



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

INLAND REVENUE ACT, No. 38 OF 2000

[Certified on 3rd August, 2000]

Printed on the Order of Government

Published as a Supplement to Part II of the **Gazette of the Democratic Socialist
Republic of Sri Lanka** of August 04, 2000

PRINTED AT THE DEPARTMENT OF GOVERNMENT PRINTING, SRI LANKA

TO BE PURCHASED AT THE GOVERNMENT PUBLICATIONS BUREAU, COLOMBO I

Price : Rs. 160.00

Postage : Rs. 33.25

TABLE OF SECTIONS

<i>Section</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	2
5. Net annual value of land and improvements thereon	5
6. Profits or income arising from rents of land and improvements thereon	5
7. Capital gains	5
CHAPTER III	
Exemptions from Income Tax	
8. Exemption from income tax of certain persons (other than individuals) on the whole or any part of their profits and income	12
9. Exemption from income tax of certain profits and income of certain officers and employees	21
10. Exemption from income tax of certain interest received	29
11. Exemption from income tax of certain dividends	30
12. Exemption from income tax of certain profits and income from land and improvements thereon	33
13. Exemption from income tax of certain subsidies	35
14. Exemption from income tax of certain capital gains	36

<i>Section</i>	<i>Page</i>
15. Miscellaneous exemptions from income tax	40
16. Exemption of the profits and income arising or derived outside Sri Lanka of any resident guest	45
17. Exemption from income tax for five years of the profits and income of certain companies	45
18. Exemption from income tax of the profits and income of any undertaking which provides certain services	47
19. Exemption from income tax of the profits and income of any company engaged in non-plantation agricultural activities	47
20. Exemption from income tax of the profits and income of a company which exports fresh or processed vegetables or fruits	47
21. Exemption from income tax of the profits from the construction and first sale of certain houses	48
22. Power of Commissioner-General to recommend cancellation of approval granted under section 17	48

CHAPTER IV

Ascertainment of Profits or Income

23. Ascertainment of profits or income	49
24. Deductions not allowed in ascertaining profits and income	61

CHAPTER V

Ascertainment of Total Statutory Income

25. Basis for computing statutory income	66
26. Apportionment of profits	68
27. Total statutory income	68
28. Aggregation of the total statutory income of a child with that of his parent	68

<i>Section</i>	<i>Page</i>
CHAPTER VI	
Ascertainment of Assessable Income	
29. Deduction from total statutory income in arriving at assessable income	69
CHAPTER VII	
Ascertainment of Taxable Income	
30. Taxable income	79
31. An allowance in respect of qualifying payments	80
CHAPTER VIII	
Rates of Income Tax on persons other than Companies	
32. Rates of income tax on persons other than companies	84
CHAPTER IX	
Special Provisions Relating to the Taxation of Certain Profits and of Dividends out of such Profits	
33. 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.	91
34. Deductions of income tax from interest payable on certain deposit accounts	92
35. Rate of income tax on the gross interest on loans granted by company, partnership or body of persons outside Sri Lanka	94
36. The rate of income tax on royalties payable to any company, partnership or body of persons outside Sri Lanka	94
37. The rate of income tax on profits from employment, for a specified period of a non citizen employed in Sri Lanka	94
38. The rate of income tax on the profits of any foreign currency banking unit	95

<i>Section</i>	<i>Page</i>
39. Rate of income tax on the profits from certain undertakings carried on by a person other than a company	95
40. Rate of income tax on the profits from certain undertakings carried on by a company	97
41. Rate of income tax on the dividends paid out of profits taxed in accordance with section 40	98
42. Deduction from tax payable by any quoted public company under certain conditions	99
43. Deductions from tax payable by any company which obtains a quotation of the shares and satisfies certain conditions	99
44. Rate of income tax on the qualified export profits and income of persons not being a company who commences to carry on any specified undertaking	100
45. Rate of income tax on the qualified export profits and income of a company which commences to carry on any specified undertaking	101
46. Rate of income tax on qualified export profits and income of a person not being a company who carries on any specified undertaking	101
47. Rate of income tax on qualified export profits and income of a company which carries on any specified undertaking	102
48. Rate of income tax on dividends out of export profits and income	102
49. Rate of income tax on profits from deemed exports of any person or partnership	106
50. Rate of income tax on profits and income from services rendered out side Sri Lanka by any resident company or partnership	108
51. Rate of income tax on emoluments and fees earned in foreign currency by an individual or by any partnership	109
52. Interpretation	110

<i>Section</i>	<i>Page</i>
----------------	-------------

CHAPTER X

Companies

53. Income tax to which any resident company is liable	112
54. Advance company tax on qualifying distribution to which resident companies are liable	114
55. Dividend consisting of any qualifying distribution when received by a resident person other than a company	115
56. Resident company to maintain a record of dividends Received	115
57. Income tax to which any non-resident company is liable	117
58. Certain dividends not to form part of the assessable income of the receiving company	118
59. Profits of a company from transactions with its shareholders	118
60. Every resident company to deduct income tax from any dividend received from any quoted public company and payable to any non-resident person	118
61. Resident company entitled to deduct tax from any dividend	119
62. Certain undistributed profits to be treated as distributed	123
63. Provisions applicable where the profits and income of a company are appropriated by the director, &c., of that company	125

CHAPTER XI

Special Cases

A-CHILDREN

64. Assessment of child's income	126
----------------------------------	-----

<i>Section</i>	<i>Page</i>
B-RECEIVERS, TRUSTEES, EXECUTORS &c.	
65. Returns to be furnished by receivers and trustees	127
66. Chargeability to tax	128
67. Liability of executor to tax payable by deceased person	128
68. Returns to be furnished by executors and chargeability of executors and beneficiaries	129
69. Joint trustees and executors	130
C-UNIT TRUST	
70. Every unit trust deemed to be a company	130
D-PARTNERSHIPS	
71. Assessment of partnership income	131
72. Assessment to be made in the name of the partnership in certain circumstances	134
E-RESIDENCE	
73. What constitutes residence	135
F-LIABILITY OF NON-RESIDENT PERSONS	
74. Chargeability of certain profits of non-resident persons	136
75. Persons assessable on behalf of non-resident person	137
76. Liability of certain non-resident persons	137
77. Profits of certain businesses to be computed on a per centage of the turnover	139
78. Profits of non-resident persons from sale of exported produce	139
79. Liability to income tax of certain profits of non-resident persons	139
80. Exemption of income of non-resident persons in certain cases and liability of certain non-resident persons to income tax at reduced rates	140

<i>Section</i>	<i>Page</i>
G-SHIPPING AND OPERATION OF AIRCRAFT	
81. Profits of non-resident ship-owners or charterers	140
82. Master of ship to be an agent	141
83. Refusal of clearance of ship where income tax is in arrears	141
84. Profits of non-resident owners or charterers of aircraft	142
85. Application of subsection (2) of section 81, 82 and 83 to profits of non-resident owners or charterers of any aircraft	143
H-INSURANCE	
86. Ascertainment of profits of insurance companies	144
87. Ascertainment of profits of the Insurance Corporation of Sri Lanka from the business of life insurance	146
I-INTEREST, &c., PAYABLE TO PERSONS OUTSIDE SRI LANKA	
88. Interest on certain loans deemed to be profits and income	147
89. Certain royalties deemed to be profits and income	147
90. Deduction of income tax from interest, &c., payable to persons outside Sri Lanka	147
91. Deduction of income tax from payments made to any foreign entertainer or artist	149
J-RELIEF IN CASES OF DOUBLE TAXATION	
92. Effect of agreement for double taxation relief	151
93. Relief in respect of Sri Lanka income tax	153

<i>Section</i>	<i>Page</i>
K-MISCELLANEOUS	
94. Applicability of provisions relating to particular sources of profits or income	155
95. How certain receipts of insurance are to be treated	155
96. Ascertainment of income of clubs, trade associations, &c.,	156
97. Certain transactions and dispositions to be disregarded	156
 CHAPTER XII 	
Returns, &c.	
98. Returns and information to be furnished	157
99. Audit reports to be furnished by partners &c.	160
100. Returns and other documents to contain the national identity card number or passport number	162
101. Returns to be furnished of income received on account of or paid to, other persons	163
102. Occupiers to furnish returns of rent payable	164
103. Return of lodgers and inmates	164
104. Power of Commissioner-General to impose penalty for failure to furnish returns	164
 CHAPTER XIII 	
Payments to Tax by Self-Assessment	
105. Payment of tax by self-assessment	166

CHAPTER XIV

Deduction of Income Tax from Remuneration of Employees by Employers

106. Employers to deduct income tax	167
107. Employers to give notice to the Commissioner-General	167
108. Application of income tax tables	168
109. Directions to employers	170
110. Employers to maintain proper records	171
111. Duties of employers following deductions of income tax	172
112. Adjustments of amount of income tax not paid or paid in excess	173
113. Employee to give notice when the necessary deductions are not made	174
114. Income tax deducted not to form part of assets of employers	174
115. Default in the deduction or payment of income tax	174
116. Issue of assessments on employers	175
117. Appeals	176
118. Penalty for default	178
119. Credit for tax paid	178
120. Compliance with the provisions of this Chapter relating to forms	179
121. Interpretation	179

CHAPTER XV

Deduction of Income Tax from Interest paid by Banks and Financial Institutions

122. Banks and financial institutions to deduct income tax	181
123. Credit for tax deducted	182
124. Issue of directions	183
125. Duties of Banks and financial institutions following deductions of income tax	184

<i>Section</i>	<i>Page</i>
126. Default in the deduction of income tax	184
127. Issue of assessments on banks and financial institutions	185
128. Appeals	186
129. Penalty for default	187
130. Interpretation	188

CHAPTER XVI

Deduction of Income Tax from Specified fees paid by Specified Persons

131. Specified persons to deduct income tax from specified fees	188
132. Provisions of Chapter XV to apply in relation to the deduction under this Chapter of income tax from specified fees	189

CHAPTER XVII

Retention of Moneys in Certain Provident Funds

133. Retention of fifteen per centum of money lying to the credit of a contributor to a specified provident fund to meet any tax payable	190
--	-----

CHAPTER XVIII

Assessments

134. Assessments and additional assessments	190
135. Notice of assessment	192

CHAPTER XIX

Appeals

A-APPEALS TO THE COMMISSIONER-GENERAL

136. Appeals to the Commissioner-General	193
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<i>Section</i>	<i>Page</i>
B-APPEALS TO THE BOARD OF REVIEW	
137. Constitution of the Board of Review	197
138. Appeals to the Board of Review	197
139. Commissioner-General may refer appeals to the Board of Review	198
140. Hearing and determination of appeals by the Board of Review	198
C-APPEALS TO THE COURT OF APPEAL	
141. Appeal on a question of law to the Court of Appeal	200
CHAPTER XX	
Finality of Assessments and Penalty for Incorrect Returns	
142. Assessments or amended assessments to be final	203
143. Penalty for incorrect returns	203
CHAPTER XXI	
Tax in Default and Sums added thereto	
144. Tax in default and sums added thereto	204
CHAPTER XXII	
Recovery of Tax	
145. Tax to include fines, &c.	209
146. Tax to be a first charge	210
147. Notice to defaulter	211
148. Recovery of tax by seizure and sale	212
149. Proceedings for recovery before a Magistrate	215

<i>Section</i>	<i>Page</i>
150. Recovery of tax out of debts, &c.	216
151. Transfer of immovable property to Government in lieu of payment of tax in cash	219
152. Tax in default to be recovered from remuneration of employee	220
153. Tax in default of a partner to be recovered from the assets of a partnership	222
154. Recovery of income tax from the income or wealth of a child	222
155. Recovery of income tax payable by a beneficiary from the trustee	222
156. Recovery of income tax payable by a beneficiary from the executor	222
157. Gift tax to be recovered from the donee in certain circumstances	223
158. Recovery of tax from persons leaving Sri Lanka	223
159. Use of more than one means of recovery	224
160. Power of Commissioner-General to obtain information for the recovery of tax	224
161. Liability of directors of private company in liquidation	224
162. Delegation of Commissioner-General's powers and functions	224

CHAPTER XXIII

Miscellaneous

163. Signature and service of notices	225
164. Validity of notices, assessments, &c.	226
165. Precedent partner to act on behalf of a partnership	226
166. Principal officer to act on behalf of company or body of persons	227
167. Who may act for incapacitated or non-resident person	227
168. Indemnification of representative	227

<i>Section</i>	<i>Page</i>
CHAPTER XXIV	
Repayment	
169. Tax paid in excess to be refunded	228
170. Interest payable on the amount of a refund in certain circumstances	231
CHAPTER XXV	
Penalties and Offences	
171. Penalties for failure to make returns, making incorrect Returns, &c.	231
172. Breach of secrecy and other matters to be offences	234
173. Penal provisions relating to fraud, &c.	235
174. Tax to be payable notwithstanding any prosecution or conviction for an offence under this Act	237
175. Prosecutions to be with the sanction of the Commissioner-General	237
176. Admissibility of statements and documents in evidence	237
CHAPTER XXVI	
Administration	
177. Officers	237
178. Official secrecy	238
179. Inland Revenue Incentive Fund	244
180. Commissioner-General may pay rewards to informants	245

<i>Section</i>	<i>Page</i>
CHAPTER XXVII	
General	
181. Regulations	245
182. Forms	247
183. Power to search buildings or places	247
184. Power to search business premises	250
185. Sinhala text to prevail in case of inconsistency	251
CHAPTER XXVIII	
Interpretation	
186. Interpretation	251
CHAPTER XXIX	
Application of the Inland Revenue Act, No. 28 of 1979	
187. Application of the Inland Revenue Act, No. 28 of 1979	262
SCHEDULES	
First Schedule	264
Second Schedule	264
Third Schedule	264
Fourth Schedule	266
Fifth Schedule	266

Inland Revenue Act, No. 38 of 2000

[Certified on 3rd August, 2000]

L.D.-O. 56/99.

AN ACT TO PROVIDE FOR THE IMPOSITION OF INCOME TAX FOR
ANY YEAR OF ASSESSMENT COMMENCING ON OR AFTER April 1,
2000

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. 38 of 2000.

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 and Third Schedules to this Act, for every year of assessment commencing on or after April 1, 2000, 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) capital gains ; and
- (i) income from any other source whatsoever, not including profits of a casual and non-recurring nature.

Profits from employment.

4. (1) Profits from any employment include—

- (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, 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 purposes 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, any excess of the rental value over one hundred and twenty thousand rupees shall be disregarded.

(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.

5. (1) The net annual value of 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.

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

(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.

7. (1) "Capital gain" means the profits or income, not being profits or income within the meaning of paragraph (a), (g) or (i) of section 3, arising from—

Capital gain.

- (a) the change of ownership of any property occurring in any manner whatsoever ;
- (b) the surrender or relinquishment of any right in any property ;

- (c) the transfer of some of the rights in any property ;
- (d) the redemption of any share, debenture or other obligation ;
- (e) the formation of a company ;
- (f) the dissolution of a business or the liquidation of a company ;
- (g) the amalgamation or merger of two or more businesses or companies ; or
- (h) any transaction in connection with the promotion of which any person who is not a party to such transaction receives a commission or reward.

(2) For the purposes of subsection (1) and in relation to the capital gain of any person, the profits and income arising from—

- (a) a change of ownership of property, means, subject to the provisions of subsection (4), the amount by which the value of the property at the time when such change of ownership occurs exceeds its value at the time when it was acquired by that person ;
- (b) the surrender or relinquishment of any right or the transfer of some of the rights in any property means, subject to the provisions of subsection (4) the value of the consideration for such surrender, relinquishment or transfer ;
- (c) the redemption of any share, debenture or other obligation, means, subject to the provisions of subsection (4), the value of all property received by him in consequence of such redemption less the value of that which is redeemed at the time when it was acquired by him or where that which is redeemed is any property referred to in paragraph (e) or paragraph (f) or paragraph (g) or paragraph (h) of subsection (3), less such value of that property as is specified in that paragraph ;

- (d) the formation of a company, means, subject to the provisions of subsection (4), the value of the consideration received by him for any transaction in connection with the formation of such company ;
- (e) the dissolution of a business or the liquidation of a company, means, subject to the provisions of subsection (4), the amount by which the value of all property received by him in consequence of such dissolution or liquidation exceeds the value of his share of the capital of such business or company at the time when such share was acquired by him ;
- (f) the amalgamation or merger of two or more companies, means, where such person was a shareholder of any of those companies, any money received by such shareholder in consequence of such amalgamation or merger, and where such person was not a shareholder of any of those companies, the value of the consideration received by him for any transaction in connection with such amalgamation or merger ; and
- (g) the promotion of a transaction to which such person was not a party, means, the commission or reward received by him in connection with such promotion.

(3) “Value”, with reference to any property or consideration in the context of the definition of “capital gain” and in relation to any person to whom the capital gain arises, shall be as follows :—

- (a) where the property was acquired before April 1, 1977, by the person to whom such gain arises then, subject to the provisions of paragraph (c), paragraph (d), paragraph (e), paragraph (f), paragraph (g) and paragraph (h), the value of the property at the time when it was acquired by such person shall be an amount equal to the market value of the property on April 1, 1977 ;

- (b) where the property was acquired on or after April 1, 1977, by the person to whom such gain arises then, subject to the provisions of paragraph (c), paragraph (d), paragraph (e), paragraph (f), paragraph (g), paragraph (h), paragraph (l) and paragraph (m), the value of the property at the time it was acquired by such person shall if such acquisition was—
- (i) by purchase, be an amount equal to the cost of such purchase ; and
 - (ii) otherwise than by purchase, be an amount equal to the market value of the property at the time of such acquisition ;
- (c) where the property was acquired by the person to whom such gain arises in his capacity as a beneficiary under a trust or the testate or intestate heir of the deceased, in consequence of a transfer by the trustee of such trust or by the executor appointed to administer the estate of such deceased, the value of the property at the time of such acquisition shall if the the date of the acquisition of such property by such trustee or executor is—
- (i) before April 1, 1977, be an amount equal to the market value of the property on April 1, 1977 ; and
 - (ii) on or after April 1, 1977, be an amount equal to the market value of the property at the time when such trustee or executor came into possession of the property ;
- (d) where the person to whom the gain arises had come into possession of the property immediately after the cessation of a life interest of any other person in the property or after the cessation of the rights of fiduciary in that property, the value of the property at the time

when the first-mentioned person acquired such property shall if the date of the cessation of such life interest or such rights of a fiduciary is—

- (i) before April 1, 1977, be an amount equal to the market value of the property on April 1, 1977 ;
and
 - (ii) on or after April 1, 1977, be an amount equal to the market value of the property on such date ;
- (e) where the property is a bonus share issued on or after April 1, 1977, to the person to whom such gain arises, the value of the property at the time when it was acquired by such person shall be deemed to be nil ;
- (f) where the property is a share issued on or after April 1, 1977, to the person to whom such gain arises at a price less than the market value of such share, the value of the property at the time when it was acquired by such person shall be an amount equal to the cost of acquisition of such property ;
- (g) where the property consists of any shares received by the person to whom such gain arises in lieu of shares held by him in any of two or more companies which have amalgamated or merged on or after April 1, 1977, the value of the property at the time when it was so received shall if the last-mentioned shares were acquired by him—
- (i) before April 1, 1977, be an amount equal to the market value of the last-mentioned shares on April 1, 1977 ; or
 - (ii) on or after April 1, 1977, be an amount equal to the cost of purchase of such shares as were acquired by purchase and the market value on the date of acquisition of such shares as were acquired by him otherwise than by purchase ;

- (h) where the property consists of shares in respect of which there has been a return or distribution of capital, the value of the property at the time when such shares were acquired shall if such shares were acquired by the person to whom such gain arises—
 - (i) before April 1, 1977, be an amount equal to the market value of the shares on April 1, 1977, less the amount of the capital returned or distributed, on or after that date, if the amount of the capital returned or distributed is not a dividend within the meaning of this Act ; and
 - (ii) on or after April 1, 1977, be an amount equal to the cost of purchase of such shares as were acquired by purchase and the market value on the date of acquisition of such shares as were acquired by him otherwise than by purchase, less the amount of the capital returned or distributed if the amount of the capital returned or distributed is not a dividend within the meaning of this Act ;
- (i) the value of the property at the time of the occurrence of the transaction which resulted in such gain shall, if such transaction is—
 - (i) a sale of the property, be an amount equal to the sale price of such property ;
 - (ii) other than a sale, be an amount equal to the market value of such property at the time of the occurrence of the transaction ;
- (j) the value of any consideration received by the person to whom such gain arises shall, where the consideration is—
 - (i) partly cash and partly property other than cash, be an amount equal to the aggregate of such cash and the market value of such property on the date on which the consideration was received ; and
 - (ii) wholly property other than cash, be an amount equal to the market value of such property on the date on which the consideration was received ;

- (k) where, in the case of a change of ownership of the property of any person occurring by sale, the Assessor is of the opinion that the sale price is less than the market value of that property at the time of the sale, then unless such person satisfies the Assessor that there was reasonable cause for the difference between the sale price and such market value, the value of such property at the time of the sale shall be an amount equal to the market value of that property at that time ;
- (l) where the property is immovable property and that property was acquired by way of gift or inheritance, on or after April 1, 1977, by the person to whom the capital gain arises from any person who had acquired such property prior to April 1, 1977, the value of such property at the time it was acquired by the first-mentioned person shall be an amount equal to the market value of such property on April 1, 1977, increased by the cost of any improvements, additions or alterations to that property made by the second-mentioned person after April 1, 1977 ; and
- (m) where the property is immovable property and that property was acquired by way of gift or inheritance on or after April 1, 1977, by the person to whom such gain arises from any person who had acquired such property on or after April 1, 1977, the value of such property at the time when it was acquired by the first-mentioned person shall, if the second-mentioned person had acquired that property—
 - (i) by purchase, be an amount equal to the cost of such purchase ; and
 - (ii) otherwise than by purchase, be an amount equal to the market value of the property at the time of such acquisition,

increased by the cost of any improvements, additions or alterations to that property made by the second-mentioned person after it was acquired by him.

(4) For the purposes of subsection (2), the amount of a capital gain shall be computed after making the following deductions—

- (a) any expenditure (other than the purchase price if any) incurred on or after April 1, 1977, solely in connection with the acquisition of the property by the person who is the owner of that property immediately before the occurrence of the transaction which resulted in such gain ;
- (b) any expenditure incurred on or after April 1, 1977, by such owner in making any improvements, additions or alterations to that property if no deduction in respect of such expenditure is or has been allowed under section 23 of this Act or under section 23 or paragraph (1) of subsection (2) of section 31 of the Inland Revenue Act, No. 28 of 1979 ;
- (c) any expenditure incurred by such owner solely in connection with the transaction which resulted in such gain.

CHAPTER III

EXEMPTION FROM INCOME TAX

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

8. There shall be exempt from income tax—

- (a) the profits and income of—
 - (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 of public officers of Sri Lanka (Chapter 431) ;
- (viii) any Widows' and Orphans' Pension Fund or Scheme established for the Local Government Service ;
- (ix) the World Tourism Organization ;
- (x) any institution or trust of a public character established by any written law solely for the purposes of scientific research ;
- (xi) 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 ;
- (xii) 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 ;
- (xiii) the National Science Foundation established by the Science and Technology Development Act, No. 11 of 1994 ;
- (xiv) the Industrial Technology Institute established by the Science and Technology Development Act, No. 11 of 1994 ;
- (xv) the International Development Association ;

- (xvi) the Sri Lanka Standards Institution established by the Sri Lanka Standards Institution Act, No. 6 of 1984 ;
- (xvii) the Asian Development Bank ;
- (xviii) any Resort Authority constituted under subsection (1) of section 57 of the Tourist Development Act, No. 14 of 1968 ;
- (xix) the Ceylon Tourist Board established by the Ceylon Tourist Board Act, No. 10 of 1966 ;
- (xx) the International Finance Corporation ;
- (xxi) 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 ;
- (xxii) the Monetary Board established by the Monetary Law Act (Chapter 422) being the profits and income of the Central Bank of Sri Lanka ;
- (xxiii) 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 ;

- (xxiv) the Sri Lanka Foundation Institute established by the Sri Lanka Foundation Law, No. 31 of 1973 ;

- (xxv) the Tower Hall Theatre Foundation established by the Tower Hall Theatre Foundation Act, No. 1 of 1978 ;
- (xxvi) the Sri Lanka Inventors Commission established by the Sri Lanka Inventors Incentives Act, No. 53 of 1979 ;
- (xxvii) the Ceylon Medical Council established by the Medical Ordinance (Chapter 105) ;
- (xxviii) Ayurvedic Medical Council established by the Ayurveda Act, No. 31 of 1961 ;
- (xxix) the Homoeopathic Council established by Homoeopathy Act, No. 7 of 1970 ;
- (xxx) the Sri Lanka College of Physicians established by the Sri Lanka College of Physicians (Incorporation) Act, No. 9 of 1971 ;
- (xxxi) the Institute of Engineers, Ceylon, incorporated by the Institute of Engineers, Ceylon Act, No. 17 of 1968 ;
- (xxxii) the Sri Lanka Export Credit Insurance Corporation established by the Sri Lanka Export Credit Insurance Corporation Act, No. 15 of 1978 ;
- (xxxiii) the Sri Lanka Export Development Board established under the Sri Lanka Export Development Board Act, No. 40 of 1979 ;
- (xxxiv) the Sri Lanka Ex-Servicemen's Association established by the Sri Lanka Ex-Servicemen's Association Law, No. 8 of 1976 ;
- (xxxv) 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 ;

- (xxxvi) the Institute of Fundamental Studies, Sri Lanka, established by the Institute of Fundamental Studies, Sri Lanka Act, No. 55 of 1981 ;
- (xxxvii) the International Winged Beans (Dambala) Institute established by the International Winged Bean (Dambala) Institute Act, No. 7 of 1982 ;
- (xxxviii) 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 ;
- (xxxix) the International Irrigation Management Institute ;
- (xl) the Sri Lanka Institute of Printing established by the Sri Lanka Institute of Printing Act, No. 18 of 1984 ;
- (xli) the Energy Conservation Fund established by the Energy Conservation Fund Act, No. 2 of 1985 ;
- (xlii) the Tea Small Holdings Development Authority established by the Tea Small Holdings Development Law, No. 35 of 1975 ;
- (xliii) the Co-operative Development Fund established under the Finance Act, No. 11 of 1963 ;
- (xliv) the Board of Investment of Sri Lanka established by the Board of Investment of Sri Lanka Law, No. 4 of 1978 ;

- (xlv) the President's Fund established by the President's Fund Act, No. 7 of 1978 ;
- (xlvi) the National Defence Fund established by the National Defence Fund Act, No. 9 of 1985 ;
- (xlvii) the Sri Lanka Institute of Architects incorporated by the Sri Lanka Institute of Architects Law, No. 1 of 1976 ;
- (xlviii) the Surveyors' Institute of Sri Lanka incorporated by the Surveyors' Institute of Sri Lanka Act, No. 22 of 1982 ;
- (xlix) the Institute of Chemistry, Ceylon incorporated by the Institute of Chemistry (Ceylon) Act, No. 15 of 1972 ;
 - (l) the Sri Lanka Institute of Development Administration established by the Sri Lanka Institute of Development Administration Act, No. 9 of 1982 ;
 - (li) 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 ;
 - (lii) the Agricultural and Agrarian Insurance Board established by the Agricultural and Agrarian Insurance Law, No. 20 of 1999 ;
 - (liii) the Superior Courts Complex Board of Management established by the Superior Courts Complex Board of Management Act, No. 50 of 1987 ;
 - (liv) the International Committee of the Red Cross ;
 - (lv) the Institute of Policy Studies of Sri Lanka established by the Institute of Policy Studies of Sri Lanka Act, No. 53 of 1988 ;

- (lvi) the Credit Information Bureau of Sri Lanka established by the Credit Information Bureau of Sri Lanka Act, No. 18 of 1990 ;
- (lvii) Rubber Research Board established under the Rubber Research Ordinance, (Chapter 439) ;
- (lviii) the Buddha Sasana Fund established by the Buddha Sasana Fund Act, No. 35 of 1990 ;
- (lix) the J.R. Jayawardene Centre established by the J.R. Jayawardene Centre Act, No. 77 of 1988 ;
- (lx) 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 ;
- (lxi) the Stabilization Fund for Tea, Rubber and Coconut established under Part IV of the Finance Act, No. 38 of 1971 ;
- (lxii) the Janasaviya Trust Fund incorporated under the Trust Ordinance (Chapter 96) ;
- (lxiii) the Institute of Bankers of Sri Lanka established by the Institute of Bankers of Sri Lanka Act, No. 26 of 1979 ;
- (lxiv) the Overseas Private Investment Corporation of the United States of America ;
- (lxv) the Overseas Economic Co-operation Fund of Japan ;
- (lxvi) the World Conservation Union ;
- (lxvii) the Institute of Personnel Management, Sri Lanka, incorporated by the Institute of Personnel Management, Sri Lanka Law, No. 24 of 1976 ;
- (lxviii) Public Enterprises Reform Commission of Sri Lanka, established by the Public Enterprises Reform Commission of Sri Lanka, Act, No. 1 of 1996 ;

- (lxi) the Securities and Exchange Commission of Sri Lanka established by the Securities and Exchange Commission of Sri Lanka Act, No. 36 of 1987 ;
 - (lxx) the Bandaranaike Museum Committee incorporated under the Bandaranaike Museum Committee (Incorporation) Act, No. 28 of 1997 ;
 - (lxxi) the Geological Survey and Mines Bureau established under the Mines and Minerals Act, No. 33 of 1992 ;
 - (lxxii) the Commonwealth Development Corporation ;
 - (lxxiii) the India – Sri Lanka Foundation incorporated under the Companies Act, No. 17 of 1982 .
- (b) 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 ;
- (c) 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 ;
- (iii) a foreign currency banking unit from all off-shore transactions of the unit.

For the purposes of this subparagraph 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 transaction ;

- (d) 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 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 ;
 - (e) 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 ;
 - (f) the profits and income for any year of assessment of any unit trust or mutual fund if not less than seventy *per centum* of such profits and income are distributed to its unit holders before the expiry of one year from the end of that year of assessment.
- 9.** (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) 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 emolument 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 ;
- Exemption from income tax of certain profits and income of certain officers and employees.

- (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 ;

and 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 officer or employee referred to in items (i), (ii), (iii), (iv), (v), (vi), (vii), (viii) or (ix) ;

- (c) 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 the 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 ;

- (d) 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 Organization, or under the Point Four Assistance programme of the Government of the United States of America, or through the Colombo Plan Organization (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 grant or other assistance to the Government of Sri Lanka by any such Organization, 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 Organization and its Specialized Agencies, or of the Colombo Plan Organization, or of any other organization approved by the Minister as being of a similar character ;
- (v) any official of the United Nations Organization 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 ;

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

(i) the emoluments 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 ;

(j) the emoluments earned in any year of assessment by any individual employed on a ship which is—

(i) owned or chartered by a company registered under Part VIII of the Companies Act, No. 17 of 1982 ; and

(ii) 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 ;

(k) profits and income not exceeding in the aggregate four thousand eight hundred rupees from all sources other than employment, derived by or arising or accruing to, an individual or any child whose total statutory income is aggregated with the income of that individual, if the total statutory income, for that year of assessment, of that individual consists only of profit and income—

(i) from employment not exceeding one hundred and fifty thousand rupees ; and

- (ii) not exceeding four thousand eight hundred rupees from all sources of profits and income other than employment,

and accordingly, where any income tax has been paid by deduction or otherwise, by such individual in any year of assessment, in respect of any profits and income which are exempt under this paragraph such tax shall, on an application in that behalf being made in writing by such individual within three years of the end of that year of assessment, be refunded to him ;

- (l) 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 place of work to his residence ;
- (m) 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 ;
- (n) such part of any sum referred to in paragraph (c) of subsection (i) of section 4 (1) 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 ;
- (o) 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 other than any public

corporation referred to in subparagraph (ii) of paragraph (b) of subsection (1), as is attributable to the period of service of such employee prior to April 1, 1997, in such public corporation ;

- (p) any sum 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 (b) or paragraph (c) 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 (c) 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 up to 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.

- 10.** There shall be exempt from income tax—
- Exemption from income tax of certain interest received.
- (a) the accumulated interest payable to an individual in respect of any Ceylon Savings Certificate issued under the Savings Certificates Ordinance or any National Savings Bank Certificate issued under the National Savings Bank Act, No. 30 of 1971, and purchased by that individual on or before November 15, 1978 ;
 - (b) 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 ;
 - (c) 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 ;
 - (d) 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 ;

- (e) 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 with the approval of the Central Bank of Sri Lanka ;
- (f) any interest forming part of the surrender value of any Tax Reserve Certificate ;
- (g) the interest accruing to any person on moneys lying to his credit in foreign currency with any foreign currency banking unit ;
- (h) the interest accruing to any financial institution from any loan granted by it to any venture capital company established for the implementation of any entrepreneur development programme of the Government, if the proceeds of such loan are utilized by such company for the implementation of such programme.

For the purpose of this paragraph “financial institution” means any company whose business or part of whose business consists of 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.

Exemption from
income tax of
certain dividends.

11. 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 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 48 ;
- (b) 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 of America 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 paragraph (i), for the use of the undertaking carried on by that company ;
- (c) 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 ;

- (d) 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 share holder of such company during the period of five years reckoned from the commencement of the year of assessment in which such hospital commences operations ;
- (e) 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 license issued under the Mines and Mineral Act, No. 33 of 1992, has been assigned

paid to any shareholder 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 sub-paragraph (a) of the further proviso to paragraph (iv) of regulation 2 of Regulations 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 No. 1019/13 of March 19, 1998 and specified in such agreement or within one year thereafter ;

- (f) any dividend paid to a shareholder of a company out of such profits and income of that company arising on or after April 1, 1977, which are exempt from income tax under section 15, 17, 18, 19, or 20 of this Act 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 ;
 - (g) any dividend paid to a shareholder of a company, out of any such dividend received by that company as is referred to in paragraph (a) or (f), 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 ;
 - (h) any dividend paid to a shareholder of a company out of any such dividend as is referred to in paragraph (a) or (f), received by that company through one or more intermediary companies during the period for which the dividends referred to in paragraph (a) or paragraph (f) 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.
- 12.** (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 for the year of assessment in which the construction of that
- Exemption from income tax of certain profits and income from lands and improvements thereon.

house was completed and for the six years assessment immediately succeeding that year of assessment, if such house is used solely for residential purposes and—

- (i) is occupied by the owner thereof ; or
- (ii) has a floor area (inclusive of the thickness of the walls) of not exceeding two thousand square feet :

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 was completed and for the nine years of assessment immediately succeeding that year of assessment ;

- (c) the income accruing to the owner of a house, the income from which was or is not exempt from income tax under paragraph (b) of this subsection and which house 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
 - (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 ;

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

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

Exemption from income tax of certain subsidies.

- (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 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 product ;
- (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.

Exemption from
income tax of
certain capital
gains.

- 14.** (1) There shall be exempt from income tax—
- (a) any capital gain arising on—
 - (i) the sale by any individual, or the acquisition by the State, of any house constructed by such individual and used solely for residential purposes, such sale being the first sale of that house ;
 - (ii) the sale by any individual, or the acquisition by the State, of any house owned by such individual and used solely for residential purposes, if such individual has not sold or the State has not acquired from that individual on or after April 1, 1978, any house other than a house referred to in sub-paragraph (i) ;
 - (iii) the sale to a customer, of any property held by the vendor primarily for sale to customers in the ordinary course of his trade or business ;
 - (iv) the sale of any property by any person, being property used by him in producing income in any trade, business, profession, vocation or employment carried on or exercised by him and in respect of which an allowance for depreciation has been granted under section 23, if the full proceeds of sale are used within one year of the sale, for the replacement of such property to be used by such person for producing income in any trade, business, profession, vocation or employment carried on or exercised by him ;
 - (v) the passing of any property subject to a trust from the trustee to any beneficiary under the trust ;
 - (vi) the passing of any property belonging to the estate of a deceased person from his executor to any testate or intestate heir of the deceased ;

- (vii) the passing of any property to any person, on the death of the owner of that property ;
- (viii) the passing of any property occurring on the gift of that property by its owner to any other person ;
- (ix) the passing of any property, being shares in any company incorporated in Sri Lanka 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 owner of that property to any other person by way of sale, gift or otherwise ;
- (x) change of ownership of any motor vehicle in respect of which a deduction for depreciation has not been allowed under subsection (1) of section 23 of this Act or under section 23 of the Inland Revenue Act, No. 28 of 1979 or under section 10 of the Inland Revenue Act, No. 4 of 1963 or of any household effect or other article of personal use (excluding jewellery) ;
- (xi) change of ownership of a right to exploit a property occurring by a transfer of that right ;
- (xii) the surrender of a life insurance policy ; and the surrender, transfer or extinction of a life interest ;
- (xiii) the change of ownership of any share in a quoted public company ;
- (xiv) the transfer, upon the conversion of a business carried on by an individual, either solely or in partnership with others, into a quoted public company, of any part of the capital assets of such business to such company, but only if, such part of those assets as were acquired for that business

prior to March 31, 1977 are transferred to that company at a price not exceeding the market value of those assets on March 31, 1977 ;

- (xv) the transfer upon the conversion of a business carried on by an individual, either solely or in partnership with others, into a limited liability company not being a company referred to in paragraph (xiv), of the capital assets of such business to such company if but only if not less than eighty *per centum* of the shares of such company are held in any case where such business.—
 - (A) was a sole proprietorship, by the former proprietor ; or
 - (B) was a partnership, by the former partners in the same proportion in which profits of the partnership were shared ;
- (xvi) the change of ownership of any property, occurring not less than twenty-five years after the date of acquisition of such property by the person to whom such gain arises ;
- (xvii) the sale, by any venture capital company referred to in section 22DDD of the Inland Revenue Act, No. 28 of 1979 of any share or stock, held by it in any other company ;
- (xviii) the sale, by any unit trust or any mutual fund referred to in section 22DDDD, of the Inland Revenue Act, No. 28 of 1979 of any share or stock held by such unit trust or mutual fund in any other company ;
- (xix) the sale, by any person of any unit held by such person in any unit trust or any mutual fund after one year from the date of acquisition by such person, of such unit ;

- (xx) the sale, by any person of any treasury bill held by such person, in the secondary market ;
- (xxi) the relinquishment or transfer of any right to a share received under a rights issue or a bonus issue of a quoted public company ;
- (xxii) the sale by any person of any treasury bond, registered stock or any other security issued under the Registered Stock and Securities Ordinance (Chapter 420) and held by such person, in the secondary market ;
- (xxiii) the sale, by any person, of any bond, debenture or other debt instrument issued by any company and held by such person, 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 ;
- (xxiv) change of ownership of any—
 - (A) share warrant ; or
 - (B) financial instrument which is derived from and dependant on another financial instrument,

issued by any company and which at the time of such change of ownership, is quoted in any official list published by any Stock Exchange licensed by the Securities and Exchange Commission of Sri Lanka ;
- (b) the aggregate amount of the capital gain of any person for any year of assessment which arises in respect of movable property other than stocks, shares, debentures or debenture stocks, if such aggregate amount does not exceed two thousand rupees ;

- (c) the first five thousand rupees of the capital gain of any person for any year of assessment, if such person has a total assessable income for the three years of assessment immediately preceding that year of assessment which is less than the total of the allowances which under subsection (1) of section 30 of this Act, or subsection (1), of section 30 of the Inland Revenue Act, No. 28 of 1979, are required to be deducted from his assessable income in arriving at his taxable income for those three years of assessment.

(2) For the purposes of sub-paragraphs (xxii) and (xxiia) of paragraph (a) of subsection (1), “capital gain” means the excess, if any, of the capital gain computed in accordance with the provisions of subsection (2) and (4) of section 7, over such part of the interest which but for such sale, would have accrued to such person in respect of such bill, bond, stock or other security had such bill, bond, stock or other security been held by such person until such bill, bond, stock or other security matured, as is attributable to the period during which such bill, bond, stock or other security was held by such person.

Miscellaneous
exemptions from
income tax.

15. There shall be exempt 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 profession or 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 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 ;
- (c) any capital sum received by way of death gratuity or as compensation for death or injuries ;

- (d) any sum received by an informer as a reward under any scheme for the payment of rewards by a Government institution ;
- (e) wound and disability pensions granted to members or ex-members of the Forces of Her Majesty the Queen of the United Kingdom ;
- (f) United States Government disability pensions ;
- (g) any prize received at a lottery conducted by the National Savings Bank, by the holder of any bond issued by that Bank on which interest is not payable by that Bank ;
- (h) any royalty received by a non-resident person 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, 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 ;

- (i) the profits and income within the meaning of paragraph (a) of section 3 arising to any person from the sale of gold, gems or jewellery ;
- (j) the profits and income arising in Sri Lanka, to the consignor or consignee, from the export of—
 - (i) any precious stones or metals not mined in Sri Lanka ;
 - (ii) any petroleum, gas or petroleum product ; or

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

- (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) 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 ;
- (n) any sum received by a person from the President's Fund established by the President's Fund Act, No. 7 of 1978 ;
- (o) any sum received by a person from the National Defence Fund established by the National Defence Fund Act, No. 9 of 1985 ;
- (p) 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 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 ;

- (q) 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 ;
- (r) 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 ;
- (s) 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 ;
- (t) the relevant part of the profits and income within the meaning of paragraph (a) of section 3, arising or accruing to any primary dealer.

For the purposes of this paragraph—

- (i) the expression “relevant part” in relation to the profits and income and to any primary dealer means the profits and income of such primary dealer from dealing, in the secondary market, in any treasury bill, treasury bond, registered stock or other security issued under the Registered Stocks and Securities Ordinance (chapter 420) and held by such primary dealer, after deducting from such profits and income such part of the interest

or discount which would have accrued in respect of such bill, bond, stock or other security had such bill, bond, stock or other security been held by such primary dealer until such bill, bond, stock or other security matured, as is attributable to the period during which such bill, bond, stock or other security is held by such primary dealer ;

- (ii) the expression “primary dealer” means any financier or bank appointed by the Monetary Board of the Central Bank 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 bond, registered stock or other security ;
- (u) any profits and income within the meaning of paragraph (a) of section 3, derived by, or arising 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 ;
- (v) any profits and income within the meaning of paragraph (a) of section 3, derived by, or accruing to, any person, from the sale of any share in any quoted public company ; and
- (w) 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.

- 16.** (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.

- 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 undertaking referred to in subsection (2), shall be exempt from income tax for a period of five years such period of five years being calculated from the date on which such undertaking commenced to carry on business.

Exemption from income tax for five years of the profits and income of certain companies.

(2) The provisions of subsection (1) shall apply to any company which is approved by the Minister by Order published in the Gazette—

- (a) being a company which is engaged only in carrying on one or more of the undertakings hereinafter specified, namely, an undertaking for —
- (i) animal husbandry ;

- (ii) the cultivation of land with any plant of whatever description other than tea, rubber, coconut or paddy ;
- (iii) marine or inland fisheries ;
- (iv) carrying on any activity referred to in any of the foregoing sub-paragraphs and processing the product of such activity ;
- (v) the production from any agricultural produce of Sri Lanka of such commodities as may be specified by the Minister, by Order published in the Gazette, having regard to the need to provide incentives for the production of such commodities ;

(b) being a company which is an Export Production Village Company.

(3) For the purpose of this section “Export Production Village Company” means a company—

- (a) which is a people’s company within the meaning of the Companies Act, No. 17 of 1982 ;
- (b) the shareholders of which are the Export Development Board established by the Sri Lanka Export Development Act, No. 40 of 1979, and the producers of any of the products produced by that company ; and
- (c) the products of which are exported by the company or through any other company engaged in the export of goods or commodities :

Provided that this section shall not apply to any company which carries on an undertaking which had commenced to carry on business prior to November 17, 1983, or which was formed by the splitting up or reconstruction of any business which was in existence prior to November 17, 1983.

18. 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 or partnership from any undertaking which commences business on or after April 1, 2000, for the provision of services of refrigerated transport or cold-room-storage or other services ancillary thereto, shall be exempt from income tax for a period of five years reckoned from the commencement of the year of assessment in which such undertaking commences to carry on business.

Exemption from income tax of the profits and income of any undertaking which provides certain services.

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) which commences business on or after April, 1 2000, shall notwithstanding the provisions of section 40 be exempt from income tax for a period of ten years reckoned from the commencement of the year of assessment in which such company commences to carry on business.

Exemption from income tax of the profits and income of any company engaged in non-plantation agricultural activities.

(2) For the purposes of subsection (1) “specified undertaking” in relation to any company is an undertaking carried on by such company and which is engaged in—

- (a) cultivating land with plants of whatever description other than tea, rubber and coconut ; or
- (b) the production of planting materials certified by the Department of Agriculture as being of high quality, for cultivation referred to in paragraph (a) ; or
- (c) carrying out research work for improving the quality and character of planting materials for cultivation of land referred to in paragraph (a).

20. (1) The profits and income within the meaning of paragraph (a) of section 3, (other than any profits from the sale of capital assets), of any company from any specified undertaking referred to in subsection (2) and which

Exemption from income tax of profits and income of a company

which exports fresh or processed vegetables or fruits and cultivates vegetables or fruits.

commences business on or after April 1, 2000 shall, notwithstanding anything to the contrary in Chapter IX, be exempt from income tax for a period of ten years reckoned from the commencement of the year of assessment in which such undertaking commences to carry on business.

(2) For the purpose of subsection (1), “specified undertaking” in relation to any company and to any year of assessment means an undertaking carried on by that company and which is engaged in—

- (i) the export of any fresh or processed vegetables or fruits ; and
- (ii) the cultivation of land not less than five acres in extent with vegetables or fruits in that year of assessment.

In this section, vegetables include ‘betel leaves’.

Exemption from income tax of profits from the construction and first sale of certain houses.

21. Where any person who carries on an undertaking for the construction and sale of houses or flats, being an undertaking approved by the Commissioner for National Housing having regard to the housing policy of the Government sells any house or flat, the floor area of which does not exceed two thousand square feet and the construction of which was commenced by such person on or after January 1, 1977, such sale being the first sale of that house or flat, seventy-five *per centum* of the profits and income arising from such sale shall be exempt from income tax.

Power of Commissioner-General to recommend cancellation of approval granted under section 17.

22. Where the Commissioner-General is satisfied that any company approved by the Minister under section 17 has not taken any step to commence business within a period of one year from the date on which the Minister has approved such company, he shall recommend to the Minister that such approval be cancelled, and upon such recommendation, the Minister may, having regard to the interests of the economy, by Order published in the Gazette, cancel such approval.

CHAPTER IV

ASCERTAINMENT OF PROFITS OR INCOME

23. (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—

Ascertainment of profits or income.

- (a) an allowance equal to the sum expended by such person in the purchase of any implement or equipment for any undertaking of deep-sea or off-shore fishing carried on by such person ;
- (b) an allowance for depreciation by wear and tear of—
 - (i) any plant, machinery or fixtures (other than plant, machinery or fixtures referred to in sub-paragraph (ii) or sub-paragraph (iii)), acquired by such person and arising out of their use, in any trade, business, profession or vocation, carried on, or exercised, by such person at the rate of fifty *per centum* per annum, on its cost of acquisition ;
 - (ii) any motor vehicle, lorry, bus, tractor or trailer (other than any motor coach referred to in sub-paragraph (iii)), or any office furniture acquired by such person and arising out of its use, in any trade, business, profession or vocation carried on or exercised, by him, at the rate of twenty-five *per centum* per annum on its cost of acquisition ;
 - (iii) any motor coach acquired by such person and used for transporting employees of such person to, or from, their place of work, at the rate of one hundred *per centum* on its cost of acquisition ;

- (iv) any qualified building constructed by such person and arising out of its use in any trade, business, profession or vocation carried on or exercised by him, at the rate of six and two-third *per centum* per annum on its cost of construction ;
- (v) any unit of non-residential accommodation comprised in a registered Condominium Property within the meaning of the Apartment Ownership Law No, 11 of 1973, acquired by such person and arising out of its use in any trade, business, profession or vocation carried on or exercised by him, at the rate of six and two third *per centum* per annum on its cost of acquisition :

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

- (c) a sum equal to one-tenth of any payment made, by such person as consideration for the licensing, in his favour, of any manufacturing process used by him in any trade or business carried on by him :

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 ;

- (d) an allowance in respect of any computer software acquired by him during the period of which the profits and income are being ascertained and used by him in any trade, business, profession, or vocation carried on or exercised by him, such allowance being an amount equal, to fifty *per centum* of the cost of acquisition of such computer software :

Provided that no deduction under the preceding provisions of this paragraph shall be allowed to any person in respect of any computer software if the total of the allowances granted in the preceding years of assessment in respect of such computer software is equal to the cost of acquisition of such computer software ;

- (e) 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 ;
- (f) 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 the sum deductible under this paragraph shall, in the case of a company carrying on the business of letting premises for commercial purposes, not exceed ten *per centum* of the gross rent receivable by such company for such premises ;

- (g) 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

that 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 ;

- (h) interest paid or payable by such person ;
- (i) 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 ;
- (j) (i) any turnover tax payable under the Turnover Tax Act, No. 69 of 1981, less any deduction allowable under section 47 or section 48 or section 48A of that Act ; or
- (ii) tax corresponding to turnover tax referred to in sub-paragraph (i) and payable, under any statute enacted by any 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 142, 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 169 ;

- (k) the expenditure incurred by such person in carrying on any scientific, industrial or agricultural research for the development of the trade or business carried on by such person ;
- (l) any expenses incurred by such person in—
 - (i) opening up any land for cultivation or for animal husbandry ; or
 - (ii) cultivating such land with plants of whatever description ; or
 - (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 ;
- (m) the actual expenses incurred by such person or any other person in his employ 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 belonging to and maintained by him and used partly for the purposes of his trade, business, profession or vocation and partly for

the domestic or private purposes of an executive officer in his employ unless such executive officer has reimbursed such person the expenses actually incurred by him in the use of such vehicle for the private or domestic purposes of such executive officer or where such expenses actually incurred cannot be ascertained, such sum as the Assessor considers to be the amount so incurred ; or

- (ii) in respect of any expenses incurred by such person by reason of any travelling done by any other person in his employ between the residence of such other person and his place of employment or *vice versa* ;
- (n) in the case of a company, expenditure incurred in the formation or of that company ;
- (o) 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 ;
- (p) 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 ;
- (q) 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 ;
- (r) such part of the lump sum 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 ;

- (s) any sum paid, by a public corporation or Government Owned Business Undertaking as a special levy, to the Government.
- (t) expenditure incurred by any person in the training, in any recognized institution for a period not exceeding sixty days, 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 purposes of this paragraph,

- (A) “training” includes participation in any seminar or workshop ;
- (B) “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) 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

- (a) an allowance for depreciation equal to the cost of acquisition or the cost of construction, as the case may be, of such capital asset has been granted in respect of that capital asset, such part of the proceeds

of disposal as is not in excess of the cost of acquisition or the cost of construction, as the case may be, 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, within the meaning of paragraph (a) of section 3, of such trade, business, profession or vocation ;

- (b) 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 proceeds of disposal as is not in excess of the cost of acquisition or the cost of construction as the case may be, of such capital asset over the difference between the cost of acquisition or the cost of construction, as the case may be, 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—

- (a) the transfer of any such capital asset to a company referred to in section 14(1)(a) (xv) on the conversion of a business carried on by an individual either solely or in partnership to such company ; or

- (b) 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, vocation or employment 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 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 142, 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 134 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), or paragraph (e), or paragraph (f), or paragraph (g), or paragraph (h) 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 provision 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 purposes of this section—
- (a) “allowance for depreciation”, in relation to any capital asset, means any allowance which shall be deducted in respect of that asset under—
- (i) paragraph (a), paragraph (b) or paragraph (d) of subsection (1) of this section.
 - (ii) paragraph (a) or paragraph (b) or paragraph (c) or paragraph (d) or paragraph (e) or paragraph (ee) or paragraph (eee) or paragraph (eeee) of subsection (1) of section 23 of Act. No. 28 of 1979 ;
 - (iii) paragraph (a) or paragraph (h) or paragraph (i) or paragraph (l) or paragraph (m) or paragraph (n) or paragraph (o) or paragraph (p) of subsection (1) of section 10 of the Inland Revenue Act, No. 4 of 1963 ; or
- (b) “capital asset” in relation to a trade, business, profession or vocation means plant, machinery, fixture, fittings, 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 goods and services tax chargeable under the Goods Services Tax Act, No. 34 of 1996, 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 any capital asset of a business carried on by an individual, either solely or in partnership with others, is transferred, to a company referred to in paragraph (xv) of subsection (1) of section 14, the cost of acquisition of such 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 asset 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 Goods and Services Tax Act, No. 34 of 1996, 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.

24. (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 ;

Deductions not allowed in ascertaining profits and income.

- (b) expenses incurred in connection with his employment other than the expenses referred to in paragraph (g) and paragraph (i) of subsection (1) of section 23 ;
- (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) provision of any services for payment in foreign currency ; or
 - (iii) training referred to in paragraph (t) of subsection (1) of section 23, where such expenditure is deductible in accordance with such paragraph ;
- (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—
 - (i) 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 ;
 - (ii) the expenditure incurred in travelling outside Sri Lanka for the purposes of any training referred to in paragraph (t) of subsection (1) of section 23 where such expenditure is deductible in accordance with the provision of such paragraph ;
- (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 income under section 89 of the Inland Revenue Act, No. 28 of 1979 or under section 96 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 92) ; or
 - (ii) Sri Lanka income tax ; or
 - (iii) any prescribed tax or levy ; and
 - (iv) input tax under the Goods and Services Tax Act, No. 34 of 1996, for the period for which the profits and income are being ascertained in respect of any taxable activity. within the meaning of that Act, carried on by such person, if such person is entitled under that Act, to claim credit for such input tax.

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 (c) of subsection (1) of section 23 ;
- (o) one-half of the excess of any expenditure 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 ;
- (p) such part of the rental paid by him under any agreement entered into by him in any year of assessment in respect of—
 - (i) any plant, machinery, fixtures or equipment other than plant, machinery or fixtures or equipment referred to in paragraph (b), as is in excess of an amount equal to one-half of the total rental payable under such agreement ; and
 - (ii) any motor vehicle, lorry, bus, tractor, trailer and office furniture, as is in excess of an amount equal to 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 (q) of subsection (1) of section 23, for the payment of any sum referred to in subsection (2) of section 32, ;
- (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 in 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.

(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 (b) of subsection (1) of section 23 or paragraph (e) of subsection (1) of section 23—

- (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 for commercial purposes.

CHAPTER V

ASCERTAINMENT OF TOTAL STATUTORY INCOME

Basis for
computing
statutory income.

25. (1) The statutory income of every person for each year of assessment from every source of his profit 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 the certain period and such person fails to make up an account for a 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 that 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 makeup

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 directions :

Provided 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.

26. 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.

27. 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.

28. 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 the 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 ASSESSABLE INCOME.

29. (1) The assessable income of a person for any year of assessment shall be his total statutory income for that year subject to the deductions specified in this section.

Deductions from total statutory income in arriving at assessable income.

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

- (a) sums payable by such person for that year of assessment by way of annuity, ground rent, royalty or interest not deductible under section 23 ;

Provided that —

- (i) no deduction shall be allowed in respect of any sum payable by way of interest, annuity, ground rent or royalty by a person out of Sri Lanka to another person out of Sri Lanka ;
- (ii) where for any year of assessment any such sum payable 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, at the time of making any assessment, it appears to an Assessor that any sum so payable has not been paid, he may refuse to allow any deduction in respect of that sum ;
- (iv) where it appears to an Assessor that any sum in respect of which a deduction has been refused under paragraph (iii) has subsequently been paid, such person shall, on 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 142 ; 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 169 ; and

- (v) where any sum is payable by such person by way of an annuity, no deduction shall be allowed in respect of any such sum payable by him during the year of assessment in which such annuity is created and during any year of assessment succeeding that year of assessment unless such annuity is—
- (a) paid under an order of court by way of payment of alimony or maintenance ;
 - (b) paid to his spouse under a duly executed deed of separation ; or
 - (c) in return, for full consideration in money or moneys worth.

‘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) for the purchase of any share in any company ; or
 - (iii) in any trade, business, profession or vocation, carried on or exercised by him ;
- (b) the amount of a loss (other than such part, if any, of such loss as consists of a capital loss, a loss referred to in subsection (6), a loss referred to in subsection (7), a loss referred to in subsection (8), a loss referred to in paragraph (c) and a loss attributable to any allowance for depreciation or any sum referred to in paragraph (e) of subsection (1) of section 23), incurred by him in any trade, business, profession or vocation

during any year of assessment being any year of assessment within the period of six years immediately preceding the first-mentioned year of assessment, or

- (c) the amount of a loss (other than such part, if any, of such loss as is attributable to any allowance for depreciation or any sum referred to in paragraph (e) of subsection (1) of section 23) incurred by him in any agricultural undertaking during any year of assessment being any year of assessment within the period of eleven years immediately preceding the first-mentioned year of assessment,

which if it had been a profit would have been assessable and which has not been allowed against his total statutory income for any year of assessment within such period of six years or eleven years, as the case may be ;

- (d) such part, if any, of such loss as is attributable to any allowance for depreciation, incurred by him in any trade, business, profession or vocation during any year of assessment and which has not been allowed against his total statutory income of a previous year of assessment ;

Provided that—

- (i) in no circumstances shall the aggregate of the deductions from the total statutory income in respect of any loss exceed the amount of such loss ;
- (ii) a deduction under this paragraph shall be made as far as possible from the total statutory income of the year of assessment in which the loss was incurred and as far as it cannot be so made, then from the total statutory income of the next year of assessment and so on ;
- (iii) no deduction shall be made under this paragraph or under subparagraph (b) of subsection (3) in respect of a loss incurred by a company in which there had been 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 were incurred ;

- (3) (a) Where the profits and income of an undertaking were exempt from income tax, under section 17 or section 18 or section 19 or section 20 of this Act, or under section 16C or section 17A or section 17C or section 17D or section 17G or section 17H or section or section 17J or section 17JJ or section 22A, or 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 or under section 6 of the Inland Revenue Act, No. 4 of 1963, 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 in paragraph (b) (c) or (d) of subsection (2).

(4) Where at any time within the three years of assessment immediately succeeding any year of assessment any person ceases to carry on any trade, business, profession or vocation, he shall on his making an application in that behalf to the Commissioner-General, be entitled to a deduction from the statutory income for that year of assessment of the amount of a loss other than a capital loss or a loss referred to in subsection (6), incurred by him in that trade, business, profession or vocation in any year of the three years which if it had been a profit, would have been assessable under this Act, and which has not been allowed against his statutory income of any year of assessment. For the purpose of allowing that deduction, the assessable income of that person for that year of assessment shall, notwithstanding anything in section 142 be revised :

Provided that—

- (i) in no circumstances shall the aggregate deduction from the statutory income in respect of any loss exceed the amount of such loss ; and
- (ii) a deduction under this subsection shall be made as far as possible from the statutory income of the first year of assessment preceding that in which the loss was

incurred, and so far as it cannot be so made, from the statutory income of the next preceding year of assessment and so on,

- (5) (a) There shall be deducted from the total statutory income of a person for any year of assessment, if such income includes capital gains, the amount of any capital loss of that person for that year of assessment, which if it had been a profit would have been assessable under this Act :

Provided that—

- (i) such deduction shall in no case exceed the amount of the capital gain included in such total statutory income ;
- (ii) where the capital loss of any person for any year of assessment exceeds the capital gain of such person for that year of assessment such excess shall be a capital loss of that person for the next succeeding year of assessment ;
- (iii) where in any year of assessment the income of any person includes more than one capital gain, such deduction shall be made from the capital gain taxable at the lowest rate specified in subsection (3) and subsection (4) of section 32, if applicable, and thereafter from the capital gain taxable at the next highest rate, if applicable, and so on ; and
- (iv) no deduction shall be made in respect of any capital loss arising from the disposal of any capital asset used by such person for producing profits or income of any trade, business, profession or vocation carried on or exercised by him, if a deduction for depreciation in respect of such asset has been allowed under section 23 of this Act, or under section 23 of the Inland Revenue Act, No. 28 of 1979 or

under section 10 of the Inland Revenue Act, No. 4 of 1963, or under section 11 of the Income Tax Ordinance.

(b) “Capital loss”—

- (i) with reference to the capital loss of a person arising from a change of ownership of any property means, subject to the provisions of subsection (4) of section 7, the amount by which the value of that property at the time when such change of ownership occurs is less than its value at the time when it was acquired by that person ;
- (ii) with reference to the capital loss of any person arising from the redemption of any shares debentures or other obligations, means, subject to the provisions of subsection (4) of section 7, the amount by which the value of all property received by him in consequence of such redemption is less than the value of that which is redeemed at the time of its acquisition or where that which is redeemed is any property referred to in paragraph (e) or paragraph (f) or paragraph (g) or paragraph (h) of subsection (3) of section 7, is less than such value of that property as is specified in that paragraph ;
- (iii) with reference to the capital loss of any person arising from the dissolution of a business or the liquidation of a company, means, subject to the provisions of subsection (4) of section (7), the amount by which the value of all property received by him in consequence of such dissolution or liquidation is less than the value of his share of the capital of such business or company at the time when such share was acquired by him ; and

- (iv) includes the amount of any debt (other than a trade debt) which is proved to be due by documentary evidence and which is proved to be irrecoverable.
- (c) In computing the amount of a capital loss, any expenditure of the description referred to in paragraphs (a), (b) or (c) of subsection (4) of section 7 shall be taken into account.
- (d) (i) Where a person dies and has any capital loss for the last year of assessment for which he was liable to be assessed for income tax, the amount of such capital loss shall, as far as is practicable, be deducted from his statutory income from all sources for such last year of assessment, and if it cannot be so deducted, from his statutory income from all sources for any of the three years of assessment in order of recession immediately preceding such last year of assessment.
- (ii) Where a deduction is made from the statutory income of any person for any year of assessment under subparagraph (i), the tax for that year of assessment in respect of him shall, notwithstanding anything in section 142, be revised taking into consideration such deduction and the amount of the difference between the amount of the tax paid by him in respect of that year of assessment and the amount of the revised tax for that year of assessment shall, if there is an executor of the deceased, be refunded to such executor, and if there is no such executor, be refunded to such person or persons as is or are in the opinion of the Commissioner-General, entitled to such refund.

- (iii) Where a company is liquidated and such company has any capital loss for the last year of assessment for which it was liable to be assessed for income tax, the amount of such capital loss shall, as far as practicable, be deducted from the statutory income from all sources of such company for such last year of assessment, and, if it cannot be so deducted, from the statutory income from all sources of such company for any of the three years of assessment in order of recession immediately preceding such last year of assessment.
- (iv) Where a deduction is made from the statutory income of any company for any year of assessment under subparagraph (iii), the tax for that year of assessment in respect of such company shall, notwithstanding the provisions of section 142, be revised, taking into consideration such deduction, and the difference between the amount of the tax paid by such company in respect of that year of assessment and the amount of the revised tax for that year of assessment shall be refunded.
- (e) In computing the capital loss of a person under this subsection, the provisions of subsection (3) of section 7 shall apply as though for the expressions “capital gain” and “gain” occurring in that subsection, there were substituted the expressions “capital loss” and “loss”.

(6) There shall be deducted from the total statutory income of a person for any year of assessment, where such income includes profits and income from the business of racing of horses, any loss for any year of assessment from the business of racing of horses owned by such person, which if it had been a profit would have been assessable under this Act, and which has not been so deducted from his total statutory income of a previous year :

Provided that such deduction shall in no case exceed the amount of the profits and income of such business included in such total statutory income and shall be made as far as possible from the statutory income of such person for the first year of assessment after that in which the loss was incurred and so far as it cannot be so made, then from such income of the next year of assessment and so on.

(7) There shall be deducted from the total statutory income of a person for any year of assessment, where such income includes profits and income of any foreign currency banking unit arising from on-shore foreign currency transactions and which are not exempt from income tax under this Act, any loss for any year of assessment incurred by such person from such foreign currency banking unit from on-shore foreign currency transactions which if it had been a profit would have been assessable under this Act, and which has not been so deducted from his total statutory income of a previous year :

Provided that such deduction shall in no case exceed the amount of the profits and income of such foreign currency banking unit included in such total statutory income and shall be made, as far as possible, from the total statutory income of such person for the first year of assessment after that in which the loss was incurred and so far as it cannot be so made, then from the total statutory income of the next succeeding year of assessment and so on.

(8) There shall be deducted from the total statutory income of a person for any year of assessment, where such income includes profits and income from any business of leasing, any loss incurred in any year of assessment from the business of leasing which if it had been a profit would have been assessable under this Act, and which has not been so deducted from his total statutory income of a previous year :

Provided that such deduction shall in no case exceed the amount of the profits and income of such business included in such total statutory income; and shall be made as far as

possible, from the total statutory income of such person for the first year of assessment after that in which the loss was incurred and so far as it cannot be so made, then from the total statutory income of the next succeeding year of assessment and so on.

(9) 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 after such date.

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

(11) 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

30. (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 –

- (a) an allowance of one hundred and forty four thousand rupees ; and
- (b) any allowance to which such individual or institution is entitled under section 31 :

Provided that an individual who is a trustee, receiver, executor or liquidator shall not be entitled to deduct the allowance referred in paragraph (a) of subsection (1) 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 individual or institution after deducting therefrom any allowance to which he or such institution is entitled under section 31.

An allowance in respect of qualifying payments.

31. (1) Subject to the provisions of subsection (4) there shall be deducted, for the purposes of section 30, 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.

- (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 the 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 if the emoluments from which such contributions are made are not exempt from income tax under paragraph (b) of section 9 ;
- (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 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 not less than five million rupees, of any film, the production of which commences on or after January 1, 2000 ;

Provided however that any qualifying payment referred to in this paragraph shall, for the purposes of subsection (1) be deemed to have been made 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 recorded on celluloid and which is intended primarily to be exhibited by projection on a screen in a cinema.

(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 (b), (c), (g) and (h) of subsection (2), made by him or deemed to have been made by him in that year of assessment shall not exceed one third of such assessable income or twenty five thousand rupees which ever 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 all qualifying payments referred to in paragraph (g) of subsection (2), made by him or deemed to have been made by him in that year of assessment shall not exceed one-third of such assessable income or twenty five thousand rupees ; whichever is less ;
 - (iv) 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 ;
 - (v) in respect of the aggregate of all qualifying payments referred to in paragraphs (i) and (ii) of this paragraph shall not exceed twenty five thousand rupees.
- (b) a company for any year of assessment–
- (i) in respect of all qualifying payments other than those referred to in paragraphs (b) and (h) 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) deemed to have been made by that company in that year of assessment shall not exceed ten million rupees.

(5) The amount of any qualifying payment referred to in paragraph (b) or paragraph (c) 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”) 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) 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 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 market 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.

32. (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 73, 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 73 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 30.

(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 ; or
- (b) a sum received as a retiring gratuity other than such part of such sum as exceeds—

one million eight hundred thousand rupees; or

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 ; or

- (c) any sum received as compensation for loss of office or employment ; or
- (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; or
- (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 paid by the employer); or
- (f) any sum paid to him at the time of his retirement from any employment, from the Employees' Trust Fund, established by the Employees' Trust Fund Act, No. 46 of 1980;

his taxable income for any 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 III 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 shall be treated as a capital gain, within the meaning of this Act, and such individual shall be taxed for that year of assessment, in accordance with provisions of subsection (3).

(3) Where the taxable income of a person includes any capital gain not being a capital gain from the change of ownership of any property and the rate of income tax payable on such part of such income (hereinafter in this subsection referred to as the “relevant part of the income”) exceeds twenty-five *per centum*, then, in regard to the relevant part of the income, the tax shall be computed as follows :—

- (a) if the relevant part of the income exceeds the amount of such capital gains —
 - (i) the tax payable on such part of the relevant part of the income as is equal to the amount of such capital gain shall be at the rate of twenty-five *per centum* ; and
 - (ii) the tax payable on the balance of the relevant part of the income shall be computed according to such of the rates of above twenty-five *per centum* as are applicable thereto under this Act; and
- (b) if the relevant part of the income does not exceed the amount of the net capital gain, the tax payable on the income shall be twenty-five *per centum* notwithstanding anything to the contrary in this Act.

(4) Where the taxable income of a person includes any capital gain from the change of ownership of any property, more than two years but not more than five years after the date of acquisition of such property by such person, and the rate of income tax payable on a part of such income (hereinafter in this subsection referred to as the “relevant part of the income”) exceeds twenty-five *per centum*, then, in regard to the relevant part of the income, the tax shall be computed as follows :—

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

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

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

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

(5) Where the taxable income of a person includes any capital gain, arising from the change of ownership of any property, within such period after the date of acquisition of that property by that person as is referred to in Column I hereto, the provisions of subsection (4) shall apply to the computation of income tax on such capital gain, as if for the reference to

“twenty-five *per centum*” in that subsection, there were substituted the references specified in the corresponding entry in Column II hereto.

<i>Column I</i>	<i>Column II</i>
more than five years but not more than fifteen years	<i>17 1/2 per centum</i>
more than fifteen years but not more than twenty years	<i>12 1/2 per centum</i>
more than twenty years but less than twenty five years	<i>5 per centum</i>

(6) Where the taxable income of any person includes any capital gain arising from the change of ownership of any immovable property acquired by that person by way of gift or inheritance from any other person, the date of acquisition of such property by the first-mentioned person shall, for the purposes of subsection (4) or subsection (5) of this section or of subparagraph (xvi) of paragraph (a) of subsection (1) of section 14, be deemed to be the date of acquisition of such property by the second-mentioned person.

(7) 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.

CHAPTER IX

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

33. (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 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 rate of ten *per centum* ;
 - (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.

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

34. (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 rate of fifteen *per centum* or the maximum rate at which he is liable to pay income tax on his profits and income (exclusive of the relevant, interest) for that year of assessment, whichever is the lower rate ;
- (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 fifteen *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 his profits and income (exclusive of the relevant interest) is less than fifteen *per centum*,

then such individual shall be entitled, on production of the statement referred to in paragraph (c) and subject to the provisions of Chapter XXIV, 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 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.

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

35. 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 88, to arise to such company, partnership or other body of persons shall notwithstanding anything in this Act, be chargeable with income tax at the rate of fifteen *per centum*.

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

36. 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 89 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 rate of fifteen *per centum*.

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

37. (1) Where an individual who is deemed, under subsection (7) of section 73 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 of fifteen *per centum*.

(2) Where an individual who is employed in a company being a flagship company, within the meaning of paragraph (b) of section 11, and 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 who is deemed under the proviso to subsection (7) of section 73 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 the exemption of the profits and income of such flagship company, under the

terms of such agreement, ceases, shall notwithstanding any thing to the contrary in this Act, be chargeable with income tax at the rate of fifteen *per centum*.

38. The profits and income, of any foreign currency banking unit arising from any on-shore foreign currency transaction, shall, notwithstanding anything to the contrary in any other provision of this Act, be liable to income tax at the rate of fifteen *per centum*.

Rate of income tax on the profits and income of any foreign currency banking unit.

39. (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—

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

- (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”) and the rate of income tax payable on a part of such income hereinafter in this section referred to as “relevant part of income” exceeds fifteen *per centum*, then in regard to the relevant part of income, tax shall be computed as follows :—

- (i) if the relevant part of the income exceeds the amount of such “specified profits”—
 - (a) the tax payable on such portion of the relevant part of the income as is equal to the amount of such specified profits, shall be at the rate of fifteen *per centum* ; and
 - (b) the tax payable on the balance of the relevant part of the income shall be computed according to the rates of tax above fifteen *per centum* as are applicable thereto under this Act ;
- (ii) if the relevant part of the income does not exceed the amount of such specified profits, 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, to the other provisions of this Chapter or to Chapter VIII.

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

(a) “agricultural undertaking” includes any undertaking for—

- (i) fishing ;
- (ii) cultivating land with plants of whatever description ; and
- (iii) provision of the services of management to any undertaking for cultivating land with plants of whatever description.

(b) “any 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 ; or
- (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 ;
- (v) any business approved by the Ceylon Tourist Board for providing facilities for recreation or sports.

(c) “profits and income from any agricultural undertaking” means—

- (i) in the case of an undertaking referred to in subparagraph (iii) 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 :

Provided that where any person carries on any undertaking for subjecting the produce of any agricultural undertaking to any process of production or manufacture, the produce of the agricultural undertaking shall for the purpose of this subparagraph be deemed to have been sold to such undertaking for production or manufacture at the open market price prevailing at the time of the deemed sale and the profit from the sale of the produce of such agricultural undertaking shall be the profits arising from such deemed sale.

- (d) “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 systems,

40. (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.

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

such part of such taxable income as consists of such profits and income shall, notwithstanding anything to the contrary in any other provisions of this Chapter, or Chapter X, be chargeable with income tax at the rate of fifteen *per centum*.

(2) For the purposes of subsection (1) the expressions “agricultural undertaking”, “any 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 39.

Rate of income tax on dividends paid out of profits taxed in accordance with section 40.

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

- (a) out of profits and income referred to in section 40 ; 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 40 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 40 arose or accrued or within two years from the end of that year of assessment

and the rate of income tax payable on a part of such income (hereinafter in this section referred to as the relevant part of the income) exceeds fifteen *per centum*, then in regard to the relevant part of the income, tax shall be computed as follows :—

- (i) if the relevant part of the income exceeds the amount of such dividends—
 - (a) the tax payable on such part of the relevant part of the income as is equal to the amount of such dividends, shall be at the rate of fifteen *per centum* ; and
 - (b) the tax payable on the balance of the relevant part of the income shall be computed according to such of the rates of the tax above fifteen *per centum* as are applicable thereto under this Act ;

- (ii) if the relevant part of the income does not exceed the amount of such dividends, 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 the other provisions of this Chapter or of Chapter VIII.

(2) Where the taxable income of any company includes any dividend referred to in subsection (1), the rate of income tax applicable to such part of such taxable income as consists of such dividend shall, subject to the provisions of section 58 be fifteen *per centum*.

42. (1) Where for any year of assessment the taxable income of any company referred to in subsection (2), includes any profits and income, within the meaning of paragraph (a) of section 3 there shall be deducted from the tax payable by that company for that year of assessment, an amount equal to five *per centem* of such part of such taxable income as consists of such profits and income.

Deduction from tax payable by any quoted public company under certain conditions.

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

- (a) which is a quoted public company for that year of assessment ; and
- (b) in respect of which the Assessor is satisfied that, the number of persons registered in the share register of such company as shareholders is, at no time during that year of assessment, less than three hundred.

43. (1) Where for any year of assessment the taxable income of any company referred to in subsection (2) includes any profits and income, within the meaning of paragraph (a) of section 3, there shall be deducted from the tax payable by that company for that year of assessment, an amount equal to five *per centum* of such part of such taxable income as consists of such profits and income.

Deduction from tax payable by any company which obtain a quotation of its shares and satisfies certain further conditions.

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

- (a) the shares of which are, as at March 31 of that year of assessment, quoted in any official list published by any Stock Exchange licensed by the Securities and Exchange Commission of Sri Lanka consequent to an application made in that year of assessment ; and
- (b) in respect of which the Assessor is satisfied that as at March 31 of that year of assessment the number of persons registered in the share register of such company as shareholders is not less than three hundred.

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

44. 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, 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 qualified export 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 qualified export profits and income shall be at the rate of fifteen per centum ; and
 - (ii) the tax payable on the balance of relevant part of the income shall be computed according to such of the rates of 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 the qualified exports 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.

45. Where any company commences 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 rate of fifteen *per centum*.

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

46. Where any person (not being a company) commenced, prior to November 10, 1993, to carry on any specified undertaking and the taxable income of such person for any year of assessment commencing prior to April 1, 2015, includes any qualified exports profits and income 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 :—

Rate of income tax on qualified export profits and income of a person (not being a company) who carries on any specified undertaking.

- (a) if the relevant part of the income exceeds the amount of such qualified export 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 qualified export profits and income shall be at the rate of fifteen *per centum* ; and
 - (ii) the tax payable on the balance of relevant part of the income shall be computed according to such of the rates of 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 the qualified exports 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.

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

47. 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 rate of fifteen *per centum*.

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

48. (1) 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—

(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 and income out of which the dividends referred to in subparagraph (i) or subparagraph (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,

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 dividend—
 - (i) the tax payable on such part of the relevant part of the income as is equal to the amount of such dividend shall be at the rate of fifteen *per centum* ; and
 - (ii) the tax payable on the balance of relevant part of the income shall be computed according to such of the rates of 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 dividends, 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.

(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 45 or section 47 or the profits and income referred to in section 49 or section 50 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 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 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,

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 dividend :—
 - (i) the tax payable on such part of the relevant part of the income as is equal to the amount of such dividend shall be at the rate of fifteen *per centum* ; and
 - (ii) the tax payable on the balance of relevant part of the income shall be computed according to such of the rates of 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 the such dividend, 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.

(3) Subject to the provisions of section 58 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*.

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

49. (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 (d) of section 52—

- (a) of any commodity [other than black tea in bulk, crepe rubber, sheet rubber, scrap rubber, coconut oil, desiccated coconut (other than desiccated coconut manufactured by using continuous scale automated process technology and marketed with a quality, guarantee) copra, fresh coconut, coconut fibre or such other commodity as may be specified by the Minister by notice published in the Gazette] 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 provisions of this section.

(2) Where any person referred to in subsection (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 subsection (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 profit 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 of 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 any thing 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 profit 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 export relating to such supply were in fact made, is adduced.

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

50. (1) Where any resident company or any partnership in Sri Lanka which, carries on or exercises any trade, business, profession or vocation earns in any year of assessment any profits and income in foreign currency in respect of service, rendered in that year of assessment, by such company or by such partnership outside Sri Lanka in the course of carrying on, exercising or carrying on such profession, vocation or any construction project in the course of carrying on any trade or business, and such profits and income so earned (less such amount as the Commissioner-General considers to be reasonable expenses) are remitted to Sri Lanka by such company or by such partnership, such profits and income shall, notwithstanding anything to the contrary in this Act, be chargeable with income tax in accordance with the succeeding provisions of this section.

(2) Where the taxable income of any company referred to in subsection (1) 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 the taxable income for any year of assessment referred to in subsection (1) of any partner of any partnership (not being a company) includes any profits and income referred to in such subsection which accrued to him by way of his share of profits from such partnership, 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 of 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.

51. (1) Where any individual or any partnership in Sri Lanka, earns in any year of assessment any emoluments and fees in foreign currency in respect of services rendered in Sri Lanka by such individual or by such partnership in Sri Lanka to any person or partnership outside Sri Lanka, in the course of any profession, or any vocation in the field of literature or fine arts, carried on or exercised by such individual or by such partnership in Sri Lanka but not in the course of employment under such person or partnership outside Sri Lanka, and such emoluments and fees are remitted to such individual or to such partnership in Sri Lanka through a bank, such emoluments and fees, shall notwithstanding anything to the contrary in this Act, be chargeable with income tax in accordance with the succeeding provisions of this section.

Rate of income tax on emoluments and fees earned in foreign currency by an individual or by partnership.

(2) Where the taxable income for any year of assessment referred to in subsection (1), of any individual includes any emoluments and fees referred to in such subsection earned

by such individual or which accrued to such individual by way of his share of profits from any partnership in Sri Lanka referred to in subsection (1) 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 of 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.

Interpretation.

52. For the purpose of this Chapter—

- (a) “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 ;

- (b) “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 subparagraph (ii) of paragraph (d), 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 assets ;
 - (ii) any amount receivable, whether received or not, from the export of black tea in bulk, crepe rubber, sheet rubber, scrap rubber, coconut oil, desiccated coconut (other than desiccated coconut manufactured by using continuous scale automated process technology, and marketed with a quality guarantee), copra, fresh coconuts, coconut fibre or such other commodity as may be specified by the Minister by Notice published in the Gazette ; or
 - (iii) any profits and income not being profits and income within the meaning of paragraph (a) of section 3 ;
- (c) “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 ;
- (d) “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.

For the purposes of this section “non-traditional goods” means goods other than black tea in bulk, crepe rubber, sheet rubber, scrap rubber, coconut oil, desiccated coconut (other than desiccated coconut manufactured by using continuous scale automated process technology and marketed with a quality guarantee), copra, fresh coconuts coconut fibre or such other commodity as may be specified by the Minister by Notice published in the Gazette.

CHAPTER X

COMPANIES

Income tax to which any resident company is liable.

53. (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 ; and
- (b) equal to fifteen *per centum* of the aggregate amount of the gross dividends distributed by such company in that year of assessment out of the profits on which the taxable income of such company is computed for any year of assessment, :

Provided however a quoted public company shall not be liable to pay income tax under paragraph (b) :

Provided further that any company shall not be liable to pay income tax under paragraph (b) on an amount equal to the amount of any gross dividend distributed by such company in any year of assessment to a company or body of persons who or which is exempt from income tax under paragraph (a) of section 8 ; or

- (c) an amount equal to fifteen *per centum* of the aggregate amount of the gross dividend distributed to any non-resident person by a quoted public company in that year of assessment out of the profits on which the taxable income of such company is computed for any year of assessment ;
- (d) 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, for any year of assessment, 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 the relevant year of assessment, shall be an amount equal to the excesses 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 Ltd of Sri Lanka shall be deemed not to include its profits from the business of life insurance.

(2) Where for any year of assessment the taxable income of a company includes any capital gain arising from the change of ownership of any property, the provisions of subsection (4) and subsection (5) of section 32 shall, *mutatis mutandis*, apply to the taxation of that capital gain.

(3) For the purposes of subsection (1) “amount of gross dividends” of a company means—

- (i) where a deduction under section 61 is made by the company in respect of its dividend, the amount of the dividend before such deduction is made ;
- (ii) where no such deduction is made by the company in respect of its dividend, the amount of the dividend increased by seventeen and eleven-seventeenth *per centum*.

Advance company tax on qualifying distribution to which resident companies are liable.

54. (1) Every company resident in Sri Lanka shall be liable to pay for every year of assessment a tax (hereinafter referred to as the “advance company tax”) calculated at the appropriate rate specified in the Fifth Schedule to this Act as the rate applicable to companies of that class, on an amount equal to the amount of every qualifying distribution made by that company during that year of assessment.

(2) Every resident company, shall be entitled to deduct from any quarterly instalment, referred to in section 105, of income tax payable by it under—

- (a) paragraph (a) of subsection (1) of section 53 ; or,
- (b) section 45, section 47, section 49, or section 50, or

for any year of assessment, the advance company tax paid by it in that year of assessment, but prior to the date on which such instalment is required to be paid under section 105.

(3) The advance company tax paid by a company in any year of assessment which is in excess of the amount deducted for that year of assessment under subsection (2) shall not be refunded to the company but shall be carried forward and deducted, notwithstanding that the company may have ceased to carry on any trade or business.

55. (1) Where a resident person, other than a company receives in any year of assessment, a dividend in relation to which advance company tax under subsection (1) of section 54 has been paid by any resident company, the statutory income of such person from such dividend for that year of assessment shall be deemed to be a sum equal to the aggregate of the gross dividend and the advance company tax which is attributable to that dividend.

Dividend consisting of any qualifying distribution when received by a resident person other than a company.

(2) Every resident person, other than a company, whose total statutory income for any year of assessment includes a dividend in relation to which advance company tax under subsection (1) of section 54 has been paid by any resident company, shall be entitled to deduct from the tax payable by such person for that year of assessment a sum equal to the advance company tax which is attributable to that dividend. Where the amount to be so deducted exceeds the tax payable by him for that year of assessment, the excess shall, subject to the provisions of Chapter XXIV, be refunded to such person.

56. Every resident company shall maintain for every year of assessment a record indicating—

Resident company to maintain a record of dividends received.

(a) dividends received in the form of money or of an order to pay money from other resident companies received on or after April 1, 1988, classified under the following categories and sub-categories :—

(i) exempt dividends ;

- (ii) dividends in relation to which advance company tax has not been paid ;
- (iii) other dividends—
 - (A) dividends paid out of profits for any period prior to April 1, 1988 ;
 - (B) dividends in relation to which advance company tax has been paid at fifty *per centum*.
 - (C) dividends in relation to which advance company tax has been paid at thirty three and one-third *per centum* ;
 - (D) dividends in relation to which advance company tax has been paid at twenty-seven *per centum* ;
 - (E) dividends in relation to which advance company tax has been paid at twenty five *per centum* ;
 - (F) dividends in relation to which advance company tax has been paid at eight *per centum* ;
 - (G) dividends in relation to which advance company tax has been paid at five *per centum* ; and
- (b) profits and income, other than dividend income, arising or accruing on or after April 1, 1988, classified under the following categories :—
 - (i) exempt profits and income ;
 - (ii) profits and income taxable—
 - (A) under section 32F, section 32H, section 32K, section 32M, section 32N and section 32DDDD of the Inland Revenue Act, No. 28 of 1979 ;
 - (B) under section 45, section 47, section 49, section 50 and section 54 ;

- (C) at the rates other than those specified in the Second Schedule ; and
- (iii) other profits and income ;
- (c) details of dividends paid out during that year of assessment, out of each of the categories and sub-categories of income set out in the foregoing paragraphs ;
- (d) appropriations made during that year of assessment out of each of the categories and sub-categories of income set out in the foregoing paragraphs, for payment of taxes and reserves.

57. (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—

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

- (a) a sum equal to the amount calculated at the rate specified in the Second Schedule ; and
- (b) where there are remittances of such company in that year of assessment a sum equal to—
 - (i) thirty-three and one-third *per centum* of the aggregate amount of the remittances of such company, if the amount of such remittances are less than one third of such taxable income ;
or
 - (ii) eleven and one-ninth *per centum* of such taxable income, if the aggregate amount of such remittances are not less than one-third of such taxable income.

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

- (a) sums remitted or retained abroad out of the profits of the company, such sums not including any dividends 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 78 to be derived from Sri Lanka as is retained abroad.

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

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

- (a) a deduction has been made under section 61 in respect of that dividend by the first-mentioned resident company ; or
- (b) that dividend is exempt from income tax under section 11 ; 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 ; or
- (d) such dividend is a dividend declared by a quoted public company ,

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

Profits of a company from transactions with its shareholders.

59. 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.

Every resident company to deduct income tax from any dividend received from any quoted public company and payable to any non-resident person.

60. Every resident company shall deduct from the amount of any dividend (hereinafter in this section referred to as the “relevant dividend”) which becomes payable to any non-resident person if the relevant dividend consists, of the whole or any part of the amount of a dividend not being the whole or any part of a dividend which is exempt from income tax under this Act, distributed by any quoted public company and received, either directly or through one or more intermediary companies, by such resident company, income tax equivalent to fifteen *per centum* of such relevant dividend and the amount

of the income tax which a resident company is under this section, required to deduct shall be a debt due from such resident company to the State and shall be recoverable forthwith as such or may be assessed and charged upon such resident company in addition to any income tax otherwise payable by it :

Provided that in determining for the purposes of this section, the amount of the relevant dividend, no account shall be taken of such part of such dividend as is distributed out of the profits or income on which the taxable income of such resident company is computed for any year of assessment.

61. (1) Every resident company, other than a quoted public company, shall be entitled to deduct from the amount of any dividend payable to any shareholder, other than any shareholder whose profits and income are exempt from income tax under paragraph (a) of section 8, in the form of money or an order to pay money out of the profits on which the taxable income of that company is computed for any year of assessment, income tax equal to fifteen *per centum* ;

Resident company entitled to deduct tax from any dividend.

Provided that nothing in the preceding provisions of this subsection shall apply to any dividend declared by a quoted public company to any resident person.

For the purposes of this section in computing the amount of a dividend payable to any shareholder by a company, such part of that dividend as consists of any part of the amount of a dividend received by that company from another resident company shall not be taken into account.

(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) dividends received, in relation to which advance company tax has been paid at fifty four *per centum* ;
 - (iii) dividends received, in relation to which advance company tax has been paid at fifty *per centum* ;
 - (iv) dividends received, in relation to which advance company tax has been paid at thirty three and one-third *per centum* ;
 - (v) dividends received, in relation to which advance company tax has been paid at twenty seven *per centum* ;
 - (vi) dividends received, in relation to which advance company tax has been paid at twenty five *per centum* ;
 - (vii) dividends received, in relation to which advance company tax has been paid at seventeen *per centum* ;
 - (viii) dividends received, in relation to which advance company tax has been paid at eleven *per centum* ;
 - (ix) dividends received, in relation to which advance company tax has been paid at eight *per centum* ;
 - (x) dividends received, in relation to which advance company tax has been paid at five *per centum* ;
 - (xi) other dividends received ;

- (xii) income exempt from income tax ;
 - (xiii) profits and income taxable at rates other than those specified in the Second Schedule to this Act ; and
 - (xiv) other profits and income .
- (e) the advance company tax paid in relation to such part of the dividend paid out of the other profits and income referred to in sub-paragraph (xiii) of the foregoing paragraph as consists of a qualifying distribution ;
- (f) advance company tax paid by other resident companies in relation to such part of that dividend as is paid out of a dividend referred to in sub-paragraph (ii), sub-paragraph (iii), sub-paragraph (iv), sub-paragraph (v), sub-paragraph (vi), sub-paragraph (vii), sub-paragraph (viii), sub-paragraph (ix) or sub-paragraph (x) of paragraph (d).

(3) Every company resident in Sri Lanka shall, for every year of assessment furnish to the Commissioner-General on or before the thirtieth day of November immediately succeeding the end of that year of assessment, a statement in such form as may be specified by the Commissioner-General setting out the particulars of—

- (a) advance company tax paid in that year of assessment ;
- (b) any payments made in that year of assessment in respect of tax under paragraph (a) of subsection (1) of section 53 for any year of assessment ;
- (c) any payments made in that year of assessment in respect of tax under section 32_H or section 32_K or section 32_M and section 32_N of the Inland Revenue Act, No. 28 of 1979 for any year of assessment ; and
- (d) any payments made in the year of assessment in respect of tax under section 45, section 47, section 49 and section 50 of this Act.

(4) Where the statement referred to in subsection (2) discloses that a shareholder of a resident company received a dividend which included the amount of any dividend received from any other resident company, then that amount shall, for the purposes of determining the statutory income of such shareholder for any year of assessment, be increased by seventeen and eleven-seventeenth *per centum* and he shall be entitled to deduct, from the tax payable by him, an amount equal to the said seventeen and eleven-seventeenth *per centum* :

Provided, however, that the preceding provisions of this subsection shall not apply to, or in respect of—

- (a) a shareholder if such shareholder is a company ; or
- (b) the amount of any dividend received from any other company if such dividend is exempt from income tax under this Act.

(5) Where the assessable income of a person other than a company includes a dividend from a resident company in the form of money or of an order to pay money, he shall be entitled, on production of a statement relating to such dividend made in accordance with subsection (2), to deduct from the tax payable by him, the amount of tax shown on such statement :

Provided that, where such person is not a resident person, he shall not be entitled to deduct, from the tax payable by him, the advance company tax shown on such statement.

(6) 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 money.

62. (1) Where, in the case of a company controlled by not more than five persons, 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), 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 —

- (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 purposes 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 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 a 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 on 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.

(7) In this section, “company controlled by not more than five persons” means a company in which more than half the total shares issued is held by not more than five persons, their wives or children, either directly or through nominees.

63. 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 23 for the purposes of ascertaining the profits and income of that company for that year of assessment.

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

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