

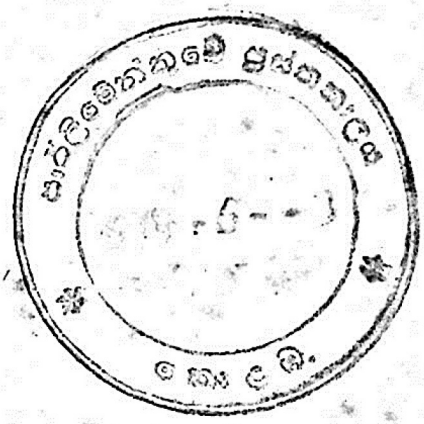

PARLIAMENT OF THE DEMOCRATIC SOCIALIST REPUBLIC OF SRI LANKA

INLAND REVENUE ACT, No. 28 OF 1979

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[Certified on 21st May, 1979]

L. D.—O. 80/78

AN ACT TO PROVIDE FOR THE IMPOSITION OF INCOME TAX, WEALTH TAX AND GIFTS TAX FOR ANY YEAR OF ASSESSMENT COMMENCING ON OR AFTER APRIL 1, 1979.

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

Short title.

1. This Act may be cited as the Inland Revenue Act, No. 28 of 1979.

CHAPTER I

IMPOSITION OF INCOME TAX

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, 1979, in respect of the profits and income of every person for that year of assessment—

(*a*) wherever arising, in the case of a person who was 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 purposes 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. 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 made after April 1, 1954 ;

(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 ;

(*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 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:

Provided that any excess of the rental value over fifteen *per centum* of the profits described in paragraphs (*a*) and (*b*) or fifteen thousand rupees, whichever is lower, shall be disregarded.

Net annual value of land and improvements thereon.

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.

(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.

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

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.

Capital gains.

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

(*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 shares, debentures or other obligations ;

(*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 shares, debentures or other obligations, 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, 1957, 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, 1957 ;

(*b*) where the property was acquired on or after April 1, 1957, 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 it was acquired by such person shall—

(i) if such acquisition was by purchase, be an amount equal to the cost of such purchase ; and

(ii) if such acquisition was otherwise than by purchase, be an amount equal to the market value of the property at the time of such acquisition ;

(*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—

(i) if the date of the acquisition of such property by such trustee or executor is before April 1, 1957, be an amount equal to the market value of the property on April 1, 1957 ; and

(ii) if the date of the acquisition of such property by such trustee or executor is on or after April 1, 1957, be an amount equal to the market value of the property at the time when such trustee or executor came into possession of the property ;

(*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 a fiduciary in that property, the value of the property at the time when the first-mentioned person acquired such property shall—

(i) if the date of the cessation of such life interest or such rights of a fiduciary is before April 1, 1957, be an amount equal to the market value of the property on April 1, 1957; and

(ii) if the date of the cessation of such life interest or such rights of a fiduciary is on or after April 1, 1957, 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, 1957, 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, 1957, 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, 1957, the value of the property at the time when it was so received shall—

(i) if the last-mentioned shares were acquired by him before April 1, 1957, be an amount equal to the market value of the last mentioned shares on April 1, 1957; or

(ii) if the last-mentioned shares were acquired by him on or after April 1, 1957, 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—

(i) if such shares were acquired by the person to whom such gain arises before April 1, 1957, be an amount equal to the market value of the shares on April 1, 1957, 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) if such shares were acquired by the person to whom such gain arises on or after April 1, 1957, 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—

(i) if such transaction is a sale of the property, be an amount equal to the sale price of such property ;

(ii) if such transaction is 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—

(i) Where the consideration is partly cash and partly property other than cash be an amount equal to the aggregate of such cash and the market value of such property on the date on which the consideration was received ; and

(ii) where the consideration is wholly property other than cash be an amount equal to the market value of such property on the date on which the consideration was received ; and

(*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 that person satisfies the Assessor that there was reasonable cause for the difference between the sale price and such market value, the value of such property at the time of the sale shall be an amount equal to the market value of that property at that time.

(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, 1957, 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, 1957, 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 10 or section 53 or section 53A or section 53B of the Inland Revenue Act, No. 4 of 1963, or under section 11 or section 32 of the Income Tax Ordinance ;

(*c*) any expenditure incurred by such owner solely in connection with the transaction which resulted in such gain ; and

(*d*) in the case of a change of ownership of any property—

(1) where the change of ownership occurs not less than five years but not exceeding fifteen years after the acquisition of that property by the person to whom the capital gain arises, a sum equal to twenty-five *per centum* ; and

(2) where the change of ownership occurs over fifteen years after the acquisition of that property by the person to whom the capital gain arises, a sum equal to fifty *per centum*,

of the difference between—

(i) the value within the meaning of subsection (3), of that property at the time of its acquisition by that person ; and

(ii) the value of that property at the time of such change of ownership after deducting therefrom any expenditure referred to in paragraph (*a*) or paragraph (*b*) or paragraph (*c*).

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 ;

(ii) the Institute of Chartered Accountants of Sri Lanka ;

(iii) the Sri Lanka Tea Board established by the Sri Lanka Tea Board Act, 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 ;

(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 Council of Sri Lanka established by the National Science Council of Sri Lanka Law, No. 36 of 1975 ;

(xiv) the Ceylon Institute of Scientific and Industrial Research established by the Ceylon Institute of Scientific and Industrial Research Act ;

(xv) the International Development Association ;

(xvi) the Bureau of Ceylon Standards established by the Bureau of Ceylon Standards Act, No. 38 of 1964 ;

(xvii) the Asian Development Bank ;

(xviii) the Sri Lanka Broadcasting Corporation established by the Sri Lanka Broadcasting Corporation Act, No. 37 of 1966 ;

(xix) any Resort Authority constituted under section 57 (1) of the Tourist Development Act, No. 14 of 1968 ;

(xx) the Ceylon Tourist Board established by the Ceylon Tourist Board Act, No. 10 of 1966 ;

(xxi) the International Finance Corporation ;

(xxii) 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 Corporation ;

(xxiii) the Employees' Provident Fund, being profits and income from the investment of any moneys of such Fund ;

(xxiv) the Monetary Board, being the profits and income of the Central Bank of Ceylon ;

(xxv) the National Lotteries Board, being profits from any national lottery ;

(xxvi) 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.

(*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 shipowner or charterer, and referred to in any agreement entered into between that Government and the Government of Sri Lanka ;

(iii) the Insurance Corporation of Ceylon being profits and income attributable to the life insurance business of that Corporation ;

(*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*) 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.

9. There shall be exempt from income tax— Exemption from income tax of certain profits and income of certain officers and employees.

(*a*) the emoluments, pension and any other benefit arising to any person from the office of the President of the Republic of Sri Lanka ;

(*b*) the official emoluments of—

(i) any person who holds any paid office under the Republic being emoluments in respect of services rendered to the State ;

(ii) a judicial officer within the meaning of Article 170 of the Constitution ;

(iii) an employee of a local authority ;

(iv) an employee of a public Corporation within the meaning of Article 170 of the Constitution ;

(v) an employee of any University which is established or deemed to be established by the Universities Act, No. 16 of 1978 ;

(vi) an employee of any business undertaking acquired by or vested in the Government under the Business Undertakings (Acquisition) Act, No. 35 of 1971 ;

(vii) 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 any such pension, or any such profits from employment referred to in paragraph (c) 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) or (vi) ;

(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—

(i) employed in Sri Lanka on a contract of employment entered into between him and the Government of Sri Lanka or between him and any such public corporation or institution as may be approved by the Minister for that purpose ; or

(ii) engaged in performing any services in any project carried on by—

(*a*) the Government of Sri Lanka ; or

(*b*) such public corporation ; or

(c) any other body corporate approved by the Minister to the capital of which the Government of Sri Lanka or such public corporation has made a contribution ;

(iii) brought to and employed in Sri Lanka by the proprietor of an undertaking to which section 16 applies or by any undertaking, being an enterprise with which an agreement has been entered into by the Greater Colombo Economic Commission under section 17 of the Greater Colombo Economic Commission Law, No. 4 of 1978, for the purposes of that undertaking ; or

(iv) brought to and employed in Sri Lanka by the proprietor of any such undertaking as is approved by the Minister by notice published in the *Gazette,* such approval being for such period as may be specified in the notice:

Provided that the emoluments of an individual shall not be exempt from income tax—

(1) in the case of an individual employed in an undertaking referred to in sub-paragraph (iii) after the date of the cessation of employment of such individual in such undertaking or the date on which the exemption from tax granted, as the case may be, by section 16 or by the agreement entered into under section 17 of the Greater Colombo Economic Commission Law, No. 4 of 1978, in respect of that undertaking ends, whichever is the earlier, and

(2) in the case of an individual employed in an approved undertaking referred to in sub-paragraph (iv) after the date of the cessation of employment of such individual in such undertaking or the date on which such undertaking ceases to be an approved undertaking, whichever date is the earlier ;

(*d*) the emoluments arising in Sri Lanka and any income not arising in Sri Lanka, for three years reckoned from the date of employment in Sri Lanka of any individual who is not a citizen of Sri Lanka and who is brought to and employed in Sri Lanka by the proprietor of any such undertaking as is referred to in section 16 or in section 23 (1) (*b*) (ii) in such capacity as may be approved by the Minister on the recommendation of the Ceylon Tourist Board ;

(*e*) the emoluments arising in Sri Lanka and any income not arising in Sri Lanka of any individual who is not a citizen of Sri Lanka and who is brought to and employed in Sri Lanka, in the performance of a contract the profits from which are exempt from income tax under section 22 ;

(*f*) 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 sub-paragraph (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 whose salary or principal emolument is not payable by the Government of Sri Lanka 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 any other organization approved by the Minister as being of a similar character ;

(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 Specialised 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 forces 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 ; and

(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) :

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

(*g*) the official emoluments of any citizen of Sri Lanka who is employed as an expert, adviser, technician or official by the United Nations Organization or by any Specialised Agency of that Organization;

(*h*) the official emoluments of any individual who is employed by the World Tourism Organization;

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

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

(k) 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 employment 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; and

(*l*) profits and income not exceeding in the aggregate one thousand two hundred rupees for any year of assessment from all sources other than employment, received by an individual or any child whose total statutory income is aggregated with the income of that individual, if the total statutory income of that individual consists only of—

(i) profits and income from employment, not exceeding thirty thousand rupees; and

(ii) profits and income not exceeding one thousand two hundred rupees from all sources of profits and income other than employment.

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 Certificate issued under the National Savings Bank Act, No. 30 of 1971, and purchased by that individual on or before November 15, 1978 ;

(*b*) such part of the interest receivable for any year of assessment by an individual in respect of—

(i) any National Savings Certificate issued, or deemed to have been issued, to him under the National Savings Bank Act, No. 30 of 1971, after November 15, 1978 ; and

(ii) moneys lying in the National Savings Bank to the credit of such individual,

as does not exceed two thousand rupees or one-third of the total interest whichever is higher ;

(c) 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 ;

(*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 Ceylon for the deposit in accordance with the conditions imposed by the Central Bank of Ceylon, of sums obtained by him by the exchange of foreign currency held by him outside Sri Lanka ;

(*e*) the interest accruing to any person during the period in which he is not resident in Sri Lanka, 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 Ceylon ;

(*f*) any interest forming part of the surrender value of any Tax Reserve Certificate.

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 Greater Colombo Economic Commission under section 17 of the Greater Colombo Economic Commission Law, No. 4 of 1978—

(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 ;

(*b*) any dividend paid to shareholders 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 sections 16, 17, 18, 19, 20, or 21 of this Act 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.

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

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

(i) is a house to which the Rent Act, No. 7 of 1972, applies ; or

(ii) is occupied by the owner thereof ; or

(iii) has a floor area (inclusive of the thickness of the walls) not exceeding two thousand square feet :

Provided that where the floor area of the house is one thousand 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 each 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 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—

(*a*) a certificate issued by the Commissioner for National Housing upon an application made by the owner of any house and specifying, as the case may be—

(i) the date of completion of the construction of that house or the date of conversion of that house into more than one place of residence, and

(ii) the floor area (inclusive of the thickness of the walls) of that house, or the floor area of each of the places of residence obtained by the conversion of such house,

shall be conclusive evidence of the matters specified in the certificate ;

(*b*) "owner" includes a co-owner ; and

(*c*) "income", in relation to any house which is let means the authorized rent within the meaning of the Rent Act, No. 7 of 1972.

Exemption from income tax of certain subsidies.

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

(*a*) out of the Capital Fund established under the Sri Lanka Tea Board Law, No. 14 of 1975 ;

(*b*) out of the Rubber Replanting Subsidy Fund established under the Rubber Replanting Subsidy Act ;

(*c*) by the Coconut Cultivation Board established under the Coconut Development Act, No. 46 of 1971 ;

(*d*) under the Cocoa Planting Subsidy Scheme ;

(*e*) by the Ministry of Fisheries for the purchase by such person of fishing boats, marine engines, fishing gear and other fishing equipment.

Exemption from income tax of certain capital gains.

14. There shall be exempt from income tax—

(*a*) any capital gain arising on—

(i) the sale by any individual of any house constructed by him and used solely for residential purposes, such sale being the first sale of that house ;

(ii) the sale of any house owned by any individual and used solely for residential purposes, if such individual has not sold 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 which was used by any person for producing income in any trade, business, profession, vocation or employment carried on or exercised by him, in respect of

which a deduction for depreciation has been allowed under section 23 of this Act or under section 10 of the Inland Revenue Act, No. 4 of 1963, or under section 11 of the Income Tax Ordinance ;

(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 occuring 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 Greater Colombo Economic Commission under section 17 of the Greater Colombo Economic Commission 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 10 of the Inland Revenue Act, No. 4 of 1963, or under section 11 of the Income Tax Ordinance or of any household effect or other article of personal use (excluding jewellery) ;

(xi) change of ownership of a right to exploit a property occuring by a transfer of that right; and

(xii) the surrender of a life insurance policy and the surrender, transfer or extinction of a life interest.

(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 an 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 under section 21 of the Inland Revenue Act, No. 4 of 1963, are required to be deducted from his assessable income in arriving at his taxable income for those three years of assessment.

Miscellaneous exemptions from income tax.

15. There shall be exempt from income tax—

(a) the profits and income arising to any person from the sale of gems to the State Gem Corporation ;

(b) the income accruing to any person from any investment made by him, with the approval of the Central Bank of Ceylon and in accordance with the conditions imposed by such Bank, with moneys lying to his credit in such special account as is referred to in paragraph (d) of section 10 ;

(c) 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 ;

(d) 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 ;

(e) any capital sum received by way of death gratuity or as compensation for death or injuries ;

(f) any sum received by an informer as a reward under any scheme for the payment of rewards by a Government institution ;

(g) wound and disability pensions granted to members or ex-members of the Forces of Her Majesty the Queen of the United Kingdom ;

(h) United States Government disability pensions ;

(*i*) 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 ;

(*j*) any royalty received by a non-resident person from a company with which an agreement has been entered into by the Greater Colombo Economic Commission under section 17 of the Greater Colombo Economic Commission 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.

Exemption from income tax of profits and income of certain undertakings related to tourist hotels.

16. There shall be exempt from income tax the profits and income for a period of five years accruing—

(*a*) to any undertaking of operating hotels for tourists commenced on or after April 1, 1966, which is on the recommendation of the Ceylon Tourist Board approved by the Minister, by Order published in the *Gazette*, such period of five years being calculated from the date on which such undertaking commenced to carry on business ; and

(*b*) from any building provided for the use of an undertaking referred to in paragraph (*a*) by any undertaking of providing buildings for such use, which is on the recommendation of the Ceylon Tourist Board approved by the Minister by Order published in the *Gazette*, such period of five years being calculated from the date on which such building was provided for such use.

Exemption from income tax of profits and income of certain companies engaged in fishing, animal husbandry, sericulture and agriculture.

17. (1) The profits and income within the meaning of section 3(*a*) (other than any profits and income from the sale of capital assests) of any company referred to in subsection (2) from any undertaking referred to in that subsection shall be exempt from income tax for the period commencing from the date of incorporation of that company and ending on March 31, 1983.

(2) The provisions of subsection (1) shall apply to any company incorporated on or after November 15, 1977, and approved by the Minister, which commenced to carry on, on or after that date and is engaged only in carrying on one or more of the undertakings hereinafter specified, namely—

(*a*) an undertaking for off-shore or deep-sea fishing ;

(*b*) an undertaking for cultivating land with any plants of whatever description other than tea, rubber, coconut or paddy ;

(*c*) an undertaking for animal husbandry ;

(*d*) an undertaking for sericulture ;

(*e*) an undertaking for carrying on any activity referred to in any of the foregoing paragraphs and processing the product of such activity ;

(*f*) an undertaking for building fishing boats or for manufacture of fishing gear or for manufacture or assembly of marine engines ;

(*g*) an undertaking for manufacture of ice or for provision of cold storage rooms :

Provided that this section shall not apply to any company which carries on an undertaking which was in existence prior to November 15, 1977, or which was formed by the splitting up or reconstruction of any business which was in existence prior to November 15, 1977.

Exemption from income tax for profits and income of certain small scale undertakings for the production or manufacture of commodities.

18. (1) The profits and income within the meaning of paragraph (*a*) of section 3 (other than any profits and income from the sale of capital assets) of any undertaking referred to in subsection (2) shall, subject to the provisions of subsections (3) and (4), be exempt from income tax for the period commencing from the date of commencement of that undertaking and ending on March 31, 1983.

(2) The provisions of subsection (1) shall apply to any undertaking commenced on or after November 15, 1977, and approved by the Minister, for the production or manufacture in Sri Lanka of goods or commodities being an undertaking—

(*a*) which is not an undertaking for the milling of paddy ;

(*b*) which was not formed by the splitting up, reconstruction, or acquisition of any business which was previously in existence ; and

(*c*) which carries on its production or manufacture outside the administrative limits of a Municipality within the meaning of the Municipal Councils Ordinance.

(3) Where at any time during any year of assessment commencing on or after April 1, 1978, but prior to April 1, 1983, the capital of any such undertaking exceeds one million rupees, the profits and income of that undertaking arising in such year of assessment shall not be exempt from income tax.

(4) The exemption from income tax of the profits and income of an undertaking for any year of assessment shall not apply to such part of such profits and income as exceed two hundred thousand rupees.

(5) In this section " capital " in relation to an undertaking means the aggregate of—

(*a*) the cost of any building purchased or constructed, and of any land, plant, machinery and fixtures purchased, for use in that undertaking ; and

(*b*) the value of the assets of that undertaking not included in paragraph (*a*),

after deducting therefrom any profits of that undertaking retained for use in that undertaking.

Exemption from income tax for profits and income of certain undertakings for the milling of paddy.

19. 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 undertaking for the milling of paddy commenced on or after November 15, 1977, and approved by the Minister, shall be exempt from income tax for the period commencing from the date of commencement of the undertaking and ending on March 31, 1983, if it was not an undertaking formed by the splitting up, reconstruction of acquisition of any business which was previously in existence.

Exemption from income tax for the export profits and income of certain undertakings

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

(*a*) for a period of eight years reckoned from the date of incorporation of any company, in the case of a company incorporated on or after April 1, 1972, and approved by the Minister under section 7A of the Inland Revenue Act, No. 4 of 1963, prior to November 15, 1978 ; and

(*b*) for a period of five years reckoned from the date on which the company made its first exports or from the date on which it commenced to provide services for payment in foreign exchange in the case of a company incorporated, on or after April 1, 1972, for the manufacture of any commodities

or for the provision of services for payment in foreign exchange, and approved by the Minister after November 15, 1978,

such part of the profits and income of that company as consists of the export profits and income of any such undertaking carried on by it as is approved by the Minister by notice published in the *Gazette* to be an undertaking to which this section shall apply :

Provided that this subsection shall not apply to any company in relation to an undertaking carried on by it if—

(*a*) the undertaking was formed by the splitting up or reconstruction of any business previously in existence ; or

(*b*) any part of the export turnover of that undertaking arose in consequence of the amalgamation of the whole or a part of the trade or business of any other undertaking with the trade or business of that undertaking.

(2) For the purposes of this section—

(*a*) "export profits and income", when used in relation to a company or an undertaking, means the sum which bears to the profits and income (within the meaning of paragraph (*a*) of section 3 after excluding any profits and income from the sale of gems) of the company or undertaking, ascertained in accordance with the provisions of this Act, the same proportion as the export turnover of that company or undertaking bears to the total turnover of that company or undertaking ;

(*b*) "export turnover" when used in relation to a company or undertaking means the total amount received or receivable by that company or undertaking from the export of goods or commodities, or from the provision of services for payment in foreign currency, excluding—

(i) any amount received or receivable by the sale of capital assets ;

(ii) any amount received or receivable from the sale of gems ;

(iii) any amount received or receivable from the export of black tea in bulk, crepe rubber, sheet rubber, scrap rubber, coconut oil,

dessicated coconut, copra, fresh coconuts, coconut fibre or such other commodity as may be specified by the Minister by Order published in the *Gazette,* having regard to the need for providing incentives for the promotion of the export of such commodity ; and

(iv) any profits and income not being profits and income within the meaning of paragraph (*a*) of section 3 ;

(*c*) " total turnover " when used in relation to a company or undertaking means the total amount received or receivable by the company or undertaking from any trade or business carried on or exercised by that company or undertaking, excluding—

(i) any amount received or receivable by the sale of capital assets ;

(ii) any amount received or receivable from the sale of gems ;

(iii) any profits and income other than profits and income within the meaning of paragraph (*a*) of section 3.

Exemption from income tax for 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, 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 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—

(*a*) the entirety of the profits and income arising from such sale, if the floor area of such house or flat does not exceed five hundred square feet ;

(*b*) seventy-five *per centum* of the profits and income arising from such sale, if the floor area of such house or flat exceeds five hundred square feet but does not exceed one thousand two hundred and fifty square feet ; and

(*c*) fifty *per centum* of the profits and income arising from such sale, if the floor area of such house or flat exceeds one thousand two hundred and fifty square feet but does not exceed two thousand square feet,

shall be exempt from income tax.

Exemption from income tax of profits and income of certain non-resident contractors.

22. The profits and income accruing to any person from the performance of any contract which he has entered into—

(*a*) with the Government of Sri Lanka ; or

(*b*) with the proprietor of any undertaking referred to in section 16 in respect of the construction of any building for the purposes of such undertaking ; or

(*c*) with any such public corporation or institution as may be approved by the Minister,

shall be exempt from income tax if such person—

(i) at the time he entered into such contract, was a non-resident person and did not have a place of business in Sri Lanka ;

(ii) satisfies the Commissioner-General that he entered into such contract for the sum stipulated therein on the basis that such sum would not be liable to income tax ; and

(iii) is specified by the Minister by Order published in the *Gazette* as being a person whose services are required for the economic development of Sri Lanka and to whom this section applies.

CHAPTER IV

Ascertainment of Profits or Income

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—

(*a*) an allowance in respect of any plant, machinery or fixtures 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 the cost of acquisition of such plant, machinery or fixtures :

Provided that no deduction under this paragraph shall be allowed to a person in respect of any such plant, machinery or fixtures, acquired by him on or after April 1, 1980 ;

(*b*) an allowance equal to the sum expended by him during the period of which the profits and income are being ascertained—

(i) in the construction, for the purposes of any undertaking carried on by him, of a building for occupation as a dwelling house by any member of the staff employed by him in such undertaking, other than an executive officer; or

(ii) in the renovation of, or in the making of any additions or improvements to, any existing building or in the erection of any building, by such person for any such undertaking of operating hotels for tourists as is not referred to in paragraph (*a*) of section 16 and as is on the recommendation of the Ceylon Tourist Board approved by the Minister by Order published in the *Gazette* for the purposes of this paragraph;

Provided that no deduction under this paragraph shall be allowed to a person in respect of any sum expended by him on or after April 1, 1980;

(c) an allowance equal to fifty *per centum* of any sum expended by such person during the period of which the profits and income are being ascertained but prior to April 1, 1980, in the construction of any building for the purposes of any trade or business carried on by him, other than for use as a dwelling house;

(*d*) an allowance equal to the sum expended by such person in the purchase of—

(i) any furniture, utensils or articles for any undertaking—

(*a*) as is referred to in section 16 carried on by such person; or

(*b*) of operating hotels as is referred to in sub-paragraph (ii) of paragraph (*b*);

(ii) any implement or equipment for any undertaking of deep-sea or off-shore fishing carried on by such person;

(*e*) such allowance as the Commissioner-General considers reasonable for such depreciation by wear and tear of plant, machinery, and fixtures acquired by such person or of qualified buildings constructed by such person, as arises out of their use on or after April 1, 1980, by him in a trade, business,

profession or vocation carried on or exercised by him, such allowance being calculated normally at a fixed rate *per centum* per annum on their cost of acquisition or on the cost of construction, as the case may be :

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

(i) any such plant, machinery or fixtures if they were acquired by such person prior to April 1, 1980, or in respect of any building if such building was constructed by him prior to April 1, 1980 ;

(ii) any such plant, machinery, fixtures or buildings in respect of which the total of the allowances granted for depreciation in the preceding years of assessment are equal to the cost of acquisition of such plant, machinery or fixtures or, as the case may be, to the cost of construction of such building ;

(*f*) 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 ;

(*g*) any sum expended by such person for the repair (not renewal) of any plant, machinery, fixtures, building, implement, utensils or articles 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 ;

(*h*) 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 ;

(*i*) interest paid or payable by such person ;

(*j*) 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 prescribe ;

(*k*) business turnover tax 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 ;

(*l*) 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 ;

(*m*) any expenses incurred by such person in—

(i) opening up any land for cultivation or for animal husbandry ; or

(ii) cultivating that land with plants of whatever description ; or

(iii) the purchase of livestock or poultry to be reared on that land ; or

(iv) the construction of tanks or ponds or the clearing and 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 ;

(*n*) 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 repect 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 ;* and

(*o*) in the case of a company, expenditure incurred in the formation of that company.

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

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

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

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

(*c*) Where a person carrying on any undertaking the profits 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*).

(*d*) Where any capital asset referred to in paragraph (*a*) or paragraph (*b*) was only partly used in any trade, business, profession or vocation the amount treated as a receipt under paragraph (*a*) or paragraph (*b*) or the amount treated as an expense under paragraph (*b*) shall be proportionately reduced.

(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 outgoings 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 123, 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 section 115 (5), 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 subsection (1) (*a*), (1) (*b*), (1) (*c*), (1) (*d*), (1) (*e*), or (1) (*f*) in respect of any capital asset shall be allowed to any person if—

(*a*) such person has let on hire—

(i) such capital asset 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) such capital asset for 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 nothing in the preceding provisions of this subsection shall apply to any person in respect of an undertaking referred to in paragraph (*b*) of section 16 and carried on by that person.

(6) 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*) or paragraph (*b*) or paragraph (*c*) or paragraph (*d*) or paragraph (*e*) of subsection (1) of this section, or subsection (1) of section 162,

(ii) 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

(iii) paragraph (*a*) of subsection (1) or under subsection (5B) or under subsection (5C) of section 11 of the Income Tax Ordinance ;

(*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 ;

(*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) the cessation of the use of such asset by such person in an undertaking carried on by him in ascertaining the profits and income of which, an allowance for depreciation could be deducted ; and

(*e*) "qualified building" means a building constructed for use for the purposes of a trade, business, profession or vocation other than for use as a dwelling house by an executive officer employed in that trade, business, profession or vocation.

Deductions not allowed in ascertaining profits and income.

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 ;

(*b*) expenses incurred in connection with his employment other than the expenses referred to in paragraphs (*h*) and (*j*) of subsection (1) of section 23 ;

(*c*) any expenditure incurred in travelling outside Sri Lanka in connection with any trade, business, 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—

(i) the promotion of the export trade of any article or goods ; or

(ii) the provision of any services for payment in foreign currency ;

(*d*) 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 ;

(*e*) entertainment allowances paid by such person to his executive officer ;

(*f*) one-quarter of such person's cost of advertisement in connection with any trade, business, profession or vocation carried on or exercised by him other than the cost of advertising outside Sri Lanka incurred solely in connection with the export trade of any articles or goods or the provision of any services for payment in foreign currency ;

(*g*) any disbursements or expenses of such person, not being money expended for the purpose of producing such profits and 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 ;

(*k*) rent of, or expenses in connection with, any premises or part of premises not occupied or used for the purposes of producing such profits and income ;

(*l*) any amounts 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 82) ; or

(ii) Sri Lanka income tax or Commonwealth tax as defined in section 83 ; or

(iii) any prescribed tax or levy.

Any regulation prescribing a tax or levy for the purposes 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 ; or

(*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 (*j*) of subsection (1) of section 23.

(2) No person carrying on any trade or business or exercising any profession or vocation shall be entitled to any sum for depreciation by wear and tear, or for renewal, or to any allowance under section 23 (1) (*a*) or 23 (1) (*e*) or 23 (1) (*f*), in respect of any vehicle used for travelling for the purpose of his trade, business, profession or vocation except in respect of a motor cycle or bicycle used for such purpose by an officer, who is not an executive officer, in the employment of such person.

(3) In ascertaining the profits or income arising from annual value or rent of land and improvements thereon no deduction shall be made for outgoings 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 commercial buildings.

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 profits and 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) Every person who carries on or exercises any trade, business, profession or vocation shall, subject to the provisions of subsection (3), 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 each year :

Provided that—

(*a*) where a person 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 of March of that year of assessment ; and

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

(3) Where any person is unable to comply with the provisions of subsection (2) 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 those provisions. The Commissioner-General may, if satisfied with the reasons set out in such notice, direct such person to make up the accounts of that trade, business, profession or vocation for such periods as may be specified in that direction and it shall be the duty of such person to comply with the direction :

Provided 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 and 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 incomes for that year of assessment from every source of his profits and 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 an 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

Deductions from total statutory income in arriving at 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.

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

(*a*) sums payable by him 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 sums so payable exceed 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 ; and

(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, he 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 123 ; 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 149 ;

(*b*) the amount of a loss, other than a capital loss or a loss referred to in subsection (7) incurred by him in any trade, business, profession or vocation during any year of assessment which if it had been a profit would have been assessable under this Act, or the Inland Revenue Act, No. 4 of 1963, and which has not been allowed against his statutory income of a previous year under those Acts :

Provided that—

(i) in no circumstances shall the aggregate of the deductions from statutory income in respect of any loss exceed the amount of such loss, and

(ii) a deduction under this paragraph shall be made as far as possible from the 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 statutory income of the next year of assessment and so on.

(3) (*a*) Where the profits and income of an undertaking were exempt from income tax under section 16 of this Act 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 first 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 such first year of assessment, such entirety or portion shall be deducted from his total statutory income for the next succeeding year of assessment and so on.

(4) (*a*) Notwithstanding anything to the contrary in this section any loss incurred in any undertaking referred to in section 18 by any person carrying on that undertaking in any year of assessment from the date of commencement of that undertaking to March 31, 1983, shall be deducted only from such part of the total statuory income of that person for any year of assessment commencing prior to April 1, 1983, as constitutes the statutory income of that person from that undertaking:

Provided that a deduction under this paragraph shall be made as far as possible from the statutory income of that person from that undertaking for the first year of assesment succeeding that in which the loss was incurred and, in so far as it cannot be so made, then from the statutory income of that person from that undertaking for the next year of assessment, and so on.

(*b*) In computing the assessable income of the person carrying on any undertaking referred to in section 17 or section 18 or section 19 for the year of assessment commencing on April 1, 1983, there shall be deducted the total of the losses incurred in that undertaking in any year of assessment commencing prior to April 1, 1983, during which such person carried on that undertaking, after deducting therefrom the aggregate of—

(i) any part of such losses incurred in that undertaking as has been deducted under paragraph (*a*) from the statutory income of such person for any year of assessment commencing prior to April 1, 1983, and

(ii) such profits and income of that undertaking as were exempt from income tax for any year of assessment suceeding the year of assessment in which such loss in that undertaking was incurred.

(c) Where the loss referred to in paragraph (b) or part thereof cannot be deducted from the total statutory income of a person for the year of assessment commencing on April 1, 1983, such loss or such part of such loss shall be deducted from the total statutory income of that person for the next year of assessment, and so on.

(5) 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 refered to in subsection (7), incurred by him in that trade, business, profession or vocation in any of those 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 123 be revised:

Provided that—

(i) in no circumstances shall the aggregate deduction from 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.

(6) (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, and

(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.

(*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 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 capial 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 he 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 sub-paragraph (i), the tax for that year of assessment in respect of him shall, notwithstanding anything in section 123, 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.

(*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 " or " gain " occurring in that subsection, there were substituted the expressions " capital loss " or " loss ".

(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 from the business of racing 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.

(8) 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.

(9) 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.

(10) 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

Taxable income.

30. (1) The taxable income of an individual who is resident in Sri Lanka in any year of assessment shall be his assessable income for that year of assessment after deducting therefrom the aggregate of—

(*a*) an allowance of twelve thousand rupees, and

(*b*) any allowance to which he 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 to in paragraph (*a*) in ascertaining his taxable income as such trustee, receiver, executor or liquidator.

(2) The taxable income of any person, other than a resident individual, for any year of assessment shall be his assessable income for that year of assessment after deducting therefrom any allowance to which he is entitled under section 31 :

Provided that where the assessable income for any year of assessment of a charitable institution does not exceed twelve thousand rupees such income shall not be taxable.

An allowance in respect of qualifying payments.

31. (1) Subject to the provisions of sub-section (5), 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 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 the Government of Sri Lanka, to a local authority, to a fund established by the Government of Sri Lanka, or to a fund established by a local authority 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 sum invested by any person in the purchase of ordinary shares, other than existing shares, in an approved undertaking,

(*e*) any amount paid by an individual to the Government of Sri Lanka or to any banking institution within the meaning of the Monetary Law Act or to any local authority or to any other institution approved by the Minister in charge of the subject of Housing having regard to the housing policy of the Government—

(i) in the repayment of capital of any loan granted on or after April 1, 1973, for the construction of a house or for the purchase either of the first house or of the first site for the construction of a house purchased on or after that date, such repayment being made by that individual while he is the owner of that house or site;

(ii) as monthly payments in respect of any house let on or after April 1, 1973, on rent-purchase terms;

(*f*) any amount certified by the Commissioner for National Housing as having been spent by an individual on the construction of a house, such amount not being an amount obtained on any loan from the Government of Sri Lanka or any institution or authority referred to in paragraph (*e*) ;

(*g*) any amount spent by an individual for the purchase on or after April 1, 1978, of either the first house or the first site for the construction of a house purchased by him on or after that date, such amount not being an amount obtained on a loan from the Government of Sri Lanka or any institution or authority referred to in paragraph (*e*);

(*h*) any premia paid by an individual on a life insurance policy or a policy of medical insurance or for the purchase of an annuity, not being premia paid outside Sri Lanka—

(i) in respect of any policy issued outside Sri Lanka after July 4, 1957 ; or

(ii) for the purchase of an annuity outside Sri Lanka after July 4, 1957 ;

(*i*) any contributions 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 section 9 (*b*) ;

(*j*) any sum expended by an individual who is professionally qualified—

(i) in the payment of subscription to any professional association of which he is a member or in the purchase of professional books, journals and reports ; and

(ii) on travel abroad for the purpose of participating in any seminar or conference relating to the profession carried on or exercised by that individual if such purpose is approved by the Minister as being of benefit or general advantage to such profession,

not being any payment, donation, expenditure or investment, as the case may be, made by any person out of monies lying to his credit in any such special account as is referred to in the Tax Amnesty Act, No. 5 of 1978.

(3) Where a qualifying payment made by any individual or deemed to have been made by any individual consists of an amount spent by him on the purchase or construction of a house or the purchase of a site for the construction of a house and referred to in paragraph (*f*) or paragraph (*g*), such individual may apportion such amount between the year of assessment in which such amount was expended and not more than four years of assessment immediately succeeding that year of assessment and the amount so apportioned to each such year of assessment shall, for the purpose of subsection (1), be deemed to be a qualifying payment made by that individual in that year of assessment:

Provided that—

(*a*) the total amount spent by that individual on the purchase or construction of any house or on the purchase of any site for the construction of a house shall not be apportioned between such number of years of assessment as exceed five; and

(*b*) no deduction under subsection (1) shall be made for an year of assessment in respect of such qualifying payment unless such individual was the owner of such house or site in that year of assessment.

(4) 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.

(5) The deduction from the assessable income of any person for any year of assessment in respect of the total of all qualifying payments, other than those referred to in paragraphs (*b*) and (*c*) 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.

(6) The amount of any qualifying payment referred to in paragraphs (b) and (c) of subsection (2) made or deemed to have been made by any person in any year of assessment 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.

(7) Where an allowance has been deducted from the assessable income of any person under subsection (1) in respect of any qualifying payment made for the purchase

of any shares referred to in paragraph (*d*) of subsection (2) and where, within a period of five years after the date of such purchase—

(*a*) there is a change in the ownership of those shares otherwise than by the death of the individual who purchased those shares or by the dissolution of, or the cessation of the business carried on by, the company or body of persons which purchased those shares ; or

(*b*) any sum of money in respect of those shares is withdrawn or realized by, or paid to, the person who purchased those shares,

then, in respect of the year of assessment in which such allowance was granted an additional assessment consisting of the difference between the income tax to which the person who has been granted the allowance would have been liable if such allowance had not been granted and the amount of tax charged for that year of assessment shall, notwithstanding anything in this Act, be made in respect of that person and the provisions of this Act relating to notice of assessment, appeal and other proceedings shall apply accordingly :

Provided that no such additional assessment shall be made on any person from whose assessable income such allowance was deducted if such person has sold such shares and used the proceeds of such sale, within three months of the date of such sale, to purchase ordinary shares (other than existing shares) in any approved undertaking.

(8) Where an allowance has been deducted from the assessable income of a person under subsection (1) in respect of any qualifying payment made for the purchase of any shares referred to in paragraph (*d*) of subsection (2) and where the Commissioner-General finds that the company which alloted those shares has not utilized the moneys collected by the issue of those shares for the purposes of the activity of such company for which approval was granted by the Minister under subsection (9) within two years of the date on which such moneys were collected by the company, the Minister may by Order published in the *Gazette,* withdraw the approval granted to such company with effect from the date specified in such Order and where the approval is so withdrawn, then, in respect of any year of assessment in which an allowance was granted to such person in respect of such qualifying payment an additional assessment consisting of the difference between the income tax to which the person who has been granted the allow-

ance would have been liable if such allowance had not been granted and the amount of the tax charged for that year of assessment shall, notwithstanding anything in this Act, be made in respect of that person and accordingly the provisions of this Act relating to notice of assessment, appeal and other proceedings shall apply to such additional assessment.

An Order made by the Minister under this subsection may be declared to take effect from a date earlier than the date on which that Order is made.

(9) 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 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*) an "approved undertaking" means a company—

(i) which is engaged solely in—

(*a*) carrying on an undertaking which is capable of exporting goods or commodities or of providing services for payment in foreign currency, or

(*b*) the construction and sale of houses, or

(*c*) the development and sale of land for building purposes under any scheme approved by the Minister in charge of of the subject of Housing, or

(*d*) the construction and sale of houses and in the development and sale of land for building purposes under any scheme approved by the Minister in charge of the subject of Housing, or

(*e*) carrying on an undertaking which is considered by the Minister to be essential for the economic progress of Sri Lanka,

and which is approved by the Minister by notice published in the *Gazette*; or

(ii) with which an agreement has been entered into by the Greater Colombo Economic Commission under section 17 of the Greater Colombo Economic Commission Law, No. 4 of 1978;

(c) 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 during that year of assessment to the donor of the property donated, or

(ii) where the cost 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 commencing on or after April 1, 1979, 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, at the appropriate rates specified in the First Schedule to this Act, or

(b) if such person is a person other than a company or an individual to whom paragraph (a) applies at the appropriate rates specified in the Third Schedule to this Act.

(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, 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, from a provident fund approved by the Commissioner-General other than such part of that sum as represents his contributions to that provident fund made after April 1, 1954, 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 been paid by the employer),

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 a rate equivalent to the total of the effective rates of tax at which he was liable to tax in the three years of assessment immediately preceding that year of assessment divided by three :

Provided that—

(i) for any year of assessment the rate of tax chargeable on such excess shall not exceed fifteen *per centum ;*

(ii) where the excess referred to in the preceding provisions of this subsection is in consequence of the inclusion in the statutory income of such sum as is referred to in paragraph (*d*) of those provisions and tax has already been paid in respect of that sum or any part thereof, the amount of the tax chargeable under these provisions on such excess shall be reduced by the amount of the tax already paid in respect of that sum and if the amount of tax already paid in respect of that sum is more than the tax so chargeable on such excess, no tax shall be chargeable on such excess ;

(iii) where the excess referred to is in consequence of the inclusion in the statutory income of such sum as is referred to in paragraph (*e*) of these provisions, the amount of the tax chargeable under these provisions on such excess shall be reduced by—

(*a*) the amount of any tax already paid in respect of that sum or any part thereof, and

(*b*) an amount equal to the tax calculated at the effective rate at which he was liable to tax for the year of assessment commencing on April 1, 1967, or at fifteen *per centum,* whichever is less, on the contributions made by him to the regulated provident fund prior to April 1, 1966 ;

and if the aggregate of the amounts referred to in paragraphs (*a*) and (*b*) is more than the tax so chargeable on such excess no tax shall be chargeable on such excess :

For the purposes of this subsection, the effective rate of tax for any year of assessment shall be the percentage which the amount of tax payable for that year, without any deduction under sections 38, 81, 82 and 83 bears to the amount of the assessable income for that year.

(3) Where the taxable income of a person includes any capital gain, and the rate of the 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 gains—

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

(ii) the tax payable on the balance of the relevant part of the income shall be computed according to such of the rates of the tax above 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.

(4) Where a body of persons resident in Sri Lanka carries on or operates a provident, building, savings or thrift society or fund, and—

(*a*) where the Commissioner-General is satisfied that the majority of the persons forming such society or of the contributors to such fund have either no taxable income, or taxable income wholly chargeable at rates not exceeding twenty *per centum ;* or

(*b*) where such society or fund has been approved by the Commissioner-General under section 23 (1) (*j*),

the Commissioner-General may, subject to such conditions as he may specify, reduce or remit the tax payable by such society or such fund, as the case may be, if it appears to the Commissioner-General that such reduction or remission is just and equitable in all the circumstances of the case.

(5) The amount of the income tax payable for any year of assessment by any charitable institution shall not exceed the amount of the assessable income of such charitable institution for that year of assessment reduced by twelve thousand rupees.

CHAPTER IX

COMPANIES

Income tax to which resident companies are liable.

33. (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—

(*a*) an amount calculated on the taxable income of such company for that year of assessment at the appropriate rate or rates of tax specified—

(i) in Part I of the Second Schedule to this Act in the case of a company other than a company referred to in sub-paragraph (ii) or sub-paragraph (iii), or

(ii) in Part II of the Second Schedule to this Act in the case of a company which was a small company either throughout that year of assessment or, where the company was incorporated in that year of assessment, from the date of its incorporation to the end of that year, or

(iii) in Part III of the Second Schedule to this Act in the case of a company which was a people's company either throughout that year of assessment or, where the company was incorporated in that year of assessment, from the date of its incorporation to the end of that year, and

(*b*) a sum equal to thirty-three and one-third *per centum* of the aggregate amount of the gross dividends distributed by the company in that year of assessment out of profits on which the taxable income of such company is computed for any year of assessment.

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

(*a*) "people's company" means a company which is resident in Sri Lanka and in respect of which the Assessor is satisfied that—

(i) it is not a private company within the meaning of the Companies Ordinance ;

(ii) the number of shareholders of the company exceeds one hundred and the nominal value of each share does not exceed ten rupees ;

(iii) any person may invest in one or more shares of the company at any allotment of shares by the company or in the open market ;

(iv) no person either individually or together with his wife or minor children holds, either directly or through nominees, more than five *per centum* of the issued share capital ;

(v) there are three or more directors each owning one or more shares ;

(vi) none of the directors of the company holds office as director of any other people's company ; and

(vii) no other company holds any share either directy or through nominees ;

(*b*) "small company" means a company—

(i) which is resident in Sri Lanka,

(ii) the issued capital of which does not exceed five hundred thousand rupees,

(iii) which has not reduced its issued capital on or after November 15, 1978, and

(iv) which is not formed on or after November 15, 1978, by the reconstruction of an existing company or by the acquisition of any plant, machinery, fixtures or building of an existing company ;

(*c*) "amount of the gross dividends" 'of a company means where a deduction under section 38 is made by the company in respect of the dividends, the amount of the dividends before such deduction is made, and where no such deduction is made the amount of the dividends increased by fifty *per centum* thereof.

Income tax to which non-resident companies are liable.

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

(*a*) a sum equal to the amount calculated at the rate specified in Part IV of the Second Schedule to this Act and an additional five *per centum* of the taxable income of such company for such year of assessment ; and

(*b*) where there are remittances of such company in that year of assessment—

(i) a sum equal to thirty-three and one-third *per centum* of the aggregate amount of the remittances of such company, if the amount of such remittances is less than one third of such taxable income, or

(ii) a sum equal to eleven and one-ninth *per centum* of such taxable income, if the aggregate amount of such remittances is 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 abroad out of the profits of that company, such sums not including any dividends paid by a resident company to such non-resident company if such resident company made a deduction under section 38 in respect of such dividends, or if such dividends are exempt from income tax under section 11 ;

(*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 71 to be derived from Sri Lanka as is retained abroad.

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

35. 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 38 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*) that dividend consists of any part of the amount of a dividend received by the first—mentioned resident company from another resident company,

that divided 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 share-holders.

36. 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.

Resident company to deduct tax at five *per centum* on dividends payable to a non-resident company.

37. Every resident company shall deduct from the amount of any dividend which becomes payable to any non-resident company during any year of assessment (in this section referred to as the "relevant dividend").—

(*a*) if the relevant dividend consists of any part of the amount of a dividend received by such resident company from another resident company, not being part of the amount of a dividend exempt from income tax under this Act, income tax equivalent to five *per centum* of the amount of the relevant dividend increased by fifty *per centum* :

(*b*) if the relevant dividend is not a dividend exempt from income tax under this Act, and does not consist of any part of the amount of a dividend received by such resident company from another resident company, income tax equivalent to five *per centum* of the amount of such relevant dividend ; and

(*c*) if the relevant dividend is paid out of the amount of a dividend received by such resident company, being a dividend exempt from income tax under this Act, income tax equivalent to five *per centum* of the amount 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 Republic and shall be recoverable forthwith as such or may be assessed and charged upon such company in addition to any income tax otherwise payable by it.

Resident company entitled to deduct tax of 33⅓ *per centum* from any dividend.

38. (1) Every resident company shall be entitled to deduct from the amount of any dividends payable to any shareholder 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 thirty-three and one-third *per centum* of such amount.

In computing for the purposes of this section 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*) where any such dividend includes the amount of a dividend received by that company from any other resident company, that part of the amount of the dividend so received, and wheher the whole or any part of the amount of the dividend so received is exempt from income tax under this Act.

(3) 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, be increased by fifty per centum and he shall be entitled to deduct from the tax payable by him an amount equal to the said fifty *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.

(4) 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 statment 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.

(5) 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.

Certain undistributed profits to be treated as distributed.

39. (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.

(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—

(*a*) to the total amount of its profits ;

(*b*) to the additional assessments, if any, made on the company ;

(*c*) to the current requirements of the company's business ; and

(*d*) to 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), share or loan capital or debt shall be deemed to be issued or incurred otherwise than for adequate consideration if—

(*a*) it is issued or incurred 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*) it is issued or incurred 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*) of this subsection 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 pursurance 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 minor children, either directly or through nominees.

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

40. 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 section 23 (1) for the purposes of ascertaining the profits and income of that company for that year of assessment.

CHAPTER X

Imposition of Wealth Tax

Charge to wealth tax.

41. Subject to the other provisions of this Chapter, there shall be charged for every year of assessment commencing on or after April 1, 1979, a tax (hereinafter referred to as the "wealth tax") at the appropriate rates specified in the Fourth Schedule to this Act, in respect of the taxable wealth on the first day of the year of assessment of every person.

Persons to whom this Chapter shall not apply.

42. Nothing in this Chapter shall apply to—

(*a*) any public corporation ;

(*b*) any local authority ;

(*c*) any company, other than any non-resident company having immovable property in Sri Lanka ;

(*d*) any individual referred to in paragraphs (*c*), (*d*), (*e*) or (*f*) of section 9, as long as such individual is exempt from income tax under that section ;

(*e*) any body of persons to which section 90 applies ;

(*f*) any institution or trust of a public character established by or under any written law solely for the purposes of scientific research ;

(*g*) any co-operative society registered or deemed to be registered under any law for the time being in force relating to the registration of co-operative societies ;

(*h*) any institution whose primary business is the business of a bank ;

(*i*) the Incorporated Council of Legal Education ;

(*j*) the Widows' and Orphans' Pension Fund of public officers of Sri Lanka established by the Widows' and Orphans' Pension Fund Ordinance ;

(*lc*) the Widows' and Orphans' Pension Fund or Scheme established for the Local Government Service ;

(*l*) the Employees' Provident Fund established by the Employees' Provident Fund Act, No. 15 of 1958 ;

(*m*) the Lady Lochore Loan Fund constituted under the Lady Lochore Loan Fund (Board of Trustees) Act ;

(*n*) the Public Service Mutual Provident Association established by the Public Service Mutual Provident Association Ordinance ;

(*o*) the Ceylon Railway Benefit Association established under the Ceylon Railway Benefit Association Ordinance ;

(*p*) the Government Officers' Benefit Association ;

(*q*) the United Nations Organization ;

(*r*) the World Tourism Organization ;

(*s*) the Government Surveyors' Association incorporated by the Government Surveyors' Association Ordinance;

(**t**) any person who was exempt from wealth tax by Order made under paragraph (*av*) of section 28 of the Inland Revenue Act, No. 4 of 1963; and

(*u*) any other prescribed person, being a person similar in character to any person referred to in the preceding paragraphs of this section.

Definition of wealth.

43. Wealth means movable or immovable property of any kind whatsoever, and includes any property specified in section 44 and does not include any property specified in section 45.

Wealth to include certain property.

44. (1) There shall be included in the wealth of a person—

(*a*) any property, not being property owned by the State, in which he has only a life interest;

(*b*) any motor vehicle of which he is the possessor;

In this paragraph, "possessor" means a person who is in possession of a motor vehicle in pursuance of any agreement (other than a hire purchase agreement) entered into by him in respect of that vehicle;

(*c*) being the only beneficiary under a trust, the property subject to the trust;

(*d*) being one of several beneficiaries under a trust the benefits from which to the beneficiaries can be ascertained from year to year, such part of the property subject to the trust as is proportionate to his share of the benefits from the trust;

(*e*) being the trustee of a trust the benefits from which to all or any of the beneficiaries under the trust cannot be ascertained from year to year, the property subject to the trust;

(*f*) being the trustee of a trust of a public character the property subject to the trust;

(*g*) being a partner in a firm, the value of his interest in the firm determined in the prescribed manner:

Provided that nothing in the preceding provisions of this subsection shall apply to the trustee of, or a person who is entitled to any benefits from a pension or provident fund approved by the Commissioner-General.

(2) Where the estate of a deceased person is administered by an executor, then for the purposes of subsection (1), the executor shall be deemed to be the trustee of the estate and every heir to the whole or any part of the estate shall be deemed to be a beneficiary and the estate shall be deemed to be the property subject to the trust.

Certain property to be excluded from wealth.

45. There shall be excluded for any year of assessment from the wealth of a person—

(*a*) his immovable property which is outside Sri Lanka,

(*b*) being a person not resident in Sri Lanka, or a person ceasing to be resident in Sri Lanka in that year of assessment, his movable property which is outside Sri Lanka ;

(*c*) being a member of a Hindu undivided family, his interest in the coparcenery property of such family ;

(*d*) one motor car kept for his private use of which he is the owner or the possessor within the meaning of section 44 (1) (*b*) so however that, where the wealth if any, of a child is required under section 46 to be aggregated with the wealth of such person such exclusion shall apply only in respect of one such motor car owned either by the parent or by any such child ;

(*e*) any household effects or other articles of personal use (not including jewellery) of which he is the owner ;

(*f*) one house used as a residence by such person so however that, where the wealth, if any, or a child is required under section 46 to be aggregated with the wealth of such person, such exclusion shall apply only in respect of one such house owned either by the parent or by any such child ;

(*g*) any such interest in any property as is available to him for a period not exceeding six years commencing from the date of acquisition of such interest ;

(*h*) the moneys lying to his credit in any such special account as is referred to in paragraph (*d*) of section 10 and the value of any such investments made by him as are referred to in paragraph (*b*) of section 15 ;

(*i*) the rights under any patent, copyright, trade mark, or design registered as belonging to him, unless those rights are held by him as assets of a business, profession or vocation ;

(*j*) his right or interest in any life insurance policy before the moneys payable under that policy become due and payable to him ;

(*k*) his right to receive a pension or other life annuity ;

(*l*) any tools and instruments necessary for him to carry on or exercise his profession or vocation subject to a maximum of fifty thousand rupees in value ;

(*m*) any instruments and other apparatus used by him for purposes of scientific research ;

(*n*) any work of art, archaeological, scientific or art collections, books or manuscripts belonging to him and not intended for sale ;

(*o*) any drawings, paintings, photographs, and prints belonging to him and not intended for sale ;

(*p*) any heirlooms (other than jewellery) belonging to him and not intended for sale ;

(*q*) any jewellery belonging to such person subject to a maximum of fifty thousand rupees in value so however, that where the wealth, if any, of a child is required under section 46 to be aggregated with the wealth of such person, the total exclusion under this paragraph shall be limited to a sum of fifty thousand rupees ;

(*r*) the amount to his credit in any provident fund approved by the Commissioner-General ;

(*s*) any property of which he is the owner but the life interest in which subsists in any other person ;

(*t*) any house which is certified by the Commissioner for National Housing under section 12 of this Act or under section 90A of the National Housing Act as having been completed on or after October 1, 1966 and as having a floor area not exceeding five hundred square feet, such year of assessment being the year of assessment in which the house was completed or any of the six immediately succeeding years of assessment ;

(*u*) being a charitable institution, any such property thereof as is property the income from which, or the annual value of which, is exempt from income tax ;

(*v*) such year of assessment being an year of assessment in which he was non-resident in Sri Lanka or being any one of the three immediately succeeding years of assessment, the moneys lying to the credit of such person in foreign currency in any such account as is referred to in paragraph (*e*) of section 10.

Aggregation of the wealth of a child with that of his parent.

46. The wealth for an year of assessment of a child of a resident individual shall be aggregated with and deemed to form part of the wealth of—

(*a*) his father, if the marriage of his parent 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 parent does not subsist in that year of assessment.

Net wealth.

47. (1) "Net wealth" means the amount by which the aggregate value, computed in accordance with the provisions of this Chapter, of the wealth on the first day of any year of assessment of a person is in excess of the aggregate value of all the debts owed by him on that day other than—

(*a*) any debt incurred without consideration, or without full consideration in money or money's worth ;

(*b*) any debt incurred which is not wholly for his own benefit ;

(*c*) any debt in respect of which there is a right to reimbursement from any other person, unless such reimbursement cannot be obtained ;

(*d*) any debt charged or secured on, or incurred in relation to, any property of his which is excluded from his wealth under this Chapter, unless the amount obtained by incurring such debt has been utlized by him in the purchase, improvement or maintenance of any property which is included in his wealth ; and

(*e*) any debt incurred by him outside Sri Lanka other than any such debt which is contracted to be paid in Sri Lanka or which is charged or secured on property in Sri Lanka,

and account being taken not more than once of the same debt charged upon different portions of the property.

(2) Where the wealth of a child for any year of assessment is aggregated with, and deemed to form part of, the wealth of his parent, any deductions from wealth to which such child is entitled under subsection (1) shall be deducted from the wealth of such parent.

Taxable wealth.

48. (1) Where the net wealth of any person other than a non-resident company, for any year of assessment exceeds two hundred thousand rupees, such part of his net wealth as exceeds two hundred thousand rupees, shall be his taxable wealth for that year of assessment and such person shall be liable to wealth tax in respect of such taxable wealth.

(2) Notwithstanding anything in the preceding provisions, the taxable wealth for any year of assessment of a non-resident company having immovable property in Sri Lanka shall be an amount equal to five times such portion of its taxable income for the year of assessment as is attributable to the profits and income derived from its immovable property in Sri Lanka, and such company shall be liable to wealth tax in respect of such taxable wealth.

Value of property which constitutes wealth.

49. (1) The value of any immovable property for any year of assessment shall be its market value on the first day of that year of assessment.

(2) The value of any movable property, other than cash, which constitutes wealth shall be computed in accordance with the following provisions :—

(*a*) the value of any movable property for any year of assessment shall be its market value on the first day of that year of assessment ;

(*b*) where the movable property consists of shares (not being preference shares) in any company which by its articles restricts the right to transfer its shares, or which is a company in which more than half of the total shares issued is held by not more than five persons, their wives or minor children, either directly or through nominees, and the Commissioner-General is satisfied that the shares have not, at any time during the year of assessment, been quoted in the official list of a recognized stock exchange or in a list of a like nature issued in Sri Lanka by any association of brokers approved by the Secretary to the Treasury for the purpose of this paragraph, the value of such share shall, if

the Commissioner-General so directs be ascertained not in the manner provided by the preceding provisions of this subsection but by reference to the market value of all the assets of the company as a going concern, including goodwill, on the first day of the year of assessment after deducting therefrom—

(i) the par or redemption value, whichever is the greater, of any debentures, debenture stock and preference shares of the company;

(ii) all debts of the company incurred or created bona fide for consideration in money or money's worth;

(iii) such sum as on a just and fair computation represents any future or contingent liabilities of the company or any liabilities thereof which are uncertain in amount; and

(iv) the amount of any reserve fund separately invested which is bona fide intended to be applied in payment of pensions to employees or otherwise used for the benefit of them or their dependants or relatives, and in no other manner.

(3) The value of any property which is subject to a life interest shall be determined as if such life interest did not subsist.

(4) Where any person is carrying on a business in respect of which accounts are maintained by him regularly, the Commissioner-General may, instead of determining separately the value of each property held by such person in such business and goodwill, determine the net value as a whole of the properties held by such person in such business and goodwill.

(5) Where the value of any property is, according to the preceding provisions of this section, an amout equal to its market value, then, if such market value cannot be ascertained because such property is not saleable in the open market, the value of such property shall be determined in the prescribed manner.

Wealth tax payable not to exceed a certain amount.

50. The wealth tax payable by any person for any year of assessment shall not exceed eighty *per centum* of the aggregate of the assessable income of that person for that year of assessment and of any profits and income (other than the net annual value of a residence and any subsidy exempt from income tax under this Act), being profits and income exempt from income tax under this Act or under any other enactment, and which, but for that exemption, would have been taken into account in computing the assessable income of that person for that year of assessment.

CHAPTER XI

IMPOSITION OF THE GIFTS TAX

Charge of the gifts tax.

51. Subject to the other provisions of this Chapter, there shall be charged from every individual, other than an individual referred to in section 42, and from every company for any year of assessment commencing on or after April 1, 1979, a tax which is hereafter in this Act referred to as the "gifts tax" in respect of the taxable gifts made by such individual or company at the appropriate rates specified in the Fifth Schedule to this Act.

Meaning of gift.

52. For the purposes of this Act, "gift" means a transfer by one person to another of any existing movable or immovable property made voluntarily and without consideration in money or money's worth and includes the transfer of any property deemed to be a gift under section 53.

Gifts to include certain transfers.

53. For the purposes of this Chapter—

(*a*) where any property is transferred and an Assessor, having regard to the circumstances of the case, is of the opinion that the transfer is for a consideration which is not adequate, and the parties to the transfer, upon being requested in writing by the Assessor to show cause against such opinion within the time specified in the request do not show cause within that time or do not show such cause as is considered by the Assessor to be sufficient, the amount by which the market value of that property at the date of the transfer exceeds the value of the consideration shall be deemed to be a gift made by the transfer or to the transferee;

(*b*) where any property is transferred and an Assessor, having regard to the circumstances of the case, is of the opinion that the consideration for the transfer has not passed or is not intended to pass either in full or in part from the transferee to the transferor and the parties to the transfer upon being requested in writing by the Assessor to show cause against such opinion within the time specified in the request, do not show cause within that time or do not show such cause as is considered by the Assessor to be sufficient, the amount of the consideration which, in the opinion of the Assessor, has not passed or is not intended to pass shall be deemed to be a gift made by the transferor ;

(*c*) where a person absolutely entitled to any property causes or has caused that property to be vested in whatever manner in himself and any other person jointly without adequate consideration and such other person makes an appropriation, from or out of that property, the amount of the appropriation used for the benefit of any person other than the vestor shall be deemed to be a gift made to the person making the appropriation by the vestor ;

(*d*) where there is a release, discharge, surrender or abandonment of any debt (other than a debt which is treated as a bad debt and is allowed as a deduction for the purposes of ascertaining profits or income under this Act) or contract or any interest in any property by any person, the value of the release, discharge, surrender or abandonment shall be deemed to be a gift made by him ;

(*e*) the gift of any property subject to a reservation in favour of the donor or any other person shall be deemed to take effect when it is made and not when the interest created by the reservation is extinguished.

Gifts not to include certain transfers.

54. (1) This Chapter shall not apply to any gifts made by any individual—

(*a*) of immovable property situated outside Sri Lanka ;

(*b*) of movable property situated outside Sri Lanka unless he is a citizen of Sri Lanka and is resident in Sri Lanka during the year of assessment in which the gifts are made ;

(c) to any child, whether such child is over or under eighteen years of age, of such individual in consideration of the marriage of such child subject to a maximum of twenty-five thousand rupees in value ;

(d) to a charity which is an approved charity within the meaning of section 31 (9) of this Act or section 16A of the Inland Revenue Act, No. 4 of 1963, each such gift being over one thousand rupees in value, subject to a maximum of three hundred thousand rupees in value for the lifetime of such individual in respect of gifts made on or after July 18, 1958 ;

(e) to the Government or to any local authority ;

(f) in a year of assessment the value of which, or if more than one gift is made in that year, the aggregate value of such gifts, does not exceed two thousand rupees in value ;

(g) by a will ; or

(h) in contemplation of death.

(2) This Chapter shall not apply to any gifts made by any company to the Government or to any local authority or to a charity which is an approved charity within the meaning of section 31 (9) of this Act or section 16A of the Inland Revenue Act, No. 4 of 1963.

(3) For the purposes of subsection (1), a property shall be deemed to be gifted by any individual in contemplation of his death if he, being ill and expecting to die of his illness, gives to any person possession of that property which is to be a gift to that person in case the donor dies of his illness, the gift being revocable by the donor and being inoperative in the event of the donor's recovery from his illness or his surviving that person.

Taxable gifts and the computation of the gifts tax payable.

55. (1) The gifts of an individual or a company other than the gifts specified in subsection (1) or subsection (2) of section 54 shall be the taxable gifts of such individual or company, as the case may be, and such individual or company shall, subject to the provisions of section 137, be liable to gifts tax in respect of such taxable gifts.

(2) The gifts tax payable by an individual for any year of assessment in respect of his taxable gifts shall be the excess of—

(*a*) the amount computed at the appropriate rates of gifts tax specified in the Fifth Schedule to this Act on the aggregate of the values of all taxable gifts within the meaning of this Act, or of the Inland Revenue Act, No. 4 of 1963, or of the Personal Tax Act, No. 14 of 1959, made by such person on or after 18th July, 1958, but before the end of that year of assessment,

over

(*b*) the aggregate amount of the sums paid by him for any previous year of assessment, whether by way of gifts tax under this Act or under the Inland Revenue Act, No. 4 of 1963, or by way of contribution in respect of taxable gifts to the Personal Tax, levied under the Personal Tax Act, No. 14 of 1959.

(3) In the computation of the gifts tax payable by any individual for any year of assessment the rate or rates of gifts tax which shall be applicable in respect of the gifts made in that year of assessment shall be the rate or rates which would have been applicable if these gifts and the taxable gifts made previously by that individual had been aggregated for that year of assessment.

(4) The gifts tax payable by a company for any year of assessment in respect of the taxable gifts of the company shall be an amount calculated on such taxable gifts at the rate applicable to a company specified in the Fifth Schedule to this Act.

Determination of value of gifts.

56. (1) The value of any property (other than cash) which constitutes a gift shall, subject as hereinafter provided, be the market value of such property on the date on which the gift was made.

(2) Where the gift made in any year of assessment consists of shares to which section 49 (2) (*b*) applies, the value of such shares shall be their value on April 1, of that year of assessment determined in accordance with the provisions of that section.

(3) Any property which constitues a gift and which is subject to any reservation in favour of the donor or any other person shall be valued as if that property had passed to the donee without that reservation.

(4) Where the value of any property (other than property to which subsection (2) applies) cannot be ascertained under subsection (1) because it is not saleable in the open market, its value shall be determined in the prescribed manner.

Deduction of stamp duty from gifts tax payable.

57. Where stamp duty has been paid in respect of an instrument by which an individual has made a taxable gift, the amount of such stamp duty shall be deducted, to the extent that it can be deducted, from the amount of the gifts tax payable in respect of such taxable gift.

Donee liable to pay gifts tax in certain circumstances

58. The individual chargeable with gifts tax in respect of taxable gifts shall be the donor but the donee shall be liable to gifts tax in like manner and to the like amount as the donor—

(*a*) if the donor dies and he does not leave any property in Sri Lanka or the property he leaves in Sri Lanka is in the opinion of the Assessor not sufficient to permit the recovery of the gifts tax ; or

(*b*) if the donor ceases to be resident in Sri Lanka or the property he has in Sri Lanka is in the opinion of the Assessor not sufficient to permit the recovery of the gifts tax ; or

(*c*) if the Assessor having regard to the circumstances of the case is of the opinion that it is not practical to make an assessment on the donor :

Provided that the liability of the donee shall be limited to a sum which bears to the value as at the date of the gift of the property constituting the gift to such donee the same proportion as the amount of the gifts tax which would have been payable by the donor for the year of assessment in which such gift was made bears to the value of the taxable gifts of the donor for that year of assessment.

CHAPTER XII

SPECIAL CASES

A—Children

Assessment of child's income and wealth.

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

(*a*) the total statutory income of that individual shall not be aggregated with and deemed to form part of the total statutory income of his parent ;

(*b*) any sum which could be deducted from the total statutory income of that individual under section 29 shall not be deducted from the total statutory income of his parent ;

(*c*) any qualifing payment within the meaning of section 31 made by that individual shall not be deemed to be a qualifying payment made by his parent ;

(*d*) the wealth of the child shall not be aggregated with, and deemed to form part of, the wealth of his parent ; and

(*e*) any deduction from wealth to which such child is entitled under section 47 shall not be deducted from the wealth of his parent,

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

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

(*a*) the total statutory income of that child for that year of assessment shall be aggregated with and deemed to be a part of the total statutory income of his father ;

(*b*) any sum which could be deducted for that year of assessment from the total statutory income of that child under section 29 shall be deducted from the total statutory income of his father ;

(*c*) any qualifying payment within the meaning of section 31 made by that child in that year of assessment shall be deemed to be a qualifying payment made by his father ;

(*d*) the wealth of such child for such year of assessment shall be aggregated with, and deemed to form part of, the wealth of his father ; and

(*e*) any deduction from wealth to which such child is entitled under section 47, for such year of assessment shall be deducted from the wealth of his father.

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

B. Receivers, Trustees, Executors, &c.

Returns to be furnished by receivers and trustees and their liability to tax.

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

(*a*) in the case of a receiver—

(i) a return for the purposes of income tax, of the income from the properties under his control,

(ii) a return for the purposes of wealth tax, of such properties and, where any properties have been distributed by him among any persons, a description of the properties distributed and the names and addresses of those persons;

(*b*) in the case of a trustee—

(i) a return for the purposes of income tax, of the income from the properties subject to the trust;

(ii) a return for the purposes of wealth tax, of such properties and the names and addresses of the beneficiaries under the trust and the benefits to which they are entitled under the trust,

and a receiver or trustee shall be chargeable with income tax or wealth tax—

(i) in the case of a receiver, on the income or wealth of the properties subject to his control, and

(ii) in the case of a trustee, subject to the provisions of subsection (2) of this section and subsection (1) of section 44, on the income or wealth of the properties of the trust.

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

(3) Where, for any year of assessment, the entirety or any part of the income of a trust is considered under subsection (2) to be the income of a beneficiary or the entirety or any part of a property subject to a trust is, under the provisions of paragraph (*c*) or paragraph (*d*) of subsection (1) of section 44, included in the wealth of a beneficiary under the trust, the trustee shall, on or before the thirtieth day respectively of July, October and January of that year of assessment and on or before the thirtieth day of April of the immediately succeeding year of assessment, give to that beneficiary in such form as may be specified by the Commissioner-General a notice stating the amount of such income or wealth.

(4) The income tax and wealth tax with which a receiver or a trustee is chargeable for any year of assessment shall be paid by him in accordance with the provisions of section 97, notwithstanding that no assessment has been made on him.

Chargeability to tax of trustee of an incapacitated person.

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

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

Liability of executor to tax payable by deceased person.

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

Provided that—

(i) no proceedings shall be instituted against the executor under the provisions of Chapter XXIV of this Act in respect of any act or default of the deceased person ;

(ii) no assessment or additional assessment in respect of a period prior to the date of such person's death shall be made after the expiry of the third year of assessment subsequent to the year of assessment in which probate or letters of administration, as the case may be, was or were issued to the executor in respect of the estate of such person, except where there has been non-assessment or under-assessment by reason of fraud or wilful evasion by such person, or by reason of an incorrect statement by the executor of his estate, in which case an assessment or additional assessment may be made at any time after the expiry of the aforesaid third year of assessment ; and

(iii) the liability of an executor under this section shall be limited to the aggregate of—

(*a*) the deceased person's estate in his possession or control at the date when notice is given to him that liability to tax will arise under this section, and

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

Return to be furnished by executors and chargeability of executors and beneficiaries.

63. (1) An Assessor may give notice in writing to the executor of a deceased person requiring him to furnish within the period specified in such notice—

(*a*) a return for the purposes of income tax of the income from the estate administered by him and the name and address of each heir and other person having any interest in the estate of the deceased person (such heir or other person hereinafter referred to as a "beneficiary") and his interest in such estate ;

(*b*) a return for the purposes of wealth tax, of the assets and liabilities of the estate administered by him and the names and addresses of the beneficiaries of, and their interest in, such estate.

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

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

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

(5) The income tax and wealth tax with which an executor is chargeable under this Act for any year of assessment shall be paid by him in accordance with the provisions of section 97, notwithstanding that no assessment has been made on him.

Joint trustees and executors.

64. Where two or more persons act in the capacity of trustees of a trust or executors of a deceased person's estate, they may be charged jointly or severally with the income tax, wealth tax or gifts tax with which they are chargeable in that capacity under this Act, and shall be jointly and severally liable for payment of such taxes.

C—Partnerships

Assessment of partnership income.

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

(2) The divisible profit or loss of a partnership for any year of assessment shall be the profits or losses of the partnership from any trade, business, profession or vocation carried on or exercised by such partnership during that year of assessment, ascertained in accordance with the provisions of this Act relating to the ascertainment of profits and income of a person, after deducting from the total of

such profits or adding to the total of such losses, as the case may be, the amount of any interest, annuity, ground rent or royalty (except where it is payable by a person out of Sri Lanka to another person out of Sri Lanka, payable by the partnership :

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

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

(*a*) the profits or losses of the partnership from any trade, business, profession or vocation carried on or exercised by such partnership during any year of assessment ascertained in accordance with the provisions of this Act relating to the ascertainment of profits and income of a person, and showing also any interest, annuity, groundrent or royalty payable by such partnership in respect of such trade, business, profession or vocation for that year of assessment ;

(*b*) any other income of the partnership for that year of assessment ; and

(*c*) the names and addresses of all the partners and the apportionment among them of the whole of the divisible profit or loss and other income in accordence with their shares in the partnership during the period in which such profit or loss or income arose, taking into account in such apportionment any salaries and other remuneration of partners and any interest on partners' capital.

Where no active partner is resident in Sri Lanka, the return shall be furnished by the agent in Sri Lanka of the partnership.

(4) The precedent partner of a partnership, or where no active parntner is resident in Sri Lanka, the agent in Sri Lanka of the partnership shall, in respect of any year of assessment, issue to each partner of that partnership on or before the thirtieth of July, October and January of that year of assessment and the thirtieth of September immediately succeeding that year of assessment, a notice in such form as may be specified by the Commissioner-General specifying that partner's share of the divisible profit or loss and

other income of the partnership for that year of assessment, taking into account any salary and other remuneration of that partner and any interest on that partner's capital :

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

(5) The statutory income of any partner from a partnership shall be computed in accordance with the provisions of section 25 by treating his share of the divisible profit of the partnership as though it were the profits of a trade, business, profession or vocation carried on or exercised by him and his share of other income as though it accrued to him solely and the share of any partner of a divisible loss shall be treated as a loss incurred by him within the meaning of section 29 :

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

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

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

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

66. (1) Where no return has been made in accordance with subsection (3) of section 65 or the return has not been accepted by the Assessor, either as regards the amount of the profits or income or the apportionment thereof among the partners, it shall be lawful for an assessment to be made in the name of the partnership on the estimated amount of the profits and income of the partnership ascertained, in

accordance with the provisions of this Act relating to the ascertainment of the assessable income of a person, and income tax thereon shall be charged at such rate or rates as may be specified in that behalf in the Third Schedule to this Act, and shall be recoverable out of the assets of the partnership, or from any partner, or from any agent of the partnership. Any person aggrieved by such assessment may appeal therefrom in the manner provided in Chapter XVIII. The Commissioner-General or the Board of Review, as the case may be, may upon such appeal determine the divisible profits and other income of the partnership and apportion the same among the partners and compute the statutory income of each of the partners from the partnership in accordance with subsection (5) of section 65 and the income tax payable in respect thereof. Such income tax may be recovered as tax on the assessment appealed against without any new assessment.

(2) Where after an assessment has been made in the name of a partnership under subsection (1), a change occurs in such partnership by reason of the retirement or death of, or the dissolution of the partnership in relation to, one or more of the partners, or the admission of a new partner, so however, that one or more of the persons who were joint owners of the assets of such partnership prior to such assessment continues or continued to be owner or joint owners of such assets, the person or partnership becoming owner of such assets, in consequence of such change shall be charged with the income tax or any part of it which remains unpaid on that assessment and the provisions of Chapter XXI shall apply to such persons or partnership accordingly.

D—Residence

What constitutes residence.

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

(2) An individual who arrives in Sri Lanka and who is in Sri Lanka for a period or periods amounting in the aggregate to more than six months during the year commencing from the date of his arrival shall, if he is in Sri Lanka at the end of that year, be deemed resident throughout that year, but if he is not in Sri Lanka at the end of that year, he shall be deemed resident from the date of his arrival to the date of his last departure during that year, and,

subject to the provisions of the succeeding subsections, non-resident from the date of such last departure to the end of that year.

(3) An individual who has been deemed resident throughout a period of twenty-four consecutive months under the provisions of this section or under section 54 of the Inland Revenue Act, No. 4 of 1963, shall be deemed to be resident until such time as he is continuously absent from Sri Lanka for an unbroken period of twelve months. When such person is so absent, he shall be deemed to be non-resident as from the date on which such absence commenced.

(4) Where an individual is deemed resident for any period in accordance with the provisions of any of the foregoing subsections, and at the end of such period is absent from Sri Lanka for less than three months, such period of absence shall for all the purposes of this section be treated as if it had been spent by him in Sri Lanka.

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

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

(6) An individual who is employed in a Ceylon ship, within the meaning of the Merchant Shipping Act, No. 52 of 1971, shall, for the purposes of this Act, be deemed to be resident in Sri Lanka during the period he is so employed :

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

E—Liability of Non-Resident Persons

Persons assessable on behalf of a non-resident person.

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

Liability of certain non resident persons.

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

(*a*) a person is closely connected with another person where the Commissioner-General is satisfied that such persons are substantially identical or that the ultimate controlling interest of each is owned or deemed under this section to be owned by the same person or persons;

(*b*) the controlling interest of a company shall be deemed to be owned by the beneficial owners of its shares, whether held directly or through nominees, and shares in one company held by or on behalf of another company shall be deemed to be held by the shareholders of the last-mentioned company.

(2) Where a non-resident person carries on business with a resident person with whom he is closely connected and the course of such business is so arranged that it produces to the resident person either no profits or less than the ordinary profits which might be expected to arise from such business, the business done by the non-resident person in pursuance of his connection with the resident person shall be deemed to be carried on in Sri Lanka, and such non-resident person shall be assessable and chargeable with income tax in respect of his profits from such business in the name of the resident person as if the resident person were his agent, and all the provisions of this Act shall apply accordingly.

(3) Where income tax is chargeable in respect of the profits arising from the sale of goods or produce manufactured or produced outside Sri Lanka by a non-resident person or by a person or persons with whom he is closely connected, the profits of such non-resident person for the purposes of this Act from the sale of such goods or produce

shall be deemed to be not less than the profits which might reasonably be expected to have been made by a merchant, or, where the goods or produce are retailed by or on behalf of the non-resident person, by a retailer of the goods or produce sold, who had bought the same direct from a manufacturer or producer with whom he was not connected.

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

Profits of certain businesses to be computed on a percentage of the turnover.

70. Where the Commissioner-General is of the opinion that the correct amount of the profits of a non-resident person arising in or derived from Sri Lanka in respect of a trade or business cannot be readily ascertained, the Commissioner-General may direct an Assesser to compute such profits on a fair percentage of the turnover of that trade or business in Sri Lanka :

Provided that such percentage may be questioned in an appeal against an assessment in accordance with the provisions of Chapter XVIII.

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

71. Where a non-resident person carries on in Sri Lanka any agricultural, manufacturing, or other productive undertaking, and sells any product of such undertaking outside Sri Lanka or for delivery outside Sri Lanka, whether the contract is made within or without Sri Lanka, the full profit arising from the sale in a wholesale market shall be deemed to be income arising in or derived from Sri Lanka within the meaning of section 2.

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

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

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

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

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

73. (1) Where the assessable income for any year of assessment of an individual not resident in Sri Lanka consists solely of profits or income from services rendered in Sri Lanka or from business transacted in Sri Lanka and does not exceed one thousand rupees, such profits or income shall not be taxable.

(2) Subject to the provisions of subsection (4), where a non-resident person receives any sum by way of dividend from a non-resident company or by way of interest, annuity, ground rent, or royalty which has been disallowed or excepted under the proviso to section 29 (2) (*a*) or under section 65 (2), such sum shall not be regarded as income of such non-resident person arising in or derived from Sri Lanka, and he shall not be chargeable with income tax or entitled to any repayment of tax in respect thereof.

(3) Subject to the provisions of subsection (4), any sum received by a non-resident person as the profits or income of that person arising from any Treasury Bill issued under the Local Treasury Bills Ordinance shall be exempt from income tax.

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

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

F—Shipping and Operation of Aircraft

Profits of non resident ship owners or charterers.

74. (1) Where a non-resident person carries on the business of ship-owner or charterer and any ship owned or chartered by him calls at a port in Sri Lanka, an amount equal to six *per centum* of the entire sum receivable on account of the carrying of passengers, mails, livestock and

goods shipped in Sri Lanka (other than goods brought to Sri Lanka solely for trans-shipment) shall, notwithstanding anything to the contrary in any other provisions of this Act, be deemed to be his full profits arising from the carriage of such passengers, mails, livestock or goods and such profits shall be deemed to arise in Sri Lanka.

(2) Where the call of a ship owned or chartered by a non-resident person at a port in Sri Lanka is casual and further calls by that ship or others owned or chartered by that person are unlikely, the provisions of this section shall not apply to the profits of such ship and no income tax shall be charged thereon.

Master of ship to be an agent.

75. The master of any ship owned or chartered by a non-resident person who is chargeable under the provisions of section 74 shall (though not to the exclusion of any other agent) be deemed to be the agent of such non-resident person for all the purposes of this Act.

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

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

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

Profits of non-resident owners or charterers of aircraft.

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

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

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

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

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

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

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

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

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

Applications of sections 74 (2), 75 and 76, to profits of non-resident owners or charterers of aircraft.

78. (1) The provisions of subsection (2) of section 74 and of section 75 and 76 shall apply to every non-resident person who carries on business as the owner or charterer of aircraft in like manner as they apply in the case of a non-resident person who carries on the business of ship owner or charterer.

(2) In the application of the provisions of sections 74 (2), 75 and 76 to any non-resident person who carries on business as owner or charterer of aircraft—

(*a*) "ship" shall be deemed to include aircraft, and "shipowner" shall be construed accordingly ;

(*b*) "port" shall be deemed to include a customs aerodrome ;

(*c*) any reference to the master of a ship shall be deemed to include a reference to the person having for the time being control or charge of an aircraft ;

(*d*) any reference to the granting of clearance to any ship shall be deemed to include reference to the doing of any act which, under the provisions of any written law, is required or authorized to be done in relation to an aircraft in lieu of the granting of a certificate of clearance under section 63 of the Customs Ordinance, and any reference to the refusal of clearance shall be construed accordingly ;

(*e*) "harbour dues and charges" shall be deemed to include any charges payable to the Government of Sri Lanka or to any person on account of the landing, stay or housing at a customs aerodrome of any aircraft arriving in or departing from Sri Lanka.

G—Insurance

Ascertainment of profits of insurance companies.

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

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

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

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

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

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

(3) Where the Commissioner-General is satisfied that by reason of the limited extent of the business transacted in Sri Lanka by a non-resident insurance company it would be unreasonable to require the company to furnish the particulars necessary for the application of subsections (1) and (2) he may, notwithstanding the provisions of those

subsections, permit the profits of the company to be ascertained by reference to such proportion of the total profits and income of the company as is equal to the proportion which its premiums from insurance business in Sri Lanka bears to its total premiums, or on any other basis which appears to him to be equitable in all the circumstances of the case.

(4) In this section the expression " investment income of the Life Insurance Fund " means—

(*a*) in the case of a company whose sole business is life insurance, the whole of its income from investment ; and

(*b*) in the case of any other company, such part of its income from investment as is fairly attributable to its life insurance business,

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

(5) Where a dividend is paid by any resident company to any company carrying on the business of life insurance and either—

(*a*) a deduction has been made under section 38 (1) in respect of the dividend ; or

(*b*) that dividend consists of any part of the amount of a dividend received by such resident company from another resident company,

that dividend shall not form part of the investment income of the Life Insurance Fund of the company carrying on the business of life insurance.

Ascertainment of profits of the Insurance Corporation of Ceylon from the business of life insurance.

80. (1) For the purposes of section 8(c) the profits of the Insurance Corporation of Ceylon from the business of life insurance shall be the investment income of the Life Insurance Fund of that Corporation less the management expenses (including commission) attributable to that business.

(2) In this section the expression " investment income of the Life Insurance Fund " means such part of the income of the Insurance Corporation of Ceylon from investments as is fairly attributable to the life insurance business of such Corporation, other than the amount of any dividend referred to in subsection (3).

(3) Where a dividend is paid by any resident company to the Insurance Corporation of Ceylon and either—

(*a*) a deduction has been made under section 38 (1) in respect of that dividend by such resident company; or

(*b*) that dividend consists of any part of the amount of a dividend received by such resident company from another resident company,

that dividend shall not form part of the investment income of the Life Insurance Fund of the Insurance Corporation of Ceylon.

H—Deductions of Income Tax From Interest, &c. Payable to Persons Outside Sri Lanka

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

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

(*a*) interest on debentures, mortgages, loans, deposits or advances ; or

(*b*) rent, ground rent, royalty, or annuity which is payable either in respect of property in Sri Lanka or out of income arising in Sri Lanka,

whether such sum is due from him or from another person, or from a partnership, he shall be entitled, notwithstanding any agreement to the contrary, to deduct income tax at the appropriate rate specified in the Sixth Schedule to this Act on such sum, and the amount of tax so deductible shall be a debt due from such person to the Republic and shall be recoverable forthwith or may be assessed and charged upon such person in addition to any income tax otherwise payable by him under this Act :

Provided that—

(*a*) the Commissioner-General may, having regard to the total tax payable under this Act by any person or partnership out of Sri Lanka, by notice in writing, require any person in Sri Lanka to deduct for any year of assessment, from any sums to be paid or credited by such person to the person or partnership out of Sri Lanka, income tax on such sums at a rate other than the appropriate rate specified in the Sixth Schedule to this Act and the tax so deductible shall be recoverable and chargeable as aforesaid ; and

(*b*) the preceding provisions of this subsection shall not apply to any interest paid out of income not arising in Sri Lanka, or to interest on any loan or advance made by a banker.

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

(*a*) the gross amount of such payment or credit;

(*b*) the rate and amount of the tax so deducted;

(*c*) the net amount actually paid or credited.

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

I.—Relief in Cases of Double Taxation

Effect of agreements for double taxation relief.

82. (1) (*a*) Where Parliament by resolution approves any agreement entered into between the Government of Sri Lanka and the Government of any other territory, for the purpose of affording relief from double taxation in relation to income tax and wealth tax under Sri Lanka law and any taxes of a similar character imposed by the laws of that territory, the agreement shall, notwithstanding anything in any other written law, have the force of law in Sri Lanka in so far as it provides for—

(i) relief from income tax or wealth tax; or

(ii) charging the profits or income arising from sources in Sri Lanka to persons not resident in Sri Lanka, or determining the profits or income to be attributed to such persons and their agencies, branches or establishments in Sri Lanka; or

(iii) determining the profits or income to be attributed to persons resident in Sri Lanka who have special relationships with persons not so resident.

(*b*) Every agreement which is approved by a resolution under paragraph (*a*) shall be published in the Gazette together with a notice that it has been so approved.

(*c*) In any case where any agreement referred to in paragraph (*a*) provides that tax payable under the laws of any territory outside Sri Lanka, shall be allowed as a credit against any tax payable in Sri Lanka, the credit to be granted in respect of any Sri Lanka tax upon profits or income arising from any source shall not exceed the amount of the Sri Lanka tax payable in respect of such profits or income.

(2) (*a*) For the purposes of this section and section 83—

(i) "income" shall be calculated as far as may be in accordance with the provisions of this Act relating to the ascertainment of assessable income, but shall not include any sum payable out of such income by way of interest, annuity, ground rent or royalty ;

(ii) "Sri Lanka tax" means the amount of income tax payable under this Act, before deducting any reliefs under this section and section 83, but does not include tax on any sum payable by way of interest, annuity, ground rent, or royalty out of the income in respect of which the tax is charged.

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

(3) Every agreement entered into between the Government of Sri Lanka and the Government of any other territory and having, on the day immediately preceding the date of commencement of this Act, the force of law in Sri Lanka by virtue of the provisions of section 70 of the Inland Revenue Act, No. 4 of 1963, shall be deemed for all purposes to be an agreement approved by Parliament by resolution under subsection (1) of this section.

Relief in respect of Commonwealth income tax.

83. (1) The succeeding provisions of this section shall not apply to any person who is a resident of a country with which arrangements for the avoidance of double taxation are or had been made under the provisions of subsection (1) of section 82 of this Act or of subsection (1) of section 70 of the Inland Revenue Act, No. 4 of 1963, or the provisions of the Double Taxation (Relief) Act.

(2) Where any person proves to the satisfaction of the Commissioner-General that he has paid, or is liable to pay by deduction or otherwise, both Sri Lanka tax for any year of assessment and Commonwealth tax for the corresponding year on his income from any source, he shall be entitled to relief from Sri Lanka tax, of an amount equal to one-half of the Sri Lanka tax or Commonwealth tax paid or payable in respect of his income from that source, whichever is lower :

Provided that the relief granted under this subsection shall not exceed one-half of the Sri Lanka tax after deducting therefrom any relief given under the provisions of section 82.

(3) For the purposes of this section—

(*a*) "Commonwealth tax" means any income tax and super tax charged under any law in force in any territory which is a member of the Commonwealth of Nations where the legislature of that territory has provided for relief in respect of tax charged on income both in that territory and in Sri Lanka which appears to the Commissioner-General to correspond to the relief granted by this section, and the amount of Commonwealth tax shall be the amount of such tax before deducting such first-mentioned relief ;

(*b*) the Sri Lanka tax paid or payable in respect of income from any source shall be ascertained by applying the Sri Lanka rate of tax to the income assessed from that source, after deducting any sum payable therefrom by way of interest, annuity, ground rent, or royalty ; and Commonwealth tax paid or payable in respect of income from any source shall be ascertained as far as may be in a corresponding manner ;

(*c*) a certificate issued by or on behalf of the authority administering a Commonwealth tax shall be receivable in evidence to show the amount of Commonwealth tax paid or payable in respect of income from any source ;

(*d*) "corresponding year", in relation to a year of assessment under this Act, means the year for the purposes of Commonwealth tax, which in the opinion of the Commissioner-General corresponds to such year of assessment.

Relief in respect of Sri Lanka wealth tax.

84. (1) Where any person proves to the satisfaction of the Commissioner-General that, in respect of his wealth consisting of property in another country he has paid or is likely to pay for any year of assessment Sri Lanka wealth tax and wealth tax for the corresponding year of assessment in such other country being a country with which arrangements for granting relief from double taxation have not been made under section 82, then he shall be entitled to relief from the wealth tax payable by him in Sri Lanka in respect of such wealth, of an amount equal to the wealth tax payable in respect of such wealth in Sri Lanka or in such other country, whichever is lower.

(2) For the purposes of subsection (1), the wealth tax payable by any person in Sri Lanka or in another country in respect of wealth consisting of property in such other country shall be computed at a rate equivalent of the quotient obtained by dividing the amount of the wealth tax payable in respect of all his taxable wealth by the value of all his taxable wealth.

J.—Relief in Respect of Certain Profits and Income of Companies Related to Tourism

Relief from income tax in respect of certain profits and income of companies related to tourist hotels.

85. Where a company carries on an undertaking which is referred to in paragraph (v) or paragraph (vi) of subsection (1) of sectin 6 of the Inland Revenue Act, No. 4 of 1963, and which has been approved thereunder by the Minister prior to April 1, 1976, such company shall in respect of its profits and income from that undertaking for the period of fifteen years immediately succeeding the period of five years for which the profits and income of that undertaking are exempt from income tax under the aforesaid provisions, be entitled to a deduction from the income tax payable by that company of a sum equal to fifty *per centum* of the specified sum.

For the purposes of this section, the specified sum shall—

(*a*) in the case of a resident company, be a sum which bears to the income tax payable by that company for any year of assessment under paragraph (*a*) of subsection (1) of section 33 after the deduction of any relief granted under section 82 or section 83, the same proportion as the profits and income of that undertaking bears to the profits and income of that company for that year of assessment, and

(*b*) in the case of a non-resident company, be a sum which bears to the income tax payable by that company for any year of assessment under paragraph (*a*) of subsection (1) of section 34 (including such part of that tax as is computed under that section at the additional rate of 5 *per centum*) after the deduction of any relief granted under section 82 or section 83, the same proportion as the profits and income of that undertaking bears to the profits and income of that company for that year of assessment.

K.—Reduction of the Wealth Tax in Certain Circumstances

Reduction of wealth tax when the total of income tax and wealth tax exceeds certain limits.

86. Where the aggregate of—

(*a*) the wealth tax to which a person is liable for any year of assessment commencing on or after April 1, 1979, and

(*b*) the income tax to which such person is liable for that year of assessment,

exceeds eighty *per centum* of the aggregate of the assessable income of that person for that year of assessment and of any profits and income (other than the net annual value of a residence and any subsidy exempt from income tax under this Act), being profits and income exempt from income tax under this Act or under any other enactment, and which but for that exemption would have been taken into account in computing the assessable income of that person for such year of assessment, such excess shall be set off against the wealth tax to which he is liable for that year of assessment.

L.—Miscellaneous

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

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

Income from certain dividends to include tax thereon.

88. The income of a person arising from a dividend paid by a company liable to Commonwealth tax within the meaning of section 83 shall, where any such tax has been deducted therefrom, be the gross amount before making such deduction ; where no such deduction has been made, the income arising from such dividend shall be the amount of the dividend increased by an amount on account of such taxes corresponding to the extent to which the profits out of which that dividend has been paid have been charged with such taxes.

How certain receipts from insurance are to be treated.

89. Where any sum paid as insurance premium has been allowed as an expense incurred in the production of profits or income from any source, any sum realized under such contract of insurance shall be deemed to form part of the profits or income from such source in the year of assessment in which such sum is received.

Ascertainment of income of clubs, trade associations &c.

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

(2) Where a body of persons, whether corporate or unincorporate, carries on a trade association, chamber of commerce or similar institution in such circumstances that more than half its receipts by way of entrance fees and subscriptions are from persons who claim or would be entitled to claim that such sums were allowable deductions for the purposes of section 23, such body of persons shall be deemed to carry on a business, and the whole of its income from transactions both with members and others (including entrance fees and subscriptions) shall be deemed to be receipts from a business, and the body of persons shall be liable to income tax either in respect of the profits therefrom or in respect of the income which would be assessable if it were not deemed to carry on a business, whichever is the greater.

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

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

Certain transactions and dispositions to be disregarded.

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

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

CHAPTER XIII

RETURNS &C.

Returns and information be furnished.

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

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

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

(*a*) fuller or further returns, or

(*b*) fuller and further information relating to any matter as is in the opinion of the Assessor, necessary or relevant for the asessment of the income tax, wealth tax or gifts tax payable by such person.

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

(*a*) to produce for examination, or transmit to the Assessor, within the period specified in such notice, any such deeds, plans, instruments, books, accounts, trade lists, stock lists, registers, cheques, paying-in-slips, auditor's reports or other documents in his possession as may be specified in such notice;

(*b*) to attend in person or by an authorized representative at such place and on such date and at such time as may be specified in the notice, for the purpose of being examined regarding his income, wealth or gifts.

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

(*a*) to attend in person or by an authorized representative at such place and on such date and at such time as may be specified in such notice so that he may be examined on any such matter as may be specified in the notice;

(*b*) to produce before, or transmit to, such Deputy Commissioner within the period specified in such notice any such deeds, plans, instruments, books, accounts, trade lists, stock lists, registers, cheques, paying-in-slips, auditor's reports, or other documents in his possession as may be specified in such notice.

(6) A person who attends in compliance with a notice given under subsection (5) may be allowed by the Commissioner-General, such expenses as are reasonably incurred by him in so attending.

(7) A Deputy Commissioner, or an Assessor with the approval of a Deputy Commissioner, may retain in his custody, as long as such retention is necessary for any purposes of this Act, any deeds, plans, instruments, books, registers accounts, trade lists, cheques, paying-in-slips, auditors' reports or other documents which are or have been produced before him or transmitted to him under subsection (5) or produced before an Assessor or transmitted to an Assessor under subsection (4) or which otherwise come or have come into his possession.

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

Returns to be furnished of income received on account of, or paid to, other persons.

93. Where any person in any capacity whatever—

(*a*) receives any profits or income liable to tax within the meaning of this Act and which have accrued or arisen to some other person, or

(*b*) pays to some other person, or to his order, any such profits or income,

an Assessor may give notice to such first-named person requiring him to furnish within the period specified in such notice a return containing—

(i) a true and correct statement of all such profits and income ; and

(ii) the name and address of every person to whom such profits and income have accrued or arisen.

Occupiers to furnish returns of rent payable.

94. An Assessor may give notice in writing to any person who is the occupier of any land, or building requiring him to furnish within the period specified in such notice, a return containing—

(*a*) the name and address of the owner of such land or building ;

(*b*) any improvements effected to such land or building ; and

(*c*) a true and correct statement of the rent payable and any other consideration passing in relation thereto.

Return of lodgers and inmates.

95. An Assessor may give notice in writing to any person requiring him within the period specified in such notice, to furnish a return containing the name of every lodger or inmate who is at the date of the notice resident in his house, hotel or institution and has been so resident, except for temporary absences, throughout the period of three months preceding that date.

Power of Commissioner-General to impose penalty for failure to furnish return.

96. (1) Where any person fails to comply with a notice in writing given to him by an Assessor under section 92(2), requiring him to furnish a return of his income, wealth or gifts, and if he has a child, the income or wealth of such child or fails to furnish a return which he is required to furnish under section 92 (1), the Commissioner-General may by notice in writing—

(*a*) impose on such person a penalty of a sum not exceeding one thousand rupees ; and

(*b*) require such person—

(i) to pay such penalty ; and

(ii) to furnish such return,

within such period as may be specified in such notice.

(2) The Commissioner-General may reduce or waive any penalty imposed on any person under this section if such person proves to the satisfaction of the Commissioner-General that his failure to furnish a return was due to circumstances beyond his control and that he has, after the imposition of the penalty, furnished such return.

(3) Where a penalty is imposed on a person under subsection (1) he shall not be liable to a prosecution for an offence under paragraph (*a*) or paragraph (*d*) of subsection (1) of section 151 relating to that notice or requirement.

CHAPTER XIV

Payment of Tax by Self-Assessment

Payment of tax by self-assessment.

97. (1) Any income tax, wealth tax or gifts tax which any person is liable to pay under this Act for any year of assessment shall be paid by such person to the Commissioner-General in four instalments on or before the fifteenth day respectively of August, November and February in that year of assessment and the fifteenth day of May of the next succeeding year of assessment, notwithstanding that no assessment has been made on him by an Assessor. Each such instalment is hereinafter referred to as a "quarterly instalment".

(2) The quarterly instalment of a tax payable by any person for any year of assessment shall be one-quarter of the tax payable by him for that year of assessment.

CHAPTER XV

DEDUCTION OF INCOME TAX FROM REMUNERATION OF EMPLOYEES BY EMPLOYERS

Employers to deduct income tax.

98. (1) Every employer shall deduct income tax in accordance with the provisions of this Chapter from the remuneration of his employees for each pay period at the time of payment of such remuneration.

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

Employers to give notice to Commissioner-General.

99. (1) Every employer who employs—

(*a*) any individual who receives remuneration in excess of one thousand rupees per mensem or twelve thousand rupees per annum, or

(*b*) any non-resident person receiving remuneration for services rendered in Sri Lanka in excess of eighty-five rupees per mensem or one thousand rupees per annum, and

who has not given notice to the Commissioner-General under section 107c (1) of the Inland Revenue Act, No. 4 of 1963, shall give notice to the Commissioner-General not later than June 15, 1979, that he has in his employ such person (hereafter in this Chapter referred to as a "specified employee").

(2) Where an employer commences to employ any specified employee or to pay remuneration to any specified employee, such employer shall within seven days of commencement of such employment or such payment, as the case may be, give notice to the Commissioner-General that he has in his employment such employee:

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

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

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

Application of income tax tables.

100. (1) The amount of income tax to be deducted by an employer for any year of assessment in terms of section 98 shall be in accordance with the income tax tables specified by the Commissioner-General and applicable to that year of assessment.

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

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

(*a*) wages, salary, allowances or pension payable in respect of such pay period or such other profits from employment which arise or accrue regularly and are payable in respect of such pay period ;

(*b*) such profits from employment as are referred to in section 4 (*d*) and such profits from employment in the form of perquisites or benefits other than those referred to in subsection (3) and (4), as have arisen or accrued in respect of such pay period ; and

(*c*) such profits from employment as are not included in paragraph (*a*) or paragraph (*b*) or in section 4(*c*), if the total of such profits for such pay period does not exceed five hundred rupees.

(3) Income tax shall be deducted in respect of such profits from employment as are referred to in section 4(*c*) in accordance with the income tax table applicable to such profits.

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

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

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

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

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

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

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

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

Directions to employers.

101. (1) Any employee from whose remuneration income tax is deducted by his employer in accordance with the provisions of this Chapter may, if the amount of income tax payable by him for any year of assessment is less than the

income tax deductible under this Chapter, or if income tax has been deducted from his remuneration in excess of the amount that should have been deducted, make an application to the Commissioner-General in such form and containing such particulars as may be specified by the Commissioner-General, that a direction be issued to his employer to make the necessary adjustments in the deduction of income tax for that year of assessment.

(2) The Commissioner-General or any officer authorized by the Commissioner-General may, on an application made by an employee under subsection (1), issue to the employer of such employee the necessary direction in writing (a copy of which shall be issued to the employee), and such employer shall deduct income tax from the remuneration of such employee in accordance with such direction :

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

(3) The Commissioner-General, or any officer authorized by the Commissioner-General, may, in respect of any employee chargeable with income tax under this Act, issue to the person who is the employer of that employee, a direction in writing (a copy of which shall be issued to that employee) requiring such person to deduct in accordance with such direction, the income tax payable under this Act, from the remuneration of such employee, and such person shall deduct income tax from such remuneration in accordance with such direction :

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

For the purposes of this Chapter a person in respect of whom a direction has been issued under this section shall be deemed to be a " specified employee ".

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

Provided that the Commissioner-General shall, on a request made in writing by such employee, cause an assessment to be made under section 115 on such employee for

that year of assessment for the purpose of enabling such employee to prefer an appeal under section 117 against such assessment.

Employers to maintain proper records.

102. Every employer who makes any payment of remuneration to any specified employee shall—

(*a*) keep a proper record of payment of such remuneration in such pay sheet and in such manner as may be specified by the Commissioner-General ;

(*b*) take all reasonable precautions for the safe custody of all employees' declarations, pay sheets, receipts for payment of remuneration to employees and all other accounting records pertaining to the remuneration of the employees and to the income tax deducted and paid to the Commissioner-General, and shall retain all such records for a period of not less than five years after the end of the year of assessment to which such records relate ; and

(c) permit any officer authorized in writing by the Commissioner-General to inspect any record maintained by him and referred to in paragraphs (*a*) and (*b*).

Duties of employers following deductions of income tax.

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

(*a*) not later than the fifteenth day of the month following the month in which he made any such deductions, pay to the Commissioner-General the amount of such deductions and at the same time furnish to the Commissioner-General, a monthly declaration in such form and in such manner as may be specified by the Commissioner-General ;

(*b*) not later than the thirtieth day of April in such year give to each employee from whose remuneration income tax has been deducted under the provisions of this Chapter, a certificate in such form and containing such particulars as may be specified by the Commissioner-General, in respect of the deductions so made in the preceding year of assesment ;

(*c*) within thirty days after the cessation of employment of any employee give to such employee a certificate, in such form as may be specified by the Commissioner-General, specifying the amount

of income tax deducted in respect of the period commencing from the first day of the year of assesment during which the cessation of employment took place and ending on the date of such cessation ;

(*d*) not later than the thirtieth day of April in each year furnish to the Commissioner-General in respect of the preceding year of assessment an annual declaration in such form and containing such particulars as may be specified by the Commissioner-General, together with an income tax deduction card in such form as may be specified by the Commissioner-General in respect of each employee from whose remuneration income tax was deducted under the provisions of this Chapter during the year of assesment to which the annual declaration relates ; and

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

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

104. (1) Where an employer fails to deduct the amount of income tax required to be deducted under the provisions of this Chapter, or part thereof, from the remuneration paid to any employee, such employer shall on becoming cognizant of such failure, furnish to the Commissioner-General a declaration in the form specified under section 103 (*a*), and remit such amount of income tax as was not deducted to the Commissioner-General together with such amounts as may be due under section 110.

(2) Where during any year of assessment an employer has remitted to the Commissioner-General in respect of any pay period any sum in excess of the amount deducted, the employer may deduct such excess payment from the remittance in respect of any subsequent pay period in that year of assesment, and notify the Commissioner-General accordingly.

Employee to give notice when necessary deductions are not made

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

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

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

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

Default in the deduction or payment of income tax.

107. (1) Where any employer fails to deduct income tax in accordance with the provisions of this Chapter from the remuneration of any employee, or where any employer has deducted income tax for any pay period from the remuneration of an employee and has not remitted the full amount of such deduction to the Commissioner-General on or before fifteenth day of the following month, such employer shall be personally liable for the entire amount of the tax he was required to deduct under the provisions of this Chapter but has not so deducted or, as the case may be, for the entire amount or part of the amount of the tax deducted which was not remitted to the Commissioner-General and such amount not deducted or deducted and not remitted, shall be deemed to be in default from the day following the day on or before which such amount should have been remitted to the Commissioner-General, and such employer shall be deemed to be a defaulter, and such amount may be recovered from such employer in the manner provided in this Act.

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

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

Issue of assessments on employers.

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

(*a*) fails to deduct the whole or any part of the income tax for any pay period ;

(*b*) fails to remit to the Commissioner-General the whole or any part of the income tax deducted for any pay period ; or

(*c*) fails to furnish any monthly or annual declaration under section 103,

an Assessor may at any time during the year of assessment within which that pay period falls or within three years from the end of that year of assessment, assess the amount of income tax or the additional amount of income tax which such employer in the opinion of the Assessor should have deducted and paid to the Commissioner-General for such pay period, and shall, by notice in writing, require such employer to pay such amount forthwith together with such amount as may be due under section 110.

(2) Where it appears to an Assessor that for any pay period in any year of assessment an employer has been assessed under subsection (1) at less than the proper amount of income tax which he should have deducted and paid to the Commissioner-General, the Assessor may at any time during that year of assessment or within three years from the end of that year of assessment assess such employer at the additional amount of income tax at which such employer in the opinion of the Assessor should have been assessed and shall, by notice in writing, require such employer to pay such amount forthwith together with such amount as may be due under section 110.

Appeals.

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

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

(2) Where the assessment appealed against under subsection (1) has been made in the absence of a monthly declaration, or an annual declaration, as the case may be, required to be furnished under section 103, the petition of appeal shall be preferred together with such declaration.

(3) The amount of income tax charged by an assessment made under section 108 shall be paid by the employer notwithstanding that an appeal against such assessment has been preferred under subsection (1).

(4) The provisions of section 117(5) to 122 shall,*mutatis mutandis,* apply to any appeal preferred under subsection (1).

(5) Where no valid appeal has been preferred within the period specified in subsection (1) against an assessment made in accordance with the provisions of this Chapter, or where an agreement is reached under section 117(5) as regards an assessment, or where an assessment has been determined on appeal, the assessment as made or agreed or determined on appeal as the case may be, shall be final and conclusive for all purposes of this Act:

Provided that nothing in this subsection shall be read and construed as preventing an assessor from making subject to the provisions of section 108, an assessment or additional assessment for any pay period in any year of assessment which does not involve re-opening any matter which has been determined on appeal.

Penalty for default.

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

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

(*b*) where such tax is not paid before the expiry of six months after such tax has begun to be in default, a further penalty of a sum equivalent of fifteen *per centum* of such tax:

Provided that the Commissioner-General may waive or reduce the amount of any such penalty payable by the defaulter if such defaulter proves to the satisfaction of the

Commissioner-General that the failure to pay was due to circumstances beyond his control and that he has paid the amount of the tax in default and has furnished the declaration required to be furnished at the time of such payment.

Credit for tax paid.

111. Where the assessable income of an employee for any year of assessment includes any remuneration in respect of which income tax has been deducted in accordance with the provisions of this Chapter such employee shall be entitled on production of a certificate of deduction of tax relating to such remuneration issued in accordance with the provisions of paragraph (*b*) or paragraph (*c*) of section 103 to a set-off against the tax payable by him for that year of assessment, of the amount of tax shown in such certificate to have been deducted.

Compliance the provision of this Chapter relating to forms.

112. Where under the provisions of this Chapter an employer is required to record or furnish particulars in such form and in such manner as may be specified by the Commissioner-General, it shall be sufficient compliance with those provisions if the particulars are recorded or furnished by the employer in such form and in such manner as may be approved in writing by the Commissioner-General upon an application in that behalf made by the employer.

Interpretation

113. In this Chapter unless the context otherwise requires—

"employee" includes—

(*a*) any director of a company or corporation ;

(*b*) any working partner of a partnership ;

(*c*) any person receiving remuneration for past services performed by him or performed by any other person ; and

"employer" means any person, partnership, body of persons or any organization—

(*a*) for whom an individual performs services as an employee ;

(*b*) paying any profits from employment within the meaning of section 4 ; or

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

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

Column I	*Column II*
1. A company or a body of persons whether corporate or unincorporate	The secretary, manager or other principal officer of such company or body of persons.
2. A partnership	The precedent partner or any active partner resident in Sri Lanka and in the case of a partnership of which no active partner is resident in Sri Lanka the agent of such partnership in Sri Lanka.
3. The estate of a deceased person	The executor or administrator of the estate.
4. A trust ..	The trustee or trustees of the trust.
5. A non-resident person ..	The agent or attorney of such person in Sri Lanka ;

but shall not include—

(i) the Government of Sri Lanka ;

(ii) any local anthority ;

(iii) any public corporation within the meaning of Article 170 of the Constitution ;

(iv) any University which is established or deemed to be established by the Universities Act, No. 16 of 1978 ;

(v) any business undertaking acquired by or vested in the government under the Business undertakings (Acquisition) Act, No. 35 of 1971 ;

(vi) 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 ;

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

" remuneration " means profits from employment within the meaning of section 4.

CHAPTER XVI

Retention of Monies in Certain Provident Funds

Retention of 15 per centum of moneys lying to the credit of a contributor to a specified provident fund to meet any tax payble.

114. (1) The person having custody of the moneys lying in a specified provident fund to the credit of a contributor to such fund who is liable to income tax on any part of such moneys, shall, when he makes payment of these moneys to that contributor, retain in his custody an amount equal to fifteen *per centum* of those moneys other than such part thereof as represents the contributions made by that contributor after April 1, 1954. The person who retains in his custody such amount shall notify the Commissioner-General of the amount so retained and deduct therefrom the sum which the Commissioner-General by notice in writing directs him to deduct in respect of any tax payable under any law administered by the Commissioner-General and the sum so deducted shall be paid to the Commissioner-General. Any balance left after such deduction shall be paid to that contributor.

(2) For the purpose of subsection (1), " specified provident fund " means the Employees' Provident Fund established under the Employees' Provident Fund Act, No. 15 of 1958, or any regulated provident fund.

CHAPTER XVII

Assessments

Assessments and additional assessments.

115. (1) Where any person, who in the opinion of an Assessor is liable to any income tax, wealth tax or gifts tax for any year of assessment has not paid such tax or has paid an amount less than the proper amount which he ought to have paid as such tax for such year of assessment, the Assessor may, subject to the provisions of subsections (3) and (5) and after the fifteenth day of November immediately succeeding that year of assessment, assess the amount

which in the judgment of the Assessor ought to have been paid by such person, and shall by notice in writing require such person to pay forthwith—

(*a*) the amount of tax so assessed, if such person has not paid any tax for that year of assessment, or

(*b*) the difference between the amount of tax so assessed and the amount of tax paid by such person for that year of asessment, if such person has paid any amount as tax for that year of assessment :

Provided that an Assessor may, subject to the provisions of subsections (3) and (5) assess any person for any year of assessment at any time prior to the fifteenth day of November immediately succeeding that year of assessment if he is of the opinion that such person is about to leave Sri Lanka or that it is expedient to do so for the protection of revenue and require such person to pay such tax to the Commissioner-General earlier than as required under section 97(1).

(2) Where it appears to an Assessor that any person liable to income tax, wealth tax or gifts tax for any year of assessment has been assessed at less than the proper amount, the Assessor may, subject to the provisions of subsection (3) and subsection (5), assess such person at the additional amount at which according to his opinion such person ought to have been assessed and the provisions of this Act as to notice of assessment, appeal and other proceedings shall apply to such additional assessment and to the tax charged thereunder.

(3) Where a person has furnished a return of income, wealth or gifts, the Assessor may in making an assessment on such person under subsection (1) or under subsection (2), either—

(*a*) accept the return made by that person ; or

(*b*) if he does not accept the return made by that person, estimate the amount of the assessable income, taxable wealth or taxable gifts of such person and assess him accordingly :

Provided that where an Assessor does not accept a return made by any person for any year of assessment and makes an assessment or additional assessment on such person for that year of assessment, he shall communicate to such person in writing, his reasons for not accepting the return.

(4) Where a person has not furnished a return of income, wealth or gifts and the assessor is of the opinion that such person is liable to pay income tax, wealth tax, or gifts tax, the assessor may in making an assessment on such person under subsection (1) or subsection (2), estimate the amount of the assessable income, taxable wealth or taxable gifts of such person and assess him accordingly, but such assessment shall not affect the liability of such person to a penalty under this Act for failure or neglect to furnish a return.

(5) Subject to the provisions of section 62, no assessment shall be made of income tax, or wealth tax, as the case may be, payable under this Act for any year of assessment, or of gifts tax payable under this Act in respect of any gift made in any year of asessment and included by the donor in a return made by him on or before the thirtieth of November next succeeding that year of assessment. after the expiry of three years from the end of that year of assessment:

Provided that where the non-assessment or under assessment of any person for any year of assessment is due to fraud or wilful evasion, an assessment or additional assessment may be made on such person at any time after the end of that year of assesment.

(6) An assessment under subsection (1) or an additional assessment under subsection (2) on any person for any year of assessment shall not affect the liability of such person to the penalty specified in section 125 (2) and for the purposes of that section, the amount so assessed shall be deemed to be the income tax, or wealth tax or gift tax which such person ought to have paid for that year of assessment.

Notice of assessment.

116. An Assessor shall give notice of assessment to each person who has been assessed stating the amount of income, wealth or gifts assessed and the amount of tax charged;

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

CHAPTER XVIII

APPEALS

A—Appeals to the Commissioner-General

Appeals to the Commissioner General.

117. (1) Any person who is aggrieved by the amount of an assesment made under this Act or by the amount of any valuation for the purpose of this Act may within a period of thirty days after the date of the notice of assessment appeal to the Commissioner-General against such assessment or valuation.

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

(2) Every appeal shall be preferred by a petition in writing addressed to the Commissioner-General and shall state precisely the grounds of such appeal.

(3) Where the assessment appealed against has been made in the absence of a return, the petition of appeal shall be sent together with a return duly made.

(4) Every petition of appeal which does not conform to the provisions of subsections (2) and (3) shall not be valid.

(5) On receipt of a valid petition of appeal, the Commissioner-General may cause further inquiry to be made by an Assessor, and if in the course of such inquiry an agreement is reached as to the matters specified in the petition of appeal, the necessary adjustment of the assessment shall be made.

(6) Where no agreement is reached between the appellant and the Assessor in the manner provided in subsection (5), the Commissioner-General shall, subject to the provisions of section 120, fix a time and place for the hearing of the appeal.

(7) Every appellant shall attend before the Commissioner-General at the time and place fixed for the hearing of the appeal. The appellant may attend the hearing of the appeal in person or by an authorized representative. The Commissioner-General may, if he thinks fit, from time to time adjourn the hearing of an appeal for such time and place as he may fix for the purpose. In any case in which an authorized representative attends on behalf of the appellant, the Commissioner-General may adjourn

the hearing of the appeal and may, if he considers that the personal attendance of the appellant is necessary for the determination of the appeal, require that the appellant shall attend in person at the time and place fixed for the adjourned hearing of the appeal. If the appellant or his authorized representative fails to attend at the time and place fixed for the hearing or any adjourned hearing of the appeal, or if the appellant fails to attend in person when required so to attend by the Commissioner-General, the Commissioner-General may dismiss the appeal :

Provided that if the appellant shall within a reasonable time after the dismissal of an appeal satisfy the Commissioner-General that he or his authorized representative was prevented from due attendance at the hearing or at any adjourned hearing of such appeal by reason of absence from Sri Lanka, sickness, or other unavoidable cause, the Commissioner-General may vacate the order of dismissal and fix a time and place for the hearing of the appeal.

(8) The Commissioner-General shall have power to summon any person whom he may consider able to give evidence respecting the appeal to attend before him and may examine such person on oath or otherwise. Any person so attending may be allowed by the Commissioner-General any reasonable expenses necessarily incurred by such person in so attending.

(9) Before making his determination on any appeal, the Commissioner-General may, if he considers it necessary so to do, by notice given in writing to any person require that person to produce for examination, or to transmit to the Commissioner-General within the period specified in such notice, any such deeds, plans, instruments, books, accounts, trade lists, stock lists, registers, cheques, paying-in-slips, auditor's reports or other documents in his possession as may be specified in such notice.

(10) Where the Commissioner-General hears the evidence of the appellant or of any other person in respect of the appeal, he shall maintain or cause to be maintained a record of such evidence.

(11) In determining an appeal under this section the Commissioner-General may confirm, reduce, increase or annul the assessment appealed against and shall give notice in writing to the appellant of his determination on the appeal.

B—Appeals to the Board of Review

Constitution of the Board of Review.

118. (1) For the purpose of hearing appeals in the manner hereinafter provided, there shall be a Board of Review (hereinafter referred to as "the Board") consisting of not more than twenty members who shall be appointed by the Minister. The members of the Board shall hold office for a term of three years but shall be eligible for reappointment.

(2) There shall be a Clerk to the Board who shall be appointed by the Minister.

(3) There shall be a Legal Advisor to the Board who shall be appointed by the Board.

(4) Three or more members of the Board shall be nominated by the Minister and summoned by the Clerk to attend meetings at which appeals are to be heard. At such a meeting the quorum shall consist of two members.

(5) At the request of the Commissioner-General, the Clerk to the Board shall summon a meeting of the whole Board. At such a meeting the quorum shall consist of five members.

(6) The remuneration of the members of the Board, the Clerk and the Legal Advisor shall be fixed by the Minister.

Appeals to the Board of Review.

119. (1) Any appellant, or the authorized representative of any appellant, who is dissatisfied with the determination of the Commissioner-General on an appeal under section 117, may communicate in writing to the Commissioner-General his dissatisfaction with that determination. Every such communication shall be made within one week from the date of the determination.

(2) Where the appellant has communicated in accordance with subsection (1), his dissatisfaction with the determination of the Commissioner-General, the Commissioner-General shall, within one month of the date of that determination transmit in writing to the appellant or his authorized representative his reasons for that determination.

(3) The appellant, or his authorized representative may within one month of the transmission, by the Commissioner-General under subsection (2), of the reasons for the

determination by petition in writing addressed to the Board, appeal from that determination. Every such petition shall—

(a) be accompanied by a copy of the Commissioner-General's determination and reasons, against which the appeal is made;

(b) set out precisely the grounds of appeal therefrom; and

(c) be delivered to the Clerk to the Board.

Commissioner-General may refer appeals to the Board of Review.

120. Notwithstanding the provisions of section 117, the Commissioner-General may refer any valid appeal made to him to the Board of Review, and the Board shall hear and determine such appeal, and accordingly, the provisions of section 121 shall apply to the hearing and determination of any appeal so referred.

Hearing and determination of appeals by the Board of Review.

121. (1) As soon as may be after the receipt of a petition of appeal, the Clerk to the Board shall fix a date and time and place for the hearing of the appeal, and shall give fourteen days' notice thereof both to the appellant and to the Commissioner-General.

(2) The Commissioner-General shall, on receipt of a notice under subsection (1), transmit to the Board a copy of the record of evidence maintained under section 117 (10).

(3) Every appellant shall attend in person or by an authorized representative, at the meeting of the Board at which the appeal is heard:

Provided that where an authorized representative of the appellant is present at the hearing of an appeal the Board may postpone the hearing for such time as it thinks necessary to enable the attendance in person, of the appellant.

(4) The Assessor who made the assessment appealed against or some other person authorized by the Commissioner-General shall attend the meeting of the Board at which such appeal is heard in support of the assessment as determined by the Commissioner-General.

(5) The onus of proving that the assessment as determined by the Comissioner-General on appeal, or as referred by him under section 120, as the case may be, is excessive or erroneous shall be on the appellant.

(6) All appeals shall be heard in camera.

(7) The Board shall have power to summon to attend at the hearing any person whom it may consider able to give evidence respecting the appeal and may examine him as a witness, either on oath or otherwise. Any person so attending may be allowed by the Board any reasonable expenses necessarily incurred by him in so attending.

(8) Except with the consent of the Board and on such terms as the Board may determine, the appellant shall not, at the hearing by the Board, be allowed to produce any document which was not produced beforce the Commissioner-General, or to adduce the evidence of any witness whose evidence was not led before the Commissioner-General or whose evidence has already been recorded at the hearing before the Commissioner-General.

(9) At the hearing of the appeal the Board may, subject to the provisions of subsection (8), admit or reject any evidence adduced, whether oral or documentary, and the provisions of the Evidence Ordinance relating to the admissibility of evidence shall not apply.

(10) After hearing the appeal, the Board shall confirm, reduce, increase or annul the assessment as determined by the Commissioner-General on appeal, or as referred by him under section 120 as the case may be, or may remit the case to the Commissioner-General with the opinion of the Board thereon. Where a case is so remitted by the Board, the Commissioner-General shall revise the assessment as the opinion of the Board may require. The decision of the Board shall be notified to the appellant and the Commissioner-General in writing.

(11) Where under subsection (10) the Board does not reduce or annul such assessment, the Board may order the appellant to pay as costs of the Board, a sum not exceeding five hundred rupees, which shall be added to the tax charged by the assessment and recovered therewith.

C—Appeals to the Court of Appeal

122. (1) The decision of the Board shall be final:

Appeal on a question of law to the Court of Appeal.

Provided that either the appellant or the Commissioner-General may make an application requiring the Board to state a case on a question of law for the opinion of the Court of Appeal. Such application shall not be entertained unless

it is made in writing and delivered to the Clerk to the Board, together with a fee of fifty rupees, within one month of the date on which the decision of the Board was notified in writing, to the Commissioner-General or the appellant, as the case may be.

(2) The case stated by the Board shall set out the facts, the decision of the Board, and the amount of the tax in dispute where such amount exceeds five thousand rupees, and the party-requiring the Board to state such case shall transmit the case, when stated and signed to the Court of Appeal, within fourteen days after receiving the same.

(3) For the purposes of the application of the provisions of the Stamp Ordinance—

(*a*) all proceedings before the Court of Appeal on any case stated under this section or incidental to the hearing, determination or disposal of any such case, shall be deemed to be civil proceedings before the Court of Appeal of the value of five thousand rupees, or of such greater amount as is set out by the Board in the stated case as the amount of the tax in dispute ;

(*b*) every such case stated shall, together with all books documents and papers annexed thereto by the Board, be deemed to be a single exhibit in civil proceedings before the Court of Appeal ; and

(*c*) the Commissioner-General, if he is the appellant, shall be deemed to be a Government officer suing, or if he is the respondent to the appeal, a Government officer being sued, in a suit virtue officii.

(4) At or before the time when he transmits the stated case to the Court of Appeal the party requiring it shall send to the other party notice in writing informing him that a case has been stated on his application and shall supply him with a copy of the stated case.

(5) Any two or more Judges of the Court of Appeal may cause a stated case to be sent back to the Board for amendment, and the Board shall amend the case accordingly.

(6) Any two or more judges of the Court of Appeal may hear and determine any question of law arising on the stated case and may in accordance with the decision of the Court upon such question, confirm, reduce, increase, or annul the

assesment determined by the Board, or may remit the case to the Board with the opinion of the Court thereon. Where a case is so remitted by the Court, the Board shall revise the assessment in accordance with the opinion of the Court.

(7) In any proceedings before the Court of Appeal under this section, the Court may make such order in regard to costs in the Court of Appeal and in regard to the sum paid under subsection (1), as the court may deem fit.

(8) For the purposes of enabling the Commissioner-General or any other party to appeal to the Supreme Court against any order of the Court of Appeal under subsection (6) and for the purpose of the application of the provisions of any written law relating to appeals to the Supreme Court from the decisions of the Court of Appeal—

(*a*) an order made by the Court of Appeal under subsection (6) shall, together with any order of that court under subsection (7), be deemed to be a final judgment of the Court of Appeal in a civil action between the Commissioner-General and such other party ;

(*b*) the value of the matter in dispute in such civil action shall be deemed to be five thousand rupees :

Provided that where the Board has, in the stated case set out an amount higher than five thousand rupees as the amount of the tax in dispute, the value of the matter in dispute in such civil action shall be deemed to be that higher amount ; and

(*c*) the Commissioner-General shall not be required in respect of any such appeal, to make any deposit or pay any fee or furnish any security prescribed by such written law.

CHAPTER XIX

Finality of Assessments and Penalty for Incorrect Returns

Assessments or amended assessments to be final.

123. Where no valid appeal has been lodged within the time specified in section 117 (1) against an assessment as regards the amount of the assessable income or the taxable wealth or the taxable gifts, assessed thereby or where an appeal preferred against such an assessment is dismissed under subsection (7) of section 117, or where agreement is reached under section 117(5) as to the amount of such assessable income, or taxable wealth, or taxable gifts, or where the amount of such assessable income, or taxable

wealth, or taxable gifts has been determined on appeal, the assessment as made or agreed to or determined on appeal, as the case may be, shall be final and conclusive for all purposes of this Act as regards the amount of such assessable income or taxable wealth or taxable gifts, as the case may be :

Provided that nothing in this section shall be read and construed as preventing an Assessor from making, subject to the provisions of section 115, an assessment or additional assessment for any year of assessment, which does not involve re-opening any matter which has been determined on appeal for that year.

Penalty for incorrect return.

124. (1) Where in an assessment made in respect of any person the amount of the assessable income or taxable wealth or taxable gifts exceeds the amount specified as his assessable income or taxable wealth or taxable gifts in the return furnished by him under section 92(1) or 92(2) and the assessment is final and conclusive under section 123, the Commissioner-General may, unless that person proves to the satisfaction of the Commissioner-General that there is no fraud or wilful neglect involved in the disclosure of income or wealth or gifts made by that person in such return, in writing order that person to pay on or before a specified date a sum not exceeding an aggregate of two thousand rupees and a sum equal to twice the tax on the amount of the excess as a penalty for making an incorrect return.

(2) Any person in respect of whom an order is made under subsection (1) may, within twenty-one days after the notification of the order to him, appeal therefrom in writing to the Board of Review. The appeal shall state precisely the grounds of objection to the order.

(3) The provisions of section 121 shall as far as possible apply to the hearing and disposal of any appeal under the preceding provisions of this section. The Board of Review may confirm, reduce, increase or annul the penalty imposed by the order of the Commissioner-General from which the appeal is made, but any increase of such penalty shall not be in excess of the maximum amount which the Commissioner-General may impose under subsection (1) as such penalty.

(4) Where in respect of any person's return of income or wealth or gifts a penalty is imposed on that person under this section, he shall not be liable to a prosecution for an

offence relating to that return under paragraph (*a*) of subsection (4) of section 151 or under paragraph (*a*) of subsection (1) of section 153.

CHAPTER XX

TAX IN DEFAULT AND SUMS ADDED THERETO

Tax in default and sums added thereto.

125. (1) Where a quarterly instalment of a tax or a part of such instalment for any year of assessment is not paid on or before the date specified in section 97(1) for the payment of that instalment, such instalment of tax or part thereof, or, where any tax or part thereof assessed by an Assessor for any year of assessment and required to be paid on or before the date specified in the notice of assessment (such date, in the case of any tax which is required to be paid under section 97(1), being a date earlier than the date before which such tax or part thereof is required to be paid under that section) is not so paid, such tax or part thereof shall be deemed to be in default and—

(*a*) where such tax is payable by one person, such person, and

(*b*) where such tax is payable by more than one person or by a partnership, each of such persons, or each partner in such partnership,

shall be deemed to be a defaulter for the purposes of this Act

(2) Where any tax payable by any person for any year of assessment is in default, the defaulter shall, in addition to the tax in default, pay as a penalty—

(*a*) a sum equivalent to five *per centum* of the amount in default; and

(*b*) where any amount in default is not paid before the expiry of thirty days after it has begun to be in default, a further sum equivalent to five *per centum* of the amount in default in respect of each

further period of three months or part of such period during which it is in default :

Provided that—

(i) the total amount payable as a penalty under the preceding provisions of this section shall in no case exceed twenty-five *per centum* of the tax in default ;

(ii) where any person has paid as quarterly instalment of tax for any year of assessment a sum which is not less than one quarter of the income tax and wealth tax payable by such person for the year immediately preceding that year of assessment, such person shall not be liable to any penalty in respect of such quarterly instalment of tax under the preceding provisions of this section ;

(iii) the Commissioner-General may reduce or waive any penalty payable under this section if it appears to the Commissioner-General that such reduction or waiver is just and equitable in all the circumstances of the case.

(3) Where any assessment has been made on any person for any year of assessment by an Assessor, the amount of the tax as specified in the notice of assessment shall, for the purposes of subsection (2), be deemed to be the tax payable by that person for that year of assessment.

(4) Tax shall be paid notwithstanding any appeal against the assessment, unless the Commissioner-General orders that payment of the tax or any part thereof be held over pending the determination of such appeal, and the amount of the tax or part thereof so held over shall not be deemed to be in default.

(5) Where the Commissioner-General is of opinion either that the tax or any part thereof held over under subsection (4) is likely to become irrecoverable, or that the appellant is unreasonably delaying the prosecution of his appeal, he may revoke any order made under that subsection and make such fresh order as the case may appear to him to require

and the amount of any tax not paid on or before such date as may be specified in the fresh order shall be deemed to be in default.

(6) Where, upon the final determination of an appeal under Chapter XVIII or upon any order made by the Commissioner-General, any tax which has been held over under subsection (4) becomes payable or the tax charged by the original assessment is increased, the Commissioner-General shall give to the appellant a notice in writing fixing a date on or before which any tax or balance of tax shall be paid. Any tax not so paid shall be deemed to be in default.

(7) Notwithstanding anything in this section, where there is an appeal against an assessment and where the payment of any tax specified in the notice of assessment is held over on the order of the Commissioner-General, the Commissioner-General may, if the appellant agrees during the course of the inquiring into, or hearing of, that appeal that a certain sum is due or is likely to be due as tax in respect of that assessment, by notice in writing given to the appellant, direct the appellant to pay such sum on or before such date as is specified in the notice. Any sum not so paid shall be deemed to be in default.

(8) Where upon the final determination of an appeal under Chapter XVIII, any tax in default to which any sum or sums has or have been added under subsection (2) is reduced, then such sum or sums shall be calculated on the tax as so reduced.

(9) Where any person liable to pay any tax satisfies the Commissioner-General on or before the date he is required to pay such tax or any instalment thereof, that he has made arrangements for the payment of such tax or instalments from any sum to be paid to him by the Government or from moneys lying to his credit in the National Savings Bank or from moneys to be paid to him from any pension or provident fund approved by the Commissioner-General, the Commissioner-General may grant such person an extension

of time for the payment of such tax or instalment, and such tax or instalment thereof shall not be deemed to be in default until the expiration of such extended time.

(10) Where any tax is due from the estate of a deceased person, and the executor of such deceased person satisfies the Commissioner-General, on or before the date he is required to pay such tax or any instalment thereof, that such tax or instalment cannot be paid on or before that date owing to probate or letters of administration not having been granted to him such sum or instalment shall not be deemed to be in default if it is paid within a period of two months after the date of the grant of probate or letters of administration.

In this subsection, the expression, "executor" does not include any person who takes possession of, or intermeddles with, the property of a deceased person.

(11) In this section, "tax" means income tax, wealth tax or gifts tax which is payable in respect of the profits and income or taxable wealth or taxable gifts of any person for any year of assessment.

CHAPTER XXI

Recovery of Tax

Tax to include fines, &c.

126. In this Chapter, "tax" includes income tax, wealth tax, gifts tax and any income tax which an employer is required to pay under the provisions of Chapter XV and any sum added to any such tax by reason of default, any sum or sums added to income tax, wealth tax or gifts tax under section 125 (2) by reason of default, and any fines, penalities, fees, or costs whatsoever incurred under this Act.

Tax to be a first charge.

127. (1) Save as provided in subsection (2), tax in default shall be a first charge upon all the assets of the defaulter:

Provided that—

(i) such charge shall not extend to or affect any assets sold by the defaulter to a bona fide purchaser for value prior to the seizure of the same in accordance with the provisions of section 129;

(ii) as regards immovable property, the tax shall not rank in priority to any lease or encumbrance created bona fide for value and registered prior to the date of seizure of the property under section 129 ; and

(iii) as regards movable property, where tax for more than one year of assessment is in default the tax for one year only, to be selected by the Commissioner-General, shall rank in priority to any lien or encumbrance created bona fide for value prior to the date of default.

(2) A receiver shall pay out of the assets under his control the tax charged or chargeable for one complete year of assessment prior to the date of the insolvency, bankruptcy, or liquidation, to be selected by the Commissioner-General as a first charge on such assets and any other tax charged or chargeable for periods prior to such date shall be an unsecured debt:

Provided that where the receiver proves to the satisfaction of the Commissioner-General that any tax in default which he is liable to pay is excessive, the Commissioner-General may, notwithstanding the provisions of section 123, review the assessment in respect of which the tax is charged and make such adjustments as may appear to him to be just and equitable in all the circumstances of the case.

Notice to defaulter.

128. (1) Where any tax is in default, the Commissioner-General shall, before proceeding to recover such tax in any manner hereinafter provided, issue notice in writing to the defaulter stating—

(*a*) the particulars of such tax, and

(*b*) that action is being contemplated to recover such tax.

(2) If such defaulter has not appealed within the proper time against the assessment in respect of which such tax is charged, he may within thirty days of the date of such notice make any objection to the tax so charged, and the Commissioner-General shall, notwithstanding the provisions of section 123, consider such objections and give his decision thereon which shall be final.

Recovery of tax by seizure and sale.

129. (1) The Commissioner-General may appoint persons to be tax collectors.

(2) (*a*) Where any tax is in default, the Commissioner-General may issue a certificate to a Government Agent, Assistant Government Agent, Fiscal, Deputy Fiscal or tax collector containing particulars of such tax and the name of the defaulter, and the officers to whom such certificate is issued shall be empowered and is hereby required to cause the tax to be recovered from the defaulter named in the certificate by seizure and sale of his movable property.

(*b*) A seizure of movable property shall be effected in such manner as such officer shall deem most expedient in that behalf, and as soon as any movable property is seized by such officer a list of such property shall forthwith be made and signed by him and shall be given to the defaulter and a copy thereof furnished to the Commissioner-General.

(*c*) Where the property so seized is—

(i) cash in Sri Lanka currency, such cash shall be applied in satisfaction of the tax in default;

(ii) cash in foreign currency, such cash shall be deposited in the Central Bank and the proceeds therefrom applied in satisfaction of the tax in default; and

(iii) property other than cash, such property shall be kept for five days at the costs and charges of the defaulter. If the defaulter does not pay the tax in default together with the costs and charges within the five days, the Government Agent, Assistant Government Agent, Fiscal, Deputy Fiscal or tax collector shall cause such property to be sold by public auction or where such property is a negotiable instrument or a share in any corporation or public company, to be sold through a broker at the market rate of the day.

(*d*) The sum realized by a sale referred in sub-paragraph (iii) shall be applied—

(i) firstly in payment of the costs and charges of seizing, keeping and selling the property; and

(ii) secondly in satisfaction of the tax in default,

and any balance shall be paid to the owner of the property seized.

(3) Where any tax is in default, and the Commissioner-General is of opinion that recovery by the means provided in subsection (2) is impracticable or inexpedient, he may

issue a certificate to a District Court having jurisdiction in any district where the defaulter resides or in which any property, movable or immovable, owned by the defaulter is situate, containing particulars of such tax and the name or names of the person or persons by whom the tax is payable, and the court shall thereupon direct a writ of execution to issue to the Fiscal authorizing and requiring him to seize and sell all and any of the property, movable or immovable, of the defaulter, or such part thereof as he may deem necessary for recovery of the tax, and the provisions of sections 226 to 297 of the Civil Procedure Code shall, *mutatis mutandis*, apply to such seizure and sale.

(4) Whenever the Commissioner-General issues a certificate under this section, he shall at the same time issue to the defaulter, whether resident or non-resident, a notification thereof by personal service, registered letter sent through the post or telegraph ; but the non-receipt of such notification by the defaulter shall not invalidate proceedings under this section.

Proceedings for recovery before a Magistrate.

130. (1) Where the Commissioner-General is of opinion in any case that recovery of tax in default by seizure and sale is impracticable or inexpedient, or where the full amount of the tax has not been recovered by seizure and sale, he may issue a certificate containing particulars of such tax and the name and last known place of business or residence of the defaulter to a Magistrate having jurisdiction in the division in which such place is situate. The Magistrate shall thereupon summon such defaulter before him to show cause why further proceedings for the recovery of the tax should not be taken against him, and in default of sufficient cause being shown, the tax in default shall be deemed to be a fine imposed by a sentence of the Magistrate on such defaulter for an offence punishable with fine only or not punishable with imprisonment, and the provisions of subsection (1) of section 291 (except paragraph (*a*), (*d*), and (*i*) thereof, of the Code of Criminal Procedure Act, No. 15 of 1979, relating to default of payment of a fine imposed for such an offence shall thereupon apply and the Magistrate may make any direction which, by the provisions of that subsection, he could have made at the time of imposing such sentence.

(2) The correctness of any statement in a certificate issued by the Commissioner-General for the purposes of subsection (1) shall not be called in question or examined

by the Magistrate in any proceeding under this section and accordingly, nothing in that subsection shall be read and construed as authorizing a Magistrate to consider, or decide the correctness of any statement in such certificate or to postpone or defer such proceeding for a period exceeding thirty days by reason only of the fact that an appeal is pending against the assessment in respect of which the tax in default is charged.

(3) Nothing in subsections (2) to (5) of section 291 of the Code of Criminal Procedure Act. No. 15 of 1979, shall apply in any case referred to in subsection (1) of this section.

(4) In any case referred to in subsection (1) in which the defaulter is sentenced to imprisonment in default of payment of the fine deemed by that subsection to have been imposed on him, the Magistrate may allow time for the payment of the amount of that fine or direct payment of that amount to be made in instalments.

(5) The Court may require bail to be given as a condition precedent to allowing time under subsection (1) for showing cause as therein provided or under subsection (4) for the payment of the fine ; and the provisions of Chapter XXXIV of the Code of Criminal Procedure Act, No. 15 of 1979, shall apply where the defaulter is so required to give bail.

(6) Where a Magistrate directs under subsection (4), that a payment be made in instalments and default is made in the payment of any one instalment, proceedings may be taken as if default had been made in payment of all the instalments then remaining unpaid.

(7) In any proceeding under subsection (1), the Commissioner-General's certificate shall be sufficient evidence that the tax has been duly assessed and is in default, and any plea that the tax is excessive, incorrect, or under appeal shall not be entertained.

Recovery of tax out of debts &c.

131. (1) Where tax payable by any person is in default and it appears to the Commissioner-General to be probable that any person—

(*a*) owes or is about to pay money to the defaulter or his agent ; or

(*b*) holds money for or on account of the defaulter or his agent ; or

(c) holds money on account of some other person for payment to the defaulter or his agent; or

(d) has authority from some other person to pay money to the defaulter or his agent,

the Commissioner-General may give to such person notice in writing (a copy of which shall be sent by post to the defaulter) requiring him to pay any such moneys not exceeding the amount of the tax in default to the officer named in such notice. The notice shall apply to all such moneys which are in his hands or due from him at the date of receipt of such notice, or come into his hands or become due from him or are about to be paid by him at any time within a period of three months after the date of such notice.

(2) Any person who has made any payment in pursuance of this section shall be deemed to have acted under the authority of the defaulter and of all other persons concerned and is hereby indemnified in respect of such payment against all proceedings, civil or criminal, notwithstanding the provisions of any written law, contract, or agreement.

(3) Any person to whom a notice has been given under subsection (1) who is unable to comply therewith owing to the fact that the moneys referred to in that subsection do not come into his hands or that no such moneys become due from him within the period referred to in that subsection shall within fourteen days of the expiration thereof give notice in writing to the Commissioner-General apprising him of the facts.

(4) Where any person to whom a notice has been given under subsection (1) is unable to comply therewith and has failed to give notice to the Commissioner-General as provided in subsection (3), or where such person has deducted or could have deducted the tax to which the notice relates or any part thereof and has not paid over as required by the Commissioner-General the amount of such tax or part thereof within fourteen days after the expiration of the period referred to in subsection (1), such person shall, if he is an individual be liable, or where such person is a company or body of persons, whether corporate or unincorporate, the secretary, manager or other principal officer of such company or body shall be personally liable, for the whole of the tax which such person has been required to deduct, and such tax may be recovered from such individual secretary, manager or other principal officer, as the case may be, by all means provided in this Act.

(5) For the purposes of this section, the expression " defaulter " shall be deemed to include the agent of a person who is in default and the provisions of this section shall apply in any case where the tax which wolud have been payable by any person if he were alive is in default ; and for the purposes of the application of those provisions in any such case, the expression ' defaulter " in subsection (1) means—

(*a*) the executor or administrator of a deceased person ; or

(*b*) any person who takes possession of, or intermeddles with, the property of a deceased person ; or

(*c*) any person who has applied or is entitled to apply to a District Court for the grant or resealing of a probate or letters of administration in respect of the estate of a deceased person.

Tax in default to be recovered from remuneration of employee.

132. (1) The Commissioner-General may, by notice in writing given to any employer of an employee or to the person responsible for the payment of remuneration of an employee, direct such employer or person to deduct during such period as may be specified in such notice from the remuneration of such empoyee the amount of any tax which is payable by such employee and which is in default, in such number of monthly instalments as may be specified in such notice. The amount so deducted each month from the remuneration of an employee shall be paid to the Commissioner-General by such employer or such person, as the case may be.

(2) Where any tax is deducted under subsection (1) from the remuneration of an employee by his employer or by the person responsible for the payment of such remuneration, such employee shall, for the purposes of this Act, be deemed to have paid such tax or part thereof on the date on which the deduction is made.

(3) The Commissioner-General may at any time after he has made a direction under subsection (1) withdraw such direction wholly or partly by notice given in writing to the employer or the person responsible for the payment of the remuneration of the employee, if the employee has made arrangements to the satisfaction of the Commissioner-General, for the payment of his tax in default.

(4) Where any employee from whose remuneration any tax is to be deducted under the preceding provisions of this section by his employer or the person responsible for the payment of such remuneration, is about to leave or leaves his emplvment, the employer or such person shall deduct

the whole amount of such tax or any balance thereof which he has been directed to deduct by the notice given to him by the Commissioner-General, from all or any payments payable by him to such employee after he becomes aware that such employee is leaving, or has left, his employment.

(5) Where a direction for the deduction of any tax from the remuneration of an employee is given under subsection (1) to his employer or to the person responsible for the payment of such remuneration and such employer or person is unable to deduct the whole or any part of such tax for the reason that such employee has left his employment or for any other reason, such employer or person shall forthwith give notice in writing to the Commissioner-General apprising him of the facts of the matter, and any tax which such employer or person has not deducted or cannot deduct shall immediately become payable by the employee.

(6) Where the employer or the person responsible for the payment of remuneration to an employee has failed to deduct from such remuneration any tax which he has been directed to deduct under subsection (1) and such employer or person has failed to give notice to the Commissioner-General as required by subsection (5) within fourteen days of the date on which such deduction should have been made, or where such employer or person has deducted or could have deducted tax in any month from such remuneration in accordance with a direction under subsection (1) but has not paid the amount of such tax to the Commissioner-General by the fifteenth day of the following month, such employer or person, if he is an individual, shall be liable, or where such employer or person is a company or a body of persons, whether corporate or unincorporate, the secretary, manager or other principal officer of such company or body shall be personally liable, for the whole of the tax which such employer or such person has been directed to deduct under this section and such tax may be recovered from such individual, secretary, manager or other principal officer by all means provided in this Act, and such tax shall be deemed to be in default.

(7) Every employer or other person who deducts tax from the remuneration of any employee in accordance with a direction under subsection (1) shall on request made by such employee, issue to him a certificate in such form as is specified by the Commissioner-General, of the amount of tax deducted.

Tax in default of a partner to be recovered from the assets of a partnership.

133. Where for any year of assessment the statutory income of any person who is a partner in a partnership includes his share of the divisible profits of a parnership and the tax payable by that person is in default, such part of the tax in default as is, in the opinion of the Commissioner-General, attributable to his share of such divisible profits may be recovered out of the assets of the partnership and accordingly, for the purposes of section 129 the assets of the partnership shall be deemed to be the assets of the partner :

Provided that the amount so recovered shall not exceed the interest of the partner in the partnership.

Recovery of income tax or wealth tax from the income or wealth of a child.

134. Where the total statutory income or the wealth of a child is aggregated with and deemed to form part of the total statutory income or wealth of a parent of such child, and where income tax or wealth tax cannot be collected from that parent, such portion of the income tax or wealth tax as appears to the Commissioner-General to be attributable to the income or wealth of such child may be recovered from such child notwithstanding that no assessment has been made upon such child and the provisions of this Act as to collection and recovery of tax shall apply accordingly.

Recovery of income tax and wealth tax payable by a beneficiary from the trustee.

135. The income tax or wealth tax or any part thereof with which a beneficiary to a trust is chargeable in respect of his income or net wealth to which he is entitled from the trust may be recovered from the trustee of the trust, notwithstanding that no assessments have been made upon the trustee, and the provisions of this Act relating to collection and recovery of tax shall apply to such trustee. Such trustee shall be entitled to deduct the amount of such tax or part thereof from the income which will be payable to such beneficiary from the trust.

Recovery of income tax and wealth tax payable by a beneficiary from the executor.

136. The income tax or the wealth tax or any part thereof with which a beneficiary is chargeable in respect of his income or net wealth to which he is entitled from the estate of a deceased person, may, notwithstanding that no assessment has been made upon the executor of the deceased person, be recovered from such executor, and accordingly, the provisions of this Act as to collection and recovery of tax shall apply to such executor. Such executor shall be entitled to deduct the amount of such tax or part thereof from the income which will be payable to such beneficiary from the estate of such deceased person.

Gifts tax to be recovered from the donee in certain circumstances.

137. Where the gifts tax cannot be recovered from the donor, it may be recovered from the donee notwithstanding that no assessment has been made upon the donee, and the provisions of this Act as to collection and recovery of the gifts tax shall apply accordingly :

Provided that the amount which may be recovered from the donee shall not exceed that portion of such tax which appears to the Commissioner-General to be attributable to the value of the gift made to the donee by the donor as at the date of the gift.

Recovery of tax from persons leaving Sri Lanka.

138. (1) Where the Commissioner-General is of opinion that any person is about to or likely to leave Sri Lanka without paying all income tax, wealth tax or gifts tax assessed upon him, he may issue a certificate containing particulars of such tax and the name of such person to a Magistrate, who shall on receipt thereof issue a direction to the Inspector-General of Police to take such measures as may be necessary to prevent such person from leaving Sri Lanka without paying the tax or furnishing security to the satisfaction of the Commissioner-General, for payment thereof.

(2) At the time of issue of his certificate to the Magistrate, the Commissioner-General shall issue to such person a notification thereof by personal service, registered letter sent through the post or telegraph ; but the non-receipt of any such notification by such person shall not invalidate proceedings under this section.

(3) The production of a certificate signed by the Commissioner-General or a Deputy Commissioner, stating that the tax has been paid or that security has been furnished to the payment of the tax, or payment of the tax to a police officer in charge of a police station, shall be sufficient authority for allowing such person to leave Sri Lanka. Any police officer to whom the amount of any tax has been paid shall forthwith pay such amount to the Commissioner-General.

Use of more than one means of recovery.

139. Where the Commissioner-General is of opinion that the application of any of the provisions of this Chapter has failed or is likely to fail to secure payment of the whole of any tax due under this Act from any person, it shall be lawful for him to proceed to recover any sum remaining unpaid by any other means of recovery provided in this Chapter, notwithstanding that an order has been made by a Magistrate under section 130 in respect of that person and carried into effect.

Power of Commissioner-General to obtain information for the recovery of tax.

140. The Commissioner-General may, by notice given in writing to any person, require that person within the period specified in such notice to furnish any information which the Commissioner-General may require for the purpose of recovering any income tax, wealth tax or gifts tax due from such person or any other person.

Liability of directors of private company in liquidation.

141. (1) Notwithstanding anything in the Companies Ordinance, where any private company is wound up and where any income tax to which that company is liable, cannot be recovered, then, every person who was a director of the company at anytime during the year of assessment in respect of which such tax is payable shall be jointly and severally liable for the payment of such tax, unless he proves that the default in payment of tax cannot be attributed to any gross neglect, misfeasance or breach of duty on his part in relation to the affairs of the company.

(2) In this section the expression "private company" has the same meaning as in the Companies Ordinance.

Delegation of Commissioner-General's powers and functions.

142. (1) The Commissioner-General may, by writing under his hand, delegate to any Assessor any of the powers or functions conferred on or assigned to the Commissioner-General by this Chapter.

(2) Every Assessor to whom any power of function has been delegated under subsection (1) shall exercise or discharge that power or function subject to the general or special directions of the Commissioner-General.

CHAPTER XXII

MISCELLANEOUS

Signature and service of notices.

143. (1) Every notice to be given by the Commissioner-General, a Deputy Commissioner, or an Assessor under this Act shall bear the name of the Commissioner-General or Deputy Commissioner or Assessor, as the case may be, and every such notice shall be valid if the name of the Commissioner-General, Deputy Commissioner, or Assessor is duly printed or signed thereon.

(2) Every notice given by virtue of this Act may be served on a person either personally or by being delivered at, or sent by post to, his last known place of abode or any place at which he is, or was during the year to which the notice relates, carrying on business :

Provided that a notice of assessment under section 115 shall be served personally or by registered letter sent through the post to any such place as aforesaid.

(3) Any notice sent by post shall be deemed to have been served on the day succeeding the day on which it would have been received in the ordinary course by post.

(4) In proving service by post it shall be sufficient to prove that the letter containing the notice was duly addressed and posted.

(5) Every name printed or signed on any notice or signed on any certificate given or issued for the purposes of this Act, which purports to be the name of the person authorized to give or issue the same, shall be judicially noticed.

Validity of notices, assessments, &c.

144. (1) No notice, assessment, certificate, or other proceeding purporting to be in accordance with the provisions of this Act shall be quashed, or deemed to be void or voidable, for want of form, or be affected by reason of a mistake, defect, or omission therein, if the same is in substance and effect in conformity with, or according to, the intent and meaning of this Act, and if the person assessed or intended to be assessed or affected thereby is designated therein according to common intent and understanding.

(2) Without prejudice to the generality of subsection (1), an assessment shall not be affected or impugned—

(*a*) by reason of a mistake therein as to the name or surname of the person chargeable, the amount of income, wealth or gifts assessed, or the amount of tax charged; or

(*b*) by reason of any variance between the assessment and the notice thereof;

if the notice of such assessment is duly served on the person intended to be charged and contains in substance and effect the particulars mentioned in paragraph (*a*) of this subsection.

Precedent partner to act on behalf of a partnership.

145. (1) Whereever two or more persons in partnership act in the capacity of trustees or executors, or as agents, or are employers, or are persons in receipt of money, value, or profits to whom section 93 applies, or act in any other capacity whatever, either on behalf of themselves or of any other person, the precedent partner of such partnership

shall be liable to do all such acts, matters and things as are required to be done under the provisions of this Act by an individual acting in any such capacity :

Provided that any person to whom a notice has been given under the provisions of this Act as precedent partner of a partnership shall be deemed to be the precedent partner thereof unless he proves that he is not a partner in such partnership, or that some other person resident in Sri Lanka is the precedent partner thereof.

(2) Where two or more persons who are not in partnership act jointly in any capacity mentioned in subsection (1), they shall be jointly and severally liable to do all such acts, matters and things as are required to be done under the provisions of this Act by an individual acting in any such capacity.

Principal officer to act on behalf of company or body of persons.

146. (1) The secretary, manager, director or other principal officer of every company or body of persons, corporate or unincorporate, shall be liable to do all such acts, matters, or things as are required to be done under the provisions of this Act by such company or body of persons :

Provided that any person to whom a notice has been given under the provisions of this Act on behalf of a company or body of persons shall be deemed to be the principal officer thereof unless he proves that he has no connection with that company or body of persons or that some other person resident in Sri Lanka is the principal officer thereof.

(2) Where an offence under this Act is committed by a company or body of persons, corporate or unincorporate, every person who at the time of the commission of that offence was the secretary, manager, director or other principal officer of that company or body of persons shall be deemed to be guilty of that offence unless he proves that the offence was committed without his knowledge and that he exercised all such diligence to prevent the commission of that offence as he ought to have exercised having regard to the nature of his functions in such capacity and to all the other circumstances.

Who may act for incapacitated or non-resident person.

147. Any act or thing required by or under this Act to be done by any person shall, if such person is an incapacitated or non-resident person, be deemed to be required to be done by the trustees of such incapacitated person or by the agent of such non-resident person, as the case may be.

Indemnification of representative.

148. (1) Every person chargeable with tax under this Act as trustee executor, or agent, or from whom such tax is recoverable in respect of the income or wealth of another person, may retain out of any assets coming into his possession or control on behalf of such other person or in his capacity as trustee, executor, or agent, such portion of such assets as shall be sufficient to pay the amount of such tax, and he shall be and is hereby indemnified against any person whomsoever in respect of his retention of such assets, and payment of such amount.

(2) Where any person acting as trustee or executor has paid tax, and no assets of the trust or estate come into his possession or control out of which he could retain the tax so paid, such tax shall be a debt due from the beneficiaries of the trust or estate to the trustee or executor.

(3) Where a person chargeable with tax or from whom tax is recoverable, in respect of the income or wealth of another person, pays such tax, and no assets of such other person come into his possession or control out of which he could retain the amount of the tax so paid such tax shall be a debt due to him from such other person.

CHAPTER XXIII

REPAYMENT

Tax paid in excess to be refunded.

149. (1) If it is proved to the satisfaction of the Commisioner-General by any claim duly made in writing within three years of the end of a year of assessment that any person has paid any income tax, wealth tax or gifts tax, by deduction or otherwise, in excess of the amount which he was liable to pay for that year, such person shall be entitled to a refund of the amount paid in excess :

Provided that—

(i) nothing in this section shall operate to extend or reduce any time limit for appeal or repayment specified in any other section or to validate any objection or appeal which is otherwise invalid, or to authorize the revision of any assessment or other matter which has become final and conclusive ; and

(ii) where any person has paid income tax by deduction in respect of a dividend in accordance with section 38 or in respect of interest, rent, ground rent, royalty, or other annual payment in accordance with section 81, he shall not be entitled by virtue of this

section to any relief greater than that he would be entitled to under sections 38 (3), 38 (4) and 38 (5) or section 81 (3) ;

(iii) where the Commissioner-General is satisfied that a person who has paid any income tax, wealth tax or gifts tax by deduction could not have made a claim within the aforesaid three years, such person shall be entitled to a refund of the amount paid in excess if such a claim is made within one year from the end of the year of assessment in which such deduction was made.

(2) Where through death, incapacity, bankruptcy, liquidation or other cause a person who would but for such cause have been entitled to make a claim under subsection (1) is unable to do so, his executor, trustee, or receiver, as the case may be, shall be entitled to a refund of any tax paid in excess within the meaning of subsection (1) by such person for the benefit of such person or his estate.

(3) Where it is proved to the satisfaction of the Commissioner-General by claim made in writing within three years of the end of a year of assessment, that any person has paid income tax, wealth tax or gifts tax in excess of the amount which he was liable to pay for that year of assessment and that the excess is due to any error in the assessment or the return of the income, wealth or gifts of that person (other than an error in the application or construction of any provision of this Act in the making or revision of the assessment), such person shall be entitled to a refund of the amount paid in excess.

(4) Where it is proved to the satisfaction of the Commissioner-General by claim made in writing that any person has paid the amount of any penalty referred to in subsection (2) of section 125 which is in excess of the sum which he should have paid if such sum were calculated in accordance with the provisions of subsection (8) of section 125, such person shall be entitled to a refund of the amount paid in excess, if such claim is made within three years of the end of the year of assessment in which the amount of the penalty referred to in the aforesaid section 125 (2) was paid.

(5) Where it is proved to the satisfaction of the Commissioner-General by a claim made in writing by any employer within three years of the end of a year of assessment that he has paid to the Commissioner-General under the provisions of Chapter XV for that year of assessment a

sum in excess of the amount which he should have paid for that year assessment, such employer shall be entitled to a refund of the amount paid in excess :

Provided that the preceding provisions of this subsection shall not apply where payment of income tax has been made on an assessment made on an employer under section 108.

Interest payable on the amount of a refund in certain circumstances.

150. Where, for any year of assessment commencing on on or after April 1, 1979, any person is entitled to a refund of the amount of any income tax, wealth tax or gifts tax paid by him by deduction or otherwise, and where such amount has not been refunded to him by the Commissioner-General—

(*a*) if such refund arises in consequence of the reduction of the amount of an assessment on agreement with an Assessor under section 117 (5) or on the determination of an appeal in respect of such assessment, within a period of six months from the date of such agreement or from the date on which such determination was communicated to such person, or

(*b*) in any other case, within a period of six months from the date on which a claim in writing was made by such person to the Commissioner-General for such refund or from the thirty-first day of March, of that year of assessment, whichever is the later date,

such person shall be entitled to interest on the amount of the refund which remains unpaid calculated at the rate of one per centum for each complete period of one month for which such amount remains unpaid after the period of six months referred to in paragraphs (*a*) or (*b*).

CHAPTER XXIV

Penalties and Offences

Penalties for failure to make returns, making incorrect returns, &c.

151. (1) Every person who—

(*a*) fails to comply with the requirements of a notice given to him under section 60 (1) or section 63 (1) or section 65 (3) or sections 81 (1) or 92 (2) or section 92 (3) or section 92 (4) or section 92 (5) or section 93 or section 94 or section 95 or section 140 ; or

(*b*) fails to comply with a requirement imposed on him by the Commissioner-General under sub-paragraph (ii) of paragraph (*b*) of subsection (1) of section 96 ; or

(*c*) fails to attend in response to a notice given to him under section 92 (4) or section 92 (5) or section 117 (8) or section 121 (7) or having attended in response to any such notice, fails without sufficient cause to answer any questions lawfully put to him ; or

(*d*) fails to comply with the requirements of section 60 (3) or section 63 (3) or section 65 (4) or section 92 (1) or section 127 (2) or section 132 (7),

shall be guilty of an offence under this Act and shall be liable on conviction after summary trial before a Magistrate, to a fine not exceeding two thousand rupees.

(2) Every person who, being an employer for the purposes of Chapter XV—

(i) fails to give notice to the Commissioner-General in terms of section 99 (1) or section 99 (2) ; or

(ii) fails to deduct the whole or any part of the income tax required to be deducted under the provisions of section 98 (1) ; or

(iii) fails to comply with the requirements of section 101 (2) or paragraphs (*a*), (*b*) or (*c*) of section 102 or paragraphs (*a*), (*b*), (*c*), (*d*), or (*e*) of section 103,

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

(3) Every person who, being an employee for the purposes of Chapter XV, fails to comply with the requirements of section 105 (1) shall be guilty of an offence under this Act and shall be liable on conviction after summary trial before a Magistrate to a fine not exceeding two thousand rupees.

(4) Every person who without reasonable excuse—

(*a*) makes or furnishes an incorrect return by omitting or understating any income, wealth or gift, of which he is required by this Act to make or furnish a return, either on his own behalf or on behalf of another person or a partnership ; or

(*b*) makes an incorrect statement in connection with a claim for a deduction or allowance under Chapter VII ; or

(c) gives an incorrect information in relation to any matter or thing affecting his own liability to tax or the liability of any other person or of a partnership,

shall be guilty of an offence under this Act and shall be liable, on conviction after summary trial before a Magistrate, to a fine consisting of—

(i) a sum equal to the amount of tax which had been undercharged in consequence of such incorrect return, statement, or information or would have been so undercharged if such return, statement, or information had been accepted as correct, and

(ii) a sum not exceeding five thousand rupees,

or to imprisonment of either description for a term not exceeding six months or to both such fine and imprisonment.

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

(6) Every person who, being an employee for the purposes of Chapter XV, makes an incorrect statement in any notice given by him under section 105 (1) to the Commissioner-General shall be guilty of an offence, under this Act and shall be liable on conviction after summary trial before a Magistrate to a fine not exceeding five thousand rupees or to imprisonment of either description for a term not exceeding six months, or to both such fine and imprisonment.

(7) No person shall be liable to any penalty under this section unless the complaint concerning such offence was made in the year of assessment in respect of, or during which, the offence was committed or within five years after the expiration thereof.

(8) The Commissioner-General may compound any offence under this section and may before judgment stay or compound any proceedings thereunder.

Breach of secrecy and other matters to be offences.

152. Every person—

(1) who being a person required to take an oath of secrecy under section 158 (2), acts under this Act without taking such oath ; or

(2) who acts in contravention of the provisions of section 158 (1) or an oath taken under section 158 (2) ; or

(3) who aids, abets, or incites any other person to act in contravention of any of the provisions of this Act,

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

Penal provisions relating to fraud &c.

153. (1) Any person who—

(*a*) omits from a return made or furnished under this Act any income, wealth or gift, which he should have included in such return ; or

(*b*) makes any false statement or entry in any return made or furnished under this Act ; or

(*c*) makes a false statement in connection with a claim for a deduction or allowance under Chapter VII ; or

(*d*) signs any statement or return made or furnished under this Act without reasonable grounds for believing the same to be true ; or

(*e*) gives any false answer whether verbally or in writing to any question or request for information asked or made in accordance with the provisions of this Act ; or

(*f*) prepares or maintains, or authorizes the preparation or maintenance of, any false books of account or other records or falsifies or authorizes the falsification of, any books of account or records ; or

(*g*) makes use of any fraud, art, or contrivance whatsoever, or authorizes the use of any such fraud, art, or contrivance,

and thereby evades or attempts to evade income tax, wealth tax or gifts tax or assists any other person to evade or to attempt to evade such tax shall be guilty of an

offence, under this Act, and shall be liable on conviction after summary trial before a Magistrate to a fine consisting of—

(i) a sum equal to the amount of tax so evaded or attempted to be evaded for which he, or as the case may be the other person so assisted, is liable under this Act for the year of assessment in respect of or during which the offence was committed, and

(ii) a sum not exceeding ten thousand rupees,

or to imprisonment of either description for any term not exceeding six months, or to both such fine and imprisonment.

(2) Every person who, being an employer for the purposes of Chapter XV—

(i) omits from a declaration made under paragraph (*a*) or paragraph (*d*) or paragraph (*e*) of section 103 any remuneration or omits or understates in such declaration the amount of income tax deducted from such remuneration ; or

(ii) gives a false certificate of income tax deduction under paragraph (*b*) or paragraph (*c*) of section 103,

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

(3) The Commissioner-General may compound any offence under this section and may before judgment stay or compound any proceedings thereunder.

Tax to be payable notwithstanding any prosecution or conviction for an offence under this Act.

154. The institution of a prosecution in respect of an offence under this Act or the imposition of a penalty, fine or term of imprisonment in respect of any such offence shall not relieve any person from liability to assessment, or payment, of any tax for which he is or may be liable.

Prosecutions to be with the sanction of the Commissioner-General.

155. No prosecution in respect of an offence under section 151 or section 153 may be commenced except at the instance of, or with the sanction of, the Commissioner-General.

Admissibility of statements and documents in evidence.

156. Where any statement is made, or document is produced, in relation to any matter arising under this Act by any person who is chargeable with tax under this Act or by his authorised representative, to the Commissioner-General or a Commissioner or a Deputy Commissioner, or an Assessor, then notwithstanding anything in any other law, such statement or document shall be admissible in evidence in any proceedings against such person in respect of any offence referred to in section 151 or section 152 or section 153 of this Act.

CHAPTER XXV
ADMINISTRATION

Officers.

157. (1) For the purposes of this Act, there shall be appointed a Commissioner-General of Inland Revenue, and such number of Commissioners of Inland Revenue, Deputy Commissioners of Inland Revenue and Assessors of Inland Revenue as may be necessary.

(2) A Commissioner or Deputy Commissioner exercising or performing or discharging any power, duty or function conferred or imposed on or assigned to, the Commissioner-General by any provision of this Act shall be deemed for all purposes to be authorized to exercise, perform or discharge that power, duty or function until the contrary is proved.

(3) A Deputy Commissioner may exercise any power conferred on an Assessor of Inland Revenue by any provisions of this Act.

(4) Every person who holds office, on the date of commencement of this Act, as the Commissioner-General of Inland Revenue or as a Commissioner of Inland Revenue or as a Deputy Commissioner of Inland Revenue or as an Assessor of Inland Revenue shall be deemed for all purposes, to have been appointed under subsection (1).

Official secrecy.

158. (1) Except in the performance of his duties under this Act, every person who has been appointed or is deemed to be appointed under or who is or has been employed in carrying out or in assisting any person in carrying out, the provisions of this Act, shall preserve, and aid in preserving, secrecy with regard to all matters relating to the affairs of any person that may come to his knowledge in the performance of his duties under this Act, and shall not communicate any such matter to any person other than the person to whom such matter relates or his authorised representative or to the Minister or the Secretary to the Ministry of Finance nor suffer or permit any person to have access to any records in the possession, custody or control of the Commissioner-General.

(2) Every person appointed or deemed to be appointed under or employed in carrying out, the provisions of this Act shall before acting under this Act, and the Minister and the Secretary to the Ministry of Finance may before acting under this Act, take and subscribe an oath of secrecy in the prescribed form before a Justice of the Peace.

(3) No person appointed or deemed to be appointed under or empolyed in carrying out, the provisions of this Act shall be required to produce in any court any return, document, or assessment, or to divulge or communicate to any court any matter or thing coming to his notice in the performance of his duties under this Act, except as may be necessary for the purpose of giving into effect the provisions of this Act or of any other written law administered by the Commissioner-General.

(4) Notwithstanding anything contained in this section, any officer of the Department of Inland Revenue may communicate any matter which comes to his knowledge in the performance of his duties under this Act or under any other written law administered by the Commissioner-General—

(*a*) to any other officer of that Department, if the communication of such matter is necessary for the performance of any duty under this Act or such other written law,

(*b*) to the Income Tax Authority of any territory of the Commonwealth of Nations to such an extent as the Commissioner-General may deem necessary to enable such Authority to grant relief from income tax or wealth tax chargeable in that territory in respect of income tax or wealth tax paid in Sri Lanka, and

(*c*) to the Income Tax Authority of any country with which an agreement has been entered into for affording relief from double taxation,

and the Commissioner-General may produce or cause to be produced in any court in any proceedings under this Act a copy of any particulars contained in any return or document furnished to him under this Act or under any other written law administered by him or which is otherwise in his possession, certified by him or on his behalf to be a correct copy of such particulars and such copy shall, notwithstanding anything in the Evidence Ordinance relating to the proof of documents, be admissible in evidence :

Provided that the Commissioner-General may produce or cause to be produced the original of any such return or document in any case where it is necessary to prove the

handwriting or the signature of the person who wrote, made, signed or furnished such return or document, but only for the purpose of such proof :

Provided, further, that the Commissioner-General shall not in any case be compelled to produce in any court either the original of such document or return or a copy of any particulars contained in such document or return.

(5) Notwithstanding anything contained in the preceding provisions of the section, the Commissioner-General shall—

(i) if required by a commission established under the Special Presidential Commissions of Inquiry Law, No. 7 of 1978, furnish as specified in a notice issued by such commission, all information available to him relating to the affairs of any person, whose conduct is being inquired into by the commission, or of the spouse or a son or daughter of such person, or of any other person specified by the commission and to produce or furnish as so specified in the notice, any document relating to such person, spouse, son or daughter or other person as the case may be, which is in the possession or under the control of the Commisioner-General ;

(ii) if required by the Attorney-General, in the course of an investigation of an allegation of bribery against any person or after the commencement of a prosecution or an arraignment of any person for bribery, furnish, as specified in the notice issued to him, all information available to him relating to the affairs of such person or of the spouse or a son or daughter of such person, and produce or furnish, as specified in the notice, any document or a certified copy of any document relating to such person, spouse, son or daughter which is in the possession or under the control of the Commissioner-General ;

(iii) if required by a commission appointed under the Commissions of Inquiry Act, furnish as specified in a notice issued to him, all information available to him relating to the affairs of any person whose conduct is being inquried into by the commission or of the spouse or a son or daughter of such person, and produce or furnish as specified in such notice, any document or a certified copy of any document relating to such person, spouse, son or daughter which is in the possession or under the control of the Commissioner-General ;

(iv) report to the Attorney-General for investigation any case where he suspects from information available to him that any person is guilty of bribery.

(6) Notwithstanding anything contained in the preceding provisions of this section, any officer of the Department of Inland Revenue shall at the request of the Land Reform Commission established under the Land Reform Law, No. 1 of 1972, disclose to the Commission such particulars relating to the affairs of any person that may come to his knowledge in the performance of his duties under this Act, as may be required by the Commission for the exercise of its powers and the discharge of its functions under that Law.

(7) Notwithstanding anything contained in this section the Commissioner-General may permit the Auditor-General or any officer of the Department of the Auditor-General duly authorized by him in that behalf to have such access to any books, records, returns or other documents as may be necessary for the performance of his official duties. The Auditor-General or any officer authorized by him under this subsection shall, for the purpose of subsection (2), be deemed to be a person employed in carrying out the provisions of this Act.

(8) Notwithstanding anything in the preceding provisions of this section, the Commissioner-General or any person authorized in that behalf by the Commissioner-General may from time to time cause to be published in such manner as the Commissioner-General may consider expedient,—

(*a*) a list containing the names and addresses of all the taxpayers and the total income declared in the returns of such taxpayers in respect of any year of assessment and, where the Commissioner-General considers it necessary, their principal sources of income, and

(*b*) particulars relating to any person who has been convicted in any court of law for any offence under this Act or on whom a penalty has been imposed by the Commissioner-General under section 96 or under section 124.

(9) Where, for the purposes of prosecuting any director, manager, or other officer or employee of an insurance business who has acted in a manner prejudicial to the interests of the holders of policies issued in respect of that business, the Attorney-General by written notice requires the Commissioner-General to furnish such information relating to the assets of such director, manager, other officer

or employee as is in the possession of the Commissioner-General, the Commissioner-General shall, notwithstanding anything in the preceding provisions of this section, furnish such information to the Attorney-General.

(10) Notwithstanding anything contained in the preceding provisions of this section, where it appears to the Commissioner-General from any matter which comes to his knowledge in the performance of his duties under this Act, that any person has committed an offence under the Exchange Control Act or the Customs Ordinance, he may communicate or deliver to the Controller of Exchange or the Principal Collector of Customs, as the case may be, any information relating to the commission of the offence or any articles, books of account or other documents necessary or useful for the purpose of proving the commission of such offence.

(11) Where the Commissioner-General has under subsection (10) communicated or delivered to the Controller of Exchange or the Principal Collector of Customs any information relating to the commission, or any articles, books of account or other documents necessary or useful for the purpose of proving the commission, by any person of an offence under the Exchange Control Act or the Customs Ordinance, as the case may be, the Commissioner-General or any other officer of the Department of Inland Revenue may, notwithstanding anything to the contrary in the preceding provisions of this section, in any proceedings against such person for that offence give evidence relating to such information, articles, books of account or other documents and produce or cause to be produced any returns, books of account, other documents or articles he may be required to produce in such proceedings. The Commissioner-General or such other officer may produce or cause to be produced, in court for the purposes of such proceedings, a copy of any particulars contained in any return, books of account or other document, and such copy shall, notwithstanding anything in the Evidence Ordinance relating to the proof of documents, be admissible in evidence :

Provided that the Commissioner-General or other officer—

(*a*) may produce or cause to be produced the original of such return, books of account or other document in any case where it is necessary to prove the handwriting, or the signature of the person who wrote, made, signed or furnished such return, books of account or other document, but only for the purpose of such proof ;

(*b*) shall not in any case be compelled to produce in court either the original of such return, books of account or other document or a copy of the particulars contained in such return, books of account or other document.

CHAPTER XXVI

GENERAL

Regulations.

159. (1) The Minister may make regulations for the purpose of carrying out or giving effect to the principles and provisions of this Act.

(2) In particular and without prejudice to the generality of the powers conferred by subsection (1), the Minister may make regulations in respect of the following matters :—

(*a*) the methods by which an estimate of the income, wealth and gifts liable to tax may be made, in cases where the amount of such income, wealth and gifts cannot be definity ascertained ;

(*b*) the procedure to be followed in respect of applications for refunds of any tax paid under this Act and for any allowance or deduction which may be claimed under this Act ;

(*c*) any matter which is required or authorized by this Act to be prescribed ;

(d) penalties for the contravention of any regulations made under this section or for failure to comply therewith, such penalty not exceeding in each case a sum of five hundred rupees.

(3) A regulation made under this section, other than a regulation—

(*a*) prescribing a penalty for ; or

(*b*) enhancing a penalty prescribed for.

the contravention of, or failure to comply with, a regulation made under this section may be declared to take effect from a date earlier than the date of its publication in the *Gazette*.

(4) A regulation prescribing a penalty for the contravention of or failure to comply with a regulation shall not come into operation until it is approved by Parliament and notice of such approval is published in the *Gazette*.

(5) Every regulation made by the Minister other than a regulation referred to in subsection (4) shall come into operation on the date of its publication in the *Gazette* or on such date as may be specified in the regulation.

(6) Every regulation referred to in subsection (5) shall as soon as convenient after its publication in the *Gazette,* be brought before Parliament for approval. Any such regulation which is not so approved shall be deemed to be rescinded as from the date of disapproval but without prejudice to anything previously done thereunder. Notification of the date on which a regulation is deemed to be rescinded shall be published in the *Gazette.*

Forms.

160. The Commissioner-General may from time to time specify the forms to be used for all or any of the purposes of this Act ; and any form so specified may from time to time be amended or varied by the Commissioner-General or some other form may be substituted by the Commissioner-General in place of any form so specified. Any form so specified by the Commissioner-General may be published in the *Gazette.*

Power to search buildings or places.

161. (1) Any officer appointed for the purposes of this Act who is specially authorized by the Commissioner-General in that behalf may, accompanied by a peace officer, do all or any of the following acts :—

(i) enter and search any building or place where he has reason to believe that any articles, books of account or other documents which in his opinion will be useful for, or relevant to any proceedings under this Act may be found and examine any such articles, books of accounts or other documents if found ;

(ii) seize and deliver to the Commissioner-General any such articles, books of account or other documents or place marks of identification thereon or make extracts or copies therefrom ;

(iii) for the purpose of effecting such delivery, guard or cause to be guarded, any such articles, books of account or other documents ;

(iv) question any person whom he finds in that building or place with respect to any matter arising under this Act or the ownership of any such articles, books of accounts or other documents ;

(v) make a note or an inventory of, any other thing found in the course of any search under this section which in his opinion will be useful for, or

relevant to, any proceedings under this Act,

and the provisions of the Code of Criminal Procedure Act, No. 15 of 1979, relating to searches shall apply so far as may be to searches under this section.

(2) Before authorizing any officer to exercise any powers under subsection (1) the Commissioner-General shall record the circumstances which necessitate the exercise of those powers by that officer.

(3) (*a*) An article shall be seized and delivered to the Commissioner-General by the officer carrying out a search under this section only if—

(i) any tax payable by the owner of such article under any written law administered by the Commissioner-General is in default, or

(ii) such officer is satisfied, after such investigation as he may deem necessary, that such article had been purchased by the owner thereof out of, or is, profits and income in respect of which income tax is payable by such owner but has not been paid by him.

(*b*) Where any article is seized under this section by an officer carrying out a search, the owner of such article shall be entitled to a receipt from such officer for the article so seized.

(4) Where any article is seized and delivered to the Commissioner-General under this section, the Commissioner-General may—

(*a*) if such article is cash and if such cash is less than, or is equivalent to, the amount of the tax in default or the tax payable according to the Commissioner-General in respect of such articles, set off such cash in partial or full satisfaction of tax, or

(*b*) if such cash is more than the amount of such tax set off so much of the cash as is equivalent to the amount of such tax in full satisfaction of such tax and return the balance to the owner of such articles :

Provided that where such cash is foreign currency such balance shall be credited in a Bank to the account of the owner of such article, or

(c) if such article is not cash, retain, subject to the provisions of subsection (5), such article in his custody until—

(i) the tax in default, or the tax payable according to the Commissioner-General on the profits and income out of which such article had been purchased, as the case may be, is paid, or

(ii) arrangements are made to the satisfaction of the Commissioner-General for the payment of such tax.

(5) Where the tax is not paid or where arrangements are not made by the owner of the article as specified in paragraph (c) of subsection (4) within six months after the date of the seizure of such article, then the Commissioner-General shall cause such article to be sold by public auction.

(6) The sum realized by the sale of any article under this section shall be applied—

(i) firstly, in payment of the costs and charges of seizing, keeping and selling the article, and

(ii) secondly, in satisfaction of the tax payable by the owner of that article,

and the balance, if any, shall be paid to the owner of that article.

(7) In this section—

"article" includes cash, whether or not in Sri Lanka currency, a postal order, a money order, a travellers cheque, a letter of credit, a bill of exchange, a promissory note, gold, jewellery, a precious stone, and any stock-in-hand;

"peace officer" has the same meaning as in the Code of Criminal Procedure Act, No. 15 of 1979.

CHAPTER XXVII

SPECIAL PROVISIONS RELATING TO INCOME TAX PAYABLE FOR THE YEAR OF ASSESSMENT COMMENCING ON APRIL 1, 1979

Special provisions relating to income tax payable for the year of assessment commencing on April 1, 1979.

162. (1) For the year of assessment commencing on April, 1, 1979, there shall be charged on every person, in addition to, and not in lieu of, any income tax to which that person is liable under the preceding provisions of this Act and ascertained separately from such tax, income tax (in this section referred to as the "relevant tax"), in respect of the profits and income, other than profits from employment within the meaning of section 3(*b*), (in this section referred to as the "relevant profits and income") of such person for the year preceding that year of assessment (in this section referred to as the "relevant year")—

(*a*) wherever arising, if such person was resident in Sri Lanka in the relevant year, and

(*b*) arising in or derived from Sri Lanka in the case of every other person,

the relevant tax being computed as follows :—

(i) the provisions of Chapters II, III, IV, and XII shall apply to the ascertainment of the relevant profits and income of a person, subject to the modification that where such person owns any plant, machinery or fixtures at the commencement of the relevant year and uses such plant, machinery or fixtures in a trade, business, profession or vocation carried on or exercised by him in that year and—

(1) an allowance for depreciation of such plant, machinery or fixtures has been granted under section 10 (1) (*h*) of the Inland Revenue Act, No. 4 of 1963, and

(2) the period of likely use by reference to which the allowance for depreciation was so granted has not expired at the commencement of the relevant year,

such person shall be entitled to deduct in computing his relevant profits and income an allowance equal to the difference between—

(*a*) the cost of acquisition of such plant, machinery or fixtures, and

(*b*) the aggregate of the allowance for depreciation granted in respect thereof and an amount equal to such part of such cost of acquisition as is in the opinion of the Commissioner-General attributable to the expired portion of the period of likely use by reference to which such allowance for depreciation was granted;

(ii) the relevant profits and income of such person from every source of his profits and income ascertained as aforesaid shall be deemed to be his statutory income from such source and his total statutory income shall be computed accordingly;

(iii) the total statutory income of any child of such person shall, if such person was resident in Sri Lanka in the relevant year be aggregated with, and deemed to form part of, the total statutory income of such person if—

(*a*) he was the father of that child and his marriage subsisted in the relevant year, or

(*b*) he was the parent who maintained such child and with whom such child was living in the relevant year if his marriage did not subsist in such relevant year;

(iv) the provisions of Chapter VI shall apply to the computation of the assessable income of such person subject to the modification that where under any such provision the entitlement to, or the amount of, any deduction from the total statutory income for any year of assessment is to be determined by reference to that year of assessment such entitlement or amount shall be determined by reference to the relevant year;

(v) the taxable income of such person shall be his assessable income computed as aforesaid, after deducting therefrom—

(*a*) an allowance equal to twelve thousand rupees if such person is an individual who was resident in Sri Lanka in the relevant year; and

(*b*) in respect of the total of any qualifying payments within the meaning of section 31 made by him in the relevant year, an allowance computed in accordance with the provisions of that section;

(vi) the relevant tax payable by such person shall be computed—

(a) where such person is a company, at the appropriate rates specified in Chapter IX on the taxable income of such company computed as aforesaid and, as the case may be, on the dividends distributed or remittances made in the relevant year ; and

(b) where such person is a person other than a company, at the appropriate rates of income tax set out in the First Schedule or Third Schedule on the taxable income of such person computed as aforesaid ;

(vii) where in the application of any of the provisions of this Act for the purposes of computing the relevant tax payable by any person, the entitlement of such person to any deduction from his total statutory income or assessable income, or the rate of tax at which income tax is payable by such person is determined by reference to the residence in Sri Lanka of such person or the fulfilment of certain specified conditions in relation to such person, such entitlement to such deduction and such rate of tax shall be determined by reference to the residence in Sri Lanka or the non-residence in Sri Lanka of such person in the relevant year and the fulfilment of those conditions in such relevant year :

Provided that a company which was a people's company within the meaning of the Inland Revenue Act, No. 4 of 1963, throughout the year ending on March 31, 1979, shall, for the purpose of computing the relevant tax payable by the company for the relevant year, be deemed to be a people's company.

(viii) the provisions of sections 60(1), 63(1), 65(3), 92(2), 92(3), 92(4) and 92(5), relating to the furnishing of returns and information shall, *mutatis mutandis,* apply to any person who is in receipt of relevant profits and income and—

(i) any failure to furnish any return or information in respect of relevant profits and income shall, for the purposes of the application of sections 96 and 151 be deemed to be a failure to comply with the provisions of the aforementioned sections 60, 63, 65 and 92 ; and

(ii) any return or information furnished in respect of such relevant profits and income shall, for the purposes of the application of sections 124, 151 and 153 be deemed to be a return or information furnished under the aforementioned sections 60, 63, 65 and 92.

(2) The relevant tax payable by any person shall be assessed by an Assessor and shall be paid by the person liable to pay such tax in such number of instalments, not exceeding twenty, as may be specified in the notice of assessment issued to such person by the Assessor, so however that not more than twenty *per centum* of such tax shall be payable on or before May 15, 1980, forty *per centum* on or before May 15, 1981, sixty *per centum* on or before May 15, 1982, and eighty *per centum* on or before May 15, 1983, and the provisions of this Act relating to assessments, additional assessments, and appeals shall, *mutatis mutandis*, apply to any relevant tax payable under this section. Any instalment of such tax not so paid shall, subject to the provisions of subsections (4), (5), (6), (7), (9) and (10) of section 125 be deemed to be in default and the person by whom such instalment is payable or where such instalment is payable by more than one person or by a partnership, then each of such persons or each partner of a partnership shall be deemed to be a defaulter for the purposes of this Act, and accordingly, the provisions of Chapter XXI shall apply to such persons.

(3) Notwithstanding anything in the preceding provisions of this section, where an instalment of the relevant tax or part thereof is in default the defaulter shall, in addition to the amount of tax in default, pay as a penalty—

(*a*) a sum equivalent to five *per centum* of the amount in default ; and

(*b*) where the amount in default is not paid before the expiry of three months after it has begun to be in default, in respect of each further period of three months or part of such period during which it is in default a further sum equivalent to five *per centum* of the amount in default,

and the provisions of Chapter XXI shall apply accordingly : Provided that—

(i) the total amount payable as a penalty under the preceding provisions of this section shall in no case exceed twenty-five *per centum* of the tax in default, and

(ii) the Commissioner-General may reduce or waive any penalty payable under this subsection if it appears to the Commissioner-General that such reduction or waiver is just and equitable in all the circumstances of the case.

CHAPTER XXVIII

INTERPRETATION

163. In this Act, unless the context otherwise requires— Interpretation.

"acquired" with reference to property, means acquired by purchase, gift, inheritance, or exchange, or in any other manner, and the expression "acquisition" shall be construed accordingly ;

"active partner", in relation to a partnership, means a partner who takes an active part in the control, management, or conduct of the trade or business of such partnership ;

"agent", in relation to a non-resident person or to a partnership in which any partner is a non-resident person, includes—

(*a*) the agent, attorney, factor, receiver, or manager in Sri Lanka of such person or partnership, and

(*b*) any person in Sri Lanka through whom such person or partnership is in receipt of any profits or income, arising in or derived from Sri Lanka ;

"agricultural undertaking" means an undertaking for the purpose of the production of any agricultural, horticultural or any animal produce and includes any undertaking for the purpose of rearing livestock or poultry ;

"approved by the Commissioner-General" when used in relation to a provident or pension fund means approved by the Commissioner-General as conforming to such conditions as are specified by him by notice published in the *Gazette*, having regard to the protection of the interests of the contributors to such funds and the protection of revenue ;

"approved by the Minister" when used in relation to an undertaking or a company or a public corporation or an institution or any fund means approved by the Minister as being essential for the economic progress of Sri Lanka ;

"assessable income" means the residue of the total statutory income of any person after deducting the aggregate amount of the deductions to which such person is entitled to under section 29 ;

"Assessor" means an Assessor of Inland Revenue appointed or deemed to be appointed under this Act ;

"authorized representative" means any individual—

(1) who is authorized in writing by a person to act on his behalf for the purposes of this Act and who is—

(a) in any case—

(i) a member of the Institute of Chartered Accountants of Sri Lanka,

(ii) an accountant approved by the Commissioner-General,

(iii) an Attorney-at-Law, or

(iv) an employee regularly employed by that person ;

(b) in the case of an individual, a relative ;

(c) in the case of a company, a director or the secretary of that company ;

(d) in the case of a partnership, a partner of that partnership ;

(e) in the case of a body of persons, a member of such body ; or

(2) who is authorized in writing from time to time, by a person to act on his behalf for the purposes of this Act in respect of matters relating to such year of assessment as is specified in the authorization and who, being an individual registered as an auditor under the Companies (Auditors) Regulations, is approved by the Commissioner-General ;

"banker" means any company or body of persons carrying on the business of banking ;

"body of persons" includes any local or public authority, any body corporate or collegiate, any fraternity, fellowship, association, or society of persons, whether corporate or unincorporate, and any Hindu undivided family, but does not include a company or a partnership ;

"business" includes an agricultural undertaking, the racing of horses and the letting of commercial premises by a company ;

"Ceylon Tourist Board" means the Ceylon Tourist Board established by the Ceylon Tourist Board Act, No. 10 of 1966 ;

"charitable institution" means the trustee or trustees of a trust, or a corporation or an unincorporate body of persons established for a charitable purpose only or engaged solely in carrying out a charitable purpose ;

"charitable purpose" means a purpose for the benefit of the public or any section of the public in or outside Sri Lanka of any of the following categories :—

(*a*) the relief of poverty ;

(*b*) the advancement of education or knowledge ;

(*c*) the advancement of religion or the maintenance of religious rites and practices or the administration of a place of public worship ;

(*d*) any other purpose beneficial or of interest to mankind not falling within any of the preceding categories ;

"child" in relation to an individual to whom this Act applies means a child under eighteen years of age and includes a child adopted under the Adoption of Children Ordinance by that individual and where that individual is not a citizen of Sri Lanka, a child adopted by that individual in accordance with the law of the country of which he is a subject or citizen, but does not include—

(i) any child adopted under any other law,

(ii) a married child,

(iii) an illegitimate child ;

"Commissioner-General" means the Commissioner-General of Inland Revenue appointed or deemed to be appointed under this Act, and includes a Commissioner and a Deputy Commissioner who is specially authorized by the Commissioner-General either generally or for some specific purpose to act on behalf of the Commissioner-General;

"company" means any company incorporated or registered under any law in force in Sri Lanka or elsewhere and includes a public corporation;

"Controller of Exchange" means the officer designated as the head of the Department of Exchange Control of the Central Bank;

"Deputy Commissioner" means a Deputy Commissioner of Inland Revenue appointed or deemed to be appointed under this Act;

"dividend" includes—

(*a*) any distribution of profit by a company to its shareholders in the form of—

(i) money or of an order to pay money; or

(ii) shares in any other company; or

(iii) debentures in that company or in any other company; and

(*b*) the amount of any capital returned or distributed to the extent of the paid-up value of any shares distributed by the company to its shareholders within six years preceding the date of such return or, distribution of capital, such paid-up value representing the capitalization of the whole or any part of the profits of the company;

"donee" means any person who acquires any property under a gift, and where a gift is made to a trustee for the benefit of another person, includes both the trustee and the beneficiary;

"donor" means any person who makes a gift;

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

"executor" means an executor or administrator of a deceased person and includes—

(*a*) any person who takes possession of or intermedles with the property of a deceased person;

(*b*) any person who has applied or is entitled to apply to a District Court for the grant or resealing of probate or letters of administration in respect of the estate of a deceased person; or

(*c*) a trustee acting under a trust created by the last will of the author of the trust;

"foreign currency" has the same meaning as in the Exchange Control Act;

"gem" has the same meaning as in the State Gem Corporation Act, No. 13 of 1971;

"gift" means a gift within the meaning of section 52;

"Government institution" means any Department or undertaking of the Government of Sri Lanka;

"incapacitated person" means any minor, lunatic,idiot, or person of unsound mind;

"local authority" means any Municipal Council, Urban Council, Town Council or Village Council and includes any Authority established by or under any law to exercise, perform and discharge powers, duties and functions corresponding or similar to the powers, duties and functions exercised, performed and discharged by any such Council;

"market value", with reference to any property and any date, means the price which, in the opinion of an Assessor, that property would have fetched on that date in an open market;

"net wealth" means net wealth within the meaning of section 47;

"non-resident" or "not resident" means not resident in Sri Lanka within the meaning of section 67;

"owner", in relation to land and improvements thereon, includes a person who holds such land and improvements subject to a ground rent or other annual charge;

"person" includes a company or body of persons or any government;

"precedent partner" means the partner who of the active partners resident in Sri Lanka—

(*a*) is first named in the agreement of partnership; or

(*b*) if there is no such agreement, is specified by name or initials singly or with precedence to the other partners in the usual name of the partnership; or

(*c*) is first named in the statement made under section 4 of the Business Names Ordinance;

"prescribed" means prescribed by regulation made under this Act;

"profits" or "income" means the net profits or income from any source for any period calculated in accordance with the provisions of this Act;

"property" includes any interest in any movable or immovable property;

"rates" means any taxation imposed by a local authority in respect of property;

"receiver" includes any liquidator, and any assignee, trustee, or other person having the possession or control of the property of any person by reason of insolvency or bankruptcy;

"regulated provident fund" means any provident fund—

(*a*) which is established by a body corporate whose profits and income are exempt from income tax under any written law, and

(*b*) which is regulated and maintained under the written law by which such body corporate is constituted;

"resident" or "resident in Sri Lanka" means resident in Sri Lanka within the meaning of section 67;

"shareholder" includes any member of a company having a share or interest in the capital or profits or income thereof, whether the capital of such company is divided into shares or not;

"share" includes any interest in the capital or profits or income of a company;

"State Gem Corporation" means the State Gem Corporation established by the State Gem Corporation Act, No. 13 of 1971;

"statutory income" means income from any source computed in accordance with section 25;

"taxable income" means the residue of assessable income of a person after deducting the aggregate amount of the allowances to which such person is entitled to under section 30;

"trade" includes every trade and manufacture and every adventure and concern in the nature of trade;

"transfer of property" means any disposition, conveyance, assignment, settlement, delivery, payment or other alienation of property and includes—

(*a*) the creation of a trust in property, and

(*b*) the grant or creation of any interest in any property;

"trustee" includes any trustee, guardian, curator, manager, or other person having the direction, control, or management of any property on behalf of any person, but does not include an executor;

"wealth" means wealth within the meaning of section 43;

"with the approval of the Central Bank of Ceylon" when used in relation to the opening of an account or the making of an investment, means with the approval of the Central Bank of Ceylon as being essential for the economic progress of Sri Lanka;

"year of assessment" means the period of twelve months commencing on the first day of April, of any year and ending on the thirty-first day of March in the immediately succeeding year;

"year preceding a year of assessment" means the period of twelve months ending on the thirty-first day of March immediately prior to a year of assessment.

CHAPTER XXIX

APPLICATION OF THE INLAND REVENUE ACT, NO. 4 OF 1963

Application of the Inland Revenue Act, No. 4 of 1963.

164. The Inland Revenue Act, No. 4 of 1963, shall not apply—

(*a*) to any income tax or wealth tax to which a person is liable for any year of assessment commencing on or after April 1, 1979, and

(*b*) to any gifts tax to which a person is liable for any year of assessment commencing on or after April 1, 1980.

FIRST SCHEDULE

(Section 32)

RATES OF INCOME TAX–INDIVIDUALS OTHER THAN ANY RECEIVERS, TRUSTEES, [EXECUTORS OR LIQUIDATORS

	Rate of Tax
On the first Rs. 4,800 of the taxable income	7½ per centum
On the next Rs. 4,800 of the taxable income	10 per centum
On the next Rs. 4,800 of the taxable income	15 per centum
On the next Rs. 4,800 of the taxable income	20 per centum
On the next Rs. 4,800 of the taxable income	25 per centum
On the next Rs. 4,800 of the taxable income	30 per centum
On the next Rs. 4,800 of the taxable income	35 per centum
On the next Rs. 4,800 of the taxable income	40 per centum
On the next Rs. 7,200 of the taxable income	45 per centum
On the next Rs. 7,200 of the taxable income	50 per centum
On the next Rs. 7,200 of the taxable income	55 per centum
On the next Rs. 7,200 of the taxable income	60 per centum
On the next Rs. 7,200 of the taxable income	65 per centum
On the balance of the taxable income	70 per centum

SECOND SCHEDULE

RATES OF INCOME TAX—COMPANIES

PART I

(Section 33)

Company resident in Sri Lanka other than a Company referred to in Part II or Part III

On the taxable income of a company resident in Sri Lanka ..	50 per centum

PART II

Company resident in Sri Lanka the Issued Capital of which does not exceed Rs. 500,000

On the first Rs. 50,000 of the taxable income of the company ...	20 per centum
On the next Rs. 100,000 of the taxable income of the company ...	30 per centum
On the balance of the taxable income of the company ...	40 per centum

PART III

Peoples' Company

On the taxable income of a peoples' company	40 per centum

PART IV

(Section 34)

Company not resident in Sri Lanka

On the taxable income of a company not resident in Sri Lanka ...	50 per centum

THIRD SCHEDULE

(Section 32)

RATES OF INCOME TAX-PERSONS OTHER THAN INDIVIDUALS TO WHOM THE FIRST SCHEDULE APPLIES AND COMPANIES

	Rate of Tax
1. *Hindu Undivided Families*	
On the first Rs. 25,000 of the taxable income	30 per centum
On the next Rs. 25,000 of the taxable income	40 per centum
On the next Rs. 25,000 of the taxable income	50 per centum
On the next Rs. 25,000 of the taxable income	60 per centum
On the balance of the taxable income	70 per centum
2. *Charitable institutions*	
Taxable income of charitable institutions	20 per centum
3. *Executors (other than trustees under last wills) and Receivers (other than liquidators)*	
Taxable income of executors (other than trustees under last wills) and receivers (other than liquidators)	30 per centum
4. *Trustees (including trustees under last wills)*	
(*a*) where the trust was created before November 15, 1978 ..	50 per centum
(*b*) where the trust was created on or after November 15, 1978	70 per centum
5. *Partnerships :*	
Taxable income of a partnership	50 per centum
6. *Co-operative Societies registered or deemed to be registered under the Co-operative Societies Law, No. 5 of 1972 :*	
Taxable income of Co-operative Society	35 per centum
7. *Mutual Life Assurance Companies :*	
Taxable income of Mutual Life Assurance Companies ..	20 per centum
8. *Liquidators of Companies :*	
Taxable income of liquidators of a company ..	The rate of tax chargeable in respect of the company concerned
9. *Governments (other than the Government of Sri Lanka and the Government of the United Kingdom) :*	
Taxable income of Governments other than the Government of Sri Lanka and the Government of the the United Kingdom	55 per centum
10. *Public Corporations*	50 per centum
11. *Business Undertakings vested in the Government under the Business Undertakings (Acquisition) Act, No. 35 of 1971*	50 per centum
12. *Persons (other than those referred to above and in the First and Second Schedules)*	20 per centum

FOURTH SCHEDULE (*Section 41*)

RATES OF WEALTH TAX

1. *For any person other than a charitable institution or a non-resident company having immovable property in Sri Lanka :*

On the first Rs. 200,000 of taxable wealth	½ per centum
On the next Rs. 500,000 of taxable wealth	¾ per centum
On the next Rs. 1,000,000 of taxable wealth	1 per centum
On the balance of all taxable wealth	2 per centum

2. *For a charitable institution :*

On all taxable wealth	½ per centum

3. *For a non-resident company having immovable property in Sri Lanka :*

On all taxable wealth	1 per centum

FIFTH SCHEDULE (*Section 51*)

RATES OF GIFTS TAX

1. *For individuals :*

On the first Rs. 50,000 of the value of all taxable gifts ..	Nil
On the next Rs. 100,000 of the value of all taxable gifts ..	5
On the next Rs. 100,000 of the value of all taxable gifts ..	10
On the next Rs. 100,000 of the value of all taxable gifts ..	15
On the next Rs. 100,000 of the value of all taxable gifts ..	20
On the next Rs. 100,000 of the value of all taxable gifts ..	25
On the next Rs. 200,000 of the value of all taxable gifts ..	30
On the next Rs. 200,000 of the value of all taxable gifts ..	35
On the next Rs. 200,000 of the value of all taxable gifts ..	40
On the next Rs. 200,000 of the value of all taxable gifts ..	45
On the next Rs. 200,000 of the value of all taxable gifts ..	50
On the next Rs. 500,000 of the value of all taxable gifts ..	55
On the next Rs. 500,000 of the value of all taxable gifts ..	60
On the balance of the value of all taxable gifts ..	70

2. *For companies :*

On the value of all taxable gifts	50 per centum

SIXTH SCHEDULE (*Section 81*)

RATE OF DEDUCTION OF INCOME TAX FROM INTEREST, RENT, GROUND RENT, ROYALTY OR ANNUITY PAID OR CREDITED TO ANY PERSON OR PARTNERSHIP OUT OF SRI LANKA

Rate of deduction of income tax from interest, rent, ground rent, royalty or annuity paid or credited to any person or partnership out of Sri Lanka	33 1/3 per centum