “four times the aggregate of the issued share capital and reserves”.

In this paragraph —

- (i) the expressions “subsidiary company” and “holding company” shall have the same respective meanings assigned to them in the Companies Act, No. 17 of 1982 ;
- (ii) the first mentioned subsidiary company shall, in relation to any year of assessment, be deemed to be “a manufacturer”, if more than fifty *per centum* of the turnover for that year of assessment of such subsidiary company, is from the sale of products manufactured by such subsidiary company ;

(iii) “reserves” do not include reserves arising from the revaluation of any asset ; and

(iv) “turnover” in relation to any year of assessment of a subsidiary company, means the total amount receivable, whether actually received or not, from every sale made in that year of assessment, of products manufactured by such subsidiary company :—

(A) after deducting therefrom –

(i) any sum included in such total amount, being the proceeds from the disposal of any capital asset ;

(ii) the amount of any bad debt incurred during that year of assessment, being an amount which had been included in the relevant turnover of such company for that or any previous year of assessment ; and

(iii) any sum included in such total amount, being a sum which represents the value added tax ; and

(B) after adding thereto any sum received during that year of assessment on account of any bad debt written off or allowed in any previous year.

(2) No person carrying on any trade, business, profession or vocation shall be entitled to any sum for depreciation by wear and tear, or for renewal, or to any allowance under paragraph (a) or paragraph (d) of subsection (1) of section 25 :—

(a) for any year of assessment, in respect of any vehicle used for travelling for the purpose of his trade,

business, profession or vocation, except in respect of—

- (i) a motor cycle or bicycle used for such purpose by an officer, who is not an executive officer, in the employment of such person; and
 - (ii) a motor coach used for transporting employees of such person to or from their place of work; and
- (b) in respect of any plant, machinery, fixtures, equipment or articles provided for the use of any officer or employee of such person, in the place of residence of such officer or employee,

or for any deduction for any rental or annual payment in respect of any such vehicle, plant, machinery, fixtures, equipment or articles as are referred to in paragraphs (a) and (b).

(3) In ascertaining the profits or income arising from the annual value or rent of land and improvements thereon, no deduction shall be made for outgoing and expenses except those authorized in section 5 or section 6, as the case may be, except in the case of a company carrying on the business of letting premises.

(4) In computing the statutory income of any person from any trade, business, profession or vocation carried on or exercised by such person, no deduction shall be allowed under section 25 or this section or section 27, in respect of any expenditure, unless the amount of such expenditure is paid within three years from the end of the year of assessment in which such expenditure is incurred :

Provided that where the entirety or any part of the amount of such expenditure remains unpaid after the expiry of such period of three years, an assessment disallowing the entirety

or such part of such deduction shall, notwithstanding anything to the contrary in any other provisions of this Act, be made at any time.

27. (1) Where any non resident company carrying on in Sri Lanka any trade or business incurs any expenditure in the nature of head office expenditure, there shall be deducted from the profits and income of such company for such year of assessment from such trade or business, a sum equal to the lesser of –

Deduction of head office expenses incurred by any non resident company.

- (a) the amount of such expenditure; or
- (b) the amount equal to ten *per centum* of such profits or income.

(2) For the purpose of this section “head office expenditure” in relation to a non resident company and to any year of assessment, means the executive and general administration expenditure incurred by or on behalf of such company outside Sri Lanka, including expenditure –

- (a) comprising the aggregate of the total profits from employment of and the total cost of travelling undertaken by every employee and every other person employed in or managing the affairs of any office of such company outside Sri Lanka ; and
- (b) in respect of —
 - (i) any premises outside Sri Lanka ; and
 - (ii) such other matters connected with the executive and general administration as the case may be, determined by the Commissioner-General having regard to all the circumstances of the case, as being reasonable and commercially justifiable.

CHAPTER V

ASCERTAINMENT OF TOTAL STATUTORY INCOME

Basis for
computing
statutory income.

28. (1) The statutory income of every person for each year of assessment from every source of his profits or income in respect of which tax is chargeable, shall be the full amount of the profits or income which was derived by him or arose or accrued to his benefit from such source during that year of assessment, notwithstanding that he may have ceased to possess such source or that such source may have ceased to produce income.

(2) Where the Commissioner-General directs under the provisions of subsection (4) that the accounts in respect of any trade, business, profession or vocation be made up for such periods as may be specified in that direction, he may further direct that the statutory income from that source for any year of assessment be computed on the amount of the profits of the period ending in that year of assessment. Where however, the statutory income of any person from a trade, business, profession or vocation has been computed by reference to an account made up for a certain period and such person fails to make up an account for the corresponding period in the year following, the statutory income from that source, both of the year of assessment for which such failure occurs and of the two years of assessment following, shall be computed on such basis as the Commissioner-General shall consider just and equitable in the circumstances of the case:

Provided that the Commissioner-General may at any time vary or revoke a direction given under the preceding provisions of this subsection:

Provided further, that where any such direction is varied or revoked by the Commissioner-General, he may order that the statutory income for any year of assessment from the source in respect of which such direction was given, be computed as if the accounts were made up to the thirty-first day of March in that year of assessment.

(3) Every person who carries on or exercises any trade, business, profession or vocation shall, subject to the provisions of subsection (4), make up the accounts of that trade, business, profession or vocation for each successive period of twelve months ending on the thirty-first day of March of each year:

Provided that where a person—

- (a) commences to carry on or exercise a trade, business, profession or vocation in any year of assessment, such person shall make up the accounts of such trade, business, profession or vocation for the period beginning from the date of commencement of such trade, business, profession or vocation and ending on the thirty-first day of March of that year of assessment; and
- (b) ceases to carry on or exercise a trade, business, profession or vocation in any year of assessment, such person shall make up the accounts of such trade, business, profession or vocation for the period beginning from the first day of April of that year of assessment and ending on the date of such cessation.

(4) Where any person is unable to comply with the provisions of subsection (3) in relation to any trade, business, profession or vocation carried on or exercised by him, he shall give notice in writing to the Commissioner-General setting out the reasons for his inability to comply with such provisions. The Commissioner-General may, if satisfied with the reason set out in such notice, direct such person to make up the accounts of that trade, business, profession or vocation for such periods as may be specified in that direction, and it shall be the duty of such person to comply with the direction:

Provided however that the Commissioner-General may at any time vary or revoke any direction given by him under the preceding provisions of this subsection.

Apportionment
of profits.

29. Where in order to ascertain the profits or losses of any trade, business, profession, vocation or employment for any year of assessment or other period, it is necessary to divide and apportion in relation to specific periods the profits or losses for any period for which accounts have been made up, or to aggregate any such profits or losses or any apportioned parts thereof, it shall be lawful to make such division, apportionment or aggregation, as the case may be.

Any apportionment of the profits or losses for any period for which accounts have been made up, shall be on the basis that such profits or losses accrued evenly over that period.

Total statutory
income.

30. The total statutory income of a person for any year of assessment shall be the aggregate of his statutory income for that year of assessment from every source of his profits or income in respect of which tax is charged.

Aggregation of
the total statutory
income of a
child with that of
his parent.

31. The total statutory income for any year of assessment of a child of a resident individual, shall be aggregated with and deemed to form part of the total statutory income of—

- (a) his father, if the marriage of his parents subsists in that year of assessment; or
- (b) the parent who maintains him and with whom he lives in that year of assessment, if the marriage of his parents does not subsist in that year of assessment.

For the purposes of this section, a marriage shall be deemed not to subsist if the wife is living apart from her husband under a decree of a competent court or duly executed deed of separation or if the husband and wife are in fact separated in such circumstances that the separation is likely to be permanent.

CHAPTER VI

ASCERTAINMENT OF ASSESABLE INCOME

32. (1) The assessable income of a person (other than a company) for any year of assessment shall be his total statutory income for that year, other than the—

Deductions from total statutory income in arriving at assessable income.

- (a) statutory income from interest from which income tax has been deducted under section 133 or section 135 ;
- (b) statutory income from dividends from which income tax has been deducted under subsection (1) of section 65, whether received directly from such company which distributes the dividend or through any other company; and
- (c) statutory income from interest arising or accruing to any individual in respect of a secondary market transaction on any Security or Treasury Bond issued under the Registered Stock and Securities Ordinance (Chapter 420) or Treasury Bill issued under Treasury Bills Ordinance (Chapter 417) or Central Bank Securities issued under the Monetary Law Act (Chapter 422), and from the interest on which tax under section 134 has been deducted from a primary dealer,

subject to the deductions specified in this section:

Provided however, where such income from interest or dividends from which income tax has been deducted under section 133 or subsection (1) of section 65, as the case may be, have been received by a person in the course of carrying on any trade or business as a receipt from such trade or business, such income from interest or dividends shall form part of the total statutory income of such person :

Provided further that the interest received or accruing to any primary dealer being a company or otherwise from which tax has been deducted under section 134 on any primary market transaction on any Security or Treasury Bond issued under the Registered Stocks and Securities Ordinance (Chapter 420), or Treasury Bill issued under the Local Treasury Bills Ordinance (Chapter 417), or Central Bank Security issued under the Monetary Law Act (Chapter 422), shall not be considered as receipts from any trade or business under section 3 for the purpose of computing the statutory income of such company.

(2) The assessable income of any primary dealer, shall not include any interest income received or accruing where—

- (a) tax on the total amount of such interest has been deducted under section 134 ; and
- (b) such interest income has been accrued or arisen to such primary dealer in respect of a primary market transaction on any Security or Treasury Bonds issued under the Registered Stocks and Securities Ordinance (Chapter 420), or Treasury Bill issued under the Local Treasury Bills Ordinance (Chapter 417), or Central Bank Security issued under the Monetary Law Act (Chapter 422), referred to in section 134 as the case may be.

For the purposes of subsection (1) and of this subsection—

“interest income” means the proportionate amount of interest or discount allowed by the issuer of any security or instrument referred to in sub-paragraph (b) of subsection (3) of this section, in proportion to the holding period of such security or other instrument by any holder over the period of maturity of such security or other instrument ;

“primary market transaction” means the purchase of any Security or Treasury Bond issued under the Registered stock and Security Ordinance (Chapter 420), or Treasury Bill issued under the Local Treasury Bills Ordinance (Chapter 417), or Central Bank Security issued under the Monetary Law Act (Chapter 422), at the time of the original issue of such Security, Bill or Bond by any primary dealer, subject to any discount or payment of interest by the issuer; and

“secondary market transaction” means the sale of a security or other instruments referred to in sub-paragraph (b) of sub section (2) of this section or re-purchase or reverse re-purchase of such security or other instruments after the original issue of such security or holding of any such security or instrument for a period longer than one day from the date of acquisition, by any primary dealer who has acquired such security or other instruments.

(3) The assessable income of any person shall not include—

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

from any Government Institution, from which income tax has been deducted in accordance with Chapter XIX ;

- (b) the receipt of any lottery prize or winnings from gambling or betting from which tax has been deducted under section 157; and

- (c) interest received on the compensation payable in respect of any immovable or movable property vested in the Government or in the Land Reform Commission or in a Public Corporation from which the income tax has been deducted under section 36.

(4) The assessable income of any person referred to in paragraph (b) of section 7 (other than any registered society referred to in sub-paragraph (XVII) of that paragraph), shall not include :—

- (a) any interest from which tax has been deducted under section 133; or
- (b) any dividend from which tax has been deducted under subsection (1) of section 65.

(5) There shall be deducted from the total statutory income of a person for any year of assessment—

- (a) sums paid by such person for any year of assessment by way of annuity, ground rent, royalty or interest not deductible under section 25. For the purposes of this paragraph interest does not include the excess referred to in paragraph (x) of subsection (1) of section 26 :

Provided that—

- (i) no deduction shall be allowed in respect of any such sum paid, unless the Assessor is satisfied that the recipient of such payment has issued a valid receipt for such payment, containing name, address and the income tax file number (if any) of such person in Sri Lanka or that the tax has been deducted under this Act before or at the time such payment is made;
- (ii) where for any year of assessment any such sum paid and deductible under this subsection exceeds the total statutory income for that year, the excess shall be treated for the purposes of

this section, in the same manner as a loss incurred in a trade during that year;

- (iii) where any sum is paid by such person by way of an annuity, no deduction shall be allowed in respect of such annuity, unless such annuity is paid—
 - (A) under an order of court by way of payment of alimony or maintenance;
 - (B) to his spouse under a duly executed deed of separation; or
 - (C) in return for full consideration in money or money's worth.
- (iv) where any sum is paid by such person by way of interest, no deduction shall be allowed in respect of such interest, unless such interest is paid under any legal or contractual obligation—
 - (A) to any bank licensed under the Banking Act, No. 30 of 1988 or any finance company registered under the Finance Company Act, No. 78 of 1988; or
 - (B) to any other person recognized by the Commissioner-General for the purposes of this paragraph :

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

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

- (i) for the construction or purchase of any building or for the purchase of any site for the construction of any building ;

- (ii) in any trade, business, profession or vocation carried on or exercised by him ;
- (b) the amount of a loss incurred by such person in any trade, business, profession or vocation which if it had been a profit would have been assessable under this Act, including any such loss brought forward from a previous year which had not been deducted under this section previously, and any deemed loss under paragraph (ii) of the proviso to paragraph (a), supported by a statement of accounts certified by an approved accountant, up to a maximum limit of thirty five *per centum* of the excess of the total statutory income for that year over the aggregate of :—
 - (i) statutory income from interest and dividends referred to in subsection (2) ;
 - (ii) any interest income referred to in subsection (3); and
 - (iii) any reward , share of fine, any lottery winning and any interest on compensation payable, referred to in sub section (4),

for that year and any loss which cannot be deducted may be carried forward to the next year of assessment and so on :

Provided however,

- (A) no loss incurred on the disposal of shares, rights or warrants in a company referred to in section 44 of this Act, shall be a loss deductible under this paragraph;

- (B) no loss can be carried forward beyond the year of assessment in which the death of such person occurred in the case of an individual, or liquidation of such person occurred in the case of a company or other body of persons;
- (C) where any person has been declared or adjudged insolvent by a competent court, no loss incurred prior to the date of bankruptcy or insolvency shall be deducted from income arising subsequent to such declaration of insolvency ;
- (D) no loss can be deducted which is incurred by a company in which there had been a change of ownership otherwise than by way of testate or intestate succession, except against the statutory income of such trade or business of the company as that in which the loss was incurred.

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

- (6) (a) Where the profits and income of an undertaking were exempt from income tax under section 16, section 17, section 18, section 19, section 20, section 21, section 22, section 23 or section 24 of this Act, or under section 17, section 18,

section 19, section 20, section 21A, section 21B, section 21C, section 21D, section 21E, section 21F, section 21G or section 21H of Inland Revenue Act, No. 38 of 2000 or under section 16C or section 17A or section 17C or section 17D or section 17G or section 17H or section 17J or section 17JJ or section 22A, section 22B, or section 22C or section 22D or section 22DD or section 22DDD or section 22DDDD of the Inland Revenue Act, No. 28 of 1979, for any period (such period being referred to in this paragraph as the exempt period), there shall be deducted from the total statutory income of the person who carries on that undertaking in the year of assessment in which such exemption ceases to apply, the excess, if any, of—

- (i) the total of any losses incurred by such person in such undertaking in any year of assessment during the exempt period, over
 - (ii) such profits and income of that undertaking as were exempt from income tax for any year of assessment during the exempt period succeeding the year of assessment in which such loss in that undertaking was incurred.
- (b) Where the entirety or any portion of the balance of such losses referred to in paragraph (a) cannot be deducted from the total statutory income of such person for the year of assessment referred to in paragraph (a), the residue, if any, of such entirety or of such portion, after its deduction from the total statutory income of such person for that year of assessment, shall be deemed to be a loss incurred by such person in that undertaking in the year of assessment immediately succeeding that year of assessment, and may accordingly be deducted in the manner provided for paragraph (b) of subsection (2).

(7) The amount of a loss from any trade, business, profession or vocation shall be ascertained in the manner provided in this Act for the ascertainment of profits from a trade, business, profession or vocation.

(8) Where the total statutory income of any child for any year of assessment is aggregated with, and deemed to be a part of, the total statutory income of his parent for that year of assessment, any sum which could be deducted from the total statutory income of such child under the provisions of this section shall be deducted from the total statutory income of such parent.

CHAPTER VII

ASCERTAINMENT OF TAXABLE INCOME

33. (1) The taxable income of an individual or a charitable institution who or which is resident in Sri Lanka in any year of assessment shall be the assessable income of that individual or that institution for that year of assessment after deducting therefrom the aggregate of—

Taxable Income.

- (a) an allowance of three hundred thousand rupees ;
and
- (b) any allowance to which such individual or institution is entitled under section 34 :

Provided that an individual who is a trustee, receiver, executor or liquidator shall not be entitled to deduct the allowance referred to in paragraph (a) as such trustee, receiver, executor or liquidator.

(2) The taxable income of any person (other than any resident individual or any charitable institution) for any year of assessment shall be the assessable income for that year of assessment of that person after deducting therefrom any allowance to which such person is entitled under section 34.

An allowance in respect of qualifying payments.

34. (1) Subject to the provisions of subsection (4), there shall be deducted, for the purposes of section 33, from the assessable income of a person for any year of assessment in respect of every qualifying payment made by him or deemed to have been made by him in that year of assessment, an allowance equal to the amount of such qualifying payment.

(2) In this section, “qualifying payment” means—

- (a) a donation made by any person in money to an approved charity;
- (b) a donation made in money or otherwise to—
 - (i) the Government of Sri Lanka;
 - (ii) a local authority;
 - (iii) any Higher Educational Institution established or deemed to be established under the Universities Act, No. 16 of 1978;
 - (iv) the Buddhist and Pali University or any Higher Educational Institution established by or under the Buddhist and Pali University Act, No. 74 of 1981;
 - (v) a fund established by the Government of Sri Lanka,
 - (vi) a fund established by a local authority and approved by the Minister ;
 - (vii) the Sevana Fund created and administered by the National Housing Development Authority established by the National Housing Development Authority Act, No. 17 of 1979.
 - (viii) a fund established by a Provincial Council and approved by the Minister:

Provided that such part, if any as is in excess of two million rupees of any donation made otherwise than in money, shall be deemed not to comprise a qualifying payment;

- (c) expenditure incurred by any person on any project included in a development plan of the Government of Sri Lanka, if such expenditure was incurred—
 - (i) with prior written approval of the Minister; and
 - (ii) in accordance with such terms and conditions as may have been specified by the Minister at the time of granting such approval, such approval being granted and such terms and conditions being specified by the Minister, having regard to the development priorities of the Government;
- (d) any amount paid by an individual as a contribution to a provident fund for self employed persons, approved by the Commissioner-General for such purpose;
- (e) any contribution made by an individual to such provident fund or pension fund as is approved by the Commissioner-General or to a regulated provident fund, no part of the emoluments from which such contributions are made is exempt from income tax under paragraph (b) of section 8 :

Provided that where such contribution exceeds twelve *per centum* of such emoluments, such excess shall be deemed not to comprise a qualifying payment.

- (f) a donation made by any person in money to—
 - (i) the Industrial Technology Institute established by the Science and Technology Development Act, No. 11 of 1994 ;

- (ii) the Sri Lanka Foundation Institute established by the Sri Lanka Foundation Law, No. 31 of 1973;
- (iii) the Tower Hall Theatre Foundation, established by the Tower Hall Theatre Foundation Act, No. 1 of 1978;
- (iv) the Sri Lanka Inventors Commission, established by the Sri Lanka Inventors Incentives Act, No. 53 of 1979;
- (v) the S W R D Bandaranaike National Memorial Foundation, established by the S W R D Bandaranaike National Memorial Foundation Law, No. 2 of 1975;
- (vi) the Institute of Fundamental Studies, Sri Lanka, established by the Institute of Fundamental Studies, Sri Lanka, Act, No. 55 of 1981;
- (vii) the International Winged Bean (Dambala) Institute, established by the International Winged Bean (Dambala) Institute Act, No. 7 of 1982;
- (viii) the Sri Lanka Institute of Printing, established by the Sri Lanka Institute of Printing Act, No. 18 of 1984;
- (ix) the Arthur C. Clarke Institute for Modern Technologies, established by the Science and Technology Development Act, No. 11 of 1994;
- (x) the Institute of Policy Studies of Sri Lanka, established by the Institute of Policy Studies of Sri Lanka Act, No. 53 of 1988;
- (xi) the J R Jayawardena Centre, established by the J R Jayawardena Centre Act, No. 77 of 1988;

- (g) any premia in any year of assessment, being premia which have accrued due for payment—
 - (i) on a life insurance policy (not being a pure endowment policy) the premia in respect of which are payable annually over a period of not less than three years;
 - (ii) on a policy of medical insurance,not being premia paid outside Sri Lanka in respect of any such policy issued outside Sri Lanka;
- (h) expenditure incurred by any person in the production at a cost of not less than five million rupees, of any film :

Provided however that any expenditure referred to in this paragraph shall, for the purposes of subsection (1) be deemed to have been incurred in the year of assessment in which the production of such film is completed.

For the purposes of this paragraph the expression—

- (i) “expenditure” in relation to the production of a film includes any expenditure incurred in the promotion of that film, within a period of ninety days from the date of completion of the production of such film;
- (ii) “film” means any audio-visual presentation of the moving image produced on any form or format whatsoever and which is intended primarily to be exhibited by projection on a screen in a cinema;
- (i) any expenditure incurred, otherwise than out of a loan referred to in paragraph (j) by an individual in

either the construction or the purchase of a house, being in either case the first house, constructed or purchased by such individual on or after April 1, 2001;

- (j) any expenditure incurred by an individual on the repayment of the capital of any approved housing loan, either for the construction or the purchase of a house, being in either case the first house constructed or purchased by such individual on or after April 1, 2001.

For the purpose of this paragraph “approved housing loan” means any housing loan obtained from the Government, or any banking institution within the meaning of the Monetary Law Act (Chapter 422), or from any Provincial Fund, any local authority or any other institution, approved by the Minister in charge of the subject of Housing.

- (k) fifty *per centum* of any investment of not less than rupees five hundred thousand in any year of assessment in the purchase by any person of ordinary shares, other than the existing shares, issued by a venture capital company during the period that such company is exempted from income tax under section 23 ;
- (l) any sum invested by any company and referred to in paragraph (c) of subsection (2) of section 20 ;
- (m) the expenditure referred to in paragraph (c) of subsection (2) of section 21.

(3) Where the total statutory income of any child for any year of assessment is aggregated with, and deemed to be a part of, the total statutory income of his parent for that year of assessment, any qualifying payment made by that child in that year of assessment shall be deemed to be a qualifying payment made by such parent.

- (4) The deduction from the assessable income of any—
- (a) person, other than a company, for any year of assessment—
- (i) in respect of all qualifying payments other than those referred to in paragraphs (a), (b), (c), (e), (g), (h), (i), (j) and (k) of subsection (2) made by him or deemed to have been made by him in any year of assessment shall not exceed one third of such assessable income or twenty five thousand rupees whichever is less ;
 - (ii) in respect of all qualifying payments referred to in paragraph (c) of subsection (2), made by him or deemed to have been made by him in that year of assessment shall not exceed twenty five thousand rupees ;
 - (iii) in respect of any qualifying payment referred to in paragraph (h) of subsection (2), deemed to have been made by him in that year of assessment shall not exceed ten million rupees;
 - (iv) in respect of the aggregate of all qualifying payments made and referred to in paragraphs (a), (e) and (g) of subsection (2), shall not exceed seventy five thousand rupees or one third of such assessable income whichever is less ;
 - (v) in respect of all qualifying payments referred to in paragraphs (i) and (j) of subsection (2) made by him in that year of assessment, shall not exceed one third of the assessable income or one hundred thousand rupees whichever is less ;
 - (vi) in respect of all qualifying payments referred to in paragraphs (k) of subsection (2) made by

him in that year of assessment, shall not exceed one third of his assessable income or such qualifying payment whichever is less ;

(b) a company, for any year of assessment—

- (i) in respect of all qualifying payments other than those referred to in paragraphs (b), (h), (k) , (l) and (m) of subsection (2), made by that company or deemed to have been made by that company in that year of assessment shall not exceed one-fifth of such assessable income;
- (ii) in respect of any qualifying payment referred to in paragraph (h) of subsection (2), made by that company in that year of assessment shall not exceed ten million rupees;
- (iii) in respect of all qualifying payments referred to in paragraph (k) of subsection (2), made by that company shall not exceed one-fifth of its assessable income or such qualifying payment, whichever is less ;
- (iv) in respect of all qualifying payments, referred to in paragraph (l) of subsection (2), made by that company, shall not exceed one hundred million rupees, or such qualifying payment, whichever is less.

(5) The amount of any qualifying payment referred to in paragraph (b), paragraph (c), paragraph (l) or paragraph (m) of subsection (2), made or deemed to have been made by any person in any year of assessment and which cannot be deducted from his assessable income for that year of assessment, shall be deducted from his assessable income for the next succeeding year of assessment and so on.

(6) The excess of the allowance in respect of any qualifying payment referred to in paragraph (h) of subsection (2) deemed to have been made in any year of assessment by any person, shall be deducted, to the extent it can be so deducted from the assessable income of that person for the year of assessment immediately succeeding that year of assessment, (hereinafter referred to as “the first succeeding year of assessment”) and any residue of such excess shall be deducted from the assessable income of the year of assessment immediately succeeding the first succeeding year of assessment.

(7) The excess of the allowance of any qualifying payment referred to in paragraph (i) of subsection (2) which cannot be deducted from the assessable income in the year of assessment in which such expenditure is incurred, may be apportioned over a period of not more than nine years immediately succeeding the year of assessment in which such expenditure was incurred, and such apportioned amount shall be deemed to be a qualifying payment made in each such year of assessment.

(8) For the purposes of this section—

- (a) an “approved charity” means an approved charity within the meaning of section 16A of the Inland Revenue Act, No. 4 of 1963, or under paragraph (a) of subsection (9) of section 31 of the Inland Revenue Act, No. 28 of 1979 or paragraph (a) of subsection (7) of section 31 of the Inland Revenue Act, No. 38 of 2000 or any such public charitable trust or institution as is declared by the Minister by notice published in the *Gazette* to be an approved charity for the purposes of this section;
- (b) the amount of a donation made to the Government otherwise than in money, shall be the value of such donation and such value shall—
 - (i) be the cost incurred during that year of assessment by the donor of the property donated; or

- (ii) where the cost incurred by the donor during that year of assessment cannot be ascertained or where no cost was incurred in that year of assessment, be the value of the property donated at the time of such donation.

CHAPTER VIII

RATES OF INCOME TAX ON PERSONS OTHER THAN COMPANIES.

Rates of income
tax on persons
other than
companies.

35. (1) Subject as hereinafter provided, income tax shall be charged for each year of assessment on the taxable income for that year of assessment of any person—

- (a) if he is an individual other than a receiver, trustee, executor or liquidator acting in such capacity in respect of any year of assessment, at the appropriate rates specified in Part I of the First Schedule to this Act;
- (b) if he is an individual who is not a citizen of Sri Lanka and is deemed by subsection (7) of section 79, to be non-resident, at the rate specified in Part II of the First Schedule to this Act; or
- (c) if such person is a person other than a company or an individual to whom paragraph (a) applies, in respect of any year of assessment at the appropriate rates specified in the Third Schedule to this Act:

Provided that the income tax payable for any year of assessment by an individual who is deemed to be non-resident under subsection (7) of section 79, shall not be more than the amount by which his assessable income for that year of assessment exceeds the allowance referred to in paragraph (a) of subsection (1) of section 33.

(2) Where in consequence of the inclusion in the statutory income of an individual for any year of assessment of—

- (a) a sum received in commutation of a pension;
- (b) a sum received as a retiring gratuity other than such part of such sum as exceeds—
 - (i) one million eight hundred thousand rupees; or
 - (ii) a sum equivalent to the average monthly salary or wage paid to such individual during the period of three years immediately preceding his retirement from any employment under the employer who pays such gratuity, multiplied by the number of completed years of service,

whichever is greater;

- (c) any sum received as compensation for loss of office or employment;
- (d) a sum paid to him, at the time of his retirement from any employment, or at any subsequent time, from a provident fund approved by the Commissioner-General, other than such part of that sum as represents his contributions to that provident fund;
- (e) any sum paid from a regulated provident fund to an employee (other than such part of that sum as represents the contributions made by the employer to that fund prior to April 1, 1968, and the interest which accrued on such contributions made by the employer, if in respect of such contributions made by the employer and the interest which accrued on such contributions made by the employer, tax at the rate of fifteen *per centum* has been paid by the employer); or

- (f) any sum paid to him at the time of his retirement from any employment or at any subsequent time, from the Employees' Trust Fund, established by the Employees' Trust Fund Act, No.46 of 1980,

his taxable income for that year of assessment exceeds that which would be his taxable income if no such aforementioned sum were included in his statutory income, the excess, notwithstanding anything contained in any other provision of this Act, shall be chargeable with tax at the appropriate rates specified in Part IV of the First Schedule to this Act, if such aforementioned sum has been paid by the employer of such individual, in accordance with a scheme which, in the opinion of the Commissioner-General, is uniformly applicable to all individuals employed by such employer. If any such aforementioned sum has been paid to such individual in accordance with a scheme which, in the opinion of the Commissioner-General, is not uniformly applicable to all individuals employed by such employer, his taxable income (inclusive of such excess) shall be chargeable with tax at the appropriate rates specified in Part I of the First Schedule to this Act:

Provided however, that where the taxable income of an individual for any year of assessment includes any sum referred to in paragraph (c), which has been paid to such individual in accordance with a scheme which in the opinion of the Commissioner-General, is not uniformly applicable to all individuals employed by the employer of that individual, such sum is deemed to be income from employment within paragraph (c) of subsection (1) of section 4, and shall be chargeable with tax at the appropriate rate specified in the Part I of the First Schedule to this Act.

- (3) Where any charitable institution provides in any year of assessment institutionalised care for the sick or the needy and where the Commissioner-General is satisfied that the

cost of provision of such care is borne by such charitable institution, the Commissioner-General may, subject to such condition as he may specify, reduce or remit the tax payable by such charitable institution in respect of its profits and income for such year of assessment, if it appears to the Commissioner-General that such reduction or remission is just and equitable in all the circumstances of the case.

(4) Where a fund or society has been set up or formed for the welfare of the members of the Sri Lanka Army, Sri Lanka Navy, Sri Lanka Air Force or the Sri Lanka Police Force and their respective families, the Commissioner-General may, subject to such conditions as he may specify, reduce or remit the tax payable by such fund or society, as the case may be, if it appears to the Commissioner-General that such reduction or remission is just and equitable in all the circumstances of the case.

CHAPTER IX

SPECIAL PROVISIONS RELATING TO THE TAXATION OF CERTAIN PROFITS AND OF DIVIDENDS OUT OF SUCH PROFITS

36. (1) The provisions of this section shall apply to the interest payable on the compensation payable in respect of any immovable or movable property vested in the Government or in the Land Reform Commission or in a public corporation or in a local authority, such interest being the accumulated interest payable on such compensation for the period commencing on the date on which such compensation accrues is due, and ending on the date of payment of such compensation (in this section referred to as the “relevant interest”).

Special provision relating to taxation of interest on compensation payable in respect of property vested in the Government, the Land Reform Commission or a public corporation or a local authority.

(2) Notwithstanding anything to the contrary in any law—

- (a) the relevant interest received by any person shall be deemed to be income arising to that person in the year of assessment in which he receives such interest

and not in the year of assessment to which such interest relates, and such interest shall be liable to income tax at the appropriate rate specified in the Fifth Schedule to this Act ;

- (b) the Government, the Land Reform Commission, the public corporation or the local authority paying the relevant interest to any person, shall deduct from such interest an amount equal to ten *per centum* of such interest and shall remit the amount so deducted to the Commissioner-General, with a statement in writing showing the particulars of the gross amount of the relevant interest payable, the tax deducted, the net amount paid, the name and address of the person to whom it is paid, and the amount so remitted shall be set off against the tax payable by such person under paragraph (a).

(3) In this section “Land Reform Commission” means the Land Reform Commission established by the Land Reform Law, No. 1 of 1972.

Deduction of
income tax from
interest payable
on certain
deposit accounts.

37. (1) The provisions of this section shall apply to the accumulated interest (in this section referred to as “the relevant interest”) paid on a sum of money deposited in a banking institution by—

- (a) any individual; or
- (b) another person on behalf of any individual, under a scheme approved by the Commissioner-General which—
- (i) is operated by such banking institution; and
- (ii) conforms to such conditions as may be specified from time to time, by the Commissioner-General.

The Commissioner-General shall, in specifying any matter which is required by this subsection to be specified by him, have regard to the need to encourage and facilitate savings.

(2) Notwithstanding anything to the contrary in this Act—

- (a) the relevant interest paid to any individual shall be deemed to be income arising to such individual in the year of assessment in which such interest is paid to him and not in the year of assessment to which such interest relates, and such interest shall be liable to income tax at the appropriate rates specified in the Fifth Schedule to this Act ;
- (b) the banking institution paying the relevant interest to such individual shall, notwithstanding anything in paragraph (a), deduct from such interest an amount equal to ten *per centum* of such interest, and shall forthwith remit the sum so deducted to the Commissioner-General;
- (c) where a banking institution deducts income tax in accordance with paragraph (b) from the relevant interest paid to any individual, it shall issue to such individual a statement in writing setting out the gross amount of the relevant interest payable, the rate and amount of tax deducted and the net amount actually paid;
- (d) where —
 - (i) any amount is deducted in accordance with paragraph (b) from the relevant interest paid to any individual ; and
 - (ii) the maximum rate at which such individual is liable to pay income tax for the year of assessment in which such deduction is made,

in respect of profits and income (exclusive of the relevant interest) is less than fifteen *per centum*,

then such individual shall be entitled, on the production of the statement referred to in paragraph (c) and subject to the provisions of Chapter XXVIII to a refund of such percentage of the relevant interest as is equal to the difference between fifteen *per centum* and such maximum rate of tax.

(3) Where a banking institution which is required by subsection (2) to deduct any income tax from the relevant interest paid by it to any individual fails to deduct such income tax, then, the director, general manager or other principal officer of such banking institution, shall be personally liable for the tax which such institution, was required to deduct under this section, and such tax may be recovered from such director, general manager, or principal officer, by all the means provided for in this Act.

(4) Where any money is deposited in a banking institution by an individual under a scheme approved by the Commissioner-General under subsection (1), and such individual withdraws the interest on such money in contravention of the conditions imposed by the Commissioner-General in relation to such scheme, additional assessments may, notwithstanding anything in this Act, be made in respect of every year of assessment to which the interest so withdrawn relates.

Rates of income tax on the gross interest on loans granted by a company, partnership or other body of persons outside Sri Lanka.

38. The gross interest (not being interest exempt under any other provision of this Act), payable on a loan granted to any person in Sri Lanka by any company, partnership or other body of persons outside Sri Lanka, being interest which arises or is deemed, by section 93, to arise to such company, partnership or other body of persons shall, notwithstanding anything in this Act, be chargeable with income tax at the appropriate rate specified in the Fifth Schedule to this Act.

39. The gross royalty payable by any person in Sri Lanka to any company, partnership or body of persons outside Sri Lanka, being royalty which arises or is deemed by section 94 to arise in Sri Lanka to such company, partnership or other body of persons shall, notwithstanding anything to the contrary in any other provision of this Act, be chargeable with income tax at the appropriate rate specified in the Fifth Schedule to this Act.

The rate of income tax on royalty payable to any company, partnership or other body of persons outside Sri Lanka.

40. (1) Where an individual who is deemed, under subsection (7) of section 79 to be non-resident for a period of three years, continues to be employed in Sri Lanka after the expiry of such period, the profits from such employment of such individual for a period of two years commencing from the end of such period of three years shall, notwithstanding anything to the contrary in this Act, be chargeable with income tax at the rate specified in Part III of the First Schedule to this Act.

The rate of income tax on profits from employment, for a specified period of a non-citizen employed in Sri Lanka.

(2) Where an individual who is employed in a flagship company and who is deemed under the proviso to subsection (7) of section 79 to be non-resident for a period of five years, continues to be employed in such flagship company after the expiry of such period, the profits from employment in such flagship company of such individual for the period commencing from the end of such period of five years and ending on the date on which —

- (a) the exemption of the profits and income of such flagship company ceases under the terms of its agreement with the Board of Investment of Sri Lanka ; or
- (b) a further period of five years from the end of such period of five years ends,

whichever occurs earlier, shall, notwithstanding anything to the contrary in this Act, be chargeable with income tax at the rate specified in Part III of the First Schedule to this Act.

In this subsection a “flagship company” means a company which has on or after November 8, 1995 entered into an agreement with the Board of Investment of Sri Lanka under section 17 of the Board of Investment of Sri Lanka Law, No. 4 of 1978 and which has in accordance with such agreement invested in Sri Lanka within the period specified in such agreement, not less than fifty million United States Dollars or its equivalent in any other foreign currency—

- (a) in the purchase or construction of any building or in the purchase of any land, plant, machinery or furniture ; and
- (b) in the acquisition of any asset not included in paragraph (a),

for the use of the enterprise carried on by such company.

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

41. The profits and income of any foreign currency banking unit arising from any off-shore foreign currency transaction shall, for any year of assessment be liable to income tax at the appropriate rate given in the Fifth Schedule to this Act.

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

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

42. The profits and income arising in Sri Lanka to a consignor or consignee, from the export of—

- (a) any precious stones or metals not mined in Sri Lanka ;
- (b) any petroleum, gas or petroleum products; or

- (c) such other products as may be approved by the Minister for the purposes of this paragraph, having regard to the foreign exchange benefits that are likely to accrue to the country from the export of such products,

being goods brought to Sri Lanka on a consignment basis, and re-exported without subjecting such goods to any process of manufacture, shall be liable to income tax at the appropriate rate specified in the Fifth Schedule to this Act.

43. The profits and income arising to any person from an undertaking approved by the Minister for the operation and maintenance of facilities for the storage of goods or commodities brought into Sri Lanka for re-export, shall be liable to income tax at the appropriate rate specified in the Fifth Schedule to this Act.

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

44. The profits of any person other than a unit trust or mutual fund, from the sale of any share or a right to any share or a share warrant shall, where such sale takes place within two years from the date of acquisition of such share, right to a share or a share warrant, be liable at the appropriate rate specified in the Fifth Schedule to this Act :

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

Provided that the provisions of this section shall not apply in relation to the sale of any share, if in respect of such sale the share transaction levy under section 7 of the Finance Act, No. 5 of 2005 has been paid.

For the purposes of this section the “profits”, includes gains and shall be computed, after deducting any expenditure allowable under section 25 directly related to the disposal of such shares and the cost of acquisition of such shares, from the sale proceeds, and shall be the net profit or gain for that year, after deducting losses incurred in the same year from the disposal of shares, rights or warrants, calculated in the same manner as mentioned above, had such loss been a profit

or gain would have been liable to tax under this paragraph, have been held for a period not exceeding twenty four months by such person, and in the event that the sale comprises shares of the same company, acquired on different dates, the cost of such shares or the period of ownership shall be determined on a first in first out basis of such shares. Any excess of such deductible loss over the profits or gain for any year may be carried forward to the succeeding year and so on, and deducted in computing the net profits or gains under this paragraph.

Rates of income tax on profits from certain undertakings carried on by a person other than a company.

45. (1) Where the taxable income of any person other than a company for any year of assessment includes any profits and income within the meaning of paragraph (a) of section 3 from any—

- (a) agricultural undertaking;
- (b) undertaking for the promotion of tourism ; or
- (c) undertaking for construction work ,

hereinafter in this section referred to as “specified profits”, such specified profits shall be chargeable with tax at the appropriate rate specified in the Fifth Schedule to this Act, notwithstanding anything to the contrary in any other provision of this Act.

(2) For the purposes of subsection (1)—

- (a) “agricultural undertaking” includes any undertaking for—
 - (i) fishing; and
 - (ii) provision of the services of management to any undertaking for cultivating land with plants of whatever description ;

- (b) profits and income from any agricultural undertaking means—
 - (i) in the case of an undertaking referred to in sub-paragraph (ii) of paragraph (a), the profits and income from fees for providing the services of management; and
 - (ii) in any other case, the profits and income from the sale of produce of such undertaking without subjecting such produce to any process of production or manufacture;
- (c) “undertaking for construction work” means an undertaking carried on by a resident person for the construction of any—
 - (i) building;
 - (ii) roads or bridges; or
 - (iii) water supply, drainage or sewerage system;
- (d) “undertaking for the promotion of tourism” means an undertaking for the operation of—
 - (i) any hotel or guest house approved by the Ceylon Tourist Board;
 - (ii) any restaurant graded by the Ceylon Tourist Board as being in “Class A” or “Class B”;
 - (iii) any business of travel agent;
 - (iv) any business of transporting tourists; or
 - (v) any business approved by the Ceylon Tourist Board for providing facilities for recreation or sports.

Rate of income tax on profits from certain undertakings carried on by a company.

46. (1) Where the taxable income of any company for any year of assessment includes any profits and income within the meaning of paragraph (a) of section 3 from any—

- (a) agricultural undertaking;
- (b) undertaking for the promotion of tourism; or
- (c) undertaking for construction work,

such part of such taxable income as consists of such profits and income shall, notwithstanding anything to the contrary in any other provision of this Chapter, or Chapter X, be chargeable with income tax at the appropriate rate specified in the Fifth Schedule to this Act.

(2) For the purposes of subsection (1), the expressions “agricultural undertaking”, “undertaking for the promotion of tourism”, the “profits and income from any agricultural undertaking” and “undertaking for construction work”, shall have the respective meanings assigned to them in section 45 of this Act.

Rate of income tax applicable to specialized housing banks.

47. (1) Where the taxable income of any company carrying on the business of a specialized housing bank for any year of assessment includes any profits and income within the meaning of paragraph (a) of section 3 from such business, such part of such taxable income as consists of such profits and income shall, notwithstanding anything to the contrary in this Act, be chargeable with income tax at the appropriate rate specified in the Fifth Schedule to this Act.

(2) For the purposes of this section “specialized housing bank” means a licensed commercial or specialized bank within the meaning of the Banking Act, No. 30 of 1988 and which is engaged in lending money only for activities relating to residential housing.

48. (1) The profits and income within the meaning of paragraph (a) of section 3 of any company referred to in section 18, or section 22 of this Act, for any year of assessment commencing after the expiry of the period during which the profits and income of such company are exempt from income tax shall, notwithstanding anything contained in this Act, be chargeable with income tax at the appropriate rate specified in the Fifth Schedule to this Act.

Rate of income tax applicable to certain companies after the expiry of tax exemption.

(2) The profits and income within the meaning of paragraph (a) of section 3 of any company referred to in section 17, or section 19, shall, notwithstanding anything to the contrary in this Act, for—

- (a) each of the two years of assessment immediately succeeding the period during which the profits and income of such company were exempt from income tax, be taxed at the rate of ten *per centum* ;
- (b) every year of assessment commencing after the expiry of the period referred to in paragraph (a)—
 - (i) if such company is a company engaged in agriculture or the export of non-traditional products, be taxed at fifteen *per centum*; and
 - (ii) if such company is a company other than a company engaged in agriculture or the export of non-traditional products, be taxed at twenty *per centum*.

49. Where the taxable income of any person other than a company for any year of assessment includes any dividend, being a dividend,—

Rate of income tax on dividends paid out of profits taxed in accordance with section 46.

- (a) out of profits and income referred to in section 46; or

- (b) paid out of any such dividend as is referred to in paragraph (a) received by any company directly from a company referred to in section 46 or through one or more intermediary companies, if the first mentioned dividend is paid during the year of assessment in which the profits and income referred to in section 46 arose or accrued or within two years from the end of that year of assessment,

then such part of such taxable income as consists of such dividend, shall be chargeable with income tax at the appropriate rate specified in the Fifth Schedule to this Act.

Rate of income tax on qualified export profits and income of person not being a company, who commenced to carry on any specified undertaking.

50. Where any person not being a company commences on or after November 10, 1993, to carry on any specified undertaking and the taxable income of that person for any year of assessment commencing prior to April 1, 2014 includes any qualified export profits and income, such income shall be chargeable with tax at the appropriate rate specified in the Fifth Schedule to this Act.

Rate of income tax on qualified export profits and income of a company which commenced to carry on any specified undertaking.

51. Where any company commences on or after November 10, 1993, to carry on any specified undertaking and the taxable income of that company for any year of assessment commencing prior to April 1, 2014 includes any qualified export profits and income, such part of the taxable income of that company for that year of assessment as consists of such qualified exports profits and income shall, notwithstanding anything to the contrary in this Act, be chargeable with income tax at the appropriate rate specified in the Fifth Schedule to this Act.

52. Where any company commenced prior to November 10, 1993, to carry on any specified undertaking and the taxable income of that company for any year of assessment commencing prior to April 1, 2015, includes any qualified export profits and income from such specified undertaking, such part of such taxable income as consists of such qualified export profits and income, shall, notwithstanding anything to the contrary in this Act, be chargeable with income tax at the appropriate rate specified in the Fifth Schedule to this Act.

Rate of income tax on qualified export profits and income of a company which carries on any specified undertaking.

53. (1) Where the taxable income of any person other than a company, for any year of assessment includes any dividend-

Rate of income tax on dividends out of exports profits and income.

(a) being a dividend out of-

- (i) export profits and income of any company referred to in section 32F of the Inland Revenue Act, No. 28 of 1979, paid during the period in which such profits and income are taxable at the rate of ten *per centum*, or within one year thereafter; or
- (ii) profits and income of any company which has entered into an agreement with the Board of Investment of Sri Lanka under section 17 of the Board of Investment of Sri Lanka Law, No. 4 of 1978, being profits and income in respect of which such company has, in lieu of the exemption granted to it under such agreement, opted to be charged with income tax at the rate of ten *per centum*, paid during the period for which such profits are so chargeable with income tax or within one year thereafter; or

(b) being a dividend paid by any company out of such dividend received by that company as is referred to in sub-paragraph (i) or sub-paragraph (ii) of paragraph (a), if the first mentioned dividend is paid

during any year of assessment in which the second mentioned dividend was received by that company, or within one year thereafter; or

- (c) being dividend out of any such dividend as is referred to in sub-paragraph (i) or sub-paragraph (ii) of paragraph (a) received by any company through one or more intermediary companies, during the period for which the profits income out of which the dividends referred to in sub-paragraph (i) or sub-paragraph (ii) of paragraph (a) are paid are taxable at the rate of ten *per centum* or within two years thereafter, if the first-mentioned dividend is paid during the year of assessment in which the second mentioned dividend was received by that company or within one year thereafter,

such part of such taxable income as consists of such dividend, shall be chargeable with tax at the appropriate rate specified in the Fifth Schedule to this Act.

(2) Where the taxable income of any person other than a company for any year of assessment includes any dividend—

- (a) being a dividend out of the qualified export profits and income of a company—
 - (i) referred to in section 51 or section 52 or the profits and income referred to in section 56 paid during the period in which such profits and income are taxable at the rate of fifteen *per centum* or within one year thereafter,
 - (ii) which has entered into an agreement with the Board of Investment of Sri Lanka under section 17 of the Board of Investment of Sri Lanka Law, No. 4 of 1978, being an agreement entered into prior to December 31, 1994, on an application made in that behalf prior to

November 11, 1993, being profits and income in respect of which such company has paid income tax at the rate of fifteen *per centum* paid during the period in which such profits and income are chargeable with income tax at the rate of fifteen *per centum* or within one year thereafter ;

- (b) being a dividend paid by any company out of such dividend received by that company as is referred to in subparagraph (i) or subparagraph (ii) of paragraph (a), if the first-mentioned dividend is paid during any year of assessment in which the second mentioned dividend was received by that company or within one year thereafter; or
- (c) being a dividend out of any such dividend as is referred to in sub-paragraph (i) or sub-paragraph (ii) of paragraph (a), received by any company during the period for which the profits and income out of which such dividends are paid are taxable at the rate of fifteen *per centum* or within two years thereafter, if the first mentioned dividend is paid during the year of assessment in which the second mentioned dividend was received by that company or within one year thereafter,

such part of such taxable income as consists of such dividend, shall be chargeable with tax at the appropriate rate specified in the Fifth Schedule to this Act.

(3) Subject to the provisions of section 63, where the taxable income of any company includes any dividend referred to in subsection (1) or subsection (2), the rate of income tax applicable to such part of such taxable income as consists of such dividend, shall be fifteen *per centum*.

54. Where the taxable income of any person (other than a company) for any year of assessment includes a dividend, other than any dividend exempt from income tax as referred to in paragraph (a), of sub section (1) of section 10 :—

Rate of
income tax
on certain
dividends.

- (a) not in the form of money or an order to pay money;
- (b) in the form of money or an order to pay money, out of income exempt from tax or not chargeable with tax; or
- (c) out of dividends received from another company where such dividends is not exempt from income tax under section 10, without a deduction of tax under subsection (1) of section 65, irrespective of whether such company is entitled to deduct such tax or not,

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

Rate of income tax on dividend received from outside Sri Lanka.

55. Where the taxable income of any person for any year of assessment includes a dividend received from outside Sri Lanka, such part of such taxable income as consists of such dividend, shall be charged with tax at the appropriate rate as specified in the Fifth Schedule to this Act, subject to the provisions of any agreement for the avoidance of double taxation.

Rate of income tax on deemed exports of any person or partnership.

56. (1) Where any person or partnership who or which carries on any undertaking for the production or manufacture and supply to any specified undertaking referred to in subparagraph (i) of paragraph (c) of section 60—

- (a) of any commodity, other than black tea in bulk, crepe rubber, sheet rubber, scrap rubber, latex or fresh coconut, for export by such specified undertaking without further production or manufacture by such specified undertaking; or
- (b) of any goods for the production, manufacture or packaging by such specified undertaking of any commodity for export by such specified undertaking,

the profits and income from such supply being profits and income within the meaning of paragraph (a) of section 3 other than any profits and income from the sale of capital assets, shall be chargeable with income tax in accordance with the succeeding provision of this section.

(2) Where any person referred to in sub section (1) is a company (including a company being a partner of any such partnership) and the taxable income of such company for any year of assessment includes profits and income referred to in such subsection, then such company shall be chargeable with income tax at the rate of fifteen *per centum* in respect of such profits and income.

(3) Where any person referred to in sub section (1) is an individual (including an individual being a partner of such partnership) and the taxable income of such individual for any year of assessment includes profits and income referred to in such subsection and the rate of income tax payable on a part of such income (hereinafter in this section referred to as the “relevant part of income”) exceeds fifteen *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 such profits and income—
 - (i) the tax payable on such part of the relevant part of the income as is equal to the amount of such profits and income shall be at the rate of fifteen *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 above fifteen *per centum* as are applicable thereto under this Act ; and
- (b) if the relevant part of the income does not exceed the amount of such profits and income, the tax payable on the entirety of the relevant part of the income shall be at the rate of fifteen *per centum*, notwithstanding anything to the contrary in this Act.

(4) The provisions of subsections (1), (2) and (3) shall apply if the supply referred to therein—

(a) is made during the period for which—

- (i) the taxable income of the person who, or of any partner of a partnership which, carried on the specified undertaking referred to in subsection (1) is chargeable with income tax in accordance with the provisions of this Chapter; or
- (ii) the export profits and income of the specified undertaking referred to in subsection (1) are exempt from income tax, under paragraph (b) of subsection (1) of section 20 of the Inland Revenue Act, No. 28 of 1979 or in terms of an agreement entered into by such specified undertaking with the Board of Investment of Sri Lanka under section 17 of the Board of Investment of Sri Lanka Law, No. 4 of 1978; and

(b) is a supply in respect of which such documentary evidence as is required to satisfy the Commissioner General that the exports relating to such supply were in fact made, is adduced.

Rate of
income tax on
profits and
income from
services
rendered
outside Sri
Lanka by any
resident
company or
partnership.

57. The profits and income earned in foreign currency by any company resident in Sri Lanka from services rendered in Sri Lanka to any person or partnership outside Sri Lanka, being services rendered in the course of carrying on or exercising any profession shall, if such profits and income are remitted to such company through a bank in Sri Lanka, be chargeable with income tax at the appropriate rate specified in the Fifth Schedule to this Act.

58. Such part of the profits and income within the meaning of paragraph (a) of section 3, of any garment manufacturer approved by the Textile Quota Board, as consists of profits and income from the supply to any exporter registered with the Textile Quota Board, of the services of sewing any garment, assembly of any garment or any other service which results in the improvement of the value of any garment, made from fabric supplied to such manufacturer by such exporter and exported by such exporter either directly or through any export trading house which has entered into an agreement with the Board of Investment of Sri Lanka under section 17 of the Board of Investment of Sri Lanka Law No. 4 of 1978 shall, notwithstanding anything to the contrary in any other provision of this Act, be chargeable with income tax at the appropriate rate specified in the Fifth schedule to this Act, if —

Rate of tax on profits and income from the supply of certain services to garment exporters.

- (a) such supply is covered by a letter of credit opened in a bank in Sri Lanka on a back to back basis against an international letter of credit for the remittance to Sri Lanka of the foreign exchange value of the exports related to such supply, or
- (b) (i) the payment of the consideration for such supply is made in foreign currency by means of a draft or telegraphic transfer made in favour of such manufacturer by such exporter ; and
- (ii) such other documentary evidence as is required by the Commissioner-General to satisfy himself that the garments relating to such supply have in fact been exported, is adduced.

For the purposes of this section “Textile Quota Board” means the Textile Quota Board established under the Textile Quota Board Act, No. 33 of 1996.

Rate of tax on profits from transshipment agency fees.

59. (1) The profits and income of any agent of any non-resident person carrying on the business of ship owner or charterer, attributable to the agency fees payable to such agent in foreign currency in consideration of services rendered to such non-resident person in connection with any transshipment activity carried on by such non-resident person, shall, where such agent is an agent approved by the Director of Merchant Shipping, be chargeable with income tax at the appropriate rate specified in the Fifth Schedule to this Act.

(2) For the purposes of subsection (1), the profits and income attributable to agency fees in relation to any agent referred to in subsection (1) and to any year of assessment, shall be the sum which bears to the agency fee referred to in subsection (1) and which accrued to such agent in such year of assessment, the same proportion, as the proportion which the statutory income of such agent from the business of shipping agent bears to the total receipts from such business of shipping agent.

Interpretation.

60. For the purposes of this Chapter—

- (a) “export turnover” in relation to any specified undertaking means the total amount receivable, whether, received or not, by that undertaking from the export of goods or commodities or from the provision of any service referred to sub-paragraph (ii) of paragraph (c), but does not include—
 - (i) any amount receivable, whether received or not, from the export of gems or jewellery or from the sale of any capital asset;
 - (ii) any amount receivable, whether received or not—from the export of black tea in bulk, crepe rubber, sheet rubber, scrap rubber, latex or fresh coconuts; or
 - (iii) any profits and income not being profits and income within the meaning of paragraph (a) of section 3;

- (b) “qualified export profits and income” in relation to any person, means the sum which bears to the profits and income within the meaning of paragraph (a) of section 3, after excluding therefrom any profits and income from the sale of gems and jewellery and any profits and income from the sale of capital assets, for that year of assessment from any specified undertaking carried on by such person, ascertained in accordance with the provisions of this Act, the same proportion as the export turnover of that undertaking for that year of assessment bears to the total turnover of that undertaking for that year of assessment;
- (c) “specified undertaking” means any undertaking which is engaged in—
 - (i) the export of non-traditional goods manufactured, produced or purchased by such undertaking; or
 - (ii) the performance of any service of ship repair, ship breaking repair and refurbishment of marine cargo containers, provision of computer software, computer programmes, computer systems or recording computer data, or such other services as may be specified by the Minister by Notice published in the Gazette, for payment in foreign currency; and
- (d) “total turnover” in relation to any specified undertaking means the total amount receivable, whether received or not, by that undertaking from any trade or business carried on by that undertaking, but does not include any amount receivable, whether received or not, from the sale of capital assets, gems or jewellery or any profits and income not being profits and income within the meaning of paragraph (a) of section 3.

For the purposes of this section the expression “non-traditional goods” means goods other than black tea in bulk, crepe rubber, sheet rubber, scrap rubber, latex or fresh coconuts or any other produce referred to in section 16.

CHAPTER X

COMPANIES

Income tax to which any resident company is liable.

61. (1) The income tax to which any company resident in Sri Lanka in any year of assessment shall be liable for that year of assessment, shall consist of an amount—

- (a) calculated on the taxable income of such company for that year of assessment at the appropriate rate specified in the Second Schedule to this Act ;
- (b) equal to ten *per centum* of the aggregate amount of the gross dividends distributed by such company, not being a unit trust or mutual fund approved by the Securities and Exchange Commission of Sri Lanka, in that year of assessment out of the profits for any year of assessment, other than any such dividends distributed—
 - (i) to any company or other body of persons who or which is exempt from income tax under paragraph (a) or paragraph (c) of section 7;
 - (ii) to any unit trust or mutual fund approved by the Securities and Exchange Commission of Sri Lanka ;
 - (iii) to any shareholder who is exempt from income tax under section 10, in respect of such dividend; or
 - (iv) out of any dividend received from another resident company.

- (c) in the case of any public corporation not less than seventy-five *per centum* of the capital of which is provided by the Government other than by way of loan, an amount equal to twenty-five *per centum* of the balance of its profits after deducting therefrom the income tax payable for that year of assessment under paragraph (a) :

Provided that where the aggregate amount of any gross dividend distributed in that year of assessment out of the profits on which the taxable income of such corporation is computed for any year of assessment—

- (i) is not less than twenty-five *per centum* of such balance, the provisions of this paragraph shall not apply; and
- (ii) is less than twenty-five *per centum* of such balance, the tax to which such public corporation is liable under this paragraph, for that year of assessment, shall be an amount equal to the excess of twenty-five *per centum* of such balance over such amount of such dividend.

For the purposes of this paragraph, the profits of the Insurance Corporation Limited of Sri Lanka shall be deemed not to include its profits from the business of life insurance ;

- (d) in the case of any company liable to pay tax under paragraph (a) of this subsection at a rate not less than thirty *per centum* for any year of assessment an amount equal to two and one half *per centum* of the taxable income of such company and such tax to be credited to the Human Resources Endowment Fund established by the Government:

Provided however, such amount of tax shall be credited to the Consolidated Fund, pending the establishment of the Human Resources Endowment Fund.

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

Income tax to which any non-resident company is liable.

62. (1) The income tax to which a company which is not resident in Sri Lanka in any year of assessment, shall be liable for that year of assessment shall consist of—

- (a) a sum equal to the amount calculated at the rate specified in the Second Schedule to this Act ;
- (b) where there are remittances of such company in that year of assessment, a sum equal to ten *per centum* of the aggregate amount of such remittances by such company.

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

- (a) sums remitted or retained abroad out of the profits and income chargeable with income tax of the company and any sum received outside Sri Lanka by or on behalf of such company in relation to any trade, business, profession or vocation carried out in Sri Lanka by such company, the profits of which are chargeable with income tax in Sri Lanka, such sums not including any dividend paid by a resident company to such non resident 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 84 to be derived from Sri Lanka as is retained abroad.

63. Where a dividend is paid by any resident company to any resident or non-resident company, and either—

Certain dividends not to form part of the assessable income of the receiving company.

- (a) a deduction has been made under section 65 in respect of that dividend by the first mentioned resident company ;
- (b) that dividend is exempt from income tax under section 10 ; or
- (c) such dividend consists of any part of the amount of a dividend received by the first-mentioned resident company from another resident company,

such dividend shall, notwithstanding anything to the contrary in any other provision of this Act, be deemed not to form part of the total statutory income of the second mentioned company.

64. The profits of a company from transactions with its shareholders which would be assessable if such transactions were with persons other than its shareholders, shall be profits within the meaning of this Act.

Profits of a company from transactions with its shareholders.

65. (1) Every resident company, other than a unit trust or mutual fund approved by the Securities and Exchange Commission of Sri Lanka, shall deduct from the amount of gross dividend payable to any shareholder, other than—

Resident company entitled to deduct tax from any dividend.

- (a) any company or body of persons which is exempt from income tax under paragraph (a) or paragraph (c) of section 7;

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

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

Provided however, income tax under this subsection, shall be deducted from the amount of any gross dividend payable out of profits and income of such company, whether such profits and income are chargeable with income tax or not, excluding any dividend received from another company after deduction of income tax under subsection (1) or under this subsection, and any dividend which is exempt under section 10.

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

(2) 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, shall annex thereto a statement in such form as may be specified by the Commissioner-General setting out—

- (a) the gross amount which after deduction of income tax thereon, corresponds to the net amount actually paid;
- (b) the sum deducted as income tax;
- (c) the net amount actually paid;
- (d) the composition of the gross dividend indicating separately the amount paid out of—
 - (i) exempt dividends received;

- (ii) other dividends received ;
- (iii) income exempt from or not chargeable with income tax;
- (iv) other profits and income.

(3) Where for any year of assessment the assessable income of a person other than a company includes a dividend from a resident company in the form of shares or debentures, he shall be entitled to deduct from the tax payable by him an amount equal to an amount which the company would have been entitled under subsection (1) to deduct as tax on such dividend, had such dividend been paid in the form of cash.

66. (1) Where in the case of a company the Assessor is satisfied that the company has not distributed to its shareholders a reasonable part of its profits for any year of assessment, the Assessor may, subject to the provisions of subsections (2), (3) and (4) of this section, treat the whole or a part of the profits of the company, after deducting therefrom any expenditure incurred for the development of the business of the company, (other than the price paid for the purchase of an existing business or an agricultural undertaking), as distributed in the form of dividends to the shareholders of the company, on a date specified by the Assessor.

Certain undistributed profits to be treated as distributed.

(2) In determining under subsection (1) whether a company has not distributed to its shareholders a reasonable part of its profits, the Assessor shall have regard to—

- (a) the total amount of its profits;
- (b) the additional assessments, if any, made on the company;
- (c) the current requirements of the company's business; and

- (d) such other requirements as may be necessary or advisable for the maintenance and development of the company's business.

(3) For the purposes of subsection (1), any of the following sums shall be regarded as profits available for distribution among the shareholders of the company, and not as having been applied or being applicable to the requirements of the company's business or to such other requirements as may be necessary or advisable for the maintenance and development of that business, namely—

- (a) any sum expended or applied, or intended to be expended or applied, out of the profits of the company, in the redemption or repayment of any share or loan capital or debt (including any premium on such share or loan capital or debt) issued or incurred otherwise than for adequate consideration;
- (b) any sum lent to a director or shareholder of the company; and
- (c) any sum expended or applied, or intended to be expended or applied, in pursuance or in consequence of any fictitious or artificial transactions.

(4) For the purpose of subsection (3), any share or loan capital or debt shall be deemed to be issued or incurred otherwise than for adequate consideration, if it is issued or incurred—

- (a) for a consideration the value of which to the company is substantially less than the amount of the capital or debt (including any premium thereon); or
- (b) in or towards, or for the purpose of raising money applied or to be applied in or towards, the redemption

or repayment of any share or loan capital or debt which itself was issued or incurred for such consideration as is mentioned in paragraph (a) or which represents directly or indirectly, any share or loan capital or debt which itself was issued or incurred for such consideration,

and references in this subsection and in subsection (3) to money applied or to be applied for any purposes, shall be deemed to include references to money applied or to be applied in or towards the replacement of that money.

(5) Where the Assessor under subsection (1) treats the whole or part of the profits of the company for any year of assessment as distributed in the form of dividends to shareholders of the company, such company shall be liable to pay income tax for that year of assessment on the profits treated as so distributed, at the highest rate at which income tax is chargeable for that year upon the taxable income of an individual, and such tax shall—

- (a) be in addition to and not in lieu of any income tax payable by that company under any other provision of this Act ; and
- (b) be assessed and charged upon such company by an Assessor, and the provisions relating to payment and recovery shall apply accordingly.

(6) Where a company referred to in subsection (1) is being wound up in pursuance of an order made by a court or a resolution passed in that behalf by the shareholders of the company, then the balance of the income after payment of income tax in the year of assessment in which such winding up commences and for each subsequent year of assessment until such winding-up is completed, shall be regarded as income distributed as dividends to such shareholders.

Provisions applicable where the profits and income of a company are appropriated by the director & c. of that company.

67. Where the profits and income of a company for any year of assessment or any part of such profits and income are appropriated by any director, manager, shareholder or executive officer of that company, such profits and income or such part of such profits and income shall form part of the profits and income for that year of assessment of the person by whom such profits or income or part thereof are appropriated and shall be assessable accordingly and, the Commissioner-General may, taking into account all the circumstances of the case, deduct such profits and income or part thereof under subsection (1) of section 25 for the purpose of ascertaining the profits and income of that company for that year of assessment.

Provisions of this Chapter not to apply to charitable institutions etc.

68. The provisions of this Chapter shall not apply to, any charitable institution or any body of persons which is a body corporate and assessable under section 101.

CHAPTER XI

SPECIAL CASES

A – CHILDREN

Assessment of child's income.

69. (1) Where during any year of assessment an individual who is a child reaches the age of eighteen or marries, then for that year of assessment—

- (a) the total statutory income of that individual shall not be aggregated with and deemed to form part of the total statutory income of his parent;
- (b) any sum which could be deducted from the total statutory income of that individual under section 32 shall not be deducted from the total statutory income of his parent;
- (c) any qualifying payment within the meaning of section 34 made by that individual shall not be deemed to be a qualifying payment made by his parent,

and such child shall be liable to pay income tax for that year of assessment calculated as though he was an individual who is not a child throughout that year of assessment.

(2) Where during any year of assessment the marriage of the parents of a child ceases to subsist or is deemed not to subsist—

- (a) the total statutory income of that child for that year of assessment shall be aggregated with and deemed to be part of the total statutory income of his father;
- (b) any sum which could be deducted for that year of assessment from the total statutory income of that child under section 32, shall be deducted from the total statutory income of his father;
- (c) any qualifying payment within the meaning of section 34 made by that child in that year of assessment shall be deemed to be a qualifying payment made by his father.

(3) For the purposes of subsection (2), a marriage shall not be deemed to subsist if the wife is living apart from her husband under the decree of a competent court or a duly executed deed of separation, or if the husband and wife are in fact separated in such circumstances that the separation is likely to be permanent.

B-RECEIVER, TRUSTEE, EXECUTOR, &C.,

70. (1) An Assessor may give notice in writing to a receiver or trustee requiring him to furnish within the period specified in the notice, in the case of a—

- (a) receiver, a return for the purposes of income tax, of the income from the properties under his control;
- (b) trustee, a return for the purposes of income tax, of the income from the properties subject to the trust,

Returns to be furnished by receiver and trustee and their liability to tax.

and a receiver or trustee shall be chargeable with income tax, in the case of a—

- (i) receiver, on the income of the properties subject to his control; and
- (ii) trustee, subject to the provisions of subsection (2), on the income of the properties of the trust.

(2) Where there are any beneficiaries to a trust the income of which is liable to income tax under subsection (1), then the share of the income to which such beneficiaries are entitled shall be deducted from the amount of the income which is liable to tax under subsection (1), and shall be considered for the purposes of this Act, as the income of such beneficiaries and accordingly each such beneficiary shall be chargeable with income tax in respect of his share of such income.

(3) Where, for any year of assessment, the entirety or any part of the income of a trust is considered under subsection (2), to be the income of a beneficiary the trustee shall, on or before the thirtieth day respectively of July, October and January of that year of assessment and on or before the thirtieth day of April of the immediately succeeding year of assessment, give to that beneficiary in such form as may be specified by the Commissioner-General, a notice stating the amount of such income.

(4) The income tax with which a receiver or a trustee is chargeable for any year of assessment shall be paid by him in accordance with the provisions of section 114, notwithstanding that no assessment has been made on him.

(5) For the purpose of this section, the term “trust” shall not include any unit trust, and the term “trustee” shall not include any trustee of any unit trust.

71. The trustee of an incapacitated person shall be chargeable with income tax in like manner and to the like amount as such person would be chargeable under this Act:

Chargeability to tax of trustee of an incapacitated person.

Provided that nothing in the preceding provisions of this section shall be deemed to prevent such person from being assessed directly in his own name.

72. An executor of a deceased person shall be liable to do all such acts, matters and things as such deceased person would be liable to do under this Act if he were alive, and shall be chargeable with income tax, with which such deceased person would be chargeable if he were alive in respect of all periods prior to the date of the death of such person:

Liability of executor to tax payable by deceased person.

Provided that—

- (a) no proceedings shall be instituted against the executor under the provisions of Chapter XXIX of this Act, in respect of any act or default of the deceased person;
- (b) no assessment or additional assessment in respect of a period prior to the date of such person's death shall be made after the expiry of the third year of assessment subsequent to the year of assessment in which probate or letters of administration, as the case may be, was issued to the executor in respect of the estate of such person, except where there has been non-assessment or under-assessment by reason of fraud or wilful evasion by such person, or by reason of an incorrect statement by the executor of his estate, in which case an assessment or additional assessment may be made at any time after the expiry of the aforesaid third year of assessment; and
- (c) the liability of an executor under this section shall be limited to the aggregate of—
 - (i) the deceased person's estate in his possession or control at the date when notice is given to

him that liability to tax will arise under this section ; and

- (ii) any part of the estate which may have passed to a heir or other person having any interest in such estate.

Return to be furnished by executor and chargeability of an executor and beneficiary.

73. (1) An Assessor may give notice in writing to the executor of a deceased person requiring him to furnish within the period specified in such notice a return for the purposes of income tax, of the income from the estate administered by him and the name and address of each heir and other person having any interest in the estate of the deceased person (such heir or other person hereinafter referred to as a “beneficiary”) and his interest in such estate.

(2) A beneficiary shall, subject to the provisions of subsection (4), be chargeable with income tax in respect of his share of the income to which he is entitled from the estate of the deceased person.

(3) Where, for any year of assessment, a beneficiary is chargeable with income tax under subsection (2) in respect of his share of the income to which he is entitled from the estate of a deceased person, the executor of that estate shall, on or before the thirtieth day of July, October and January of that year of assessment and of April of the succeeding year of assessment, give to the beneficiary in such form as may be specified by the Commissioner-General, a notice stating the amount of such income and such notice shall contain the particulars required to be set out in such form.

(4) Where the income to which a beneficiary is entitled from the estate of a deceased person cannot be ascertained, the executor shall be chargeable with income tax in respect of such income.

(5) The income tax with which an executor is chargeable under this Act for any year of assessment shall be paid by him in accordance with the provisions of section 114, notwithstanding that no assessment has been made on him.

74. Where two or more persons act in the capacity of trustees of a trust not being any unit trust, or executors of a deceased person's estate, they may be charged jointly or severally with the income tax with which they are chargeable in that capacity under this Act, and shall be jointly and severally liable for payment of such taxes.

Joint trustees
and executors.

C-UNIT TRUSTS

75. (1) For the purposes of this Act, every unit trust and every mutual fund shall be deemed to be a company resident in Sri Lanka and accordingly the provisions of this Act, relating to companies resident in Sri Lanka shall, *mutatis mutandis*, apply to every unit trust and every mutual fund.

Every unit trust
deemed to be a
company.

(2) Without prejudice to the generality of the provisions of subsection (1)–

- (a) a “unit” in any unit trust or a mutual fund shall be deemed to be a “share” in that company;
- (b) a unit holder in any unit trust or mutual fund shall be deemed to be a shareholder in that company;
- (c) the profits and income derived by or which arose or accrued to the benefit of, the trustee of any unit trust or the custodian of any mutual fund from any property subject to that unit trust or mutual fund or from any trade or business carried on by such trustee or such custodian for, or on behalf of, that unit trust or mutual fund shall be deemed to be the profits and income of that company;
- (d) any distribution, in any manner whatsoever, of the profits or income of any unit trust or mutual fund to its unit holders shall be deemed to be a dividend distributed to the shareholders of that company; and

- (e) the paid up value of any unit in any unit trust or mutual fund shall be deemed to be the paid up value of any share in that company.

(3) Any sum appropriated or paid by way of remuneration to the manager or the trustee of any unit trust or to the manager or custodian of any mutual fund out of the funds of that unit trust or mutual fund shall, for the purposes of section 25 be deemed to be outgoings and expenses incurred by that company in the production of its income.

(4) Such part of the taxable income of any unit trust or mutual fund as consists of profits and income from the business of dealing in shares or debt instruments in accordance with the Securities and Exchange Commission of Sri Lanka Act, No. 36 of 1987 or any regulations or rules made thereunder, shall be chargeable with income tax at the rate specified in item 2 (a) of part A of the Second Schedule to this Act.

D-PARTNERSHIPS

Assessment of
partnership
income.

76. (1) Where a trade, business, profession or vocation is carried on or exercised by two or more persons in partnership, the provisions of the following subsections shall apply.

(2) The divisible profit or loss of a partnership for any year of assessment shall be the profit or loss of the partnership from any trade, business, profession or vocation carried on or exercised by such partnership during that year of assessment, ascertained in accordance with the provisions of this Act, relating to the ascertainment of profits and income of a person, after deducting from the total of such profit or adding to the total of such loss, as the case may be, the amount of any interest, annuity, ground rent or royalty (except where it is payable by a person out of Sri Lanka) payable by the partnership:

Provided that, in ascertaining the profit or loss of the partnership, nothing shall be deducted for salaries or other remuneration of partners or for interest on partner's capital, but such sums shall be taken into account in apportioning among the partners the divisible profit or loss.

(3) A Deputy Commissioner may give notice in writing to the precedent partner of a partnership requiring him to furnish within the time specified in such notice a return, showing—

- (a) the profits or losses of the partnership from any trade, business, profession or vocation carried on or exercised by such partnership during any year of assessment ascertained in accordance with the provisions of this Act relating to the ascertainment of profits and income of a person, and showing also any interest, annuity, ground rent or royalty payable by such partnership in respect of such trade, business, profession or vocation for that year of assessment;
- (b) any other income of the partnership for that year of assessment; and
- (c) the names and addresses of all the partners and the apportionment among them of the whole of the divisible profit or loss and other income in accordance with their shares in the partnership during the period in which such profit or loss or income arose, taking into account in such apportionment the salaries and other remuneration of partners and any interest on partners' capital. Where no active partner is resident in Sri Lanka, the return shall be furnished by the agent in Sri Lanka of the partnership.

(4) The precedent partner of a partnership or where no active partner is resident in Sri Lanka the agent in Sri Lanka of such partnership shall, in respect of any year of assessment,

issue to each partner of that partnership on or before the thirty first day of July, October and January of that year of assessment and the thirtieth day of April immediately succeeding the end of that year of assessment, a notice in such form as may be specified by the Commissioner-General specifying each partner's share of the divisible profit or loss and other income of the partnership for that year of assessment, taking into account any salary and other remuneration of that partner and any interest on the partner's capital:

Provided that the liability of, or duty imposed on, any partner of such partnership by or under any of the provisions of this Act, shall not be affected by reason of the fact that no notice under this subsection was issued to him by the precedent partner or the agent of that partnership.

(5) The statutory income of any partner from a partnership shall be computed in accordance with the provisions of section 28 by treating his share of the divisible profit of the partnership as though it were the profits of a trade, business, profession or vocation carried on or exercised by him and his share of other income as though it accrued to him solely and the share of any partner of a divisible loss shall be treated as a loss incurred by him within the meaning of section 32:

Provided that where no return has been made as required by subsection (3) or a return made under that subsection has not been accepted, the Assessor may estimate the statutory income of any partner, from the partnership or the share of any partner of any divisible loss of the partnership to the best of his judgement:

Provided further that where the Assessor is of the opinion that the whole or a part of the divisible profit of the partnership has been appropriated by a partner, the Assessor may include in that partner's share of the divisible profits of the partnership, the amount appropriated by that partner and the statutory income of such partner shall be computed accordingly.

(6) The income of any non-resident partner or partners from the partnership shall be assessable in the name of the partnership or of any resident partner or of any agent in Sri Lanka of the non-resident partner or of the partnership, and the income tax charged thereon shall be recoverable in the manner provided in Chapter XXVI, out of the assets of the partnership, or from any partner, or from any such agent.

77. (1) Where no return has been made in accordance with subsection (3) of section 76 or the return has not been accepted by the Assessor, either as regards the amount of the profits or income or the apportionment thereof among the partners, it shall be lawful for an assessment to be made in the name of the partnership on the estimated amount of the profits and income of the partnership ascertained in accordance with the provisions of this Act relating to the ascertainment of the assessable income of a person, and income tax thereon shall be charged at such rate or rates as may be specified in that behalf in the Third Schedule to this Act, and shall be recoverable out of the assets of the partnership, or from any partner, or from any agent of the partnership. Any person aggrieved by such assessment may appeal therefrom in the manner provided in Chapter XXIII. The commissioner-General or the Board of Review, as the case may be, may upon such appeal, determine the divisible profits and other income of the partnership and apportion the same among the partners and compute the statutory income of each of the partners from the partnership in accordance with subsection (5) section 76 and the income tax payable in respect thereof. Such income tax may be recovered as tax on the assessment appealed against without any new assessment.

Assessment to be made in the name of the partnership in certain circumstances.

(2) Where after an assessment has been made in the name of a partnership under subsection (1), a change occurs in such partnership by reason of the retirement or death of, or the dissolution of the partnership in relation to, one or more of the partners, or the admission of a new partner, so however, that one or more of the persons who were joint owners of the assets of such partnership prior to such assessment continues

or continued to be owner or joint owners of such assets, the person or partnership becoming owner of such assets, in consequence of such change shall be charged with the income tax or any part of it which remains unpaid on that assessment and the provisions of Chapter XXVI shall apply to such persons or partnership accordingly.

Tax chargeable
on partnerships.

78. (1) Notwithstanding the provisions contained in section 77, every partnership shall be charged with income tax on the aggregated amount of the divisible profits as referred to in section 76 and other income, at the appropriate rate given in the Fifth Schedule to this Act, for each year of assessment and such tax shall be paid by the partnership in quarterly instalments as provided for in Chapter XIII, subject to the provisions of this section:

Provided that for any year of assessment income tax referred to in sub section (1) of this section shall not apply, if the Economic Service Charge paid under the Finance Act No.11 of 2004 is more than the income tax payable under the provisions of this subsection :

Provided further if the income tax payable under subsection (1) is more than the Economic Service Charge paid under Finance Act No.11 of 2004, the amount of income tax payable shall be reduced by the Economic Service Charge paid for the same year of assessment.

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

(3) Notwithstanding anything to the contrary in any other provision of this Act, the share of the tax paid (other than any tax in default recovered) under subsection (1), less any amount set off against the Economic Service Charge levied

under the Finance Act No.11 of 2004 paid by the partnership for that year that is attributable to each partner using the profit sharing ratio of the partnership for that year of assessment, may be set off against the income tax liability of such partner of such partnership for the same year of assessment on such share of profit and other income from such partnership, without any right to a refund or carry forward of any excess of such share of tax attributable to such partner.

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

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

(5) For the purpose of sections 76, 77 and this section, the word “person” referred to in those sections, shall be read and construed as including a partnership.

E – RESIDENCE

79. (1) Where a company or a body of persons has its registered or principal office in Sri Lanka, or where the control and management of its business are exercised in Sri Lanka, such company or body of persons shall be deemed to be resident in Sri Lanka for the purposes of this Act.

What constitutes residence.

(2) An individual who is physically present in Sri Lanka for one hundred and eighty three days or more during any year of assessment, shall be deemed to be resident in Sri Lanka throughout that year of assessment.

(3) An individual who has been deemed resident for two or more consecutive years of assessment shall be deemed to be resident until such time as he is continuously absent from Sri Lanka for an unbroken period of three hundred and sixty five days. When such person is so absent, he shall notwithstanding the provisions of subsection (2), be deemed to be non-resident from the commencement of the year of assessment in which such absence commences.

(4) Where, but for his presence in Sri Lanka for any period or periods not exceeding in the aggregate of thirty days, a person would have been deemed under subsection (3) to have been non-resident, such period or periods not exceeding in the aggregate of thirty days shall be treated as if it or they had been spent by him outside Sri Lanka.

(5) An individual who is in the employment of the Government of Sri Lanka and who is resident in any other country during any period for the purposes of such employment and the spouse of such individual shall, for the purposes of this Act, be deemed to be resident in Sri Lanka during that period, if income tax or any tax of a similar character is not payable in that country in respect of the official emoluments payable to him for such period:

Provided that any such individual who is a citizen or subject of any country other than Sri Lanka shall not, by reason of his being so deemed to be resident in Sri Lanka, be liable to income tax as a resident in respect of any income, other than his official emoluments or other income arising in or derived from Sri Lanka.

(6) An individual who is employed in a Sri Lanka ship, within the meaning of the Merchant Shipping Act, shall for the purposes of this Act, be deemed to be resident in Sri Lanka during the period he is so employed:

Provided that where any such individual is a citizen or subject of any country other than Sri Lanka, he shall not, by reason of his being so deemed to be resident in Sri Lanka, be

liable to income tax as a resident in respect of any income other than his income from employment in such ship.

(7) An individual who is not a citizen of Sri Lanka and who is employed in Sri Lanka shall, notwithstanding the provisions of the preceding subsections, be deemed to be non-resident for a period of three years calculated from the date on which he commences employment in Sri Lanka:

Provided that where such individual is an individual employed in a flagship company within the meaning of subsection (2) of section 40 such individual shall be deemed to be non-resident for a period of five years calculated from the date on which he commences employment in Sri Lanka.

F – LIABILITY OF NON-RESIDENT PERSONS

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

Chargeability of certain profits of non resident persons.

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

- (a) whole sale, be deemed to be not more than the profits which might reasonably be expected to be made by a merchant selling the property by wholesale; and

- (b) retail, be deemed to be not more than the profits which might reasonably be expected to be made by a merchant selling the property by retail.

Persons
assessable on
behalf of a non-
resident person.

81. A non-resident person shall be assessable either directly or in the name of his agent in respect of all his profits and income arising in or derived from Sri Lanka, whether such agent has the receipt of the profits or income or not, and the income tax so assessed whether directly or in the name of the agent shall be recoverable in the manner provided for in this Act, out of the assets of the non-resident person or from the agent. Where there are more agents than one, for they may be assessed jointly or severally in respect of the profits and income of the non-resident person and shall be jointly and severally liable for income tax thereon.

Liability of
certain non-
resident persons.

82. (1) For the purposes of this section—

- (a) a person is closely connected with another person, where the Commissioner-General is satisfied that such persons are substantially identical or that the ultimate controlling interest of each is owned or deemed under this section to be owned by the same person or persons;
- (b) the controlling interest of a company shall be deemed to be owned by the beneficial owners of its shares, whether held directly or through nominees, and shares in one company held by or on behalf of another company shall be deemed to be held by the shareholders of the last-mentioned company.

(2) Where a non-resident person carries on business with a resident person with whom he is closely connected and the course of such business is so arranged that it produces to the resident person either no profits or less than the ordinary profits which might be expected to arise from such business, the business done by the non-resident person in pursuance of his connection with the resident person shall be deemed to be carried on in Sri Lanka, and such non-resident person

shall be assessable and chargeable with income tax in respect of his profits from such business in the name of the resident person, as if the resident person were his agent, and all the provisions of this Act shall apply accordingly.

(3) Where income tax is chargeable in respect of the profits arising from the sale of goods or produce manufactured or produced outside Sri Lanka by a non resident person or by a person or persons with whom he is closely connected, the profits of such non-resident person for the purposes of this Act from the sale of such goods or produce, shall be deemed to be not less than the profits which might reasonably be expected to have been made by a merchant or where the goods or produce are retained by or on behalf of the non-resident person, by a retailer of the goods or produce sold, who had bought the same direct from a manufacturer or producer with whom he was not connected.

(4) Where import duty levied on an *ad valorem* basis under the Customs Ordinance has been paid in Sri Lanka on such goods or produce, the sum to be deducted as the cost of such goods or produce on arrival in Sri Lanka shall not, for the purpose of computing the profits arising in Sri Lanka, be greater than the value on which such import duty has been so paid.

83. Where the Commissioner-General is of the opinion that the correct amount of the profits of a non-resident person arising in or derived from Sri Lanka from any trade or business cannot be readily ascertained, for the reason that such person is unable to furnish the fuller or further returns or fuller or further information referred to in subsection (12) of section 106, or the documents or the other documents referred to in subsection (13) of section 106, relating to such trade or business, the Commissioner-General shall, where such non-resident person makes a declaration of such inability, ascertain such profits as a percentage of the sum receivable by such person from such trade or business:

Profits of certain businesses to be computed as a percentage of the receipts.

Provided that such percentage shall in no circumstances, be less than six.

Profits of non-resident person from sale of exported produce.

84. Where a non-resident person carries on in Sri Lanka any agricultural, manufacturing or other productive undertaking, and sells any product of such undertaking outside Sri Lanka or for delivery outside Sri Lanka, whether the contract is made within or outside Sri Lanka, the full profit arising from the sale in a wholesale market shall be deemed to be income arising in or derived from Sri Lanka, within the meaning of section 2:

Provided that, if it is shown that the profit has been increased through treatment other than handling, blending, sorting, packing and disposal of the product outside Sri Lanka, such increase of profit shall not be deemed to be income arising in or derived from Sri Lanka.

Where any such product is not sold in a wholesale market, or is not sold at all, such person shall be deemed to derive profits from Sri Lanka within the meaning of section 2, and such profits shall be deemed to be not less than the profits which might have been obtained, if such person had sold such product wholesale to the best advantage.

Liability to income tax of certain profits of non-resident person.

85. The profits of a non-resident person from employment by a resident person shall be chargeable with income tax insofar as such profits arise from services or past services, rendered in Sri Lanka.

Exemption from income tax of non-resident persons in certain cases and liability of certain non-resident persons to income tax at reduced rates.

86. (1) Where the assessable income for any year of assessment of an individual deemed to be non-resident under subsection (7) of section 79, consists solely of income from services rendered in Sri Lanka and does not exceed three hundred thousand rupees, such income shall not be taxable.

(2) Subject to the provisions of subsection (3), where a non-resident person receives any sum by way of dividend from a non-resident company or by way of interest, annuity, ground rent, or royalty which has been disallowed or excepted under subsection (2) of section 76, such sums shall

not be regarded as income of such non-resident person arising in or derived from Sri Lanka, and he shall not be chargeable with income tax or entitled to any repayment of tax, in respect thereof.

(3) Nothing in the provisions of subsection (2) shall operate so as to exclude any sum mentioned in that subsection from the computation of the profits of any trade or business carried on in Sri Lanka, where such sum forms part of the receipts of such trade or business.

(4) Notwithstanding anything in any other provision of this Act, the rate at which income tax is payable by a non-resident person in respect of any royalty received by him from a company with which an agreement has been entered into by the Board of Investment of Sri Lanka under section 17 of the Board of Investment of Sri Lanka Law, No. 4 of 1978, shall not exceed the rate, if any, specified in that agreement as the rate at which income tax is deductible from that royalty.

G – SHIPPING AND OPERATION OF AIRCRAFT

87. (1) Where a non-resident person carries on the business of shipowner or charterer and any ship owned or chartered by him calls at a port in Sri Lanka, an amount equal to six *per centum* of the entire sum receivable on account of the carrying of passengers, mails, livestock and goods shipped in Sri Lanka (other than goods brought to Sri Lanka solely for transshipment) shall, notwithstanding anything to the contrary in any other provision of this Act, be deemed to be his full profits arising from the carriage of such passengers, mails, livestock or goods, and such profits shall be deemed to arise in Sri Lanka.

Profits of non-resident shipowners or charterers.

(2) Where the call of a ship owned or chartered by a non-resident person at a port in Sri Lanka is casual and further calls by that ship or others owned or chartered by that person

are unlikely, the provisions of this section shall not apply to the profits of such ship, and no income tax shall be charged thereon.

Master of ship to be an agent.

88. The master of any ship owned or chartered by a non-resident person who is chargeable under the provisions of section 87 shall, (though not to the exclusion of any other agent) be deemed to be the agent of such non-resident person for all the purposes of this Act.

Refusal of clearance for ship where income tax is in arrears.

89. (1) In addition to exercising any other powers of collection and recovery provided for in this Act, the Commissioner-General may, where the income tax charged on the income of any person who carried on the business of ship owner or charterer has been in default for more than three months (whether such person is assessed directly or in the name of some other person), issue to the Director-General of Customs or other authority by whom clearance may be granted to that ship, a certificate containing the name of such person and particulars of the income tax in default. On receipt of such certificate, the Director-General of Customs or other authority shall be empowered and is hereby required to refuse clearance from any port in Sri Lanka to any ship owned wholly or partly or chartered by such person, until the tax in default has been paid.

(2) No civil or criminal proceedings shall be instituted or maintained against the Director-General of Customs or other authority in respect of a refusal of clearance under this section, nor shall the fact that a ship is detained under this section affect the liability of the owner, charterer, or agent to pay harbour dues and charges for the period of detention.

Profits of non-resident owners or charterers of aircraft.

90. (1) Where a non-resident person carries on the business as owner or charterer of aircraft, and any aircraft owned or chartered by him calls at any customs aerodrome in Sri Lanka, his full profits arising from the carriage of passengers, mails, livestock, or goods loaded-into that aircraft in Sri Lanka, shall be deemed to arise in Sri Lanka:

Provided that this section shall not apply to goods, which are brought to Sri Lanka solely for transfer from one aircraft to another or from an aircraft to a vessel or from a vessel to an aircraft.

(2) Where for any accounting period any non-resident person carrying on business as owner or charterer of an aircraft produces the certificate referred to in subsection (3), the profits arising in Sri Lanka from his business of carriage of passengers, mails, livestock or goods by aircraft for such period, before deducting any allowance for depreciation, shall be a sum bearing the same ratio to the sums receivable in respect of the carriage of passengers, mails, livestock and goods loaded into an aircraft in Sri Lanka, as the ratio for that period shown by that certificate of that total profits to the total sums receivable by him in respect of the carriage of passengers, mails, livestock and goods:

Provided that where such profits have been computed on a basis which differs materially from that specified in the preceding provisions of this Act, the ratio of profits shall be adjusted so as to correspond, as nearly as may be, to the ratio which would have been arrived at if the profits had been computed in accordance with such provisions.

(3) The certificate shall be one issued by or on behalf of any income tax authority which assesses the full profits of the non-resident person from his business as owner or charterer of an aircraft, and shall certify for any accounting period as regards such business—

- (a) the ratio of the profits, or where there are no profits, of the loss as computed for the purposes of income tax by that authority, without making any allowance by way of depreciation, to the total sums receivable in respect of the carriage of passengers, mails, livestock, or goods ; and

- (b) the ratio of the allowance for depreciation as computed by that authority, to the total sums receivable in respect of the carriage of passengers, mails, livestock and goods.

(4) Where at the time of assessment the provisions of subsection (2) cannot for any reason be satisfactorily applied, the profits arising in Sri Lanka may be computed on a fair percentage of the full sum receivable on account of the carriage of passengers, mails, livestock and goods, loaded into an aircraft in Sri Lanka:

Provided that where any person has been assessed for any year of assessment by reference to such percentage, he shall be entitled to claim at any time within three years of the end of such year of assessment, that his liability to income tax for that year be recomputed on the basis provided by subsection (2).

Application of subsection (2) of section 87, section 88, and section 89, to profits of non-resident owners or charterers of any aircraft.

91. (1) The provisions of subsection (2) of section 87 and of section 88 and section 89, shall apply to every non-resident person who carries on business as the owner or charterer of any aircraft, in like manner as they apply in the case of a non-resident person who carries on the business of ship owner or charterer.

(2) In the application of the provisions of subsection (2) of section 87, section 88 and section 89 to any non-resident person who carries on business as owner or charterer of an aircraft—

- (a) “harbour dues and charges” shall be deemed to include any charges payable to the Government of Sri Lanka or to any person on account of the landing, staying or housing at a customs aerodrome, of any aircraft arriving in or departing from Sri Lanka;

- (b) “port” shall be deemed to include, a customs aerodrome;
- (c) “ship” shall be deemed to include aircraft, and “ship owner” shall be construed accordingly;
- (d) any reference to the granting of clearance to any ship shall be deemed to include a reference to the doing of any act which, under the provisions of any written law, is required or authorized to be done in relation to an aircraft in lieu of the granting of a certificate of clearance under section 63 of the Customs Ordinance, and any reference to the refusal of clearance shall be construed accordingly;
- (e) any reference to the master of a ship shall be deemed to include a reference to the person having for the time being, control or charge of an aircraft.

H – INSURANCE

92. (1) The profits of a company whether mutual or proprietary, from the business of life insurance, shall be the investment income of the Life Insurance Fund, less the management expenses (including commission) attributable to that business:

Ascertainment of profits of insurance companies.

Provided that where such a company which is not resident in Sri Lanka transacts life insurance business in Sri Lanka, whether directly or through an agent, the profits therefrom shall be ascertained by reference to such proportion of the total investment income of the Life Insurance Fund of the company, as is equal to the proportion which the premiums from life insurance business in Sri Lanka bear to the total life insurance premiums received by the company, subject to a deduction of—

- (a) agency expenses in Sri Lanka (including commission); and

- (b) a fair proportion of the expenses of the head office of the company,

due account being taken in each case, by a set-off against such expenses of any income or profits other than life insurance premiums or investment income.

(2) The profits of a non-resident company whether mutual or proprietary, from the business of insurance (other than life insurance) shall be ascertained by taking the gross premiums from insurance business in Sri Lanka (less any premiums returned to the insured and premiums paid on reinsurance) and deducting therefrom a reserve from unexpired risks at the percentage adopted by the company in relation to its operations as a whole for such risks at the end of the period for which the profits are being ascertained, and adding thereto a reserve similarly calculated for unexpired risks outstanding at the commencement of such period, and from the net amount so arrived at, deducting the actual losses (less the amount recovered in respect thereof under reinsurance), the agency expenses in Sri Lanka and a fair proportion of the expenses of the head office of the company, due account being taken in each case by set-off against such expenses, of any income or profits other than premiums.

(3) Where the Commissioner-General is satisfied that by reason of the limited extent of the business transacted in Sri Lanka by a non-resident insurance company, it would be unreasonable to require the company to furnish the particulars necessary for the application of subsections (1) and (2), he may notwithstanding the provisions of such subsections, permit the profits of the company to be ascertained by reference to such proportion of the total profits and income of the company as is equal to the proportion which its premiums from insurance business in Sri Lanka bears to its total premiums, or on any other basis which appears to him to be equitable in all the circumstances of the case.

(4) In this section the expression “investment income of the Life Insurance Fund” means, in the case—

- (a) of a company whose sole business is life insurance, the whole of its income from investment; and
- (b) any other company, such part of its income from investment as is fairly attributable to its life insurance business,

other than the amount of any dividend referred to in subsection (5).

(5) Where a dividend is paid by any resident company to any company carrying on the business of life insurance and that dividend consists of any part of the amount of a dividend received by such resident company from another company, that dividend shall not form part of the investment income of the Life Insurance Fund of the company carrying on the business of life insurance.

I—INTEREST, ETC. PAYABLE TO PERSONS OUTSIDE SRI LANKA

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

Interest on certain loans deemed to be profits and income.

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

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

94. Where royalties are—

Certain royalties deemed to be profits and income.

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

(b) deductible under section 32,

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

Deduction of
income tax from
interest, & c,
payable to
persons outside
Sri Lanka.

95. (1) Where any person or partnership in Sri Lanka pays or credits to any person or partnership out of Sri Lanka, any sum falling due as—

- (a) interest on debentures, mortgages, loans, deposits or advances; or
- (b) rent, ground rent, royalty or annuity which is payable either in respect of property in Sri Lanka or out of income arising in Sri Lanka,

whether such sum is due from him or from another person or from a partnership, he shall be entitled, notwithstanding any agreement to the contrary, to deduct income tax at the appropriate rate specified in the Fourth Schedule to this Act, or where an agreement in force between the Government of Sri Lanka and the Government of any territory in which such person or partnership is resident for the relief of double taxation at the appropriate rate specified in such agreement, on such sum and the amount of tax so deductible shall be a debt due from such person to the Republic and shall be recoverable forthwith or may be assessed and charged upon such person in addition to any income tax otherwise payable by him under this Act:

Provided that—

- (a) the Commissioner-General may, having regard to the total tax payable under this Act by any person or partnership out of Sri Lanka, by notice in writing, require any person in Sri Lanka to deduct for any year of assessment from any sums to be paid or credited by such person to the person or partnership out of Sri Lanka, income tax on such sums at a rate other than the appropriate rate specified in the Fourth

Schedule to this Act or the agreement for the relief of double taxation, as the case may be; the tax so deductible shall be recoverable and chargeable as aforesaid; and

- (b) the preceding provisions of this subsection shall not apply to any interest paid out of income not arising in Sri Lanka or to interest on any loan or advance made by a banker or to any interest paid to any person on moneys lying to his credit in foreign currency with any foreign currency banking unit.

(2) Any person who deducts income tax in accordance with the provisions of subsection (1) from any sum paid or credited to a person or partnership out of Sri Lanka, shall issue to such person or partnership a statement in writing showing—

- (a) the gross amount of such payment or credit;
- (b) the rate and amount of the tax so deducted;
- (c) the net amount actually paid or credited.

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

96. (1) Every person or partnership who or which makes a payment to any other person who—

- (a) is not a citizen of Sri Lanka; and
- (b) carries on or exercises the profession or vocation of an entertainer or artiste,

Deduction of income tax from payment made to any foreign entertainer or artiste.

in respect of services rendered by such other person in Sri Lanka in the course of carrying on or exercising such profession or vocation, shall deduct from such payment income tax at the rate specified in the Fifth Schedule to this Act.

(2) Every person or partnership, who or which deducts income tax in accordance with subsection (1) from any payment made by him to any other person, shall issue a statement to such other person setting out the following particulars:—

- (a) the gross amount of the payment due;
- (b) the net amount actually paid.

(3) Where the assessable income of a person or partnership for any year of assessment includes a payment referred to in this section, then, if such person is—

- (a) liable to pay income tax for that year of assessment, he shall be entitled on production of a statement relating to such payment made in accordance with subsection (2), to deduct from the income tax payable by him, the amount of tax set out in such statement;
- (b) not liable to pay income tax for that year of assessment, he shall be entitled on production of a statement relating to such payment made in accordance with subsection (2), and subject to the provisions of Chapter XXVIII, to a refund of the amount of tax set out in such statement.

(4) Where any person or partnership who or which is required by subsection (1) to deduct income tax in accordance with that subsection from any payment made by him, fails to deduct such tax, then, if such person is—

- (a) an individual, such individual;

- (b) is a company or a body of persons, whether corporate or unincorporate, the secretary, manager or other principal officer of such company or body of persons,

shall be personally liable to pay the tax he was required to deduct under that subsection, and such tax may be recovered from such individual, secretary, manager or other principal officer, as the case may be, by all the means provided in this Act.

(5) In this section, the expression “profession or vocation of entertainer or artiste” includes the profession or vocation of actor, musician, athlete or acrobat.

J – RELIEF IN CASES OF DOUBLE TAXATION

- 97.** (1) (a) Where Parliament by resolution approves any agreement entered into between the Government of Sri Lanka and the Government of any other territory or any agreement by the Government of Sri Lanka with the Governments of any other territories, for the purpose of affording relief from double taxation in relation to income tax under Sri Lanka law and any taxes of a similar character imposed by the laws of that territory, the agreement shall, notwithstanding anything in any other written law, have the force of law in Sri Lanka, in so far as it provides for–
- Effect of agreements for double taxation relief.
- (i) relief from income tax;
 - (ii) determining the profits or income to be attributed in Sri Lanka to persons not resident in Sri Lanka, or determining the profits or income to be attributed to such persons and their agencies, branches or establishments in Sri Lanka;

- (iii) determining the profits or income to be attributed to persons resident in Sri Lanka who have special relationships with persons not so resident ;
 - (iv) exchange of information ; or
 - (v) assistance in the recovery of tax payable.
 - (b) Every agreement which is approved by a resolution under paragraph (a), shall be published in the *Gazette* together with a notice that it has been so approved.
 - (c) In any case where any agreement referred to in paragraph (a) provides that tax payable under the laws of any territory outside Sri Lanka, shall be allowed as a credit against any tax payable in Sri Lanka, the credit to be granted in respect of any Sri Lanka tax upon profits or income arising from any source, shall not exceed the amount of the Sri Lanka tax payable in respect of such profits or income.
- (2) (a) For the purposes of this section—
- (i) “income” shall be calculated as far as may be in accordance with the provisions of this Act relating to the ascertainment of assessable income, but shall not include any sum payable out of such income by way of interest, annuity, ground rent or royalty;
 - (ii) “Sri Lanka tax” means the amount of income tax payable under this Act before deducting any reliefs under this section, but does not include tax on any sum payable, by way of interest, annuity, ground rent, or royalty out of the income in respect of which the tax is charged.

- (b) The Sri Lanka rate of tax shall be ascertained by dividing the Sri Lanka tax by the income on which the tax has been paid or is payable, calculated in accordance with paragraph (a) of this sub section.

(3) Every agreement entered into between the Government of Sri Lanka and the Government of any other territory and having the force of law in Sri Lanka by virtue of the provisions of section 70 of the Inland Revenue Act, No. 4 of 1963, or section 82 of Inland Revenue Act, No. 28 of 1979, or section 92 of the Inland Revenue Act, No. 38 of 2000, shall be deemed for all purposes to be an agreement approved by Parliament by resolution under subsection (1) of this section.

98. (1) Where any person or any partnership, referred to in subsection (2), proves to the satisfaction of the Commissioner-General that in respect of his or its income referred to in subsection (2), he or it has paid or is liable to pay for any year of assessment income tax in Sri Lanka and income tax for the corresponding period in any other country, then, such person shall be entitled to relief from income tax payable by him or it in Sri Lanka of an amount equal to the excess, if any, of the income tax in respect of such income payable by him or it in Sri Lanka (before granting any relief under this section), over the income tax in respect of such income, payable by him or it in such other country :

Relief in respect
of Sri Lanka
income tax.

Where however such person or partnership is not liable to pay income tax in respect of such profits and income, for such corresponding period in such other country, such person or partnership shall be entitled to relief equal to the amount of income tax payable in Sri Lanka by such person or partnership in respect of such profits and income, for such year of assessment.

(2) The provisions of subsection (1) shall apply—

- (a) (i) to any non-resident person or any partnership registered outside Sri Lanka, being a person or partnership who or which

provides in Sri Lanka, management consultancy services in areas specified by the Commissioner-General by notice published in the *Gazette*; or

- (ii) to any non-resident person or to any partnership registered outside Sri Lanka, who or which provides in Sri Lanka, architectural, engineering, quantity surveying or construction management services and such other services as may be ancillary thereto, to any resident company, being a company with which an agreement has been entered into by the Board of Investment under section 17 of the Board of Investment of Sri Lanka Law, No. 4 of 1978, and which has in accordance with such agreement invested or agreed to invest in Sri Lanka within the period specified in such agreement, not less than fifty million United States Dollars or its equivalent in any other foreign currency, to meet the cost of—
 - (a) any building purchased or constructed, and of any land, plant, machinery or furniture purchased; and
 - (b) the acquisition of any asset not included in paragraph (a), for the use of the undertaking; or
- (iii) to any non-resident person or to any partnership registered outside Sri Lanka who or which provides in Sri Lanka, architectural, engineering, quantity surveying or construction management services and such other services as may be ancillary thereto, to any non-resident person or partnership referred to in sub-paragraph (ii);

- (b) in respect of the profits and income arising in or derived from Sri Lanka from the provision of any service referred to in sub-paragraph (ii) or subparagraph (iii) of paragraph (a), by any person or by any partnership referred to in those subparagraphs.

(3) For the purposes of subsection (1), the income tax in Sri Lanka or in any other country, payable by any person or by any partner of any partnership referred to in subsection (2), in respect of his profits and income referred to in subsection (2), shall be computed at the rate equivalent to the quotient obtained by dividing the income tax payable by such person or such partner (before granting any relief under this section) in Sri Lanka, or in such other country, as the case may be, in respect of his taxable income ascertained for the purposes of income tax in Sri Lanka or in such other country, as the case may be, by his taxable income ascertained for the purposes of income tax in Sri Lanka, or in such other country, as the case may be.

K – MISCELLANEOUS

99. Where any provision of this Act expressly relates to any particular source of profits or income referred to in section 3, such provision shall not be applied in the determination of any profits or income arising from any other source referred to in that section.

Applicability of provisions relating to particular sources of profits or income.

100. Where any sum paid as insurance premium is allowable as an expense incurred in the production of profits or income from any trade, business, profession or vocation, any sum realized under such contract of insurance shall be deemed to be—

How certain receipts of insurance are to be treated.

- (a) a receipt from such trade, business, profession or vocation, if the sum so realized is in respect of stock in trade or loss of profits or any other sum not referred to in subparagraph (b) or subparagraph (c) ;

- (b) an amount realized from the disposal of property, if the sum so realized is in respect of a capital asset on which an allowance for depreciation, within the meaning of subsection (7) of section 25, has been granted and accordingly, the provisions of subsection (3) of that section shall apply to, and in relation to, that amount;
- (c) a receipt of a capital nature if the sum so realized is in respect of a capital asset on which an allowance for depreciation within the meaning of subsection (7) of section 25 has not been granted:

Provided that the provisions of paragraph (b) and paragraph (c) shall not be applicable if the sum realized is in respect of a capital asset which is replaced, and in such event the deduction for depreciation in accordance with the provisions of paragraph (a) of subsection (1) of section 25, shall be computed on the cost of replacement of such capital asset, less the amount realized under a contract of insurance.

Ascertainment of income of clubs, trade associations etc.

101. (1) Where a body of persons, whether corporate or unincorporate, carries on a club or similar institution and receives from its members not less than three-fourths of its gross receipts on revenue account (including entrance fees and subscriptions), it shall not be deemed to carry on a business; but where less than three-fourths of its gross receipts are received from members, the whole of the income arising from transactions both with members and others (including entrance fees and subscriptions) shall be deemed to be receipts from a business, and the body of persons shall be liable to income tax in respect of the profits therefrom and in respect of the income which would be assessable, if it were not deemed to carry on a business.

(2) Where a body of persons, whether corporate or unincorporate, carries on a trade association, chamber of commerce or similar institution in such circumstances, that more than half its receipts by way of entrance fees and subscriptions are from persons who claim or would be entitled

to claim that such sums were allowable deductions for the purpose of section 25, such body of person shall be deemed to carry on a business, and the whole of its income from transactions both with members and others (including entrance fees and subscriptions) shall be deemed to be receipts from a business, and the body of persons shall be liable to income tax either in respect of the profits therefrom or in respect of the income which would be assessable, if it were not deemed to carry on a business, whichever is the greater.

(3) In this section, “members”, in relation to a body of persons, means those persons who are entitled to vote at a general meeting of the body which exercises effective control over its affairs.

(4) Nothing in this section shall be read and construed as affecting any exemption granted under Chapter III.

(5) The provisions of Chapter X shall not apply to any body of persons which is a body corporate and which is assessable for income tax under this section.

102. (1) Where any non governmental organisation as defined in sub section (2) of this section, receives any money by way of grant, donation, contribution or by any other means, an amount equal to three *per centum* of such money shall, notwithstanding anything to the contrary in any other provision of this Act, be deemed to be the full profits and income of such year of assessment, and such profits and income of such non governmental organisations shall be deemed to arise in Sri Lanka.

Profits and income of non governmental organisations to be chargeable with income tax .

(2) For the purposes of subsection (1), a “non governmental organisation” means any organisation or association formed by a group of persons on a voluntary basis which is non governmental in nature, dependant on grants, donations, contributions or money received from any other means, locally or from any foreign country or any

foreign or local organisation and established and constituted for the provision of relief and services of a humanitarian nature to the poor and destitute, to the sick, orphans and widows, youth and children and generally for providing relief to the needy in times of disaster, which is determined by the Commissioner General as a non governmental organisation for the purposes of this section.

(3) The profits and income of a non governmental organisation shall be chargeable with income tax at the appropriate rate as specified in the Fifth Schedule to this Act :

Provided that where the Commissioner General is satisfied that any non governmental organisation is engaged solely in—

- (a) rehabilitation and the provision of infrastructure facilities and livelihood support to displaced persons in any area identified by the government for such purposes of such rehabilitation ; or
- (b) any other activity approved by the Minister as being of a humanitarian in nature, taking into consideration the nature and gravity of any disaster and the magnitude of relief required to be provided consequently,

the Commissioner General may remit the tax payable by such non governmental organisation for that year of assessment.

Certain transactions and dispositions to be disregarded.

103. Where an Assessor is of the opinion that any transaction which reduces or would have the effect of reducing the amount of tax payable by any person is artificial or fictitious or that any disposition is not in fact given effect to, he may disregard any such transaction or disposition and the parties to the transaction or disposition shall be assessable accordingly.

In this section “disposition” includes any trust, grant, covenant, agreement, or arrangement.

104. (1) Any profits and income arising, derived or accruing from, or any loss incurred in any transaction entered into between two associated undertakings shall be ascertained having regard to the arm’s length price.

Profits and income or loss from transactions between associated undertakings to be determined having regard to the arm’s length price.

(2) Where it appears to the Commissioner-General that the profit and income or the loss referred to in subsection (1), has not been as ascertained having regard to the arm’s length price, he may, in writing addressed to the person referred to in subsection (1), require him to prove to the satisfaction of the Commissioner-General, that such profit and income or such loss, as the case may be, has in fact been ascertained having regard to the arm’s length price. Where such person fails to so prove, the Commissioner-General may estimate the amount of the profit and income or the loss, as the case may be, referred to in subsection (1), and make an assessment accordingly.

(3) The arm’s length price referred to in subsection (1) shall be determined on the basis of any one or more of the methods, prescribed for that purpose.

(4) For the purposes of this section—

- (a) an undertaking shall be deemed to be an associated undertaking of another undertaking, if the first-mentioned undertaking participates directly or indirectly or through one or more intermediaries, in the control of the second-mentioned undertaking in such manner or to such extent as may be prescribed;
- (b) “arm’s length price” means a price which is applied in uncontrolled conditions in a transaction between persons, other than associated undertakings.

L – PETROLEUM EXPLORATION AND EXPLOITATION

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

105. (1) Any person or partnership which has entered into an agreement as a contractor or sub-contractor under the Petroleum Resources Act, No 26 of 2003, shall, notwithstanding the provisions of section 79 of this Act, be deemed to be resident in Sri Lanka during the tenure of such contract or sub contract, as the case may be, for the purposes of this Act.

(2) The turnover from exports and local sales of petroleum exploited under any Petroleum Resources Agreement referred to in subsection (1), shall be determined on the basis of accepted commercial practices and be subject to any specific provisions in the Petroleum Resources Agreements, entered into under Petroleum Resources Act, No. 26 of 2003.

(3) The profits and income from the business of petroleum exploitation under any Petroleum Resources Agreement referred to in subsection (1), shall be ascertained after allowing the following deductions in addition to other allowable expenses under the provisions of this Act, provided that the same item of expenditure shall not be deducted more than once—

- (a) payments made to service sub-contracts for conducting petroleum operations;
- (b) one hundred *per centum* of the cost of acquisition of any plant, machinery or equipment used for the recovery of petroleum resources, in lieu of the allowance for depreciation or cost of renewal under section 25. Any proceeds realized on the sale of such assets shall be considered as a receipt from such business;
- (c) interest expenses;
- (d) royalty paid on petroleum resources recovered under any Petroleum Resources Agreement. However, this amount shall not be allowed as a deduction under section 32;

- (e) all expenses on the development and production of petroleum, including capital expenses, where a deduction under paragraph (b) above has not been granted;
- (f) in the year of first commercial production, all costs incurred by any contractor in the exploration for unsuccessful wells in exploration blocks under any Petroleum Resources Agreement, upto and including such year of first commercial production;
- (g) any costs incurred by any contractor in the exploration for unsuccessful wells in exploration blocks under any Petroleum Resources Agreement in any year of assessment, after the first commercial production.

CHAPTER XII

RETURNS &C.

106. (1) Every person who is chargeable with income tax under this Act for any year of assessment shall, on or before the thirtieth day of September immediately succeeding the end of that year of assessment, furnish to an Assessor, either in writing or by electronic means, a return in such form and containing such particulars as may be specified by the Commissioner-General, of his income, and if he has a child, the income of such child:

Returns and information to be furnished.

Provided however, the preceding provisions shall not apply to an individual whose income for any year of assessment comprises solely of one or a combination of the following—

- (a) profits from employment as specified in section 4 and chargeable with income tax does not exceed rupees four hundred and twenty thousand and income tax under Chapter XIV has been deducted by the employer on the gross amount of such profit and income;

- (b) dividends chargeable with tax on which tax at ten *per centum* has been deducted under subsection (1) of section 65;
- (c) income from interest chargeable with tax on which income tax at the rate of ten *per centum* has been deducted under section 133.

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

(3) (a) The Commissioner General shall issue a certificate of registration containing the name, address, registration number and any other particulars as determined by him, to all such persons registered under subsection (2).

(b) It shall be the duty of the Registrar of Companies, notwithstanding anything to the contrary contained in any provision of the Companies Act, No. 17 of 1982, to obtain the certificate issued by the Commissioner-General under subsection (2), as an integral part of the annual return filed under such Companies Act—

- (i) in relation to any company registered before such date as may be determined by the Commissioner-General, by a notice published in that behalf, along with any annual return due in respect of any financial year;

- (ii) in relation to any company registered on or after the date determined by the Commissioner-General under sub-paragraph (1), along with the first annual return due to be submitted by such company.

(c) The date as determined by the Commissioner General under sub-paragraph (i) of paragraph (b) shall immediately upon such determination, be forthwith communicated to the Registrar of Companies, by the Commissioner-General.

(4) (a) Every company deemed to be a resident in Sri Lanka under section 79 of this Act, shall submit a return to the Commissioner-General for each year on a half yearly basis on or before October, 31 and April 30, of dividends declared, containing such particulars as specified by him, including the details of dividends declared during the period April to September and October to March respectively. Where no dividends have been declared during any such period, a “NIL” return shall be submitted.

(b) Every company not deemed to be a resident in Sri Lanka, shall submit a return to the Commissioner-General on a half yearly basis on or before October 31 and April 30, of remittances made by such company as referred to in paragraph (b) of subsection (1) of section 62 containing such particulars as specified by him, including the details of remittances made during the period April to September and October to March respectively, in each year. Where there were no remittances made during such period covered by such return, a “NIL” return shall be submitted.

(5) (a) Any individual who satisfies any four requirements out of the five requirements specified in paragraph (b) of this subsection during any year of assessment, shall submit a return of income to the Commissioner-General not later than one month after the fulfilment of such requirement.

(b) For the purpose of paragraph (a) of this subsection, the requirements are as follows :-

- (i) paying a monthly residential electricity bill exceeding a net amount of ten thousand rupees ;
- (ii) incurring a monthly credit card bill exceeding twenty five thousand rupees ;
- (iii) paying a monthly residential telephone bill exceeding a net amount of ten thousand rupees ;
- (iv) purchasing an air ticket to travel abroad ; and
- (v) owning a motor vehicle which is used for travelling purposes.

(6) Every person chargeable to pay income tax under any provision of this Act shall be required to declare —

- (a) the value of every asset and liability at the last day of any year of assessment ; and
- (b) any profits or income exempted from the payment of income under this Act for any year of assessment.

(7) A Deputy Commissioner may give notice in writing to any person requiring him to furnish within the time specified in such notice a return in such form and containing such particulars as may be specified by the Commissioner-General of, his income and, if he has a child, the income of such child.

(8) Every person who furnishes a return of income which is not in such form and does not contain such particulars as are specified by the Commissioner-General for the purposes of the foregoing subsections, shall be deemed for the purposes of this Act, not to have furnished a return of his income.

(9) Where any person furnishes a return of income on or before the date specified in subsection (1) for any year of assessment and is deemed, under the provisions of subsection (8), not to have furnished a return of income, the Assessor shall, before the expiry of thirty days from the end of the year of assessment immediately succeeding that year of assessment inform such person in writing, that the return furnished by him is not in such form or does not contain such particulars as is or are specified by the Commissioner-General.

(10) Where any person receives an intimation under subsection (9), such person may within thirty days of receipt of such intimation, furnish necessary particulars required to make such return a proper return, and the provisions of subsection (8) shall thereafter not apply in respect of such return.

(11) Where any person carries on or exercises more than one trade, business, profession or vocation and the profits and income from such trade, business, profession or vocation are exempted from or chargeable with tax at different rates, such person shall maintain and prepare statements of accounts in a manner that the profits and income from each such activity, may be separately identified.

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

- (a) fuller and further returns; or
- (b) fuller and further information relating to any matter as is in the opinion of the Assessor, necessary or relevant for the assessment of the income tax, payable by such person.

(13) For the purpose of obtaining full information in respect of any person's income, an Assessor may give notice in writing to such person requiring him—

- (a) to produce for examination, or transmit to the Assessor, within the period specified in such notice, any such deeds, plans, instruments, books, accounts, trade lists, stock lists, registers, cheques, paying-in-slips, auditor's reports or other documents in his possession as may be specified in such notice;
- (b) to attend in person or by an authorized representative at such place and on such date and at such time as may be specified in the notice, for the purpose of being examined regarding his income.

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

- (a) to attend in person or by an authorized representative at such place and on such date and at such time as may be specified in such notice, so that he may be examined on any such matter as may be specified in the notice;
- (b) to produce before or transmit to such Deputy Commissioner within the period specified in such notice, any such deeds, plans, instruments, books, accounts, trade lists, registers, cheques, paying-in-slips, auditors' reports or other documents in his possession, as may be specified in such notice;
- (c) to furnish within the period specified in such notice such information as may be called for in that notice, in relation to any transactions between such person and any other person or class of persons.

Where a notice has been given to any person under this subsection requiring him to furnish any information, such

person shall comply with the requirements of such notice, notwithstanding anything to the contrary in any other law prohibiting the furnishing of such information.

For the avoidance of doubts, it is hereby declared that any reference in this subsection to “any person” include a reference to a banker.

(15) A person who attends in compliance with a notice given under subsection (14) may be allowed by the Commissioner-General, such expenses as are reasonably incurred by him in so attending.

(16) A Deputy Commissioner or an Assessor with the approval of a Deputy Commissioner, may retain in his custody, as long as such retention is necessary for any purposes of this Act, any deeds, plans, instruments, books, registers, accounts, trade lists, cheques, paying-in-slips, auditors’ reports or other documents which are or have been produced before him or transmitted to him under subsection (14) or produced before an Assessor or transmitted to an Assessor under subsection (13) or which otherwise come or have come into his possession:

Provided however, such retention by an Assessor shall not be valid after the expiry of a period of five years from the end of the relevant year of assessment.

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

(18) For the purpose of this section, the expression “document” includes any diskette, tape, compact disc or any other thing in which any computer programme or data is stored or recorded in codified form or electronic, magnetic or other medium.

Audit reports
to be
furnished by
partners etc.

107. (1) An Assessor may give notice in writing to a partner of a partnership or to any other person, who carries on or exercises any trade, business, profession or vocation, requiring such person to furnish within the period specified in such notice, all particulars as may be necessary for the ascertainment of the statutory income in respect of any year of assessment, including a statement of accounts and any schedules containing such particulars as may be specified in the notice of such trade, business, profession or vocation, for that year of assessment or for any period in respect of which the statutory income for that year of assessment is computed:

Provided that—

- (a) where such trade, business, profession or vocation is carried on or exercised by any company, such company shall, notwithstanding that a notice under this section has not been given to it, furnish for every year of assessment or for any other period in respect of which the statutory income for that year of assessment is computed, such statements and such schedules as may be specified by the Commissioner-General, by notice published in the *Gazette*.

The provisions of this sub-paragraph shall not apply to any company other than a quoted public company, or any other company having a turnover of not less than two hundred and fifty million rupees or net profit of not less than one hundred million rupees for the year ;

- (b) where such trade, business, profession or vocation is carried on or exercised by any partnership, or by any person other than any company having a turnover of not less than fifty million rupees or in the case of a partnership, a divisible profit of not less than twenty-five million rupees or in the case of any other person, a net profit of not less than twenty-five million rupees for the year, such partner or such

person shall notwithstanding that a notice under this section has not been given to him, furnish for such year of assessment or for such period, as the case may be, such statements and such schedules as may be specified by the Commissioner-General by notice published in the *Gazette*.

(2) Where a statement of accounts in support of a return of income furnished by any person for the purposes of this Act, is prepared by an approved accountant, such statement shall be accompanied by—

- (a) a certificate of an approved accountant in such form and containing such particulars, as may be specified by the Commissioner-General; and
- (b) schedules containing such particulars relating to the statement of accounts, as may be specified by the Commissioner-General:

Provided that a statement of accounts in support of a return of income for any year of assessment or for any other period in respect of which the statutory income for that year of assessment is computed—

- (a) furnished by any company in respect of any trade, business, profession or vocation carried on or exercised by such company; or
- (b) furnished by any partner of any partnership or by any person other than a company, in respect of any trade, business, profession or vocation carried on or exercised by such partnership or by such person, where the turnover of such trade, business, profession or vocation for that year of assessment or that period, exceeds five million rupees,

shall be prepared on the basis of an audit carried out by an approved accountant.

The provisions of this subsection shall apply only to a quoted public company or any other person or partnership having a turnover of not less than two hundred and fifty million rupees or a net profit or divisible profit, as the case may be, not less than one hundred million rupees for the year.

(3) For the purposes of this section—

(a) “approved accountant” means—

- (i) an accountant who is a member of the Institute of Chartered Accountants of Sri Lanka;
- (ii) an accountant who is approved by the Commissioner-General for the purpose of the definition of authorized representative;
- (iii) any individual who is registered as an auditor under the Companies (Auditors) Regulations and approved by the Commissioner-General for the purpose of the definition of “authorized representative”; or
- (iv) an auditor authorized to carry out audits of co-operative societies registered under the Co-operative Societies Law, No. 5 of 1972, in relation to any such co-operative society where the turnover of such society for the year does not exceed fifty million rupees;

(b) “net profit” in relation to any trade, business, profession or vocation, means net profit ascertained in accordance with accepted commercial practices and accounting standards;

(c) “turnover” in relation to any trade, business, profession or vocation and to any period, means the total amount received or receivable from transactions

entered into, or, for services performed, during that period in carrying on or exercising such trade, business, profession or vocation (excluding any amount received or receivable from the sale of capital assets).

108. (1) Every individual who is chargeable with income tax under this Act, for any year of assessment shall, for the purposes of this Act, –

Returns and other documents to contain the national identity card number or passport number.

- (a) indicate in his return of income for such year of assessment—
 - (i) his identity card number, if he is a person liable for registration under the Registration of Persons Act, No. 32 of 1968; or
 - (ii) the number in his current passport, if he is not liable to registration under the aforesaid Act;
- (b) indicate in the documents relating to any transaction specified by the Minister by notice published in the *Gazette*, having regard to the need to ensure the equitable administration of the provisions of this Act—
 - (i) his identity card number, if he is a person liable to registration under the aforesaid Act; or
 - (ii) the number in his current passport, if he is not liable to registration under the aforesaid Act.

(2) Every company or partnership or body of persons which is chargeable with income tax under this Act, for any year of assessment, shall for the purposes of this Act, indicate its registration number under the Business Names Act No. 7 of 1987 or the Companies Act, No. 17 of 1982, as the case may be, in—

- (a) its return of income for that year of assessment; and

- (b) all such documents relating to all such transactions as are specified by the Minister under paragraph (b) of subsection (1).

Returns to be furnished of income received on account of or paid to other persons.

109. Where any person in any capacity whatever—

- (a) receives any profit or income liable to tax within the meaning of this Act, and which have accrued or arisen to some other person; or
- (b) pays to some other person, or to his order, any such profits or income,

an Assessor may give notice to such first-named person requiring him to furnish within the period specified in such notice, a return containing—

- (i) a true and correct statement of all such profits and income; and
- (ii) the name and address of every person to whom such profits and income have accrued or arisen.

Occupiers to furnish returns of rent payable.

110. An Assessor may give notice in writing to any person who is the occupier of any land or building, requiring him to furnish within the period specified in such notice, a return containing—

- (a) the name and address of the owner of such land or building;
- (b) any improvements effected to such land or building;
- (c) a true and correct statement of the rent payable and any other consideration passing in relation thereto.

Return of lodgers and inmates.

111. An Assessor may give notice in writing to any person requiring him within the period specified in such notice, to furnish a return containing the name of every lodger or inmate who is at the date of the notice resident in his house, hotel or institution and has been so resident, except for temporary absences, throughout the period of three months preceding that date.

112. (1) Where—

Power of
Commissioner-
General to
impose penalty
for failure to
furnish return.

- (a) any person fails to comply with a notice in writing given to him a Deputy Commissioner under subsection (7) of section 106 requiring him to furnish, within the time specified in such notice, a return of his income, and if he has a child, the income of such child;
- (b) any person fails to furnish within the time specified in subsection (1) of section 106, a return which he is required to furnish under that section;
- (c) any employer fails to comply with any requirement of the provisions of section 120; or
- (d) any individual fails to furnish within the time specified in sub section (5) of section 106, a return which such individual is required to furnish under that section,

the Commissioner -General may—

- (i) impose on such person or on such employer, a penalty of a sum not exceeding fifty thousand rupees, and give notice in writing to such person or employer, of the imposition of such penalty; and
- (ii) by notice in writing require such person or such employer—
 - (a) to pay such penalty; and
 - (b) to furnish such return where such return has not been furnished, or to comply with such requirement where such requirement has not been complied with,

within such period as may be specified in such notice.

(2) The Commissioner-General may reduce or waive any penalty imposed on any person or on any employer under this section, if such person or such employer, as the case may be, proves to the satisfaction of the Commissioner-General that the failure to furnish such return or to comply with such requirement, as the case may be, was due to circumstances beyond his control and that he has furnished such return or has complied with such requirement, as the case may be.

(3) Where a penalty is imposed on any person or on any employer under subsection (1), such person or such employer shall not be liable to prosecution for any offence under paragraph (a) or paragraph (d) of subsection (1) of section 202 or under paragraph (b) of subsection (2) of section 202 relating to that notice or requirement.

CHAPTER XIII

PAYMENT OF TAX BY SELF-ASSESSMENT

Payment of tax
by self
assessment.

113. (1) Any income tax which any person or partnership is liable to pay under this Act for any year of assessment shall be paid by such person or partnership to the Commissioner-General in four instalments on or before the fifteenth day respectively of August, November and February in that year of assessment and the fifteenth day of May of the next succeeding year of assessment, notwithstanding that no assessment has been made on him or it by an Assessor. Each such instalment is hereinafter referred to as a “quarterly instalment”.

(2) The quarterly instalment of a tax payable by any person or partnership for any year of assessment, shall be one-quarter of the tax payable by him or it for that year of assessment.

(3) Notwithstanding anything contained in subsection (1) and subsection (2) of this section, the entirety of the tax payable—

- (a) by any company resident in Sri Lanka under paragraph (b) of subsection (1) of section 61, or;

- (b) by any company not resident in Sri Lanka under paragraph (b) of subsection (1) of section 62, in respect of remittances made by such company,

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

(4) The amount of any quarterly instalment of income tax payable by any individual for any year of assessment shall be reduced by ten *per centum* thereof, if such individual pays the amount of such quarterly instalment as so reduced, not less than thirty days prior to the date on or before which such instalment is required to be paid under subsection (1); where any individual has so paid the amount of any quarterly instalment as so reduced, such individual shall be deemed for all purposes to have paid such quarterly instalment without any reduction.

CHAPTER XIV

DEDUCTION OF INCOME TAX FROM REMUNERATION OF EMPLOYEES BY EMPLOYERS

114. (1) Every employer shall deduct income tax in accordance with the provisions of this Chapter from the remuneration of his employees for each pay period at the time of payment of such remuneration.

Employers to
deduct
income tax.

(2) Income tax deducted under subsection (1) from the remuneration of an employee and remitted to the Commissioner-General as provided in this Chapter, shall be deemed to have been paid by such employee to the Commissioner-General on the date on which such deduction was made.

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

Employers to
give notice to
Commissioner -
General.

115. (1) Every employer who employs –

(a) any individual who—

- (i) receives remuneration in excess of twenty five thousand rupees per month or three hundred thousand rupees per year;
- (ii) is a director or non-executive director to whom any payment is made or is due by or from such employer or who receives any other benefit as an employee or in any other capacity;
- (iii) falls within paragraph (b) of subsection (1) of section 8 and who is in receipt of any remuneration not paid out of the Consolidated Fund directly or through the funds received from the Consolidated Fund; or

(b) any non-resident individual,

who has not given notice to the Commissioner-General under sub-section (1) of section 107C the Inland Revenue Act, No. 4 of 1963 or under section 99 of the Inland Revenue Act, No. 28 of 1979 or section 107 of the Inland Revenue Act, No. 38 of 2000 or under this Act, shall give notice to the Commissioner-General not later than July 1, 2006, that he has in his employment such individual (hereinafter in this Chapter referred to as a “specified employee”).

(2) Where an employer commences to employ any specified employee or to pay remuneration to any specified employee, such employer shall within seven days of commencement of such employment, as the case may be, give notice to the Commissioner-General that he has in his employment such employee:

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

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

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

116. (1) The amount of income tax to be deducted by an employer for any year of assessment in terms of section 114, shall be in accordance with the income tax tables specified by the Commissioner-General and applicable to that year of assessment.

Application of
income tax
tables.

(2) 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 the 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 paragraph (d) of section 4 and such profits from employment, in the form of perquisites or benefits other than those referred to in subsections (3) and (4), as have arisen or 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 paragraph (c) of section 4, if the total of such profits for such pay period does not exceed five hundred rupees.

(3) Income tax shall be deducted in respect of such profits from employment as are referred to in paragraph (c) of subsection (1) of section 4, in accordance with the income tax table applicable to such profits.

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

(5) 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.

(6) 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 or any other person on behalf of an employee, such profits shall be deemed to be paid to such employee when they are so credited or applied.

(7) 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 monthly payment may be made from any one or more of the payments made during the month:

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

(8) 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.

(9) Where the Commissioner-General is satisfied on application made by an employer to make payments for work done overtime by an employee during any pay period at the same time as the other regular remuneration for such pay period is paid, payments for such work done over time 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.

(10) 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.

117. (1) Where an employer pays any remuneration or provides any benefit to any director, whether executive or non-executive, or to any Chairperson of the Board of Directors of any company or provides a benefit in cash or in kind to any other person who is not considered to be an employee and where such amounts are not taken into account in the application of the tax tables referred to in section 116, such employer shall deduct tax at the rate of ten *per centum* on such amounts or the value of such benefits in terms of the provisions of this Chapter. No direction shall be issued or entertained under section 118 in relation to such amounts or value of benefits.

Deduction of tax
at special rates.

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

(3) Where any employer who is required to deduct tax on any remuneration using tax tables as referred to in section 116 omits to do so, and deducts tax at the rate of ten *per centum* on such remuneration, such employer shall be liable to pay such tax in default calculated on the basis of the difference between tax payable under the tax tables as provided for in section 116 and tax deducted by the employer under this section, and be liable to a penalty not exceeding ten *per centum* of such tax in default, calculated as follows:—

- (a) where the tax payable on a return submitted under subsection (1) of section 106 has not been paid fully or partly on or before the due date, at the rate of five *per centum* for the first month of such default and a further one *per centum* for each month or part of a month thereafter, on such amount of tax in default;
- (b) where an assessment has been issued in the absence of a return due from such person and the relevant tax is in default, at the rate of ten *per centum* on such amount of tax in default;
- (c) where an assessment was under appeal and the tax became payable on the settlement of such appeal, at the rate of ten *per centum* on such amount of tax that became payable,

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

Directions to
employers.

118. (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 to the Commissioner-General in such form and containing such particulars as may be specified by the Commissioner-

General, that the 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-General or any officer authorized by the Commissioner-General may, on an application made by an employee under subsection (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) The Commissioner-General or any officer authorized by the Commissioner-General may, in respect of any employee chargeable with income tax under this Act, issue to the person who is the employer of that employee, a direction in writing (a copy of which shall be issued to that employee) requiring such person to deduct in accordance with such direction, the income tax payable under this Act, from the remuneration of such employee, and such person shall deduct income tax from such remuneration in accordance with such direction:

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

For the purpose of this Chapter, a person in respect of whom a direction has been issued under this section, shall be deemed to be a "specified employee".

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

Provided that the Commissioner-General shall, on a request made in writing by such employee, cause an assessment to be made under section 163 on such employee for that year of assessment for the purpose of enabling such employee to prefer an appeal under section 165 against such assessment.

Employers to maintain proper records.

119. Every employer who makes any payment of remuneration to any specified employee shall—

- (a) keep a proper record of payment of such remuneration in such pay sheet and in such manner as may be specified by the Commissioner-General;
- (b) 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-General, and shall retain all such records for a period of not less than five years after the end of the year of assessment to which such records relate; and
- (c) permit any officer authorized in writing by the Commissioner-General to inspect any record maintained by him and referred to in paragraph (a) or (b).

Duties of employer following deduction of income tax.

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

- (a) not later than the fifteenth day of the month following the month in which he made any such deductions, pay to the Commissioner-General the amount of such deductions and at the same time furnish to the Commissioner-General, a monthly declaration in such form and in such manner as may be specified by the Commissioner-General;

- (b) not later than the thirtieth day of April in such year, give to each employee from whose remuneration income tax has been deducted under the provisions of this Chapter, a certificate in such form and containing such particulars as may be specified by the Commissioner-General, in respect of the deductions so made in the preceding year of assessment;
- (c) within thirty days after the cessation of employment of any employee, give to such employee a certificate, in such form as may be specified by the Commissioner-General, 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;
- (d) not later than the thirtieth day of April in each year, furnish to the Commissioner-General in respect of the preceding year of assessment, an annual declaration in such form and containing such particulars as may be specified by the Commissioner-General, together with an income tax deduction card in such form as may be specified by the Commissioner-General in respect of each employee from whose remuneration income tax is deducted under the provisions of this Chapter during the year of assessment to which the annual declaration relates; and
- (e) 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 (d) 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 preceding year of assessment referred to in that paragraph.

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

121. (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-General a declaration in the form specified under section 120, and remit such amount of income tax as was not deducted to the Commissioner-General together with such amounts as may be due under section 127.

(2) Where during any year of assessment an employer has remitted to the Commissioner-General 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-General accordingly.

Employee to give notice when necessary deductions are not made.

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

(2) A notice under subsection (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.

123. 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-General, shall not be such property of such employer as is liable to execution or administration in the event of the 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 of such employer or the estate of the deceased employer.

124. (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 deducted income tax for any pay period from the remuneration of an employee and has not remitted the full amount of such deduction to the Commissioner-General 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-General, and such amount not deducted or deducted and not remitted shall be deemed to be in default from the day following the day or on before which such amount should have been remitted to the Commissioner-General, and such employer shall be deemed to be a defaulter and such amount may be recovered from such employer in the manner provided in this Act.

Default in the deduction or payment of income tax.

(2) Notwithstanding the provisions of subsection (1), the Commissioner-General 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 read and construed as preventing the Commissioner-General from taking such steps as he thinks fit to recover the amount of income tax referred to in subsection (2), wholly from the employer or wholly from the employee or partly from the employer and partly from the employee.

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

Issue of assessments on employers.

- (a) fails to deduct the whole or any part of the income tax for any pay period;
- (b) fails remit to the Commissioner-General 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 120,

an Assessor may at any time during the year of assessment within which that pay period falls or within three 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-General 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 127.

(2) Where it appears to an Assessor that for any pay period in any year of assessment an employer has been assessed under subsection (1) at less than the proper amount of income tax which he should have deducted and paid to the Commissioner – General, the Assessor may at any time during that year of assessment or within three 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 and shall, by notice in writing, require such employer to pay such amount forthwith together with such amount as may be due under section 127:

Provided that where in the opinion of the Assessor any fraud, evasion or wilful default has been committed by or on behalf of any employer in relation to any income tax deductible by such employer in any year of assessment, it shall be lawful for the Assessor to make an assessment or an additional assessment on such employer, at any time after the end of that year of assessment.

Appeals.

126. (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-General within a period of thirty days after the date of the notice of such assessment:

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

(2) Where the assessment appealed against under subsection (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 120, the petition of appeal shall be preferred together with such declaration.

(3) Every employer preferring an appeal under subsection (1) against the amount of an assessment for any pay period falling within any year of assessment shall, (unless such employer has already done so,) remit to the Commissioner-General the whole or any part of the income tax which such employer was required, under the provisions of this Chapter to deduct from the remuneration paid to his employees in respect of such pay period, and to remit to the Commissioner-General but which has not been remitted, together with any penalty, under section 127 which accrued thereon upto the date of the notice of such assessment, and shall attach to the petition of appeal a receipt in proof of such remittance.

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

(5) The amount of income tax charged by an assessment made under section 125 shall be paid by the employer notwithstanding that an appeal against such assessment has been preferred under subsection (1).

(6) The provisions of subsection (7) of section 165 to section 170 shall *mutatis mutandis*, apply to any appeal preferred under subsection (1).

(7) Where no valid appeal has been preferred within the period specified in subsection (1) against an assessment made in accordance with the provisions of this Chapter, or where agreement is reached under subsection (7) of section 165 as

regards an assessment, or where an assessment had been determined on appeal the assessment as 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 subsection shall be read and construed as preventing an Assessor from making, subject to the provisions of section 125, 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.

127. Where any income tax for any pay period payable by any 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 ten *per centum* of such tax; and
- (b) where such tax is not paid before the expiry of thirty days after it has begun to be in default, a further penalty of a sum equivalent to two *per centum* of the tax in default in respect of each further period of thirty days or part thereof, during which it remains in default:

Provided that—

- (i) the Commissioner-General may waive or reduce the amount of any such penalty payable by any employer, if such employer proves to the satisfaction of the Commissioner-General 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;
- (ii) the total amount payable as penalty under the preceding provisions of this section, shall in respect of the tax in default for any pay period, not exceed fifty *per centum* of the tax in default.

128. Notwithstanding the provisions of section 127, where any income tax payable by any employer under the provisions of this Chapter is in default in respect of any period, such employer shall pay in addition to such tax a penalty, not exceeding ten *per centum* of such tax in default calculated as follows:—

Penalty on default.

- (a) where the tax payable on a return submitted under subsection (1) of section 106 has not been paid fully or partly on or before the due date, at the rate of five *per centum* for the first month of such default and a further one *per centum* for each month or part of a month thereafter, on such amount of tax in default;
- (b) where an assessment has been issued in the absence of a return due from such person and the relevant tax is in default, at the rate of ten *per centum* on such amount of tax in default;
- (c) where an assessment was under appeal and the tax became payable on the settlement of such appeal, at the rate of ten *per centum* on such amount of tax that became payable.

129. 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 paragraph (b) or paragraph (c) of section 120 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:

Credit for tax paid.

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

Compliance with the provisions of this Chapter relating to forms.

130. Where under the provisions of this Chapter an employer is required to record or furnish particulars in such form and in such manner as may be specified by the Commissioner-General, it shall be sufficient compliance with those provisions if the particulars are recorded or furnished by the employer in such form and in such manner as may be approved in writing by the Commissioner-General, upon an application in that behalf made by the employer.

Interpretation.

131. In this Chapter unless the context otherwise requires—

“employee” includes—

- (a) any director of a company or corporation;
- (b) any working partner of a partnership;
- (c) any person receiving remuneration for past services performed by him or performed by any other person;

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

- (a) for whom an individual performs services as an employee;
- (b) paying any profits from employment within the meaning of section 4; 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 a person specified in Column I hereunder, the person specified in the corresponding entry in Column II—

<i>Column I</i>	<i>Column II</i>
A company or a body of persons whether corporate or unincorporated	Director, secretary, manager or other principal officer of such company or body of persons.
A Partnership	The precedent partner or any active partner resident in Sri Lanka, and in the case of a partnership of which no active partner is resident in Sri Lanka, the agent of such partnership in Sri Lanka.
The Estate of a deceased person	The executor or administrator of the estate.
A trust	The trustee or trustees of the trust.
A non-resident person	The agent or attorney of such person in Sri Lanka;

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

“principal officer” in relation to any company or body of persons means, any person to whom a notice has been given under any provision of this Chapter or of Chapter XXVI on behalf of that company or a body of persons, unless he proves that he has no connection with that company or body of person or that some other person, resident in Sri Lanka is the principal officer thereof; and

“remuneration” means profits from employment within the meaning of section 4.

CHAPTER XV

PROVISIONS RELATING TO THE PAYMENT OF INCOME TAX BY A
GOVERNMENT INSTITUTION

Payment of
income tax by a
Government
institution of its
employees.

132. (1) Notwithstanding anything contained in section 2 and in Chapters XIII and XIV of this Act, the income tax attributable to one half of official emoluments of any employee of a Government Institution for any year of assessment, shall be paid by such Institution if such part of official emolument of such employee for that year of assessment exceeds an amount equal to the allowance referred to in paragraph (a) of subsection (1) of section 33:

Provided that no part of such income tax shall be refunded to such employee or set-off against any tax payable by such employee.

(2) Notwithstanding anything contained in section 4 of this Act, the income tax in respect of one half of official emolument of any employee of a Government Institution shall be deemed not to form part of the profits from employment of such employee.

(3) For the purposes of sub section (1), “the income tax attributable to one half of the official emolument of any employee of a Government Institution” means the income tax computed at the rates specified in Part I of the First Schedule to this Act on the one half of emoluments of such employee, after deducting therefrom a sum equal to the allowance referred to in paragraph (a) of sub section (1) of section 33.

(4) For the purpose of this Chapter —

“Government Institution” means any institution or other body which employees individuals holding any paid office under the Republic, a public corporation, Provincial Council, a Local Authority, University, Board or Commission referred to in paragraph (b) of sub section (1) of section 8 of this Act ; and

“official emoluments” means profits from employment as specified in paragraph (a) of sub section (1) of section 4 received for services rendered, excluding pension.

CHAPTER XVI

DEDUCTIONS FROM INTEREST PAID BY BANKS AND FINANCIAL INSTITUTIONS

133. (1) Every bank or financial institution shall, subject to the other provisions of this Act, deduct from the interest payable or creditable or from the discount allowable by it, on any sum of money deposited with it, income tax at the rate of ten *per centum* on the amount of such interest or discount; such deduction shall be made at the time such interest is paid or credited or such discount is allowed.

Banks and financial institutions to deduct income tax.

(2) For the purposes of a deduction under subsection (1), interest or discount shall not include any interest or discount—

- (a) which is exempt from income tax under this Act;
- (b) from which income tax has been deducted in accordance with section 95;
- (c) which accrues to the Consolidated Fund of the Government of Sri Lanka or to any Provincial Fund of a Provincial Council; and
- (d) to which any—
 - (i) foreign government; or
 - (ii) person or partnership who or which is exempt from income tax,

is beneficially entitled to.

(3) In relation to any interest payable or creditable or to discount allowable to any individual, not being any person referred to in subparagraph (ii) of paragraph (d) of subsection (2), by any branch of any bank or of any financial institution in any month in any year of assessment, the provisions of subsection (1) relating to the deduction of income tax shall not apply—

- (a) if the aggregate amount of such interest and such discount –
 - (i) for that month of that year of assessment does not exceed one thousand rupees; or
 - (ii) for that year of assessment does not exceed twelve thousand rupees; or
- (b) if such individual makes a declaration in writing to such branch that the aggregate amount of his income from interest and from discount, exclusive of any interest or discount referred to in paragraph (a) or paragraph (b) of subsection (2) —
 - (i) for that month in that year of assessment does not exceed nine thousand rupees ; or
 - (ii) for that year of assessment does not exceed one hundred and eight thousand rupees.

(4) In relation to any interest payable or the discount allowable to any charitable institution, the provisions of subsection (3) shall apply as though there were substituted -

- (a) in sub-paragraph (i) of paragraph (a) of that subsection, for the words, “one thousand rupees”, of the words, “two thousand five hundred rupees”;
- (b) in sub-paragraph (ii) of paragraph (a) of that subsection, for the words “twelve thousand rupees”, of the words, “thirty thousand rupees”;

- (c) in sub-paragraph (i) of paragraph (b) of that subsection, for the words, “nine thousand rupees”, of the words, “twelve thousand rupees”; and
- (d) in sub-paragraph (ii) of paragraph (b) of that subsection, for the words, “one hundred and eight thousand rupees”, of the words, “one hundred and forty four thousand rupees”.

(5) Where any person or partnership to whom or to which any interest is payable or creditable or any discount is allowable by any bank or financial institution, requests in writing such bank or financial institution to deduct income tax from such interest or discount at a rate higher than ten *per centum*, or where any such person being any individual or charitable institution, requests in writing such bank or financial institution to deduct income tax from any interest or discount referred to in subsection (3) or subsection (4), as the case may be, notwithstanding any limitation specified therein in relation to the amount of such interest or discount, such bank or financial institution shall comply with such request and deduct income tax accordingly; any deduction so made shall be deemed to be a deduction made under this section.

(6) Every bank or financial institution which deducts income tax in accordance with the provisions of subsection (1) or subsection (4) from any interest paid or credited or any discount allowed by it to any person or partnership, as the case may be, shall issue to such person or partnership a statement setting out the following particulars :—

- (a) the gross amount of the interest paid or credited or of discount allowed, as the case may be;
- (b) the rate of tax and the amount of tax deducted;
- (c) the net amount of interest actually paid or credited or of discount actually allowed; and

- (d) the period to which such interest or discount relates.

Deducting tax
from interest on
securities,
treasury bonds
etc.,

134. Where any bank or financial institution issues any—

- (a) Security or Treasury Bond under the Registered Stocks and Securities Ordinance (Chapter 420);
- (b) Treasury Bill, under the Local Treasury Bills Ordinance; (Chapter 417); or
- (c) Central Bank Security, under the Monetary Law Act (Chapter 422),

at a price less than the face value, such bank or financial institution shall deduct from the excess of the face value over such price, income tax at the rate of ten *per centum* of such excess. Such deduction shall be made at the time of the issue of such Security, Treasury Bond, Treasury Bill or Central Bank Security, as the case may be.

Companies
issuing corporate
debt securities to
deduct income
tax.

135. (1) Every company which issues any corporate debt security shall, subject to the other provisions of this Act, deduct from the interest payable or creditable or the discount allowable by it, in respect of such security, income tax at the rate of ten *per centum* on the amount of such interest or discount; such deduction shall be made at the time such interest is paid or credited or such discount is allowed.

For the purposes of this subsection the expression “corporate debt security” means, any interest bearing or discounted security issued by or on behalf of any company, and includes any bond, note, paper or mortgage which obligates such company to pay the holder of such bond, note or paper or the mortgagee, a specified sum of money on demand or upon such security reaching maturity or thereafter, but does not include any loan, advance, overdraft or other similar facility obtained from a bank or any financial institution.

(2) The provisions of subsection (6) of section 133, shall, in relation to any deduction made by any company referred to in subsection (1), apply as though there were substituted, in that subsection, for the words “bank or financial institution” of the word “company”.

136. Where the assessable income of a person for any year of assessment includes a payment of interest referred to in section 133 –

Credit for tax deducted.

- (a) if the income tax payable by him for that year of assessment exceeds the total of the deductions made under section 133, he shall be entitled on production of a statement relating to such payment made in accordance with that section, to deduct from the income tax payable by him for that year of assessment, the amount of tax set out in such statement;
- (b) if the income tax payable by him for that year of assessment is less than the total of the deductions made under section 133 he shall be entitled, on production of a statement relating to such payment made in accordance with that section and subject to the provisions of Chapter XXVIII, to a refund of the amount of the difference between the income tax payable by him for that year of assessment and the amount set out in such statement:

Provided however, where the total income on which tax has been deducted under section 133 accrues over more than one year of assessment and has not been included in full in computing the assessable income of such person for any year of assessment, then such deduction shall be restricted to the proportionate amount of tax so deducted, which is attributable to the income included in the assessable income of such person in that year or any subsequent year of assessment:

Provided further, that where such deduction is in respect of any corporate debt security issued with a discount without any right to receive any interest or other benefit subsequent to the original issue, such person shall not be entitled to any refund under section 200 in respect of the amount of any such deduction which may not be set off due to the provisions of the first proviso to this paragraph.

A notional tax credit on secondary market transactions

137. Where any person is engaged in any secondary market transaction involving any security or treasury bond issued under the Registered Stock and Securities Ordinance (Chapter 420), or Treasury Bill issued under the Local Treasury Bills Ordinance (Chapter 417), or Central Bank Security issued under the Monetary Law Act (Chapter 422) referred to in section 133, on which the income tax has been deducted during any year of assessment at the rate of ten *per centum* at the time of issue of such Security, Bond or Bill, such person is entitled to a notional tax credit at ten *per centum* of the grossed up amount of interest income from such secondary market transaction, to an amount of one ninth of the same, if such interest income forms part of the statutory income of such person being a company or the assessable income of such person being a person other than a company, for that year of assessment.

For the purposes of this section “interest income from secondary market transaction” means interest income accrued or received on a outright or reverse purchase transaction on such Security, Bond or Bill, from a date on or after the date of primary issue of such Security, Bond or Bill, less interest expenses on repurchase transaction with Securities, Treasury Bonds or Treasury Bills from which such interest income was earned, which has been certified by an approved accountant referred to in section 107, of this Act.

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

138. (1) Where any person has proved to the satisfaction of the Commissioner-General that such person has already paid income tax on any interest subject to income tax at ten *per centum* under section 133 of this Act, and any claim is made in writing within twelve months from the date of payment of such tax, such person shall be entitled to a refund

of such income tax paid by him on such interest income, other than any tax deducted under section 133 on such interest income.

(2) Where any person being a company which has included any interest income referred to in section 133 of this Act in its total statutory income, has by virtue of the notional credit referred to in section 137 paid any income tax in excess of its income tax liability for that year of assessment then such excess may be carried forward to be set-off against the income tax liability in any future year of assessment, but such company shall not be entitled to a refund of such excess or any part thereof.

(3) Any interest accrued to any person not being a company or any other person or partnership receiving such interest as business income for any year of assessment, shall not be included in the total statutory income for such year of assessment, if such person proves to the satisfaction of the Assessor that the total amount of such interest will be liable to the deduction of income tax under section 133, when such interest is paid or credited.

139. (1) Any person or partnership from whose interest income the income tax is deductible by a bank or financial institution, or a company which issues any corporate debt security in accordance with the provisions of section 133 or section 136 and such interest income will form part of the assessable income of such person or divisible profit or income of the partnership, as the case may be, for any year of assessment, may, if the amount of income tax payable by him or the relevant partners for such year of assessment is less than the income tax deductible during that year of assessment under section 133 or section 136, make an application to the Commissioner-General in such form and containing such particulars as may be specified by the Commissioner General, requesting that a direction be issued to that bank or financial institution or any company which issues corporate debt security, to make the necessary adjustments in the deduction of income tax in that year of assessment.

Issue of
directions where
deductions are
made under
sections 133 or
136.

(2) The Commissioner General or any other officer authorised by the Commissioner General may, on an application made by any person or partnership under subsection (1), issue to the bank, financial institution or company, as the case may be, specified in such application, the necessary directions in writing, a copy of which shall be issued to the applicant, and such bank, financial institution or company shall deduct income tax from the interest payable to such person or partnership, in accordance with such directions:

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

(3) Any person or partnership, who or which is dissatisfied with a direction issued under this section in respect of any year of assessment may, within the period of thirty days after the date of the issue of such direction, appeal to the Commissioner-General in writing, setting out precisely the grounds on which such appeal is being made. The decision of the Commissioner General on any such appeal shall be final and conclusive:

Provided that the Commissioner General shall, on a request made in writing by such person or partnership, as the case may be, cause an assessment to be made under section 163 on such person or partnership for that year of assessment, for the purpose of enabling such person or partnership to prefer an appeal under section 165, against such assessment.

(4) Every bank, financial institution or company shall –

- (a) keep a proper record of the interest paid to any person in any year of assessment and the date or dates on which such interest is paid, in such manner as may be specified by the Commissioner-General; and
- (b) permit any officer authorised in writing by the Commissioner-General to inspect any record maintained by it as referred to in paragraph (a).

(5) The Commissioner-General shall not issue a direction as provided for in subsection (1) of this section, unless such excess deduction of the income tax arises as a result of losses incurred by such person or partnership which are deductible under section 32 and such amount of losses at the commencement of the relevant year of assessment exceeds the estimated total statutory income for that year, on the basis of the preceding year, excluding the relevant estimated interest income which is subject to the deduction of income tax under section 133 or section 136 or such interest income which is subject to the income tax deduction is exempt from income tax.

140. Every bank or financial institution which is required to deduct income tax from the interest paid by it in any year of assessment to any person chargeable with income tax under this Act, shall deduct such income tax at the time when such interest is paid to such person in accordance with any agreement entered into between such bank or financial institution and such person with respect to such payment, and shall remit the amount so deducted to the Commissioner-General before the fifteenth day of the month following the month in which the deduction was made, and at the same time furnish to the Commissioner-General a declaration in such form and in such manner as may be specified by the Commissioner-General.

Duties of bank and financial institution following deductions of income tax.

141. Where the Commissioner-General is of the view, that any bank or financial institution which issues any debt security, or a company which issues corporate debt security, not deducting tax in accordance with the provisions of section 133, he shall after affording such bank, financial institution or any such company which issues corporate debt security an opportunity to show cause and where he is satisfied that there has been a contravention of the provisions of sections 133, impose on such bank or financial institution or the company which issues such debt security, a penalty of a sum equivalent to five hundred *per centum* of the tax avoided by the contravention of the provisions of such section.

Penalty for tax avoidance.

Default in the deduction of income tax .

142. (1) Where any bank or financial institution fails to deduct income tax from the interest paid by it in any year of assessment to a person chargeable with income tax under this Act in accordance with section 140, or where the bank or financial institution fails to remit to the Commissioner-General any amount so deducted, such bank or financial institution shall be liable for the entire amount of the tax it was required to deduct under the provisions of this section but has not so deducted or, as the case may be, for the entire amount or part of the amount of the tax deducted and not remitted to the Commissioner-General, and the amount not deducted or deducted and not remitted, as the case may be, 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-General, and such bank or financial institution shall be deemed to be a defaulter, and such amount may be recovered from such bank or financial institution in the manner provided for in this Act.

(2) Notwithstanding the provisions of subsection (1), the Commissioner-General may recover from the person from whom such deduction should have been made, the amount of the income tax or any part thereof which the bank or financial institution has failed to deduct from the interest paid to such person.

(3) Nothing in this section shall be read and construed as preventing the Commissioner-General from taking such steps as he thinks fit, to recover the amount of income tax referred to in subsection (2) wholly from the bank or financial institution or wholly from the person from whom such deduction should have been made or partly from the bank or financial institution and partly from that person.

Issue of assessments on banks and financial institutions.

143. Where any bank or financial institution which is required to deduct income tax from the interest paid in any year of assessment to any person chargeable with income tax under this Act, fails to—

- (a) deduct the whole or any part of the income tax which it is required to deduct under this Chapter;

- (b) remit to the Commissioner-General the whole or any part of the income tax so deducted; or
- (c) furnish any declaration under section 140,

an Assessor may at any time within three years from the end of that year of assessment, assess the amount of income tax or the additional amount of income tax which in the opinion of the Assessor such bank or financial institution should have deducted and paid to the Commissioner-General for such year of assessment, and shall by notice in writing, require such bank or financial institution to pay such amount forthwith together with such amount as may be due under section 145:

Provided that, where in the opinion of the Assessor any fraud, evasion or wilful default has been committed by or on behalf of any such bank or financial institution, in relation to any such income tax deductible by such bank or financial institution, it shall be lawful for the Assessor to make an assessment or an additional assessment on such bank or financial institution, at any time after the end of such year of assessment.

144. (1) Any Bank or financial institution aggrieved by the amount of any assessment made under the provisions of section 143 may appeal in writing against such assessment to the Commissioner-General within a period of thirty days after the date of the notice of such assessment:

Appeals.

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

(2) Where the assessment appealed against under subsection (1) has been made in the absence of a declaration required to be furnished under section 140, the petition of appeal shall be preferred together with such declaration.

(3) Every bank or financial institution preferring an appeal under subsection (1) against the amount of an assessment, shall, (unless such bank or financial institution has already done so), remit to the Commissioner-General the whole or any part of the income tax (which such bank or financial institution was required under the provisions of this Chapter, to deduct from the interest paid by such bank or financial institution in respect of that year of assessment and to remit to the Commissioner-General, but which has not been remitted) together with any penalty under section 145 which has accrued thereon up to the date of the notice of such assessment, and shall attach to the petition of appeal a receipt in proof of such remittance.

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

(5) The amount of income tax charged by an assessment made under section 143 shall be paid by the bank or financial institution, notwithstanding that an appeal against such assessment has been preferred under subsection (1).

(6) The provisions of subsection (7) of sections 165 to 170 shall, *mutatis mutandis*, apply to any appeal preferred under subsection (1).

(7) Where no valid appeal has been preferred within the period specified in subsection (1) against an assessment made in accordance with the provisions of this Chapter, or where an agreement is reached under subsection (6) of section 165 as regards the assessment, or where an assessment has been determined on appeal, the assessment as made or agreed or determined on appeal, as the case may be, shall be final and conclusive for all purposes of this Act.

Penalty for
default.

145. (1) Where any income tax for any year of assessment payable by a bank or financial institution under the provisions of this Chapter is in default, such bank or financial institution shall pay in addition to such tax—

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

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

Provided that—

- (i) the Commissioner-General may waive or reduce the amount of any such penalty payable by such bank or financial institution, if such bank or financial institution proves to the satisfaction of the Commissioner-General that the failure to pay was due to circumstances beyond its control and that it has paid the tax in default and has furnished the declaration required to be furnished at the time of such payment; and
- (ii) the total amount payable as penalty under the preceding provisions of this section shall, in respect of the tax in default for any year of assessment, not exceed fifty *per centum* of the tax in default.

146. Where any income tax payable by a bank or financial institution under the provisions of this Chapter is in default, such bank or financial institution shall pay in addition to such tax a penalty and interest in the manner provided in subsection (3) of section 173, notwithstanding the provisions of section 145.

Penalty and interest on default.

147. In this Chapter, “financial institution” means any person or body of persons, corporate or unincorporate, whose business or part of whose business consists in the acceptance of money by way of deposit, or loan in the form of debenture or bond or in any other form, and the payment of interest thereon, whether such acceptance is on its own behalf or on behalf of any other person.

Interpretation.

Person or Partnership chargeable with income tax.

148. Where any tax has been deducted from any person or partnership in accordance with the provisions of sections 133, such person or partnership, as the case may be, shall be a person or partnership chargeable with income tax.

Registered co-operative societies deemed to be companies.

149. For the purposes of this Chapter, any Co-operative Society registered under the Co-operative Societies Law, No. 5 of 1972, shall be deemed to be a company.

Registration of banks and financial institutions.

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

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

CHAPTER XVII

DEDUCTION OF INCOME TAX FROM SPECIFIED FEES PAID BY SPECIFIED PERSONS

Registration of specified persons.

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

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

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

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

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

153. (1) Every specified person shall, subject to the provisions of this Chapter, deduct from any specified fee payable to any person or to any partnership, at the time such specified fee is paid, income tax at the rate of five *per centum* of such specified fee.

Specified persons to deduct income tax from specified fees.

(2) For the purposes of subsection (1)—

“specified person” in relation to any year of assessment, means any person, partnership or body of persons, who or which either on his or it’s own behalf or on behalf of any other person or persons or partnership or partnerships, is likely to pay or to credit in that year of assessment or has paid or credited in the year of assessment immediately preceding that year of assessment, specified fees aggregating to not less than one million rupees, and

“specified fee” in relation to any year of assessment means any sum or sums aggregating to not less than—

- (a) fifty thousand rupees for any month in that year of assessment ; or
- (b) five hundred thousand rupees in that year of assessment,

payable by any specified person in that year of assessment to any person or partnership in consideration of services rendered by that person or partnership, as the case may be, in the course of any business, profession, vocation or other activities of an independent character carried on or exercised by that person or partnership, as the case may be, and includes any commission, brokerage or other sums of like nature payable by such specified person, but does not include any sum payable by such specified person to any employee of such specified person in the course of employment under such specified person or any rent or other payment payable for the use or occupation of any specified land or building, as defined in subsection (2) of section 156.

Provisions of Chapter XVI to apply in relation to the deduction under this Chapter of income tax from specified fees.

154. The provisions of Chapter XVI relating to the deduction of income tax from interest paid by banks and financial institutions, credit for income tax so deducted, issue of directions, duties of banks and financial institutions, default in the deduction of income tax, issue of assessments on banks and financial institutions, appeals and penalty for default shall, *mutatis mutandis*, apply to the deduction of income tax from specified fees by specified person, credit for income tax so deducted, issue of directions, duties of specified persons, default in the deduction of income tax, issue of

assessments on specified persons, appeals and penalty for default under this Chapter, as if there were substituted in Chapter XVI for the words “banks and financial institutions”, of the words “specified persons” and for the word “interest”, of the words “specified fee”, wherever they appear in that Chapter, subject however to the modification, that credit for income tax deducted under the provisions of this Chapter by any specified person from any specified fee paid to any partnership shall, unless the partners of such partnership by mutual agreement determine otherwise, be distributed among such partners in the ratio in which such partners share the profits or losses of such partnership.

CHAPTER XVIII

DEDUCTION OF INCOME TAX FROM RENT, LEASE RENT OR OTHER PAYMENT PAID BY ANY PERSON OR PARTNERSHIP FOR THE USE OR OCCUPATION OF ANY LAND OR BUILDING OTHER THAN FOR RESIDENTIAL PURPOSES

155. Every person or partnership paying any rent, lease rent or other payment for the use or occupation otherwise than as a residence, of any specified land or building, shall deduct at the time of the payment of such rent, lease rent or other payment, income tax at the rate of ten *per centum* of such rent, lease rent or other payment.

Persons paying rent, lease rent etc. to deduct income tax.

156. (1) The provisions of Chapter XVI relating to the deduction of income tax from interest paid by banks and financial institutions, credit for income tax so deducted, duties of banks and financial institutions, default in the deduction of income tax, issue of assessments on banks and financial institutions, appeals and penalty for default shall, *mutatis mutandis*, apply to the deduction of income tax from such rent, lease rent or other payments as is mentioned in section 155, credit for income tax so deducted, duties of persons liable to pay such rent, lease rent, or other payment,

Application of the provisions of Chapter XVI to this Chapter.

default in the deduction of income tax, issue of assessments on such persons, appeals and penalty for default under this Chapter, as if there were substituted in Chapter XVI for the words “banks and financial institutions” of the words “persons liable to pay such rent, lease rent or other payment” and for the word “interest” of the words “rent, lease rent or other payment”, wherever they appear in that Chapter, subject however, to the modification that credit for income tax deducted under the provisions of this Chapter by any person from any rent, lease rent or any other payment paid to any co-owners of such property shall be apportioned among such co-owners in proportion to their rights of ownership in such property.

(2) For the purposes of this Chapter “specified land or building” means a land or building in respect of which the amount of rent, lease rent or other payment payable for any calendar month or part thereof is not less than fifty thousand rupees or the aggregate rent, lease rent or other payment payable for any year, is not less than five hundred thousand rupees.

CHAPTER XIX

DEDUCTION OF INCOME TAX FROM REWARD PAYMENTS MADE BY ANY GOVERNMENT INSTITUTION TO INFORMANTS AND OTHERS AND SHARES OF FINES PAID TO ANY PERSON AND LOTTERY PRIZES, WINNINGS FROM GAMBLING OR WINNINGS FROM BETTING, PAID BY ANY PERSON OR PARTNERSHIP

Government institution paying rewards or fines or other person or partnership paying lottery prizes etc. to deduct income tax.

157. Notwithstanding anything to the contrary in any other law. where,

- (a) any Government institution pays a reward or distributes a share of fine other than any such share of fine paid out of the Consolidated Fund or which will fall under the profits from employment in terms of section 4 of this Act, in relation to any individual who holds any paid office under the Republic of Sri Lanka, to any person;

- (b) any person or partnership pays a lottery prize, winnings from gambling or winnings from betting to any person,

such institution, person or partnership, as the case may be, shall deduct at the time of the payment of such reward, share of fine, a lottery prize, winning from gambling or winning from betting, as the case may be, income tax at the rate of ten *per centum* on such gross payment:

Provided, however, in case of any payment referred to in paragraph (b), the tax shall be deducted only where such payment is not less than five hundred thousand rupees:

Provided further, where any person or partnership pays a lottery prize, winnings from gambling or winnings from betting, other than in cash, such person or partnership shall be liable to pay the relevant amount of income tax on such lottery prize winnings from gambling or winnings from betting, to the Commissioner-General.

158. (1).The provisions of Chapter XVI relating to the deduction of income tax from interest paid by banks and financial institutions, duties of banks and financial institutions, default in the deduction of income tax, issue of assessments of banks and financial institutions, appeals and penalty for default, shall, *mutatis mutandis*, apply to the deduction of income tax from such payments of rewards, share of fines, lottery prizes, winnings from gambling or winnings from betting as is mentioned in section 157, duties of persons or partnerships making such reward payments, share of fine, lottery prize, winnings from gambling or winnings from betting, default in the deduction of income tax, issue of assessments on such persons and partnerships, appeals and penalty for default under this Chapter, as if there were substituted in Chapter XVI for the words “banks and financial institutions” of the words “any person or partnership paying any reward, share of fine, a lottery prize, winnings from gambling or winnings from betting” and for

Provisions of Chapter XVI to apply in relation to any deduction under this Chapter.

the word “interest” of the words “any reward, share of fine, lottery prize, winnings from gambling or winnings from betting”, wherever they appear in that Chapter.

(2) (a) The aggregate amount of—

- (i) rewards paid to any person during any calendar month, shall be deemed to be one reward payment and the income tax on such payment shall be deducted on the last working day of each month or on the date of the last reward payment in any month;
 - (ii) shares of fines paid to any person during any calendar month, shall be deemed to be one share of fine payment and the income tax on such payment shall be deducted on the last working day of each month or on the last share of fine payment in any month;
 - (iii) winnings from gambling paid or winnings from betting paid per day to any person, shall be deemed to be one payment of winnings from gambling or winnings from betting and the income tax on such payment shall be deducted during the course of that day.
- (b) In the case of lottery prizes, each such prize whether paid in cash or otherwise, shall be considered as a separate prize.

(3) For the purposes of this Chapter—

“reward” means any gift made or reward paid by the Government under any scheme for the payment of rewards to the informants and others;

“share of fine” means any share of fine collected and distributed or paid by the Government in accordance with any scheme for the payment of fines;

“lottery prize” means any prize either in money or otherwise, offered and won in any lottery conducted by any person in Sri Lanka;

“winnings from gambling” means any payment received for winning in any gambling or gaming activity from any party, including a casino;

“winnings from betting” means any payment received for winning in any on-course or off-course betting.

(4) Notwithstanding the provisions of section 140 the total amount of the tax deducted—

- (a) from lottery prizes shall be remitted, to the Commissioner-General, on the first day of the week and where such first day of the week is not a working day, on the following working day, which amount shall be the total tax deducted during the week ending on the Sunday immediately preceding the date of such remittance;
- (b) from the winnings from gambling or winnings from betting shall be remitted to the Commissioner-General, on the first day of the week and where such first day of the week is not a working day, on the following working day, and the amount to be remitted shall be the total tax deducted during the week ending on the Sunday immediately preceding the date of such remittance.

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

Registration of persons conducting lotteries or betting or gambling activities.

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

CHAPTER XX

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

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

160. Notwithstanding anything to the contrary in any other law, where any person or partnership pays—

- (a) an annuity or royalty other than any such annuity or royalty referred to in section 95; or
- (b) any management fee or other similar payment,

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

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

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

Application of
the provisions of
Chapter XVI to
this Chapter.

161. (1) The provisions of Chapter XVI relating to the deduction of income tax from interest paid by banks or financial institutions, credit for income tax so deducted, issue of directions, duties of banks and financial institutions, default in the deduction of income tax, issue of assessments on banks

and financial institutions and appeals and penalty for default, shall, *mutatis mutandis* apply to the deduction of income tax from such payments of any annuity, royalty, management fee or such other similar payment as is mentioned in section 160, duties of persons or partnership making such payments of any annuity, royalty, management fee or similar payments, credit for income tax so deducted, issue of directions, default in the deduction of income tax, issue of assessments on such persons and appeals and penalty for default under this Chapter, as if there were substituted in Chapter XVI for the words “banks and financial institutions” of the words “persons or partnerships liable to pay such annuity, royalty management fee or such similar payment” and for the word “interest” of the words “annuity, royalty, management fee or such similar payment”, wherever they appear in that Chapter.

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

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

CHAPTER XXI

RETENTION OF MONEYS IN CERTAIN PROVIDENT FUNDS

162. The person having custody of the moneys lying in any provident fund to the credit of a contributor to such fund who is liable to income tax on any part of such moneys, shall, when he makes payment of these moneys to that contributor, retain in his custody an amount equal to fifteen *per centum* of those moneys, other than such part thereof as represents the contributions made by that contributor. The person who retains in his custody such amount shall notify the

Retention of fifteen *per centum* of moneys lying to the credit of a contributor to a specified provident fund, to meet any tax payable.

Commissioner-General of the amount so retained, and deduct there from the sum which the Commissioner-General by notice in writing directs him to deduct in respect of any tax payable under any law administered by the Commissioner-General, and the sum so deducted shall be paid to the Commissioner-General. Any balance left after such deduction shall be paid to such contributor.

CHAPTER XXII

ASSESSMENTS

Assessments and additional assessments.

163. (1) Where any person who in the opinion of an Assessor is liable to any income tax for any year of assessment, has not paid such tax or has paid an amount less than the proper amount which he ought to have paid as such tax for such year of assessment, an Assessor may, subject to the provisions of subsection (3) and (5) and after the fifteenth day of November immediately succeeding that year of assessment, assess the amount which in the judgment of the Assessor ought to have been paid by such person, and shall by notice in writing require such person to pay forthwith—

- (a) the amount of tax so assessed, if such person has not paid any tax for that year of assessment; or
- (b) the difference between the amount of tax so assessed and the amount of tax paid by such person for that year of assessment, if such person has paid any amount as tax for that year of assessment:

Provided that an Assessor may, subject to the provisions of subsections (3) and (5), assess any person for any year of assessment at any time prior to the fifteenth day of November immediately succeeding that year of assessment, if he is of opinion that such person is about to leave Sri Lanka or that it is expedient to do so for the protection of revenue, and require such person to pay such tax to the Commissioner-General earlier than as required under subsection (1) of section 113:

Provided further that any assessment in relation to the tax payable by a company under paragraph (b) of subsection (1) of section 65 or paragraph (c) of subsection (2) of section 62, shall be made after the expiry of thirty days from the due date for payment of such tax.

(2) Where it appears to an Assessor that any person liable to income tax for any year of assessment, has been assessed at less than the proper amount, the Assessor may, subject to the provisions of subsection (3) and subsection (5), assess such person at the additional amount at which according to his opinion such person ought to have been assessed, and the provisions of this Act as to notice of assessment, appeal and other proceedings shall apply to such additional assessment and to the tax charged thereunder.

(3) Where a person has furnished a return of income, the Assessor may in making an assessment on such person under subsection (1) or under subsection (2), either—

- (a) accept the return made by such person; or
- (b) if he does not accept the return made by that person, estimate the amount of the assemble income of such person and assess him accordingly:

Provided that where an Assessor does not accept a return made by any person for any year of assessment and makes an assessment or additional assessment on such person for that year of assessment, he shall communicate to such person in writing his reasons for not accepting the return.

(4) Where a person has not furnished a return of income and the Assessor is of the opinion that such person is liable to pay income tax, the Assessor may, in making an assessment on such person under subsection (1) or subsection (2), estimate the amount of the assemble income of such person and assess him accordingly, but such assessment shall not affect the liability of such person to a penalty under this Act for failure or neglect to furnish a return.

(5) Subject to the provisions of section 72, no assessment of the income tax payable under this Act by any person or partnership -

- (a) who or which has made a return of his or its income on or before the thirtieth day of September of the year of assessment immediately succeeding that year of assessment, shall be made after the expiry of eighteen months from the end of that year of assessment; and
- (b) who has failed to make a return on or before such date as referred to in paragraph (a), shall be made after the expiry of a period of three years from the end of that year of assessment:

Provided, that nothing in this subsection shall apply to the assessment of income tax payable by any person in respect of any year of assessment, consequent to the receipt by such person of any arrears relating to the profits from employment of that person for that year of assessment:

Provided further that, where in the opinion of the Assessor, any fraud, evasion or wilful default has been committed by or on behalf of, any person in relation to any income tax payable by such person for any year of assessment, it shall be lawful for the Assessor to make an assessment or an additional assessment on such person at any time after the end of that year of assessment.

(6) Notwithstanding the provisions of subsection (5), where the Court annuls any assessment on the ground that the provisions of the proviso to subsection (3) have not been complied with, it shall be lawful for an Assessor to make, where necessary, a further assessment in place of the assessment so annulled:

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

(7) An assessment under subsection (1) or an additional assessment under subsection (2) on any person for any year of assessment, shall not affect the liability of such person to the penalty specified in subsection (2) of section 173 and for the purposes of that section, the amount so assessed shall be deemed to be the income tax which such person ought to have paid for that year of assessment.

(8) Where any individual has for any year of assessment (hereinafter in this subsection referred to as the “first-mentioned year of assessment”) furnished a return of his income and has, in relation to each year of assessment within the period of three years of assessment immediately preceding the first-mentioned year of assessment, complied with the requirements of subsection (1) of section 106 and of subsection (1) of section 113, and has –

- (a) (i) paid as income tax, on the basis of the return so furnished for the first-mentioned year of assessment, a sum not less than one hundred and twenty *per centum* of the income tax for the year of assessment immediately preceding the first mentioned year of assessment; or
- (ii) specified as assessable income, in the return so furnished for the first mentioned year of assessment, a sum not less than one hundred and twenty five *per centum* of the assessable income for the year of assessment immediately preceding the first mentioned year of assessment, and
- (b) sworn an affidavit that no fraud, evasion or wilful default as been committed in relation to the income tax payable for the first mentioned year of assessment,

then such return shall be accepted and no assessment or additional assessment shall be made on such individual.

(9) Where any individual whose assessable income for any year of assessment does not exceed one million rupees, and who has -

- (a) not been given notice by a Deputy Commissioner under subsection (7) of section 106 in relation to that year of assessment or any previous year of assessment; or
- (b) not furnished a return of his income, and if he has a child, the income of such child for any previous year of assessment,

furnishes for that year of assessment, under subsection (1), a return of his income and if he has a child the income of such child, and pays the tax on the basis of such return together with any penalty due under Chapter XXV, such return shall be accepted and no assessment or additional assessment shall be made on such individual for that year of assessment, notwithstanding that such return is not accompanied by a statement of accounts.

Notice of
Assessment.

164. An Assessor shall give notice of assessment to each person who has been assessed, stating the amount of income assessed and the amount of tax charged:

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

CHAPTER XXIII

APPEALS

A-APPEALS TO THE COMMISSIONER-GENERAL

165. (1) Any person who is aggrieved by the amount of an assessment made under this Act or by the amount of any valuation for the purposes of this Act may, within a period of thirty days after the date of the notice of assessment, appeal to the Commissioner-General against such assessment or valuation:

Appeals to the
Commissioner-
General.

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

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

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

(4) Every person preferring an appeal under subsection (1) against the amount of an assessment for any year of assessment shall, (unless such person has done so already), pay to the Commissioner-General the amount of tax payable by such person on the basis of the return furnished by him for that year of assessment, together with any penalty thereon accrued up to the date of such notice of assessment and shall attach, to the petition of appeal, a receipt in proof of such payment:

Provided that the Commissioner-General, upon being satisfied that owing to serious financial hardship suffered by the appellant at or about the time of such notice of assessment or, owing to other reasonable

cause, the appellant was prevented from paying such tax and such penalty, may grant an extension of time for the payment of such tax and penalty thereon accrued up to the date of payment, and accordingly a receipt in proof of payment of such tax and penalty thereon accrued up to the date of payment, furnished within such extended time shall, for the purposes of this subsection, be deemed to have been attached to the petition of appeal.

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

(6) The receipt of every appeal shall be acknowledged within thirty days of its receipt and where so acknowledged, the date of the letter of acknowledgement shall for the purpose of this section, be deemed to be the date of receipt of such appeal. Where however the receipt of any appeal is not so acknowledged, such appeal shall be deemed to have been received by the Commissioner General on the day on which it is delivered to the Commissioner-General.

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

(8) Where no agreement is reached between the appellant and the Assessor in the manner provided in subsection (7), the Commissioner-General shall, subject to the provisions of section 168, fix a time and place for the hearing of the appeal.

(9) Every appellant shall attend before the Commissioner-General at the time and place fixed for the hearing of the appeal. The appellant may attend the hearing of the appeal in person or by an authorized representative. The

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

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

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

(11) Before making his determination on any appeal, the Commissioner-General may if he considers it necessary so to do, by notice given in writing to any person, require that person to produce for examination, or to transmit to the Commissioner-General within the period specified in such notice, any such deeds, plans, instruments, books, accounts,

trade lists, stock lists, registers, cheques, paying-in-slips, auditors' reports or other documents in his possession, as may be specified in such notice.

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

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

(14) Every petition of appeal preferred under this section, shall be agreed to or determined by the Commissioner-General, within a period of two years from the date on which such petition of appeal is received by the Commissioner-General, unless the agreement or determination or such appeal depends on—

- (a) the decision of a competent court on any matter relating to or connected with or arising from such appeal and referred to it by the Commissioner-General or the appellant; or
- (b) the furnishing of any document or the taking of any action—
 - (i) by the appellant, upon being required to do so by an Assessor or the Commissioner-General by notice given in writing to such appellant (such notice being given not later than six months prior to the expiry of two years from the date on which the petition of appeal is received by the Commissioner-General); or
 - (ii) by any other person, other than the Commissioner-General or an Assessor.

Where such appeal is not agreed to or determined within such period, the appeal shall be deemed to have been allowed and tax charged accordingly.

(15) For the purposes of this Chapter, there shall be a panel of adjudicators appointed by the Minister. The remuneration of the members of the panel of adjudicators shall be determined by the Minister. The Commissioner-General may authorize any such adjudicator to exercise any of the powers vested in him under this Chapter, as he may specify in such authorization.

B - APPEALS TO THE BOARD OF REVIEW

166. (1) For the purpose of hearing appeals in the manner hereinafter provided, there shall be a Board of Review (hereinafter referred to as “the Board”) consisting of not more than twenty members who shall be appointed by the Minister. Every member of the Board so appointed shall hold office for a term not exceeding three years, but shall be eligible for reappointment.

Constitution of
the Board of
Review.

(2) There shall be a Secretary to the Board who shall be appointed by the Minister.

(3) There shall be a panel of not more than three Legal Advisors to the Board who shall be appointed by the Board.

(4) Three or more members of the Board shall be nominated by the Minister and summoned by the Secretary to attend meetings at which appeals are to be heard. At such a meeting the quorum shall consist of two members.

(5) At the request of the Commissioner-General, the Secretary to the Board shall summon a meeting of the whole Board. At such a meeting the quorum shall consist of five members.

(6) The remuneration of the members of the Board, the Secretary and the Legal Advisors shall be fixed by the Minister.

Appeals to the
Board of Review.

167. (1) Any appellant or the authorized representative of any appellant, who is dissatisfied with the determination of the Commissioner-General on an appeal under section 165, may communicate in writing to the Commissioner-General his dissatisfaction with such determination. Every such communication shall be made within one week from the date of the determination.

(2) Where the appellant has communicated in accordance with subsection (1) his dissatisfaction with the determination to the Commissioner-General, the Commissioner-General shall, within one month of the date of that determination, transmit in writing to the appellant or his authorized representative, his reasons for that determination.

(3) The appellant or his authorized representative may within one month of the transmission by the Commissioner-General under subsection (2), of the reasons for the determination, by petition in writing addressed to the Board, appeal from that determination. Every such petition shall—

- (a) be accompanied by a copy of the Commissioner-General's determination and reasons against which the appeal is made;
- (b) set out precisely the grounds of appeal therefrom;
- (c) be delivered to the Secretary to the Board.

Commissioner-General may refer appeals to the Board of Review.

168. Notwithstanding the provisions of section 165, the Commissioner-General may refer any valid appeal made to him, to the Board of Review, and the Board shall hear and determine such appeal, and accordingly, the provisions of section 169 shall apply to the hearing and determination of any appeal so referred.

Hearing and determination of appeals by the Board of Review.

169. (1) As soon as may be after the receipt of a petition of appeal, the Secretary to the Board shall fix a date and time and place for the hearing of the appeal, and shall give fourteen day's notice thereof, both to the appellant and to the Commissioner-General.

(2) The Commissioner-General shall on receipt of a notice under subsection (1), transmit to the Board a copy of the record of evidence maintained under subsection (12) of section 165.

(3) Every appellant shall attend in person or by an authorized representative, the meeting of the Board at which the appeal is heard:

Provided that where an authorized representative of the appellant is present at the hearing of an appeal the, Board may postpone the hearing for such time as it thinks necessary to enable the attendance in person, of the appellant.

(4) The Assessor who made the assessment appealed against or some other person authorized by the Commissioner-General, shall attend the meeting of the Board at which such appeal is heard, in support of the assessment as determined by the Commissioner-General.

(5) The onus of proving that the assessment as determined by the Commissioner-General on appeal or as referred by him under section 168, as the case may be, is excessive or erroneous, shall be on the appellant.

(6) All appeals shall be heard in *Camera*.

(7) The Board shall have power to summon to attend at the hearing, any person whom it may consider able to give evidence respecting the appeal and may examine him as a witness, either on oath or otherwise. Any person so attending may be allowed by the Board any reasonable expenses necessarily incurred by him in so attending.

(8) Except with the consent of the Board and on such terms as the Board may determine, the appellant shall not at the hearing by the Board, be allowed to produce any document which was not produced before the Commissioner-General or to adduce the evidence of any witness whose

evidence was not led before the Commissioner-General or whose evidence has already been recorded at the hearing before the Commissioner-General.

(9) At the hearing of the appeal the Board may, subject to the provisions of subsection (8), admit or reject any evidence adduced whether oral or documentary, and the provisions of the Evidence Ordinance relating to the admissibility of evidence shall not apply.

(10) After hearing the appeal, the Board shall either confirm, reduce, increase or annul the assessment as determined by the Commissioner-General on appeal, or as referred by him under section 168, as the case may be, or may remit the case to the Commissioner-General with the opinion of the Board thereon. Where a case is so remitted by the Board the Commissioner-General shall revise the assessment as the opinion of the Board may require. The decision of the Board shall be notified to the appellant and the Commissioner-General in writing:

Provided however, the Board shall make its determination or express its opinion, as the case may be, within two years from the date of commencement of the hearing of such appeal:

Provided further, where the hearing of any appeal had commenced prior to the date of the commencement of this Act, the appeal shall be determined or an opinion shall be expressed, within two years from the commencement of this Act.

(11) Where under subsection (10) the Board does not reduce or annul such assessment, the Board may order the appellant to pay as costs of the Board, a sum not exceeding five hundred rupees, which shall be added to the tax charged by the assessment and recovered therewith.

C - APPEALS TO THE COURT OF APPEAL

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

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

Provided that either the appellant or the Commissioner-General may make an application requiring the Board to state a case on a question of law for the opinion of the Court of Appeal. Such application shall not be entertained unless it is made in writing and delivered to the Secretary to the Board, together with a fee of one thousand and five hundred rupees, within one month of the date on which the decision of the Board was notified in writing to the Commissioner-General or the appellant, as the case may be.

(2) The case stated by the Board shall set out the facts, the decision of the Board, and the amount of the tax in dispute where such amount exceeds five thousand rupees, and the party requiring the Board to state such case shall transmit the case, when stated and signed to the Court of Appeal, within fourteen days after receiving the same.

(3) For the purpose of the application of the provisions of the Stamp Duty Act, No. 43 of 1982—

- (a) all proceedings before the Court of Appeal on any case stated under this section or incidental to the hearing, determination or disposal of any such case, shall be deemed to be civil proceedings before the Court of Appeal of the value of five thousand rupees or of such greater amount as is set out by the Board in the stated case as the amount of the tax in dispute;
- (b) every such case stated shall, together with all books, documents and papers annexed thereto by the Board, be deemed to be a single exhibit in civil proceedings before the Court of Appeal; and
- (c) the Commissioner-General, if he is the appellant, shall be deemed to be a Government officer suing, or if he is the respondent to the appeal, a Government officer being sued, in a suit *virtue officii*.

(4) At or before the time when he transmits the stated case to the Court of Appeal, the party requiring it shall send to the other party, a notice in writing informing him that a case has been stated on his application and shall supply him with a copy of the stated case.

(5) Any two or more Judges of the Court of Appeal may cause a stated case to be sent back to the Board for amendment, and the Board shall amend the case accordingly.

(6) Any two or more Judges of the Court of Appeal may hear and determine any question of law arising on the stated case and may in accordance with the decision of Court upon such question, confirm, reduce, increase or annul the assessment determined by the Board, or may remit the case to the Board with the opinion of the Court, thereon. Where a case is so remitted by the Court, the Board shall revise the assessment in accordance with the opinion of the Court.

(7) The Court of Appeal may, pending the determination of the case stated to such Court, make an interim determination as regards the amount of tax recoverable by the Commissioner-General in respect of the amount of tax in dispute, on the basis of a report furnished by the Commissioner-General.

(8) In any proceedings before the Court of Appeal under this section, the Court may make such order in regard to costs in the Court of Appeal and in regard to the sum paid under subsection (1), as the Court may deem fit.

(9) For the purposes of enabling the Commissioner-General or any other party to appeal to the Supreme Court against any order of the Court of Appeal under subsection (6), and for the purpose of the application of the provisions of any written law relating to appeals to the Supreme Court from the decisions of the Court of Appeal—

- (a) an order made by the Court of Appeal under subsection (6) shall, together with any order of that

Court under subsection (8), be deemed to be a final judgement of the Court of Appeal in a civil action between the Commissioner-General and such other party;

- (b) the value of the matter in dispute in such civil action shall be deemed to be five thousand rupees:

Provided that where the Board has in the stated case, set out an amount higher than five thousand rupees as the amount of the tax in dispute, the value of the matter in dispute in such civil action shall be deemed to be that higher amount; and

- (c) the Commissioner-General shall not be required in respect of any such appeal, to make any deposit or pay any fee or furnish any security prescribed by such written law.

CHAPTER XXIV

FINALITY OF ASSESSMENTS AND PENALTY FOR INCORRECT RETURNS

171. Where no valid appeal has been lodged within the time specified in subsection (1) of section 165 against an assessment as regards the amount of the assessable income assessed thereby, or where an appeal preferred against such an assessment is dismissed under subsection (9) of section 165, or where agreement is reached under subsection (7) of section 165 as to the amount of such assessable income, or where the amount of such assessable income has been determined on appeal, the assessment as made or agreed to or determined on appeal, as the case may be, shall be final and conclusive for all purposes of this Act, as regards the amount of such assessable income :

Assessments or amended assessments to be final.

Provided that nothing in this section shall be read and construed as preventing an Assessor from making, subject to the provisions of section 163, an assessment, or additional

assessment for any year of assessment, which does not involve re-opening any matter which has been determined on appeal for that year.

Penalty for
incorrect return.

172. (1) Where in an assessment made in respect of any person the amount of the assessable income or taxable income exceeds the amount specified as his assessable income or taxable income in the return furnished by him under subsection (1) of section 106 or subsection (2) of section 106 and the assessment is final and conclusive under section 171, the Commissioner-General may, unless that person proves to the satisfaction of the Commissioner-General that there is no fraud or wilful neglect involved in the disclosure of income or any claim for any deduction or relief made by that person in such return, in writing order that person to pay on or before a specified date, a sum not exceeding the aggregate of two thousand rupees and a sum equal to twice the tax on the amount of the excess as penalty for making an incorrect return.

(2) Any person in respect of whom an order is made under subsection (1) may, within twenty-one days after the notification of the order to him, appeal therefrom in writing to the Board of Review. The appeal shall state precisely the grounds of objection to the order.

(3) The provisions of section 169 shall as far as possible apply to the hearing and disposal of any appeal under the preceding provisions of this section. The Board of Review may confirm, reduce, increase or annul the penalty imposed by the order of the Commissioner-General from which the appeal is made, but any increase of such penalty shall not be in excess of the maximum amount which the Commissioner-General may impose, under subsection (1) as such penalty.

(4) Where in respect of any person's return of income a penalty is imposed on that person under this section, he shall not be liable to prosecution for an offence relating to that return under paragraph (a) of subsection (4) of section 202 or under paragraph (a) of subsection (1) of section 204

CHAPTER XXV

TAX IN DEFAULT AND SUMS ADDED THERETO

173. (1) Where a quarterly instalment of a tax or a part of such instalment for any year of assessment is not paid on or before the date specified in subsection (1) section 113 for the payment of that instalment, such instalment of tax or part thereof, or where any tax or part thereof assessed by an Assessor for any year of assessment and required to be paid on or before the date specified in the notice of assessment (such date, in the case of any tax which is required to be paid under subsection (1) of section 113, being a date earlier than the date before which such tax or part thereof is required to be paid under that section) is not so paid, such tax or part thereof shall be deemed to be in default, and—

Tax in default
and sums
added thereto.

- (a) where such tax is payable by one person, such person;
and
- (b) where such tax is payable by more than one person
or by a partnership, each of such persons or each
partner in each partnership,

shall be deemed to be a defaulter for the purposes of this Act.

(2) Where the entirety of the tax or part of such tax payable by a company on or before the date specified for the payment of that tax in subsection (3) or subsection (4) of section 113, is not so paid, such tax or part thereof shall be deemed to be in default and such company shall be deemed to be a defaulter for the purposes of this Act.

(3) Where any tax payable by any person for any year of assessment is in default, the defaulter shall in addition to the tax in default, pay —

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

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

Provided that—

- (i) the total amount payable as a penalty under the preceding provision of this section shall in no case exceed fifty *per centum* of the tax in default;
- (ii) where any person has paid as quarterly instalment of tax for any year of assessment a sum which is not less than one-quarter of the income tax payable by such person for the year immediately preceding that year of assessment, such person shall not be liable to any penalty in respect of such quarterly instalment of tax under the preceding provisions of this section, until the thirtieth day of September immediately succeeding the end of the year of assessment in respect of which such quarterly instalment of tax became due.

For the purposes of this paragraph “income tax” —

- (A) in relation to a company for any year of assessment, shall not include tax payable by that company, under paragraph (b) or paragraph (c) of subsection (1) of section 61, for that year of assessment;
- (B) in relation to any person for any year of assessment means, the income tax which would have been payable by such person for the year preceding that year of assessment (hereinafter referred to as the

“preceding year”) had any profits and income, other than the net annual value of a residence and any subsidy exempt from income tax under this Act, which were exempt from income tax, under this Act, or any other law and in respect of which such exemption ceased in such preceding year, been taken into account in computing the assessable income of that person for that year of assessment;

- (C) the Commissioner-General may reduce or waive any penalty payable under this section if it appears to the Commissioner-General, that such reduction or waiver is just and equitable in all the circumstances of the case.

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

(5) Where any assessment has been made on any person for any year of assessment by an Assessor, the amount of the tax as specified in the notice of assessment shall, for the purposes of subsection (3), be deemed to be the tax payable by that person for that year of assessment.

(6) Tax shall be paid notwithstanding any appeal against the assessment, unless the Commissioner-General orders that payment of tax or any part thereof be held over pending the determination of such appeal, and the amount of the tax or part thereof so held over shall not be deemed to be in default.

(7) Where the Commissioner-General is of the opinion either that the tax or any part thereof held over under subsection (6) is likely to become irrecoverable, or that the appellant is unreasonably delaying the prosecution of his appeal, he may revoke any order made under that subsection, and make such fresh order as the case may appear to him to require and the amount of any tax not paid on or before such date as may be specified in the fresh order, shall be deemed to be in default.

(8) Where, upon the final determination of an appeal under Chapter XXIII or upon any order made by the Commissioner-General, any tax which has been held over under subsection (6) becomes payable or tax charged by the original assessment is increased, the Commissioner-General shall give to the appellant a notice in writing, fixing a date on or before which any tax or balance tax shall be paid. Any tax not so paid shall be deemed to be in default.

(9) Notwithstanding anything in this section, where there is an appeal against an assessment and where the payment of any tax specified in the notice of assessment is held over on the order of the Commissioner-General, the Commissioner-General may, if the appellant agrees during the course of the inquiring into or hearing of that appeal, that a certain sum is due or is likely to be due as tax in respect of that assessment, by notice in writing given to the appellant, direct the appellant to pay such sum on or before such date as is specified in the notice. Any sum not so paid shall be deemed to be in default.

(10) Where upon the final determination of an appeal under Chapter XXIII, any tax in default to which any sum or sums has or have been added under subsection (3) is reduced, then such sum or sums shall be calculated on the tax as so reduced.

(11) Where any person liable to pay any tax satisfies the Commissioner-General on or before the date he is required to pay such tax or any instalment thereof, that he has made arrangements for the payments of such tax or instalments from

any sum to be paid to him by the Government or from moneys lying to his credit in the National Savings Bank or from moneys to be paid to him from any person or provident fund approved by the Commissioner-General, the Commissioner-General may grant such person an extension of time for the payment of such tax or instalment, and such tax or instalment thereof shall not be deemed to be in default until the expiration of such extended time.

(12) Where any tax is due from the estate of a deceased person, and the executor of such deceased person satisfies the Commissioner-General on or before the date he is required to pay such tax or any instalment thereof, that such tax or instalment cannot be paid on or before that date owing to probate or letters of administration not having been granted to him, such sum or instalment shall not be deemed to be in default if it is paid within a period of two months after the date of the grant of probate or letters of administration.

In this subsection, the expression, “executor” does not include any person who takes possession of or intermeddles with, the property of a deceased person.

(13) Where any tax held over by the Commissioner General becomes payable, either wholly or partly on settlement of the appeal, then any amount payable shall be recovered within one year from the date of settlement of the appeal, unless a case has been stated in relation to such appeal to the Court of Appeal under section 170;

(14) In this section, “tax” means income tax which is payable in respect of the profits and income of any person for any year of assessment, and the advance company tax payable for any year of assessment by a company in relation to any qualifying distribution.

174. Where any person, including a director or a principal officer of a company or a partner of a partnership or a member or an office-bearer of an un-incorporated body, in respect of income tax payable by such person, including a company,

Punishment for
tax in default.

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

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

CHAPTER XXVI

RECOVERY OF TAX

175. In this Chapter, “tax” includes—

- (a) income tax, charged and levied under this Act;
- (b) any income tax, wealth tax or gifts tax charged and levied under the Inland Revenue Act, No. 28 of 1979 and which was in default or goes into default on or after April 1, 2000;
- (c) any income tax which an employer is required to pay under the provisions of Chapter XIV;
- (d) the whole or any part of any quarterly instalment of income tax referred to in section 97 of the Inland Revenue Act, No. 28 of 1979 or in section 113 of this Act and which any person is liable to pay for any year of assessment;
- (e) any advance company tax which a company is

Tax to include
fines etc.

required to pay under this Act; or under the Inland Revenue Act, No. 28 of 1979 or the Inland Revenue Act, No. 38 of 2000,

and any sums added to any such tax by reason of default, any sum or sums added to such income tax under section 173 of this Act or section 144 of the Inland Revenue Act, No. 38 of 2000 or to income tax, wealth tax or gifts tax under subsection (2) or (2A) of section 125 of Inland Revenue Act, No. 28 of 1979 or under subsection (6) of section 96B of the Inland Revenue Act, No. 4 of 1963, and any fines, penalties, fees or costs whatsoever incurred under this Act or the Inland Revenue Act, No. 38 of 2000 or Inland Revenue Act, No. 28 of 1979 or the Inland Revenue Act, No. 4 of 1963.

176. (1) Save as provided in subsection (2), tax in default shall be a first charge upon all the assets of the defaulter:

Tax to be a first charge.

Provided that—

- (a) such charge shall not extend to or affect any assets sold by the defaulter to a *bona fide* purchaser for value prior to the seizure of the same in accordance with the provisions of section 178;
- (b) as regards immovable property, the tax shall not rank in priority to any lease or encumbrance created *bona fide* for value and registered prior to the date of *seizure* of the property under section 178; and
- (c) as regards movable property, where tax for more than one year of assessment is in default, the tax for one year only to be selected by the Commissioner-General, shall rank in priority to any lien or encumbrance created *bona fide* for value prior to the date of default.

(2) A receiver shall pay out of the assets under his control, the tax charged or chargeable for one complete year of assessment prior to the date of the insolvency, bankruptcy, or

liquidation to be selected by the Commissioner-General as a first charge on such assets, and any other tax charged or chargeable for periods prior to such date shall be an unsecured debt:

Provided that where the receiver proves to the satisfaction of the Commissioner-General that any tax in default which he is liable to pay is excessive, the Commissioner-General may, notwithstanding the provisions of section 171, review the assessment in respect of which the tax is charged and make such adjustments as may appear to him to be just and equitable in all the circumstances of the case.

Notice to
defaulter.

177. (1) Before taking proceedings to recover any tax in default in any manner hereinafter provided, the Commissioner-General shall subject to the provisions of subsection (2), issue notice in writing to the defaulter stating—

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

(2) Where the Commissioner-General is satisfied that compliance with the procedure set out in subsection (1) for the recovery of any tax in default is inexpedient and that immediate action is necessary for the recovery of such tax, he may take proceedings to recover such tax without issuing a notice to the defaulter as required by that subsection. Where the Commissioner-General takes proceedings under this subsection to recover any tax in default, he shall, within fourteen days of the date on which he takes such proceedings, issue a notice to the defaulter stating the particulars of the tax in respect of which such proceedings have been taken, and the nature of such proceedings.

(3) If such defaulter has not appealed within the proper time against the assessment or assessments in respect of which such tax is charged, he may, within thirty days of the notice

issued under subsection (1) or subsection (2), make any objection to the tax so charged and the Commissioner-General shall, notwithstanding the provisions of section 171, consider such objection and give his decision thereon which shall be final:

Provided that where the Commissioner-General is satisfied that owing to illness, absence from Sri Lanka or other reasonable cause, the defaulter was prevented from objecting within thirty days of the notice issued under subsection (1) or subsection (2), he shall grant an extension of time for preferring such objections.

(4) Where the tax recovered as a result of any proceedings taken under subsection (2) is in excess of the amount of tax determined under subsection (3) to be payable by the defaulter in respect of any year of assessment, such excess shall, notwithstanding anything in section 200, be refunded to the defaulter :

Provided that no refund under this subsection shall exceed the tax recovered as a result of proceedings taken under subsection (2).

178. (1) The Commissioner-General may appoint persons to be tax collectors.

Recovery of tax
by seizure and
sale.

(2) (a) Where any tax is in default, the Commissioner-General may issue a certificate to a Government Agent, Assistant Government Agent, Fiscal, Deputy Fiscal or tax collector, containing particulars of such tax and the name of the defaulter and the officer to whom such certificate is issued shall be empowered and is hereby required, to cause the tax to be recovered from the defaulter named in the certificate by seizure and sale of his movable property.

(b) A seizure of movable property shall be effected in such manner as such officer shall deem most expedient in that behalf, and as soon as any movable property is seized by such

officer, a list of such property shall forthwith be made and signed by him and shall be given to the defaulter and a copy thereof furnished to the Commissioner-General.

(c) Where the property so seized is—

- (i) cash in Sri Lanka currency, such cash shall be first applied in the payment of the cost and charges of seizing and any balance applied in satisfaction of the tax in default;
- (ii) cash in foreign currency, such cash shall be deposited in the Central Bank or any commercial bank and the proceeds therefrom applied in the payment of the costs and charges of seizing and any balance applied in satisfaction of the tax in default; and
- (iii) property other than cash, such property shall be kept for five days at the cost and charges of the defaulter. If the defaulter does not pay the tax in default together with the costs and charges within the five days, the Government Agent, Assistant Government Agent, Fiscal, Deputy Fiscal or tax collector shall cause such property to be sold by public auction, or where such property is a negotiable instrument or a share in any corporation or public company, to be sold through a broker at the market rate of the day.

(d) The sum realized by a sale referred in sub-paragraph (iii) of paragraph (c) shall be applied—

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

defaulter, reasonable expenses incurred by him in proceeding against such defaulter under this section, notwithstanding that no seizure of property was effected.

(f) In this subsection the expression “movable property” includes any plant or machinery affixed to the ground of a factory.

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

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

179. (1) Where the Commissioner-General is of opinion in any case that recovery of tax in default by seizure and sale is impracticable or inexpedient, or where the full amount of the tax has not been recovered by seizure and sale, he may issue a certificate containing particulars of such tax and the name and last known place of business or residence of the

Proceedings
for recovery
before
Magistrate.

defaulter to a Magistrate having jurisdiction in the division in which such place is situate. The Magistrate shall thereupon summon such defaulter before him to show cause why further proceedings for the recovery of the tax should not be taken against him, and in default of sufficient cause being shown the tax in default shall be deemed to be a fine imposed by a sentence of the Magistrate on such defaulter for an offence punishable with fine only or not punishable with imprisonment, and the provisions of subsection (1) of section 291 (except paragraph (a), (d) and (i) thereof) of the Code of Criminal Procedure Act, No. 15 of 1979 relating to default of payment of a fine imposed for such an offence shall thereupon apply, and the Magistrate may make any direction which, by the provisions of that subsection, he could have made at the time of imposing such sentence.

(2) The correctness of any statement in a certificate issued by the Commissioner-General for the purposes of subsection (1), shall not be called in question or examined by the Magistrate in any proceeding under this section and accordingly, nothing in that subsection shall be read and construed as authorizing a Magistrate to consider, or decide the correctness of any statement in such certificate or to postpone or defer such proceeding for a period exceeding thirty days, by reason only of the fact that an appeal is pending against the assessment in respect of which the tax in default is charged.

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

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

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

(6) Where a Magistrate directs under subsection (4) that payment be made in instalments and default is made in the payment of any one instalment, proceedings may be taken as if default had been made in payment of all the instalments then remaining unpaid.

(7) In any proceeding under subsection (1), the Commissioner-General's certificate shall be sufficient evidence that the tax has been duly assessed and is in default, and any plea that the tax is excessive, incorrect, or under appeal, shall not be entertained.

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

Recovery of tax
out of debts & c.

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

the Commissioner-General may give to such other person notice in writing (a copy of which shall be sent by post to the defaulter) requiring him to pay any such moneys not exceeding the amount of the tax in default, to the officer named in such

notice. The notice shall apply to all such moneys which are in his hands or due from him at the date of receipt of such notice, or come into his hands or become due from him or are about to be paid by him at any time within a period of three months, after the date of such notice.

(2) Where a person holds money for or on account of the defaulter and any other person or persons jointly (in this section referred to as the “joint account holder or holder”) the Commissioner-General may give a notice under subsection (1) to such person, requiring him to pay the amount of the tax in default or part thereof to the officer named in such notice, out of the monies or such part of such moneys in the joint account which the Commissioner-General is satisfied is attributable to the contributions made by the defaulter, and is so certified by the Commissioner-General:

Provided that—

- (a) every person remitting money in compliance with a notice issued under subsection (1), shall intimate such fact to every other joint account holder;
- (b) every joint account holder other than the defaulter may, within two weeks of the date on which he received an intimation under paragraph (a), make a claim to the Commissioner-General in respect of any part of such remittance which represents his net contribution to the balance in such joint account as at the date of notice issued by the Commissioner-General, and the Commissioner-General shall consider such claim and make his order thereon;
- (c) every joint account holder who is aggrieved by the order of the Commissioner-General made under paragraph (b), may institute an action in the District Court seeking an order for the recovery of such money or part of money which he claims to be attributable to the contributions made by him.

Notwithstanding any provision in the Prescription Ordinance (Chapter 68), no action shall be instituted for the recovery of such money or part of such money after the expiration of three months from the date of notice issued by the Commissioner-General.

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

(4) Any person to whom a notice has been given under subsection (1), who is unable to comply therewith owing to the fact that the moneys referred to in that subsection do not come into his hands or that no such moneys become due from him within the period referred to in that subsection, shall within fourteen days of expiration thereof, give notice in writing to the Commissioner-General apprising him of the facts.

(5) Where any person to whom a notice has been given under subsection (1) is unable to comply therewith and has failed to give notice to the Commissioner-General as provided in subsection (4), or where such person has deducted or could have deducted the tax to which the notice relates or any part thereof, and has not paid over as required by the Commissioner-General the amount of such tax or part thereof within fourteen days after the expiration of the period referred to in subsection (1), such person shall, if he is an individual be liable, or where such person is a company or body of persons whether corporate or unincorporate, the secretary, manager or other principal officer of such company or body shall be personally liable, for the whole of the tax which such person has been required to deduct, and such tax may be recovered from such individual, secretary, manager or other principal officer, as the case may be, by all means provided in this Act.

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

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

Transfer of
immovable
property to
Government in
lieu of payment of
tax in cash.

181. (1) Any person liable to pay any tax under the provisions of this Act or of the Inland Revenue Act, No 38 of 2000 or of the Inland Revenue Act, No. 28 of 1979 or of the Inland Revenue Act, No.4 of 1963, may apply to the Commissioner-General to transfer any immovable property owned by such person to the Government, in lieu of payment of such tax in cash at such value as is placed on such property by agreement between such person and the Commissioner-General, and the Commissioner-General may allow such application having regard to the feasibility of managing such property after it is transferred to the Government.

(2) Where the Commissioner-General allows an application made under subsection (1) and the amount agreed to in accordance with the provisions of that subsection as the value of the property in respect of which the application is made, exceeds the amount of the tax payable by the applicant, the excess shall be deemed to be a donation within the meaning of paragraph (b) of subsection (2) of section 34, made to the Government of Sri Lanka by the applicant.

182. (1) The Commissioner- General 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 tax which is payable by such employee and which is in default, 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-General by such employer or such person, as the case may be.

Tax in default
to be
recovered
from
remuneration
of employee.

(2) Where any tax is deducted under subsection (1) from the remuneration of an employee by his employer or by the person responsible for the payment of such remuneration, such employee shall for the purposes of this Act, be deemed to have paid such tax or part thereof on the date on which the deduction is made.

(3) The Commissioner-General may at any time after he has made a direction under subsection (1), withdraw such direction wholly or partly by notice given in writing to the employer or the person responsible for the payment of the remuneration of the employee, if the employee has made arrangements to the satisfaction of the Commissioner-General, for the payment of his tax in default.

(4) Where any employee from whose remuneration any tax is to be deducted under the preceding provisions of this section by his employer or the person responsible for the payment of such remuneration, is about to leave or leaves his employment, the employer or such person shall deduct the whole amount of such tax or any balance thereof which he has been directed to deduct by the notice given to him by the Commissioner-General, from all or any payments payable by him to such employee, after he becomes aware that such employee is leaving, or has left, his employment.

(5) Where a direction for the deduction of any tax from

the remuneration of an employee is given under subsection (1) to his employer or to the person responsible for the payment of such remuneration, and such employer or person is unable to deduct the whole or any part of such tax for the reason that such employee has left his employment or for any other reason, such employer or person shall forthwith give notice in writing to the Commissioner-General apprising him of the facts of the matter, and any tax which such employer or person has not deducted or cannot deduct, shall immediately become payable by the employee.

(6) Where the employer or the person responsible for the payment of remuneration to an employee has failed to deduct from such remuneration any tax which he has been directed to deduct under subsection (1), and such employer or person has failed to give notice to the Commissioner-General as required by subsection (5) within fourteen days of the date on which such deduction should have been made, or where such employer or person has deducted or could have deducted tax in any month from such remuneration in accordance with a direction under subsection (1) but has not paid the amount of such tax to the Commissioner-General by the fifteenth day of the following month, such employer or person, if he is an individual, shall be liable, or where such employer or person is a company or a body of persons, whether corporate or unincorporate, the secretary, manager or other principal officer of such company or body shall be personally liable, for the whole of the tax which such employer or such person has been directed to deduct under this section, and such tax may be recovered from such individual, secretary, manager or other principal officer by all means provided in this Act, and such tax shall be deemed to be in default.

(7) Every employer or other person who deducts tax from the remuneration of any employee in accordance with a direction under subsection (1), shall on request made by such employee, issue to him a certificate in such form as is specified by the Commissioner-General, of the amount of tax deducted.

183. Where for any year of assessment the statutory income

of any person who is a partner in a partnership includes his share of the divisible profits of a partnership and the tax payable by that person is in default, such part of the tax in default as is, in the opinion of the Commissioner-General, attributable to his share of such divisible profits may be recovered out of the assets of the partnership, and accordingly, for the purposes of section 178, the assets of the partnership shall be deemed to be the assets of the partner:

Tax in default of partner to be recovered from the assets of a partnership.

Provided that the amount so recovered shall not exceed the interest of the partner in the partnership.

184. Where the total statutory income of a child is aggregated with and deemed to form part of the total statutory income of parent of such child, and where any tax cannot be collected from that parent, such portion of such tax as appears to the Commissioner-General to be attributable to the income of such child, may be recovered from such child, notwithstanding that no assessment has been made upon such child and the provisions of this Act as to collection and recovery of tax, shall apply accordingly.

Recovery of income tax from the income of a child.

185. The income tax or any part thereof with which a beneficiary to a trust, not being any unit trust, is chargeable in respect of his income to which he is entitled from the trust, may be recovered from the trustee of the trust, notwithstanding that no assessments have been made upon the trustee, and the provisions of this Act relating to collection and recovery of tax shall apply to such trustee. Such trustee shall be entitled to deduct the amount of such tax or part thereof, from the income which will be payable to such beneficiary from the trust.

Recovery of income tax payable by a beneficiary from the trustee.

186. The income tax or any part thereof with which a beneficiary is chargeable in respect of his income to which he is entitled from the estate of a deceased person, may, notwithstanding that no assessment has been made upon the executor of the deceased person, be recovered from such executor, and accordingly, the provisions of this Act as to

Recovery of income tax payable by a beneficiary from the executor.

collection and recovery of tax shall apply to such executor. Such executor shall be entitled to deduct the amount of such tax or part thereof from the income which will be payable to such beneficiary from the estate of such deceased person.

Gift tax to be recovered from the donee in certain circumstances.

187. Where the gifts tax charged under Chapter XI of the Inland Revenue Act No. 28 of 1979 cannot be recovered from the donor, it may be recovered from the donee, notwithstanding that no assessment has been made upon the donee, and the provisions of this Act as to collection and recovery of tax shall apply accordingly:

Provided that the amount which may be recovered from the donee shall not exceed that portion of such tax which appears to the Commissioner-General to be attributable to the value of the gift made to the donee by the donor, as at the date of the gift.

Recovery of tax from persons leaving Sri Lanka.

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

(2) At the time of issue of his certificate to the Magistrate, the Commissioner-General shall issue to such person a notification thereof by personal service, registered letter sent through the post or telegraph, but the non-receipt of any such notification by such person shall not invalidate proceedings under this section.

(3) The production of a certificate signed by the

Commissioner-General or a Deputy Commissioner, stating that the tax has been paid or that security has been furnished to the payment of the tax, or payment of the tax to a police officer in charge of a police station, shall be sufficient authority for allowing such person to leave Sri Lanka. Any police officer to whom the amount of any tax has been paid shall forthwith pay such amount to the Commissioner-General.

189. Where the Commissioner-General is of the opinion that the application of any of the provisions of this Chapter has failed or is likely to fail to secure payment of the whole of any tax due under this Act from any person, it shall be lawful for him to proceed to recover any sum remaining unpaid by any other means of recovery provided in this Chapter, notwithstanding that an order has been made by a Magistrate under section 179 in respect of that person and carried into effect.

Use of more than one means of recovery.

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

Power of Commissioner-General to obtain information for the recovery of tax

191. (1) Notwithstanding anything in the Companies Act, No. 17 of 1982, where any private company is wound up and where any income tax to which that company is liable cannot be recovered, then, every person who was a director of the company at any time during the year of assessment in respect of which such tax is payable, shall be jointly and severally liable for the payment of such tax, unless he proves that the default in payment of tax cannot be attributed to any gross neglect, misfeasance or breach of duty on his part in relation to the affairs of the company.

Liability of directors of private company in liquidation.

(2) In this section the expression "private company" has the same meaning as in the Companies Act, No. 17 of 1982.

Delegation of
Commissioner-
General's
powers and
functions.

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

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

Action not to
commence after
expiry of five
years in certain
circumstances.

193. The Commissioner General shall not, subject to the provisions of section 4 of the Inland Revenue (Regulations of Amnesty) Act No.10 of 2004, commence any action under sections 178, 179, 180, 181, or 182 of this Act for the recovery of tax in default, after the expiry of five years from the end of the year of assessment in which the assessment by which such tax was charged or levied becomes final and conclusive under section 171 .

CHAPTER XXVII

MISCELLANEOUS

Signature and
service of
notice.

194. (1) Every notice to be given by the Commissioner-General, a Deputy Commissioner, or an Assessor under this Act, shall bear the name of the Commissioner-General or Deputy Commissioner or Assessor, as the case may be, and every such notice shall be valid if the name of the Commissioner-General, Deputy Commissioner, or Assessor is duly printed or signed thereon.

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

Provided that a notice of assessment under section 163

shall be served personally or by registered letter sent through the post to any such place as aforesaid.

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

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

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

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

Validity of
notices,
assessments
etc.

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

(a) a mistake as to the name or surname of the person chargeable, the amount of income assessed, or the amount of tax charged; or

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

if the notice of such assessment is duly served on the person

intended to be charged and contains in substance and effect the particulars mentioned in paragraph (a) of this subsection.

Precedent
partner to act
on
behalf of a
partnership.

196. (1) Wherever two or more persons in partnership act in the capacity of trustees or executors or as agents or are employers, or are persons in receipt of money, value or profits to whom section 109 applies, or act in any other capacity whatever, either on behalf of themselves or of any other person, the precedent partner of such partnership shall be liable to do all such acts, matters and things as are required to be done under the provisions of this Act by an individual acting in any such capacity:

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

(2) Where two or more persons who are not in partnership act jointly in any capacity mentioned in subsection (1), they shall be jointly and severally liable to do all such acts, matters and things as are required to be done under the provisions of this Act, by an individual acting in any such capacity.

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

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

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

(2) Where an offence under this Act is committed by a

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

198. Any act or thing required by or under this Act to be done by any person shall, if such person is an incapacitated or non-resident person, be deemed to be required to be done by the trustees of such incapacitated person or by the agent of such non-resident person, as the case may be.

Who may act
for
incapacitated
or
non-resident
person.

199. (1) Every person chargeable with tax under this Act as trustee, executor, or agent, or from whom such tax is recoverable in respect of the income or wealth of another person, may retain out of any assets coming into his possession or control on behalf of such other person or in his capacity as trustee, executor, or agent, such portion of such assets as shall be sufficient to pay the amount of such tax, and he shall be and is hereby indemnified against any person whomsoever, in respect of his retention of such assets and payment of such amount.

Indemnification
of
representative.

(2) Where any person acting as trustee or executor has paid tax, and no assets of the trust or estate come into his possession or control out of which he could retain the tax so paid, such tax shall be a debt due from the beneficiaries of the trust or estate, to the trustee or executor.

(3) Where a person chargeable with tax or from whom tax is recoverable in respect of the income of another person, pays such tax, and no assets of such other person come into his possession or control out of which he could retain the amount of the tax so paid, such tax shall be a debt due to him from such other person.

CHAPTER XXVIII

REPAYMENT

Tax paid in
excess to be
refunded.

200. (1) If it is proved to the satisfaction of the Commissioner-General by any claim duly made in writing within three years of the end of a year of assessment, that any person has paid any income tax, by deduction or otherwise, in excess of the amount which he was liable to pay for that year, such person shall be entitled to a refund of the amount paid in excess:

Provided that—

- (a) nothing in this section shall operate to extend or reduce any time limit for appeal or repayment specified in any other section or to validate any objection or appeal which is otherwise invalid, or to authorize the revision of any assessment or other matter which has become final and conclusive;
 - (b) where any person has paid income tax by deduction in respect of a dividend in accordance with section 65 or in respect of interest, rent, ground rent, royalty, or other annual payment in accordance with section 95, he shall not be entitled by virtue of this section to any relief greater than that he would be entitled to under subsection (3), (4) or under subsection (5) of section 65 or subsection (3) of section 95; and
 - (c) where the Commissioner-General is satisfied that a person who has paid any income tax, by deduction could not have made a claim within the aforesaid three years, such person shall be entitled to a refund of the amount paid in excess, if such claim is made within one year from the end of the year of assessment in which such deduction was made.
- (2) Where through death, incapacity, bankruptcy, liquidation or other cause, a person who would but for such

cause have been entitled to make a claim under subsection (1), is unable to do so, his executor, trustee or receiver, as the case may be, shall be entitled to a refund of any tax paid in excess within the meaning of subsection (1) by such person, for the benefit of such person or his estate.

(3) Where it is proved to the satisfaction of the Commissioner-General by claim made in writing within three years of the end of a year of assessment, that any person has paid income tax in excess of the amount which he was liable to pay for that year of assessment and that the excess is due to any error in the assessment or the return of the income of that person (other than an error in the application or construction of any provision of this Act in the making or revision of the assessment), such person shall be entitled to a refund of the amount paid in excess.

(4) Where it is proved to the satisfaction of the Commissioner-General by claim made in writing, that any person has paid the amount of any penalty referred to in subsection (3) of section 173 which is in excess of the sum which he should have paid if such sum were calculated in accordance with the provisions of subsection (8) of section 173, such person shall be entitled to a refund of the amount paid in excess, if such claim is made within three years of the end of the year of assessment in which the amount of the penalty referred to in the aforesaid subsection (3) of section 173 was paid.

(5) Where it is proved to the satisfaction of the Commissioner-General by a claim made in writing by any employer within three years of the end of a year of assessment, that he has paid to the Commissioner-General under the provisions of Chapter XIV 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 a refund of the amount paid in excess:

Provided that the preceding provisions of this subsection

shall not apply where payment of income tax has been made on as assessment made on an employer under section 125.

(6) Notwithstanding anything to the contrary in section 63 and section 61, any tax deducted in accordance with section 65 in respect of a dividend paid by a resident company to a non-resident shareholder, in excess of the rate of tax on dividends specified in an agreement referred to in subsection (1) of section 97, between the Government of Sri Lanka and the Government of the country in which such shareholder is resident, shall be refunded to such shareholder on a claim duly made in writing, within three years of the end of the year in which such tax was deducted or within one year of the date on which such agreement comes into force, whichever is later.

(7) Notwithstanding anything to the contrary in section 63, any tax deducted in accordance with section 65 in respect of a dividend distributed and paid by a resident company to any person whose profits and income are exempt from income tax under paragraph (a) of section 8, shall be refunded to such person on a claim duly made by him in writing, within three years of the end of the year of assessment in which such tax was deducted.

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

- (a) income tax paid by a primary dealer by way of deductions made under section 134, on primary market transactions;
- (b) income tax paid by any person by way of deductions from interest under section 133 where such interest is not included in his assessable income, or on any dividends under subsection (1) of section 65;

- (c) income tax paid by any person as provided for under section 36 or on any rewards or share of fines received, a lottery prize or winnings from betting or gaming taxable under section 157.

201. Where for any year of assessment any person is entitled to a refund of the amount of any income tax, paid by him by deduction or otherwise, and where such amount has not been refunded to him by the Commissioner-General—

Interest payable on the amount of a refund in certain circumstances.

- (a) if such refund arises in consequence of the reduction of the amount of an assessment on agreement with an Assessor under subsection (7) of section 165 or on the determination of an appeal in respect of such assessment, within a period of six months from the date of such agreement or from the date on which such determination was communicated to such person ; or
- (b) in any other case, within a period of six months from the date on which a claim in writing was made by such person to the Commissioner-General for such refund, or from the thirty-first-day of March of that year of assessment, whichever is the later date,

such person shall be entitled to interest on the amount of the refund which remains unpaid, calculated at the rate of one *per centum* for each complete period of one month for which such amount remains unpaid after the period of six months referred to in paragraph (a) or (b).

CHAPTER XXIX

PENALTIES AND OFFENCES

Penalties for
failure to
make
returns
making
incorrect
returns
&c.

202. (1) Every person who fails to—

- (a) comply with the requirements of a notice given to him under subsection (1) of section 70 or subsection (1) of section 73 or subsection (4) of section 76 or subsection (1) of section 95 or subsection (7) of section 106 or subsection (12) of section 106 or subsection (13) of section 106 or subsection (14) of section 106 or subsection (1) of section 107 or section 109 or section 110 or section 111 or section 190;
- (b) comply with a requirement imposed on him by the Commissioner-General under sub-paragraph (ii) of subsection (1) of section 112;
- (c) attend in response to a notice given to him under subsection (13) of section 106 or subsection (14) of section 106 or subsection (9) of section 165 or subsection (7) of section 169 or having attended in response to any such notice, fails without sufficient cause to answer any questions lawfully put to him ;
or
- (d) comply with the requirements subsection (3) of section 70 or subsection (3) of section 73 or subsection (4) of section 76 or subsections (1), (2), (3) or (4) of section 106 or subsection (1) of section 107 or section 108 or subsection (2) of section 176 or subsection (7) of section 182,

shall be guilty of an offence under this Act and shall be liable on conviction after summary trial before a Magistrate, in the case of a failure to comply with subsection (1) of section 106 or with the requirement of a notice given under subsection

(7) of section 106, to a fine not exceeding fifty thousand rupees and in any other case, to a fine not exceeding seven thousand five hundred rupees.

(2) Every person who, being an employer for the purpose of Chapter XIV, fails to—

- (a) give notice to the Commissioner-General in terms of subsection (1) of section 115 or subsection (2) of section 115;
- (b) deduct the whole or any part of the income tax required to be deducted under the provisions of subsection (1) of section 114; or
- (c) comply with the requirements of subsection (1) of section 112 or subsection (2) of section 118 or paragraphs (a), (b) or (c) of section 119 or paragraph (a), (b), (c), (d) or (e) of section 120 or subsection (7) of section 133,

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

(3) Every person who, being an employee for the purposes of Chapter XIV, fails to comply with the requirements of subsection (1) of section 122 shall be guilty of an offence under this Act, and shall be liable on conviction after summary trial before a Magistrate, to a fine not exceeding seven thousand five hundred rupees.

(4) Every person who without reasonable excuse—

- (a) makes or furnishes an incorrect return by omitting or understating any income, of which he is required by this Act to make or furnish a return, either on his own behalf or on behalf of another person or a partnership;

- (b) makes an incorrect statement in connection with a claim for a deduction or allowance under Chapter VII; or
- (c) gives an incorrect information in relation to any matter or thing affecting his own liability to tax or the liability of any other person or of a partnership,

shall be guilty of an offence under this Act, and shall be liable on conviction after summary trial before a Magistrate, to a fine consisting of—

- (i) a sum equal to the amount of tax which had been undercharged in consequence of such incorrect return, statement, or information or would have been so undercharged if such return, statement, or information had been accepted as correct, and
- (ii) a sum not exceeding ten thousand rupees,

or to imprisonment of either description for a term not exceeding six months, or to both such fine and imprisonment.

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

(6) Every person who, being an employee for the purposes of Chapter XIV, makes an incorrect statement in any notice given by him under subsection (1) of section 122 to the Commissioner-General, shall be guilty of an offence under

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

(7) No person shall be liable to any penalty under this section unless the complaint concerning such offence was made in the year of assessment in respect of or during which, the offence was committed or within five years after the expiration thereof.

(8) The Commissioner-General may compound any offence under this section and may before judgement, stay or compound any proceedings thereunder.

203. Every person who—

Breach of
secrecy and
other matters
to be offences.

- (a) being a person required to take an oath of secrecy under subsection (2) of section 209, acts under this Act without taking such oath;
- (b) acts in contravention of the provisions of subsection (1) of section 209 or an oath taken under subsection (2) of section 209; or
- (c) aids, abets, or incites another person to act in contravention of any of the provisions of this Act,

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

204. (1) Any person who—

Penal
provisions
relating to
fraud &c.

- (a) omits from a return made or furnished under this Act any income, which he should have included in such return;

- (b) makes any false statement or entry in any return made or furnished under this Act;
- (c) makes a false statement in connection with a claim for a deduction or allowance under Chapter VII;
- (d) signs any statement or return made or furnished under this Act without reasonable grounds for believing the same to be true;
- (e) gives any false answer, whether verbally or in writing, to any question or request for information asked or made in accordance with the provisions of this Act;
- (f) prepares or maintains or authorises the preparation or maintenance, of any false books of account or other records, or falsifies or authorises the falsification of any books of account or records; or
- (g) makes use of any fraud, art or contrivance whatsoever, or authorizes the use of any such fraud, art or contrivance,

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

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

or to both such fine and imprisonment.

(2) Every person who, being an employer for the purposes of Chapter XIV—

- (a) omits from a declaration made under paragraph (a) or paragraph (d) or paragraph (e) of section 120 any remuneration or omits or understates in such declaration the amount of income tax deducted from such remuneration; or
- (b) gives a false certificate of income tax deduction under paragraph (b) or paragraph (c) of section 120,

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

(3) The Commissioner-General may compound any offence under this section and may before judgement stay or compound any proceedings thereunder, subject to the recovery of an amount that is not less than one third of the fine that may be imposed under sub paragraphs (i) and (ii) of subsection (1). Such fine recovered shall be credited to the Consolidated Fund.

205. The institution of a prosecution in respect of an offence under this Act or the imposition of a penalty, fine or a term of imprisonment in respect of any such offence, shall not relieve any person from liability to assessment or payment, of any tax for which he is or may be liable.

Tax to be payable notwithstanding any prosecution or conviction for an offence under this Act.

Prosecution to be with the sanction of the Commissioner-General.

206. No prosecution in respect of an offence under section 202 or section 204 may be commenced except at the instance of or with the sanction of, the Commissioner-General.

Admissibility of statements and documents in evidence.

207. Where any statement is made or document is produced in relation to any matter arising under this Act, by any person who is chargeable with tax under this Act or by his authorized representative to the Commissioner-General or a Commissioner or a Deputy Commissioner, or an Assessor, then, notwithstanding anything in any other law, such statement or document shall be admissible in evidence in any proceedings against such person in respect of any offence referred to in section 202 or section 203 or section 204 of this Act.

CHAPTER XXX

ADMINISTRATION

Officers.

208. (1) For the purposes of this Act, there shall be appointed a Commissioner-General of Inland Revenue, a Senior Deputy Commissioner-General of Inland Revenue and such number of Deputy Commissioner-Generals of Inland Revenue, Senior Commissioners of Inland Revenue, Commissioners of Inland Revenue, Deputy Commissioners of Inland Revenue, Senior Assessors of Inland Revenue, Assessors of Inland Revenue and Tax Officers of Inland Revenue, as may be necessary.

(2) A Senior Deputy Commissioner-General or a Deputy Commissioner-General or a Senior Commissioner or a Commissioner or a Deputy Commissioner exercising or performing or discharging any power, duty or function conferred or imposed on or assigned to the Commissioner-General by any provision of this Act, shall be deemed for all purposes to be authorized to exercise, perform or discharge that power, duty or function until the contrary is proved.

(3) A Deputy Commissioner may exercise any power conferred on any Assessor of Inland Revenue by any provision of this Act.

(4) Notwithstanding anything to the contrary in any other provisions of this Act, a Senior Assessor of Inland Revenue or an Assessor of Inland Revenue shall not exercise, perform or discharge any power, duty or function conferred, or imposed or assigned to such Senior Assessor or Assessor, as the case may be, except with the written approval of a Commissioner of Inland Revenue or any Deputy Commissioner of Inland Revenue.

(5) Every person who holds office on the date of commencement of this Act, as the Commissioner-General of Inland Revenue or as a Senior Deputy Commissioner-General of Inland Revenue, or as a Deputy Commissioner-General of Inland Revenue, or as a Senior Commissioner of Inland Revenue, or as a Commissioner of Inland Revenue or as a Deputy Commissioner of Inland Revenue or as a Senior Assessor of Inland Revenue or as an Assessor of Inland Revenue, shall be deemed for all purposes, to have been appointed under subsection (1).

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

Official Secrecy.

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

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

(4) Notwithstanding anything contained in this section, any officer of the Department of Inland Revenue may communicate any matter which comes to his knowledge in the performance of his duties under this Act or under any other written law administered by the Commissioner-General, to—

- (a) any other officer of that Department, if the communication of such matter is necessary for the performance of any duty under this Act or such other written law;
- (b) the Commissioner of Revenue of any Provincial Council, being a matter which relates to the turnover for any period commencing on or after January 1, 1991, of any wholesale or retail trade or business carried on by any person or partnership within the Province for which such Provincial Council is established, to such an extent as the Commissioner-General may deem necessary to enable such Commissioner to ascertain such turnover;

For the purposes of this paragraph, the expression, “turnover” has the meaning assigned to it by paragraph (r) of subsection (1) of section 26;

- (c) the Income Tax Authority of any territory of the Commonwealth of Nations, to such an extent as the Commissioner-General may deem necessary to enable such Authority to grant relief from income tax paid in Sri Lanka; and
- (d) the Income Tax Authority of any country with which an agreement has been entered into for affording relief from double taxation,

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

Provided that, the Commissioner-General may produce or cause to be produced the original of any such return or document in any case where it is necessary to prove the handwriting or the signature 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-General 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.

(5) Notwithstanding anything contained in the preceding provisions of this section, the Commissioner-General shall—

- (a) if required by a Commission established under the Special Presidential Commissions of Inquiry Law,

No. 7 of 1978, furnish as specified in a notice issued by such Commission, all information available to him relating to the affairs of any person, whose conduct is being inquired into by the Commission or of the spouse or a son or daughter of such person, or of any other person specified by the Commission, and to produce or furnish as so specified in the notice any document relating to such person, spouse, son or daughter or other person, as the case may be, which is in the possession or under the control of the Commissioner-General;

- (b) if required by the Attorney-General, in the course of an investigation of an allegation of bribery against any person or after the commencement of prosecution or an arraignment of any person for bribery, furnish, as specified in the notice issued to him, all information available to him relating to the affairs of such person or of the spouse or a son or daughter of such person, and produce or furnish, as specified in the notice, any document or a certified copy of any document relating to such person, spouse, son or daughter, which is in the possession or under the control of the Commissioner-General;
- (c) if required by a Commission appointed under the Commissions of Inquiry Act, furnish as specified in a notice issued to him, all information available to him relating to the affairs of any person whose conduct is being inquired into by the Commission or of the spouse or a son or daughter of such person and produce or furnish as specified in such notice, any document or a certified copy of any document relating to such person, spouse, son or daughter, which is in the possession or under the control of the Commissioner-General;
- (d) report to the Attorney-General for investigation any case where he suspects from information available to him, that any person is guilty of bribery.

(6) Notwithstanding anything contained in the preceding provisions of this section, any officer of the Department of Inland Revenue shall, at the request of the Land Reform Commission established under the Land Reform Law, No. 1 of 1972, disclose to such Commission such particulars relating to the affairs of any person that may come to his knowledge in the performance of his duties under this Act, as may be required by such Commission for the exercise of its powers and the discharge of its functions under that Law.

(7) Notwithstanding anything contained in this section, the Commissioner-General may permit the Auditor-General or any officer of the Department of the Auditor-General duly authorized by him in that behalf, to have access to any books, records, returns or other documents as may be necessary for the performance of his official duties.

The Auditor-General or any officer authorised by him under this subsection shall for the purpose of subsection (2), be deemed to be a person employed, in carrying out the provisions of this Act.

(8) Notwithstanding anything in the preceding provisions of this section, the Commissioner-General or any person authorized in that behalf by the Commissioner-General may, from time to time, cause to be published in such manner as the Commissioner-General may consider expedient,—

- (a) a list containing the names and addresses of all the tax payers and the total income declared in the returns of such tax payers in respect of any year of assessment, and where the Commissioner-General considers it necessary, their principal sources of income; and
- (b) particulars relating to any person who has been convicted in any court of law for any offence under this Act, or on whom a penalty has been imposed by the Commissioner-General under section 112 or under section 172.

(9) Where for the purposes of prosecuting any director, manager or other officer or employee of an insurance business who has acted in a manner prejudicial to the interests of the holders of policies issued in respect of that business, the Attorney-General by written notice requires the Commissioner-General to furnish such information relating to the assets of such director, manager, other officer or employee as is in the possession of the Commissioner-General, the Commissioner-General shall, notwithstanding anything in the preceding provisions of this section, furnish such information to the Attorney-General.

(10) Notwithstanding anything contained in the preceding provisions of this section, where it appears to the Commissioner-General from any matter which comes to his knowledge in the performance of his duties under this Act, that any person has committed an offence under the Exchange Control Act or the Customs Ordinance, he may communicate or deliver to the Controller of Exchange or the Director-General of Customs, as the case may be, any information relating to the commission of the offence or any articles, books of account or the documents necessary or useful for the purpose of proving the commission of such offence.

(11) Where the Commissioner-General has under subsection (10) communicated or delivered to the Controller of Exchange or the Director-General of Customs any information relating to the commission, or any articles, books of account or other documents necessary or useful for the purpose of proving the commission, by any person of an offence under the Exchange Control Act or the Customs Ordinance, as the case may be, the Commissioner-General or any other officer of the Department of Inland Revenue may, notwithstanding anything to the contrary in the preceding provisions of this section, in any proceedings against such person for that offence, give evidence relating to such information, articles, books of account or other documents and produce or cause to be produced any returns, books of account, other documents or articles he may be

required to produce in such proceedings. The Commissioner-General or such other officer may produce or cause to be produced in court for the purpose of such proceedings, a copy of any particulars contained in any return, books of account or other document, and such copy shall, notwithstanding anything in the Evidence Ordinance relating to the proof of documents, be admissible in evidence:

Provided that the Commissioner-General or other officer—

- (a) may produce or cause to be produced the original of such return, books of account or other 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, books of account or other document, but only for the purpose of such proof;
- (b) shall not in any case be compelled to produce in court either the original of such return, books or account or other document or a copy of the particulars contained in such return, books of account or other document.

(12) Nothing in the preceding provisions of this section shall be read or construed, as empowering the Minister or the Secretary to the Ministry of the Minister to have access to or to examine any records or documents relating to the affairs of any person, in the possession, custody or control of the Commissioner-General.

(13) Nothing in the preceding provisions of this section shall be read or construed as requiring the Commissioner-General to disclose such particulars relating to the affairs of any person as may come to his knowledge through the exchange of information in pursuance of any agreement entered into between the Government of Sri Lanka and Government of any other territory, and referred to in section 97 of this Act, to any person or authority other than any person

or authority involved in the assessment or collection of or the enforcement of or the prosecution in respect of any offence relating to, the taxes which are the subject of that agreement.

210. (1) There shall be established a Fund called the Inland Revenue Incentive Fund (hereinafter in this section referred to as “the Fund”)

Inland
Revenue
Incentive
Fund

(2) There shall be paid into the Fund in respect of each year, such sums as may be appropriated annually by Parliament for the purpose of the Fund.

(3) There shall be paid out of the Fund—

(a) all sums required for the welfare of officers of the Department of Inland Revenue, in accordance with any scheme approved by the Minister; and

(b) group incentive allowances to any class or category of officers of the Department of Inland Revenue, in accordance with such scheme as may be approved by the Minister, to ensure efficiency in the administration of any Act administered by the Commissioner-General.

(4) The Commissioner-General or any officer of the Department of Inland Revenue specially authorized by him in that behalf, shall administer the Fund in accordance with the prescribed procedure.

211. The Commissioner-General may pay from sums appropriated for that purpose by Parliament, such sums of money as he considers reasonable in the circumstances of the case, to any individual who provides information which result in the assessment of any income not disclosed by any other person and the collection of tax from such person.

Commissioner-
General may
pay rewards to
informants.

CHAPTER XXXI

GENERAL

212. (1) The Minister may make regulations for the purpose of carrying out or giving effect to the principles and provisions of this Act.

Regulations.

(2) In particular and without prejudice to the generality of the powers conferred by subsection (1), the Minister may make regulations in respect of the following matters:—

- (a) the methods by which an estimate of the income liable to tax may be made, in cases where the amount of such income cannot be definitely ascertained;
- (b) the procedure to be followed in respect of applications for refunds of any tax paid under this Act and for any allowance or deduction which may be claimed under this Act;
- (c) any matter which is required or authorized by this Act to be prescribed;
- (d) penalties for the contravention of any regulations made under this section or for failure to comply therewith, such penalty not exceeding in each case, a sum of five hundred rupees.

(3) A regulation made under this section, other than a regulation—

- (a) prescribing a penalty for; or
- (b) enhancing a penalty prescribed for,

the contravention of or failure to comply with, a regulation made under this section, may be declared to take effect from a date earlier than the date of its publication in the *Gazette*.

(4) A regulation prescribing a penalty for the contravention

of or failure to comply with a regulation, shall not come into operation until it is approved by Parliament and notice of such approval is published in the *Gazette*.

(5) Every regulation made by the Minister other than a regulation referred to in subsection (4), shall come into operation on the date of its publication in the *Gazette* or on such other date as may be specified in the regulation.

(6) Every regulation referred to in subsection (5) shall as soon as convenient after its publication in the *Gazette*, be brought before Parliament for approval. Any such regulation which is not so approved shall be deemed to be rescinded as from the date of disapproval, but without prejudice to anything previously done thereunder. Notification of the date on which a regulation is deemed to be rescinded, shall be published in the *Gazette*.

Forms.

213. The Commissioner-General may from time to time specify the forms to be used for all or any of the purposes of this Act, and any form so specified may from time to time be amended or varied by the Commissioner-General or some other form may be substituted by the Commissioner-General, in place of any form so specified. Any form so specified by the Commissioner-General may be published in the *Gazette*.

Power to
search
buildings or
places.

214. (1) Any officer appointed for the purposes of this Act who is specially authorized by the Commissioner-General in that behalf may, accompanied by a peace officer, do all or any of the following acts:—

- (a) enter and search any building or place where he has reason to believe that any articles, books of account or other documents which in his opinion will be useful for or relevant to any proceedings under this Act, may be found and examine any such articles, books of account or other document if found;
- (b) seize and deliver to the Commissioner-General any

such articles, books of account or other documents or place marks of identification thereon or make extracts or copies therefrom;

- (c) for the purpose of effecting such delivery, guard or cause to be guarded, any such articles, books of account or other documents;
- (d) question any person whom he finds in that building or place with respect to any matter arising under this Act, or the ownership of any such articles, books of accounts or other documents;
- (e) make a note or an inventory of any other thing found in the course of any search under this section, which in his opinion will be useful for or relevant to any proceedings under this Act,

and the provisions of the Code of Criminal Procedure Act, No. 15 of 1979 relating to searches shall apply, so far as may be, to searches under this section.

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

(3) (a) Any article shall be seized and delivered to the Commissioner-General by the officer carrying out a search under this section, only if—

- (i) any tax payable by the owner of such article under any written law administered by the Commissioner-General, is in default; or
- (ii) such officer is satisfied after such investigation as he may deem necessary, that such article had been purchased by the owner thereof, out of or is profits and income in respect of which,

income tax is payable by such owner but has not been paid by him.

(b) Where any article is seized under this section by an officer carrying out a search, the owner of such article shall be entitled to a receipt from such officer for the article so seized.

(4) Where any article is seized and delivered to the Commissioner-General under this section, the Commissioner-General may—

- (a) if such article is cash and if such cash is less than or is equivalent to the amount of the tax in default or the tax payable according to the Commissioner-General, in respect of such article set off such cash in partial or full satisfaction of tax;
- (b) if such cash is more than the amount of such tax, set off so much of the cash as is equivalent to the amount of such tax, in full satisfaction of such tax and return the balance to the owner of such article:

Provided that where such cash is in foreign currency, such balance shall be credited in a Bank to the account of the owner of such article, or

- (c) if such article is not cash, retain, subject to the provisions of subsection (5), such article in his custody until—
 - (i) the tax in default, or the tax payable according to the Commissioner-General on the profits and income out of which such article had been purchased, as the case may be, is paid; or
 - (ii) arrangements are made to the satisfaction of the Commissioner-General for the payment of such tax.

(5) Where the tax is not paid or where arrangements are

not made by the owner of the article as specified in paragraph (c) of subsection (4), within six months after the date of the seizure of such article, then the Commissioner-General shall cause such article to be sold by public auction.

(6) The sum realized by the sale of any article under this section shall be applied—

- (a) firstly, in payment of the costs and charges of seizing, keeping and selling the article; and
- (b) secondly, in satisfaction of the tax payable by the owner of that article,

and the balance, if any, shall be paid to the owner of that article.

(7) In this section—

“article” includes cash, whether or not in Sri Lanka currency, a postal order, a money order, a traveller’s cheque, a letter of credit, a bill of exchange, a promissory note, gold, jewellery, a precious stone, and any stock-in-hand;

“document” includes any diskette, tape, compact disc or any other thing in which any computer programme or data is stored or recorded in codified form or in electronic, magnetic or other medium;

“peace officer” has the same meaning as in the Code of Criminal Procedure Act, No. 15 of 1979.

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

Power to search
business
premises.

- (a) enter and inspect for the purposes of this Act, any place or building where any trade, business, profession or vocation is carried on or exercised by

any person or partnership;

- (b) open and examine any receptacle where any book of account, register, record, or any other document may be found, and make an inventory of the articles found therein;
- (c) examine and take copies of, or make extracts from, any book of account, register, record or other document found in such place or building;
- (d) operate any computer found in any such building and take print outs of the whole or part of any entries recorded or stored therein;
- (e) take possession of any such book of account, register, record or other document, or place marks of identification thereon;
- (f) count and make a record immediately of the cash found in such place or building;
- (g) require any person whom he finds in such place or building, to give such information as is in his power to give, with respect to any matter under this Act;
- (h) examine either alone or in the presence of any other person, as he thinks fit, with respect to any matter under this Act, any person whom he finds in such place or building.

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

(3) Any book of account, register, record or other document

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

(4) For the purpose of this section, “article” and “documents” shall have the same meaning assigned to them by section 214.

216. In the event of any inconsistency between the Sinhala and Tamil texts of this Act, the Sinhala text shall prevail.

Sinhala text to prevail in case of inconsistency.

CHAPTER XXXII

INTERPRETATION

217. In this Act, unless the context otherwise requires—

Interpretation.

“acquired” with reference to property, means acquired by purchase, gift, inheritance, or exchange, or in any other manner, and the expression “acquisition” shall be construed accordingly;

“active partner” in relation to a partnership, means a partner who takes an active part in the control, management, or conduct of the trade or business of such partnership;

“agent”, in relation to a non-resident person or to a partnership in which any partner is a non-resident person, includes—

- (a) the agent, attorney, factor, receiver or manager in Sri Lanka of such person or partnership; and
- (b) any person in Sri Lanka through whom such

person or partnership is in receipt of any profits or income, arising in or derived from Sri Lanka;

“agricultural undertaking” means an undertaking for the purpose of the production of any agricultural, horticultural or any animal produce and includes any undertaking for the purpose of rearing livestock or poultry;

“approved by the Commissioner-General” when used in relation to a provident or pension fund means, approved by the Commissioner-General as conforming to such conditions as are specified by him by notice published in the *Gazette*, having regard to the protection of the interests of the contributors to such funds and the protection of revenue;

“approved by the Minister” when used in relation to an undertaking or a company or a public corporation or an institution or any fund means, approved by the Minister as being essential for the economic progress of Sri Lanka;

“assessable income” means the residue of the total statutory income of any person, after deducting the aggregate amount of the deduction to which such person is entitled under section 32;

“Assessor” means an Assessor of Inland Revenue appointed or deemed to be appointed under this Act, and includes a Senior Assessor of Inland Revenue;

“authorized representative” means any individual who is authorized in writing—

- (1) by a person to act on his behalf for the purpose of this Act, and who is—
 - (a) in any case—
 - (i) a member of the Institute of Chartered Accountants of Sri Lanka;
 - (ii) an accountant approved by the Commissioner-General;
 - (iii) an Attorney-at-Law;
 - (iv) an employee regularly employed by that person, or
 - (v) a member of the Sri Lanka Institute of Taxation established under the Sri Lanka Institute of Taxation Act, No. 21 of 2000;
 - (b) in the case of an individual, a relative;
 - (c) in the case of a company, a director or the secretary of that company;
 - (d) in the case of a partnership, a partner of that partnership;
 - (e) in the case of a body of persons, a member of such body; or
- (2) from time to time to act on his behalf for the purpose of this Act in respect of matters

relating to such year of assessment as is specified in the authorization, and who—

- (a) being an individual registered as an auditor under the Companies (Auditors) Regulations, is approved by the Commissioner-General; or
- (b) is an individual approved by the Commissioner-General under regulations made in that behalf;

“bank” means any company or body of persons carrying on banking business and includes a licensed specialised bank, within the meaning of the Banking Act, No.30 of 1988;

“body of persons” includes any local or public authority, any body corporate or collegiate, any fraternity, fellowship, association or society of persons, whether corporate or unincorporate, and any Hindu undivided family, but does not include a company or a partnership;

“Board of Investment” means the Board of Investment of Sri Lanka, established by the Board of Investment of Sri Lanka Law, No. 4 of 1978;

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

“Ceylon Tourist Board” means the Ceylon Tourist Board established by the Ceylon Tourist Board Act, No.10 of 1966;

“Ceylon Chamber of Commerce” means the Ceylon Chamber of Commerce incorporated by the

Chamber of Commerce Ordinance;

“charitable institution” means the trustee or trustees of a trust, or corporation or an unincorporate body of persons established for a charitable purpose only or engaged solely in carrying out a charitable purpose;

“charitable purpose” means a purpose for the benefit of the public or any section of the public in or outside Sri Lanka, of any of the following categories:—

- (a) the relief of poverty;
- (b) the advancement of education or knowledge;
- (c) the advancement of religion or the maintenance of religious rites and practices or the administration of a place of public worship;
- (d) any other purpose beneficial or of interest to mankind, not falling within any of the preceding categories;

“child” in relation to an individual to whom this Act applies means a child under eighteen years of age, and includes a child adopted under the Adoption of Children Ordinance by that individual, and where that individual is not a citizen of Sri Lanka, a child adopted by that individual in accordance with the law of the country of which he is a subject or citizen, but does not include—

- (a) any child adopted under any other law;
- (b) a married child;

(c) an illegitimate child;

“commercial bank” has the same meaning as in the Monetary Law Act (Cap 422);

“Commissioner-General” means the Commissioner-General of Inland Revenue appointed or deemed to be appointed under this Act, and :—

(a) in relation to any provision of this Act, includes a Senior Deputy Commissioner-General, a Deputy Commissioner-General, Senior Commissioner and Deputy Commissioner who is specially authorized by the Commissioner-General either generally or for some specific purpose, to act on behalf of the Commissioner-General;

(b) in relation to Chapter XXIII, includes an adjudicator appointed by the Minister and authorized by the Commissioner-General under that Chapter;

“company” means any company incorporated or registered under any law in force in Sri Lanka or elsewhere, and includes a public corporation;

“Controller of Exchange” means the officer designated as the head of the Department of Exchange Control of the Central Bank;

“Deputy Commissioner” means a Deputy Commissioner of Inland Revenue appointed or deemed to be appointed under this Act;

“dividend” includes—

- (a) any distribution of profit by a company to its share holders, in the form of—
 - (i) money or of an order to pay money;
 - (ii) shares in any other company; or
 - (iii) debentures in that company or in any other company; and
- (b) the amount of any capital returned or distributed to the extent of the paid up value of any shares distributed by the company to its shareholders within six years preceding the date of such return or distribution of capital, such paid-up value representing the capitalization of the whole or any part of the profits of the company;

“donee” means any person who acquires any property under a gift, and where a gift is made to a trustee for the benefit of another person, includes both the trustee and the beneficiary;

“donor” means any person who makes a gift;

“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 twenty thousand rupees;

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

- (a) any person who takes possession of or intermeddles with the property of a deceased person;
- (b) any person who has applied or is entitled to apply to a District Court for the grant

or resealing of probate or letters of administration in respect of the estate of a deceased person; or

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

“foreign currency” has the same meaning as in the Exchange Control Act;

“foreign currency banking unit” means a unit or department of a commercial bank, authorized by the Central bank of Sri Lanka to operate as a foreign currency banking unit;

“gem” has the same meaning as in the National Gem and Jewellery Authority Act, No. 50 of 1993;

“gift” means a gift within the meaning of section 52 of the Inland Revenue Act, No. 28 of 1979;

“Government institution” means any Department or undertaking of the Government of Sri Lanka;

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

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

“market value” with reference to any property and any date, means the price which, in the opinion of an Assessor, that property would have

fetches on that date, in an open market;

“mutual fund” means any mutual fund licensed as a mutual fund by the Securities and Exchange Commission of Sri Lanka;

“non-resident” or “not resident” means not resident in Sri Lanka within the meaning of section 79;

“owner”, in relation to land and improvements thereon, includes a person who holds such land and improvements subject to a ground rent or other annual charge;

“partnership” shall not include any disposition, trust, grant, covenant, agreement, assignment, settlement, or other arrangement by which the share of the divisible profits or the divisible loss of a partner of any partnership, is shared with any other person or partnership;

“person” includes a company or body of persons or any government;

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

- (a) is first named in the agreement of partnership;
- (b) if there is no such agreement, is specified by name or initials singly or with precedence to the other partners, in the usual name of the partnership; or
- (c) is the first named in the statement made under section 4 of the Business Names Act, No.7 of 1987;

“prescribed” means prescribed by regulation made under this Act;

“primary dealer” means any financier or bank, appointed, by the Monetary Board of Sri Lanka, under the Local Treasury Bills Ordinance (Chapter 417) or the Registered Stocks and Securities Ordinance (Chapter 420), and functioning as a primary dealer in Treasury Bills, Treasury Bonds, Registered Stock or other Security;

“profits” or “income” means the net profits or income from any source for any period calculated in accordance with the provisions of this Act;

“property” includes any interest in any movable or immovable property;

“Provincial Council” means any Provincial Council established for a Province, under Article 154A of the Constitution;

“public corporation” means any corporation, board or other body which was or is, established by or under, any written law, other than the Companies Act, No. 17 of 1982, with capital wholly or partly provided by the Government, by way of grant, loan or other form;

“quoted public company” means any company which is resident in Sri Lanka and in respect of which the Assessor is satisfied that in relation to any year of assessment, it is a company the shares of which are quoted throughout that year of assessment or where such company is incorporated during that year of assessment, from the date of incorporation to the end of

that year of assessment, in any official list published by any stock exchange licensed by the Securities and Exchange Commission of Sri Lanka;

“rates” means any taxation imposed by a local authority in respect of property;

“receiver” includes any liquidator and any assignee, trustee or other person having the possession or control of the property of any person, by reason of insolvency or bankruptcy;

“regulated provident fund” means any provident fund—

- (a) which is established by a body corporate whose profits and income are exempt from income tax under any written law; and
- (b) which is regulated and maintained under the written law by which such body corporate is constituted;

“resident” or “resident in Sri Lanka” means resident in Sri Lanka within the meaning of section 79;

“Securities and Exchange Commission” means the Securities and Exchange Commission of Sri Lanka established by the Securities and Exchange Commission of Sri Lanka Act, No. 36 of 1987;

“shareholder” includes any member of a company having a share or interest in the capital or profits or income thereof, whether the capital of such company is divided into shares or not;

“share” includes any interest in the capital or profits or income of a company;

“statutory income” means income from any source

computed in accordance with section 28;

“taxable income” means the residue of assessable income of a person after deducting the aggregate amount of the allowances to which such person is entitled under section 33;

“trade” includes every trade and manufacture and every adventure and concern in the nature of trade;

“transfer of property” means any disposition, conveyance, assignment, settlement, delivery, payment or other alienation of property, and includes—

(a) the creation of a trust in property; and

(b) the grant or creation of any interest in any property;

“trustee” includes any trustee, guardian, curator, manager or other person having the direction, control or management of any property on behalf of any person and in relation to any unit trust, the person appointed as the trustee of that unit trust by the instrument creating such unit trust, but does not include an executor;

“unit trust” means any unit trust licensed as a unit trust by the Securities and Exchange Commission of Sri Lanka;

“with the approval of the Central Bank of Sri Lanka” when used in relation to the opening of an account or the making of an investment, means with the approval of the Central Bank of Sri Lanka as being essential for the economic

progress of Sri Lanka;

“year of assessment” means the period of twelve months commencing on the first day of April of any year and ending on the thirty-first day of March in the immediately succeeding year;

“year preceding a year of assessment” means the period of twelve months ending on the thirty-first day of March immediately prior to a year of assessment.

CHAPTER XXXIII

APPLICATION OF THE INLAND REVENUE ACT, NO. 38 OF 2000

218. (1) The Inland Revenue Act, No. 38 of 2000 shall not apply to any income tax, for any year of assessment commencing on or after April 1, 2006.

(2) Where the whole or any part of the profits and income of a person are exempt from income tax under any provisions of the Inland Revenue Act No.38 of 2000 for a period specified in those provisions and there remains on March 31, 2000, in relation to any person, an unexpired part of any such period, the whole or part, as the case may be, of the profits and income which would but for the provisions of subsection (1) have been exempt from income tax, the whole or part, as the case may be, of the profits and income of that person for that part of the period shall, notwithstanding anything in subsection (1) continue to be exempt from income tax as if such provisions continued to have application:

Provided however that, where a company approved by the Minister for the purposes of section 22 DDD of the Inland Revenue Act No.28 of 1979 had given notice in writing to the Commissioner-General before December 31, 2000 that such company had elected not to conform to the conditions

Application of
the Inland
Revenue Act,
No.38 of
2000.

subject to which approval was granted the profits and income from any undertaking of such company as is referred to in subsection (2) of that section for any year of assessment commencing on or after April 1, 2000 shall, notwithstanding the provisions of subsection (1) of that section be liable to income tax.

(3) Where the Board of Investment of Sri Lanka has entered into an agreement with an enterprise under section 17 of the Board of Investment of Sri Lanka Law No.4 of 1978 prior to April 1, 2006 providing for the exemption of the whole or a part of the profits and income of that enterprise from income tax payable under the Inland Revenue Act No.28 of 1979 or under the Inland Revenue Act, No. 38 of 2000, as the case may be, for a specified period, and there remains on March 31, 2006 an unexpired part of such specified period, the whole or part as the case may be, of the profits and income of that enterprise which but for the provisions of subsection (1) would have been exempt from income tax, shall be exempt from income tax payable under this Act, for such unexpired part of the specified period.

(4) Where any provision of the Inland Revenue Act No.28 of 1979 or of the Inland Revenue Act, No. 38 of 2000 provides for the deduction of—

- (a) any loss in ascertaining the assessable income ;
- (b) any allowance in ascertaining the taxable income,

of any person for any year of assessment, and there remains outstanding on March 31, 2006 any balance of such loss or allowance as the case may be, which, but for the provisions of subsection (1), would have been deductible from the assessable income or taxable income as the case may be, of that person in any year of assessment commencing on or after April 1, 2000 such balance shall, notwithstanding anything in subsection, (1) but subject to any conditions specified in the provisions enabling such deductions, be deductible from the assessable or taxable income as the case may be, of that person in any year of assessment commencing on or after

April 1, 2006, as if such provision continued to have application.

(5) Where an individual pays on or after April 1, 2000 to the Government of Sri Lanka or to any institution referred to in paragraph (ee) of sub section (2) of section 31 of the Inland Revenue Act No. 28 of 1979 any amount –

- (a) in the repayment of the capital of any loan ; or
- (b) as monthly payments of any rent purchase agreement,

referred to in that paragraph, such amount shall, notwithstanding anything in subsection (1) but subject to the conditions specified in the aforesaid paragraph, be deductible from the assessable income of that individual in any year of assessment commencing on or after April 1, 2000, as if such Act continues to be in force.

(6) The allowance for depreciation in respect of any capital asset acquired prior to April 1, 2000 or any qualified building constructed prior to April 1, 2000 shall, notwithstanding the non application referred to in subsection (1), be computed in accordance with the respective provisions of the Inland Revenue Act No. 38 of 2000.

(7) Any undertaking, company, public corporation, institution or any fund approved by the Minister or any accountant or any individual (for the purposes of the definition of authorised representative) or any provident or pension fund approved by the Commissioner-General under any provision of the Inland Revenue Act No. 28 of 1979 or of the Inland Revenue Act, No. 38 of 2000, as the case may be, shall be deemed to have been and to be approved by the Minister or by the Commissioner-General as the case may be, under the respective provisions of this Act.

FIRST SCHEDULE

[Section 35 and section 40]

Rates of Income Tax-Individuals other than any Receivers, Trustees, Executors or Liquidators

PART I

Any Individual other than an individual referred to in Part II or Part III

On the first Rs.300,000 of the taxable income	<i>05 per centum</i>
On the next Rs.200,000 of the taxable income	<i>10 per centum</i>
On the next Rs.200,000 of the taxable income	<i>15 per centum</i>
On the next Rs.200,000 of the taxable income	<i>20 per centum</i>
On the next Rs.200,000 of the taxable income	<i>25 per centum</i>
On the next 500,000 of the taxable income	<i>30 per centum</i>
On the balance taxable income	<i>35 per centum</i>

PART II

Any individual who is not a citizen of Sri Lanka and who is deemed under subsection (7) of section 79 to be non resident, during the period for which such individual is deemed non-resident.

On the taxable income	<i>15 per centum</i>
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PART III

Any individual who is not a citizen of Sri Lanka and who is referred to in subsection (1) of section 40, for the period of two years referred to therein, or referred to in subsection (2) of section 40 for the period of five years referred to therein.

On the taxable income	<i>20 per centum</i>
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PART IV

The rates of income tax applicable to certain profits from employment specified in subsection (2) of section 35.

On the first Rs.2,000,000 of the sum received or period of service in other cases, as the case may be, to any category of contribution referred to in paragraphs (a), (b), (c), (d), (e) or (f) in subsection (2) of section 35, is not less than 20 years.	NIL
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On the first Rs.1,000,000 of the sum received or period of service in other cases, as the case may be, to any category of contribution referred to in paragraphs (a), (b), (c), (d), (e) or (f) in subsection (2) of section 35 is less than 20 years.	NIL
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On the next Rs.500,000	<i>05 per centum</i>
On the next Rs.500,000	<i>10 per centum</i>
On the balance	<i>15 per centum</i>

SECOND SCHEDULE [Section 61 & 75]

Rates of Income Tax - Companies

**The rate of income tax for every year of assessment
commencing on or after April 1, 2006 –**

PART - A

1. Any venture capital company, on the taxable income for that year of assessment *20 per centum*
2. Any unit trust or mutual fund—
 - (a) on such part to the taxable income for that year of assessment as is referred to in subsection (4) of section 75. *10 per centum*
 - (b) on the balance part of the taxable income for that year of assessment *20 per centum*

PART - B

1. Any company, other than a company referred to in Part A, for any year of assessment for which the taxable income does not exceed Rs.5,000,000

on the taxable income of the company for that year of assessment *15 per centum*
2. Any company for the year of assessment in which it becomes a quoted public company (hereinafter referred to as the “first year of assessment”) and for each year of assessment within the period of four years immediately succeeding that first year of assessment, for which the taxable income exceeds Rs.5,000,000.

on the taxable income of that company for that year of assessment *33 1/3 per centum*

Provided that where such “first year of assessment” is any year of assessment which commences prior to April 1, 2006,

the rate of 33 1/3 *per centum* shall apply in relation to any year of assessment which falls within such period of four years, but which commences on or after April 1, 2006.

3. Any company other than any company herein before referred to in this Schedule, for any year of assessment.

on the taxable income of that company for that year of assessment. *35 per centum*

4. Where the tax computed in accordance with item 2 or item 3, as the case may be, of this part of this Schedule, in relation to any company for any year of assessment exceeds seven hundred and fifty thousand rupees, the amount by which the tax so computed exceeds seven hundred and fifty thousand rupees, shall not exceed the amount by which the taxable income of that company for that year of assessment exceeds five million rupees

THIRD SCHEDULE

[Section 35]

Rates of Income Tax - Persons Other than Individuals to whom the First Schedule Applies, and Companies

1. Hindu undivided families *30 per centum*
2. Charitable Institutions(including corporate bodies) *10 per centum*
3. Executor (other than trustees under last wills) and receivers (other than liquidators) *30 per centum*
4. Trustees (including trustees under last wills) *30 per centum*
5. Partnerships *30 per centum*
6. Partnerships (on any assessment made) *30 per centum*
7. Any Co-operative Society registered or deemed to be registered under the Co-operative Societies Law No.5 of 1972 On the taxable income *5 per centum*
8. Any club or association referred to in section 101 On the taxable income *20 per centum*
9. Mutual life assurance companies *20 per centum*
10. Liquidators of companies

- The rate of tax chargeable
in respect of the company
11. Governments (other than the Government of Sri Lanka
and the Government of the United Kingdom) *30 per centum*
 12. Business undertakings vested in the Government under
the Business Undertakings (Acquisition) Act No.35 of
1971—
 - (i) On the taxable income *30 per centum*
 - (ii) On the balance of the profits after deduction
therefrom of the tax payable under
paragraph (i) *25 per centum*
 13. Employees Trust Fund and Provident or Pension Funds
10 per centum
 14. Any thrift, saving or building society or welfare fund to
which contributions are made by employees only or any
gratuity funds approved for the purpose of section 25 (1)
(o) *10 per centum*
 15. Persons (other than those referred to above and in the First
and the Second Schedules) *30 per centum*

FOURTH SCHEDULE [Section 95]

**Rates of Deduction of Income Tax from Interest, Rent, Ground Rent,
Royalty or Annuity Paid or Credited to any Person or Partnership
out of Sri Lanka**

Rate of deduction of income tax from interest, rent, ground
rent, royalty or annuity paid or credited to any person or
partnership out of Sri Lanka *20 per centum*

FIFTH SCHEDULE

The following rates shall be applicable notwithstanding the rates specified in the First, Second and Third Schedules.

1. Rate of income tax on the total amount of interest on compensation payable in respect of property vested in the Government, the Land Reform Commission or a public corporation or a local authority (section 36) *10 per centum*
2. Rate of income tax on the total amount of interest received from any bank deposit (section 37)
3. Rate of income tax on the gross interest on loans granted by a company, partnership or other body or persons outside Sri Lanka (section 38) *10 per centum*
4. Rate of income tax on royalty payable to any company, partnership or other body or persons outside Sri Lanka (section 39) *15 per centum*
5. The rate of income tax on profits and income from off-shore foreign currency transaction of any foreign currency banking unit (section 41) *15 per centum*
6. The rate of income tax on profits and income arising to any consignor or consignee from entrepot trade involving precious stones, metals not mined in Sri Lanka or any petroleum, gas or petroleum products or such other approved products (section 42) *20 per centum*
7. The rate of income tax on profits and income arising to any person from any approved undertaking for the operation and maintenance of facilities for the storage of goods or commodities involving entrepot trade (section 43) *10 per centum*
8. The rate of income tax applicable to any profits or gains on the disposal of company shares, rights or warrants (section 44) *10 per centum*
9. The rate of income tax on profits from an undertaking carried on by a person other than a company, and engaged in agriculture, promotion of tourism or construction work as defined in section 217 and section 45 (section 45) *15 per centum, unless such person is liable at 10 per centum only*

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|-----|---|--|
| 10. | The rate of income tax on profits from any undertaking carried on by a company, and engaged in agriculture, promotion of tourism or construction work as defined in section 217 and section 46 (section 46) | As per the First Schedule, subject to a maximum of 15 per centum |
| 11. | The rate of income tax applicable to specialised housing banks (section 47) | |
| 12. | The rate of income tax applicable to certain companies which are exempt from income tax under section 17 or 19, for a period of two years immediately succeeding such period of exemption (section 48) | 15 per centum
20 per centum |
| 13. | The rate of income tax applicable to certain companies after the expiry of the tax exemption period, where such exemption is under section 18 or 22 (section 48) | 10 per centum |
| 14. | The rate of income tax applicable to certain companies after the expiry of the tax exemption, where such exemption is under section 17 or 19 and where 10 per centum or 15 per centum is not applicable (section 48) | 15 per centum |
| 15. | The rate of income tax applicable to dividends paid out of profits and income, taxable in accordance with section 46, and any dividend received from outside Sri Lanka, and other dividends referred to in section 54 (section 49, section 54 and section 55) | 20 per centum |
| 16. | The rate of income tax on qualified export profits and income of a person not being a company, who commenced to carry on any specified undertaking prior to April 1, 2014 (section 50) | 10 per centum, for any year of assessment commencing on or after April 1, 2003 |
| 17. | The rate of income tax on qualified export profits and income of a company which commenced to carry on any specified undertaking prior to April 1, 2014 (section 51) | As per the First Schedule, but Subject to a maximum of 15 per centum |
| 18. | The rate of income tax on qualified export profits and income of a company which carries on any | |

- specified undertaking prior to April 1, 2015
(section 52) *15 per centum*
19. The rate of income tax on dividends out of qualified export profits and income (section 53) *15 per centum*
20. The rate of income tax on profits and income from deemed exports of any person or partnership (section 56) *10 per centum, for any year of assessment commencing on or after April 1, 2003*
21. The rate of income tax on profits and income referred to in section 57 of a resident company *As per the First Schedule, subject to a maximum of 15 per centum for an individual and 15 per centum for a company*
22. The rate of income tax applicable to any profits and income referred to in section 58 *15 per centum*
23. The rate of income tax on profits and income from transshipment agency fees (section 59) *15 per centum*
24. The rate of income tax applicable to any partnership on divisible profits and other income, other than on any assessment made (section 78) *15 per centum*
25. The rate of income tax applicable to any person who is not a citizen of Sri Lanka carrying on the profession or vocation of entertainer or artiste (section 96) *15 per centum*
26. The rate of income tax applicable to any profits and income from petroleum exploration of any person or in the case of a partner of a partnership as referred to in section 105 (section 105) *10 per centum*
27. The rate of income tax applicable to the profit on the receipt of any fund set up or funds received by a Non Governmental Organisation (section 102) *15 per centum*
28. Such part of the taxable income of any person or partnership referred to in section 159, as consists of profits or income from any lottery or betting or gaming activity conducted by such person or partnership. *15 per centum*

30 per centum

40 per centum

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