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1st Session 1960-61



Temporary Residence Tax Act, No. 36 of 1961

Date of Assent : 8th June, 1961

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*Temporary Residence Tax Act,
No. 36 of 1961*

L. D.—O. 38/60.

AN ACT TO MAKE PROVISION FOR THE LEVY AND RECOVERY OF A TAX COMPUTED WITH REFERENCE TO THE STAY IN CEYLON OF CERTAIN PERSONS WHO ARE NOT CITIZENS OF CEYLON, AND FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

[Date of Assent: 8th June, 1961]

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

1. This Act may be cited as the Temporary Residence Tax Act, No. 36 of 1961. Short title.

2. (1) Subject to the other provisions of this Act, there shall be charged from every person— Charge of
the tax.

(a) who is not a citizen of Ceylon, and

(b) who, on or after the relevant date, remains in Ceylon—

(i) under the authority of a *visa* granted to him for a period exceeding three months in one calendar year; or

(ii) under the authority of more than one *visa* granted to him for periods which when added together will exceed three months; or

(iii) after the expiration of the period for which he is authorised to remain in Ceylon by a *visa* granted to him,

a tax (hereafter in this Act referred to as “the tax”) for the period of his stay in Ceylon computed at the rate of four hundred rupees for a year or any part of a year exceeding one month.

(2) Any person who, under sub-section (1) is liable to pay the tax, is hereafter in this Act referred to as a “person subject to the tax”.

3. (1) The following persons shall be exempt from the tax:— Exemptions
from the tax

(i) any person referred to in paragraph (a), paragraph (c), paragraph (ca) or paragraph (cb) of section 2 (1) of the principal enactment

- and the spouse and every dependent child, parent, brother or sister of any person referred to in the aforesaid paragraphs, and every member of the official staff of any person referred to in the aforesaid paragraphs;
- (ii) any person referred to in paragraph (b) of section 2 (1) of the principal enactment and—
- (a) every member of the official staff of that person;
- (b) the spouse and every dependent child, parent, brother or sister of that person and of every member of his official staff;
- (c) every such person in the domestic establishment of the person aforesaid or of every member of his official staff as is the holder of a valid passport issued by the Government of the country which duly accredited him to the Government of Ceylon;
- (iii) any person who has entered, or enters, or is under an agreement to enter, the service of the Government of Ceylon or of any local authority or of any corporation, and the spouse and every dependent child of such person;
- (iv) any person who is an expert, adviser, technician or official who is exempt from the payment of income tax under the Income Tax Ordinance;
- (v) any person who is in the service of any undertaking in Ceylon which is commenced after the date on which this Act comes into operation and in respect of which a certificate is issued by the Secretary to the Treasury or an officer authorised by him to the effect that foreign capital is invested in such undertaking with the approval of the Government of Ceylon;
- (vi) any person who has not attained the age of sixteen years;
- (vii) any person who is certified by the Director of Education to be a full time student in any educational institution in Ceylon recognised by the Director;

- (viii) any person who is a member of the crew of a ship in the territorial waters of Ceylon; and
- (ix) any class or description of persons which, or any person belonging to such class or description who, is exempted from the provisions of this Act by Order made by the Minister and published in the *Gazette*.

(2) In this section—

“ corporation ” means a corporation established under the Government-Sponsored Corporations Act, No. 19 of 1955, or under the State Industrial Corporations Act, No. 49 of 1957, or any corporation specified in the Schedule to this Act, and

“ local authority ” means any Municipal Council, Urban Council, Town Council or Village Committee.

4. (1) The tax shall—

Liability to
pay the tax.

- (A) in the case of a person who is the holder of a *visa* which was granted before the date of commencement of this Act and which expires on or before the fifteenth day of September, 1961, be paid within one month after the date of commencement of this Act;
- (B) in the case of a person who is the holder of a *visa* which was granted before the date of commencement of this Act and which expires after the fifteenth day of September, 1961,—
 - (a) in respect of the period commencing on the relevant date, or where that *visa* was granted after the relevant date, on the date of the grant of that *visa* and ending on the fifteenth day of September, 1961, be paid within one month after the date of commencement of this Act, and
 - (b) in respect of each subsequent period, exceeding one month and not exceeding twelve months of that *visa*, be paid within one month after the date of commencement of each such period;

(C) in the case of a person to whom a *visa* is granted after the date of commencement of this Act—

(a) if the period for which he is authorised to remain in Ceylon by that *visa* does not exceed one year, be paid on the date of the grant of that *visa*, and

(b) if the period for which he is authorised to remain in Ceylon by that *visa* exceeds one year—

(i) in respect of the first twelve months of his stay in Ceylon, be paid on the date of the grant of that *visa*, and

(ii) in respect of each subsequent period, exceeding one month and not exceeding twelve months, of that *visa*, be paid within one month after the date of commencement of each such period; and

(D) in the case of any person who remains in Ceylon after the expiration of the period for which he is authorised to remain in Ceylon by the *visa* granted to him, be paid within one month after the date of commencement of this Act in respect of the period of his stay in Ceylon commencing on or after the relevant date and ending on the date of such payment,

and such person shall be liable to pay the tax to the Controller.

(2) Notwithstanding the provisions of subsection (1) of this section, any person who is subject to the tax may apply to the Controller for permission to pay the tax in instalments and, on receipt of such an application, the Controller may, if he is satisfied that the applicant is an employee in any trade in respect of which a Wages Board has been set up in accordance with the provisions of the Wages Boards Ordinance, No. 27 of 1941, permit the applicant to pay the tax in such instalments as the Controller may determine.

(3) The Controller may, on the application of any person who is subject to the tax, grant an extension of time, not exceeding three months, for the payment of the tax if such person has, within three months before the date on which the tax falls due, paid in accordance with the provisions of sub-section (1) the tax which he was earlier liable to pay.

(4) Where under the provisions of sub-section (1) the tax is paid by any person upon the grant, after the commencement of this Act, of a *visa* to him and the period for which he is authorised to remain in Ceylon by that *visa* is less than one year, that person shall not be entitled to pay the tax upon the extension of the period of such *visa* if the aggregate of the periods for which he is authorised to remain in Ceylon before and after such extension does not exceed one year.

(5) Any person subject to the tax who fails to pay the tax to the Controller within the period, or on the date, required under the preceding provisions of this section shall, without prejudice to any proceedings which may be taken against him for the recovery of the tax, be guilty of an offence under this Act and shall, on conviction after summary trial before a Magistrate, be liable to a fine not exceeding five hundred rupees or to imprisonment of either description for a term not exceeding six months or to both such fine and imprisonment.

5. (1) Where any person subject to the tax fails to pay such tax to the Controller within the period, or on the date, required under section 4, the Controller shall by notice in writing require such person to pay, within such period as shall be specified in the notice, the amount of such tax to the Controller and where such person fails to pay such amount within the period specified in the notice, such amount shall be deemed to be in default.

Provisions
for recovery
of tax.

(2) Where the amount of the tax is in default, the Controller may issue a certificate containing particulars of such amount and the name and address of such defaulter to the Magistrate having jurisdiction in the area in which such defaulter is resident. The Magistrate shall, thereupon, summon the defaulter before him to show cause why proceedings for the recovery of the amount of the tax in default should not be taken against such defaulter, and, if sufficient

cause is not shown, the amount of the tax in default shall by order of the Magistrate be recovered as if it were a fine imposed on the defaulter by the Magistrate.

Failure to pay the tax to be a ground for the cancellation of *visa*.

6. The failure of a person subject to the tax to pay the amount of such tax within the period, or on the date, required under section 4 shall be a ground on which any *visa* granted to that person under the principal enactment may be cancelled by the Controller under that enactment, and the provisions of that enactment shall, in their application in the case of that person and such *visa*, have effect accordingly.

Visa to be conclusive proof of a person's period of stay in Ceylon.

7. For the purpose of determining the period of stay in Ceylon of any person who is the holder of a *visa* and who is subject to the tax, that *visa* shall be conclusive proof of his period of stay in Ceylon.

Sums paid or recovered as tax to be credited to the Consolidated Fund of Ceylon.

8. All sums paid to or recovered by the Controller as tax under this Act shall be credited by the Controller to the Consolidated Fund of Ceylon.

Alteration of the tax.

9. The rate of the tax may be altered from time to time by Order made by the Minister, approved by the House of Representatives and published in the *Gazette*.

Power to vary or amend the Schedule to this Act.

10. The Minister may, by Order published in the *Gazette*, amend or vary the provisions of the Schedule to this Act.

Provisions of this Act to be in addition to and not in derogation of the provisions of the principal enactment.

11. The provisions of this Act shall be in addition to, and not in derogation of, the provisions of the principal enactment, and accordingly the payment by any person, who remains in Ceylon after the expiration of the period for which he is authorised to so remain by the *visa* granted to him, of the tax to which he is liable under this Act shall not be construed, or be deemed to be construed, to affect any proceedings which may be taken under that enactment against him for remaining in Ceylon in contravention of any provisions of that enactment.

12. In this Act, unless the context otherwise requires;— Interpretation.

“ Controller ” means the Controller of Immigration and Emigration;

“ principal enactment ” means the Immigrants and Emigrants Act, No. 20 of 1948, as amended by any subsequent Act;

“ relevant date ” means the fifteenth day of September, 1960; and

“ *visa* ” means a *visa* granted under the principal enactment and includes any temporary residence permit, or endorsement, or extension of the period of the *visa*, granted or issued under that enactment.

Schedule

(Section 3 (2)).

1. The Gal Oya Development Board established under the Gal Oya Development Board Act, No 51 of 1949.
2. The Air Ceylon Limited established under the Air Ceylon (Incorporation) Act, No. 7 of 1951.
3. The Milk Board established under the Milk Board Act, No. 12 of 1954.
4. The Ceylon Institute of Scientific and Industrial Research established under the Ceylon Institute of Scientific and Industrial Research Act, No. 15 of 1955.
5. The Ceylon Transport Board established under the Motor Transport Act, No. 48 of 1957.
6. The Ceylon State Plantations Corporation established under the Ceylon State Plantations Corporation Act, No. 4 of 1958.
7. The Port (Cargo) Corporation established under the Port (Cargo) Corporation Act, No. 13 of 1958.