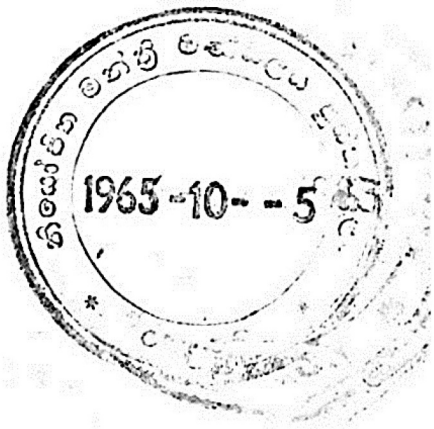
PARLIAMENT OF CEYLON

3rd Session 1962-63





Inland Revenue Act, No. 4 of 1963

Date of Assent: March 30, 1963

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L. D.—O. 25/62.

AN ACT TO CONSOLIDATE THE LAW RELATING TO THE IMPOSITION OF INCOME TAX, WEALTH TAX AND GIFTS TAX AND TO MAKE CERTAIN CONSEQUENTIAL AMENDMENTS TO OTHER WRITTEN LAW.

[Date of Assent: March 30, 1963]

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 :—

Short title

1. This Act may be cited as the Inland Revenue Act, No. 4 of 1963.

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 and Second Schedules to this Act for every year of assessment commencing on or after April 1, 1963, in respect of the profits and income of every person for the year preceding the year of assessment—

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

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

but without prejudice to any provisions of this Act which enact that tax is to be charged in particular cases in respect of the profits and income of a period other than the year preceding the year of assessment.

(2) For the purposes of this Act, without in any way limiting the meaning of the expression, " profits and income arising in or derived from Ceylon " includes all profits and income derived from services

rendered in Ceylon, or from property in Ceylon, or from business transacted in Ceylon, whether directly or through an agent.

Income chargeable with tax.

3. (1) 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 which is not included in paragraphs (*a*), (*b*), or (*c*) of this subsection, 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*) any charge or annuity ;

(*g*) rents, royalties, and premiums ;

(*h*) net capital gains arising from—

(i) the change of ownership of any property occurring by sale, disposal, transfer, realisation, exchange, or in any other manner whatsoever, other than any such change of ownership of a fiduciary's rights in a property subject to a *fidei commissum* as occurs by a transfer or extinction of those rights, and other than a change of ownership of a right to exploit a property occurring by a transfer of that right, and

other than a change of ownership of any motor vehicle in respect of which a deduction for depreciation has not been allowed under section 10 or household effects or other article (excluding jewellery) of personal use,

(ii) the surrender or relinquishment of any right in any property other than the surrender of a life insurance policy and the surrender, transfer or extinction of a life interest,

(iii) the transfer of some of the rights in any property other than the transfer of the rights of a fiduciary in any property subject to a *fidei commissum*,

(iv) the loss of any office or employment,

(v) the redemption of any shares, debentures or other obligations,

(vi) the formation of a company,

(vii) the dissolution of a business, or the liquidation of a company,

(viii) the amalgamation or merger of two or more businesses or companies, or

(ix) any transaction in connection with which a person who promotes that transaction without being a party to it receives any commission or reward,

other than any such gains which are treated as profits or income under any other provisions of this section ;

(*i*) the value of a prize won at a sweep or lottery ; and

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

(2) The racing of horses owned by any person shall, for the purposes of paragraph (*a*) of sub-section (1), be deemed to be a business carried on by that person.

(3) Any loss arising from a business referred to in sub-section (2) shall not be deducted from the profits or income from any other source but shall be deducted from the profits or income from that business for the next succeeding year of assessment, and if such deduction cannot be made from the profits or income from that business for such next succeeding year, it shall be made as early as possible from the profits or income from that business for any subsequent year of assessment.

(4) For the purpose of this section—

(*a*) "profits from any employment", includes—

(i) any wages, salary, leave pay, fee, pension, commission, bonus, gratuity, perquisite, or such other payment in money which an employee receives in the course of his employment or the value of any benefits to the employee or any member of his family, or any payment to any other person for the benefit of the employee or any member of his family, whether derived from the employer or others, the value of any free conveyance granted by an employer to any employee, any allowance so granted for the purchase of any conveyance, and the value of any holiday warrant or passage, except the value of any holiday warrant or passage granted to a person who is not a citizen of Ceylon to enable him to come to Ceylon to assume duties or to visit his home abroad or to return from Ceylon on the termination of his services, whether

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

(ii) any retiring gratuity, any sum received in commutation of pension, any sum paid from a provident fund approved by the Commissioner to an 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, any sum refunded under section 46 (1) or section 49 of the Widows' and Orphans' Pension Fund Ordinance, and any sum refunded under any regulation relating to any Widows' and Orphans' Pension Fund or Scheme established for the Local Government Service which corresponds to the aforesaid section 46 (1) or section 49 ;

(iii) the rental value of any place of residence provided rent-free by the employer ;

(iv) 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 ; and

(v) any other allowance granted in respect of employment whether in money or otherwise, other than an allowance for travelling :

Provided that in the case of an entertainment allowance granted to any person by his employer, such portion of the

allowance as is equivalent to, or less than, ten per centum of the salary (excluding all allowances) payable to such person shall be deemed not to be profits from employment if it is proved to the satisfaction of the Commissioner that such allowance had been utilised by such person in the course of his duties :

And provided further that in the case of any person who is employed as an executive officer, any sum granted as an allowance for travelling which is in excess of the amount determined in accordance with section 11 (2) as expenditure for travelling of such officer shall be profits from employment ;

(*b*) 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 per centum for repairs and other expenses. 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, adjusted as may be necessary in respect of rates paid by the owner and the aforesaid deduction of twenty per centum for repairs and other expenses, shall be the net annual value for the purposes of this section, unless in the opinion of the Commissioner the assessment made by the local authority does not accurately represent the annual value of the land and improvements or place of residence in the year for which the net annual value is being determined. Where the annual value has not been assessed by a local authority, the net

annual value shall not in any case exceed five per centum of the capital value of such land and improvements or place of residence;

(*c*) the rental value of any place of residence shall be the net annual value as defined in paragraph (*b*) of this sub-section with the addition of rates paid by the owner and twenty-five per centum of such net annual value on account of repairs and other expenses :

Provided that for the purposes of sub-paragraphs (iii) and (iv) of paragraph (*a*) of this sub-section, any excess of rental value over twenty-five per centum of the profits described in sub-paragraph (i) of paragraph (*a*) of this sub-section shall be disregarded ;

(*d*) the income or profits arising from rents of land and improvements thereon shall be the gross rent which is receivable and can be recovered after deducting rates borne by the owner and, where the owner undertakes to bear the cost of repairs, twenty per centum of the balance, but shall not be less than the net annual value after deducting therefrom any part thereof deemed to be the income of the occupier, due provision being made for any period in respect of which no rent is receivable or can be recovered ;

(*e*) " capital gain ",—

(i) with reference to capital gain of any person arising from a change of ownership of property, means, subject to the provisions of sub-section (3) of section 4, the amount by which the value of that property at the time when such change of ownership occurs

exceeds its value at the time when it was acquired by that person ;

(ii) with reference to capital gain of any person arising from the surrender or relinquishment of any right or the transfer of some of the rights in any property or the loss of any office or employment, means, subject to the provisions of sub-section (3) of section 4, the value of the consideration for such surrender, relinquishment, or transfer, or the amount of compensation for such loss ;

(iii) with reference to capital gain of any person arising from the redemption of any shares, debentures or other obligations, means, subject to the provisions of sub-section (3) of section 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 of its acquisition by him, or, where that which is redeemed is any property referred to in sub-paragraph (viii) or sub-paragraph (ix) or sub-paragraph (x) of paragraph (*j*) of this sub-section, less such value of that property as is specified in that sub-paragraph ;

(iv) with reference to capital gain of any person arising from the formation of a company, means, subject to the provisions of sub-section (3) of section 4, the value of the consideration received by him for any transaction in connection with the formation of such company ;

(v) with reference to capital gain of any person arising from the dissolution of a business or the liquidation of a company, means, subject to the provisions of sub-section (3) of section 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 ;

(vi) with reference to capital gain arising from the amalgamation or merger of two or more companies, means, in the case of a shareholder of any of those companies, any money received by such shareholder in consequence of such amalgamation or merger, and, in the case of any other person, the value of the consideration received by such other person for any transaction in connection with such amalgamation or merger ; and

(vii) with reference to capital gain of any person arising from a transaction promoted by him without being a party to it, the sum received by him as commission or reward ;

(*f*) " capital loss ",—

(i) with reference to capital loss of any person arising from a change of ownership of any property, means, subject to the provisions of sub-section (4) of section 4, 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 capital loss of any person arising from the redemption of any shares, debentures or other obligations, means, subject to the provisions of sub-section (4) of section 4, 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 sub-paragraph (viii) or sub-paragraph (ix) or sub-paragraph (x) of paragraph (*j*) of this sub-section, is less than such value of that property as is specified in that sub-paragraph ;

(iii) with reference to capital loss of any person arising from the dissolution of a business or the liquidation of a company, means, subject to the provisions of sub-section (4) of section 4, the amount by which the value of all property received by him in consequence of such dissolution or liquidation is less than the value of his share of the capital of such business or company at the time when such share was acquired by him ; and

(iv) includes the amount of any debt which is proved to be due by documentary evidence and which is proved to be irrecoverable ;

(*g*) " change of ownership ", in the context of the definition of " capital gain " or " capital loss ", does not include—

(i) 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,

(ii) the sale of any property which was used by any person in producing income from any trade, business, profession, vocation, or employment carried on or exercised by him, and in respect of which a deduction for depreciation has been allowed under section 10, such sale being effected by him without his ceasing to carry on or exercise that trade, business, profession, vocation, or employment,

(iii) the passing of any property subject to a trust from the trustee to any beneficiary under the trust, and

(iv) 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 ;

(*h*) " market value ", with reference to any property and any date and in the context of the definition of " value of any property ", means the price which, in the opinion of an Assessor, that property would have fetched on that date in an open market ;

(*i*) " net capital gain ", in respect of any year of assessment, means the excess of the capital gain for that year over the capital loss for that year ;

(*j*) " value ", with reference to any property or consideration in the context of the definition of " capital gain " or " capital loss ", shall be as follows :—

(i) where the property is movable property acquired before April 1, 1957, by the person who is

the owner of the property immediately before the occurrence of the transaction which resulted in such gain or loss, then, subject to the provisions of sub-paragraph (vi), sub-paragraph (viii), sub-paragraph (ix), sub-paragraph (x) and sub-paragraph (xi) of this paragraph, the value of the property at the time of such occurrence shall, if such transaction is a sale of the property, be an amount equal to the sale price, and, if such transaction is other than a sale, be an amount equal to the market value of the property at that time, and 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 ;

(ii) where the property is movable property acquired by such person on or after April 1, 1957, then, subject to the provisions of sub-paragraph (vi), sub-paragraph (viii), sub-paragraph (ix), sub-paragraph (x) and sub-paragraph (xi) of this paragraph, the value of the property at the time of the occurrence of the transaction which resulted in such gain or loss shall, if such transaction is a sale of the property, be an amount equal to the sale price, and, if such transaction is other than a sale, be an amount equal to the market value of the property at that time, and the value of the property at the time when it was acquired by such person shall, if such acquisition was by purchase, be an amount equal to the cost of such purchase, and, 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 ;

(iii) where the property is immovable property acquired by such person before April 1, 1957, then, subject to the provisions of sub-paragraph (vi), sub-paragraph (vii) and sub-paragraph (xi) of this paragraph, the value of the property at the time of the change of ownership shall, if such change occurs by a sale of the property, be an amount equal to the sale price, and, if such change occurs in any other manner, be an amount equal to the market value of the property at that time, and 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 ;

(iv) where the property is immovable property acquired by such person on or after April 1, 1957, then, subject to the provisions of sub-paragraph (vi), sub-paragraph (vii) and sub-paragraph (xi) of this paragraph. the value of the property at the time of the change of ownership shall, if such change occurs by a sale of the property, be an amount equal to the sale price, and, if such change occurs in any other manner, be an amount equal to the market value of the property at that time, and the value of the property at the time when it was acquired by such person shall, if such acquisition was by purchase, be an amount equal to the cost of such purchase, and, 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 ;

(v) the value of any consideration received by any person shall, 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, 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 ;

(vi) where the acquisition of the property by such person is by the transfer of the property by a trustee under a trust to such person in his capacity as a beneficiary under the trust or is by the transfer of the property by an executor to such person in his capacity as a testate or an intestate heir of the deceased whose estate is administered by such executor, the value of the property at the time of such acquisition shall. if the date of the acquisition 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, if the date of such acquisition 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 ;

(vii) where the person who is the owner of the property immediately before the occurrence of the change of ownership 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 title to the property shall, if the date of acquisition of such title is before April 1, 1957, be an amount equal to the market value of the property on April 1, 1957, and if the date of acquisition of such title is on or after April 1, 1957, be an amount equal to the market value of the property on the date of acquisition of such title ;

(viii) where the property consists of any shares forming part of a holding of such person which includes bonus shares issued on or after April 1, 1957, or shares issued on or after April 1, 1957, at a price less than their market value, the value of the property at the time when it was acquired by such person shall—

(*a*) if the shares were acquired by him before April 1, 1957, be an amount equal to the market value of the shares on April 1, 1957, or

(*b*) if the shares were acquired by him on or after April 1, 1957, be an amount equal to the value to him of the shares at the time when they were acquired ;

(ix) where the property consists of any shares received by a person in place of any shares of his 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—

(*a*) 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

(*b*) if the last-mentioned shares were acquired by him on or after April 1, 1957, be an amount equal to the value to him of such shares at the time when they were acquired ;

(x) 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—

(*a*) if such shares were acquired by him 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, and

(*b*) if such shares were acquired by him on or after April 1, 1957, be an amount equal to the value to him of the shares at the time when they were acquired less the amount of the capital returned or distributed ;

(xi) where the property is property which was acquired by the person who is the owner of the property immediately before the occurrence of the change of ownership, and which was used by him in producing income from any trade, business, profession,

vocation, employment, or undertaking carried on or exercised by him, and in respect of which a deduction for depreciation has been allowed under section 10, the value of the property at the time of change of ownership shall—

(*a*) if the property was acquired on or before March 31, 1957, or where the statutory income is directed by the Commissioner under section 12 (2) to be computed to any day other than the thirty-first day of March as is so specified in the direction, on or before such specified day in the year preceding the year of assessment commencing on April 1, 1957, be the written-down value of the property at the time of such change of ownership when or after he ceases to carry on or exercise such trade, business, profession, vocation, employment or undertaking ; and

(*b*) if the property was acquired on or after April 1, 1957, or where the statutory income is directed by the Commissioner under section 12 (2) to be computed to any day other than the thirty-first day of March as is specified in the direction, on or after such specified day in the year preceding the year of assessment commencing on April 1, 1957, be an amount equal to the difference between the cost of the acquisition

and such part of the amount deducted for depreciation as is in the opinion of the Commissioner attributable to the period during which the property was used as aforesaid ; and

(xii) 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.

Special provisions regarding capital gains and capital losses and regarding the computation of income tax on taxable incomes which include the value of a prize won at a sweep or lottery.

4. (1) Where a capital gain or a capital loss arises from the change of ownership of any property occurring on a donation of that property by its owner to any other person, such capital gain or such capital loss shall be deemed to be a capital gain or a capital loss, as the case may be, of the donor.

(2) Where a capital gain or a capital loss arises from the change of ownership of any property occurring either on the death of the owner of that property or in the year of assessment in which the owner of that property ceases to be resident in Ceylon, such capital gain or such capital loss shall be deemed to be his capital gain or capital loss, as the case may be, arising in the year preceding the year of assessment in which the death or the cessation of residence in Ceylon occurs.

(3) 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*) the expenditure incurred on or after April 1, 1957, by the aforesaid owner in making any improvements, additions or alterations to that property ; and

(*c*) the expenditure incurred by the aforesaid owner solely in connection with the transaction which resulted in such gain.

(4) The amount of a capital loss shall be computed by including in such amount any expenditure of the description referred to in paragraphs (*a*), (*b*) or (*c*) of sub-section (3).

(5) The amount of the net capital loss of any person for any year of assessment shall be a capital loss of that person for the next succeeding year of assessment.

(6) Where 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 does not exceed two thousand rupees, such amount shall be deemed not to be that person's capital gain for that year of assessment.

(7) Where any person—

(*a*) has no taxable income for the three years of assessment preceding any year of assessment, or

(*b*) has a total assessable income for those three years of assessment which is less than the total of the allowances which under section 21 are required to be deducted from that assessable income in arriving at his taxable income for those three years of assessment,

the first five thousand rupees of his net capital gain for the year of assessment mentioned last in paragraph (*a*) of this sub-section shall not be deemed to be income for that year of assessment.

(8) Where the taxable income of a person includes any net capital gain, and the rate of the income tax payable on a part of such income (hereafter in this sub-section referred to as the " relevant

part of the income") exceeds 45 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 the net capital gain—

(i) the tax payable on such portion of the relevant part of the income as is equal to the amount of the net capital gain shall be at the rate of 45 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 45 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 45 per centum notwithstanding anything to the contrary in this Act.

(9) Where a person dies and he has any net capital loss for the last year of assessment for which he was liable to be assessed for income tax, the amount of such net 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 (in order of recession) of the three years of assessment preceding such last year of assessment; and where such deduction is made from his statutory income for any such preceding year of assessment, the tax for that year of assessment in respect of him shall, notwithstanding the provisions of section 103, be revised taking into consideration such deduction, and the amount of the difference in the tax originally imposed on 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 entitled to such refund.

(10) Where a person—

(*a*) who has no taxable income for the three years of assessment preceding any year of assessment, or

(*b*) the total of whose assessable income for those three years of assessment is less than the total of the allowances which under section 21 are required to be deducted from that assessable income in arriving at his taxable income for those three years of assessment,

wins a prize at a sweep or lottery in the year preceding the year of assessment mentioned last in paragraph (*a*) of this sub-section, the first five thousand rupees of the value of that prize shall not be deemed to be income for that year of assessment.

(11) The provisions of sub-section (8) shall apply in regard to the computation of the tax on any taxable income which includes the value of a prize won at a sweep or lottery as if the reference therein to " any net capital gain " were a reference to " the value of a prize won at a sweep or lottery " and the reference therein to " amount of the net capital gain " were a reference to " value of such prize ".

(12) In this section—

(*a*) the expressions " capital gain ", " capital loss " and " net capital gain " shall have the same meanings as are assigned to them in sub-section (4) of section 3 ; and

(*b*) the expression " net capital loss ", in respect of any year of assessment, means the excess of the capital loss for that year over the capital gain for that year.

5. (1) There shall be exempt from income tax— **Exemptions.**

(*a*) the income of any local authority or Government institution, exclusive of the income of any trust or other matter vested in or administered by such authority or institution to which such authority or institution is not beneficially entitled ;

(*b*) the income of the Widows' and Orphans' Pension Fund of public officers of Ceylon ;

(*c*) the income of any Widows' and Orphans' Pension Fund or Scheme established for the Local Government Service ;

(*d*) the profits and income of the Ceylon Tea Propaganda Board ;

(*e*) any sum paid to any person as a subsidy under the Cacao Planting Subsidy Scheme ;

(*f*) the emoluments, and any income not arising in Ceylon, of any scientist, technician, expert or adviser, who is not a citizen of Ceylon and who is employed in Ceylon on a contract of employment entered into on or after April 1, 1959, between him and the Government of Ceylon or between him and any such statutory corporation or institution as may be approved by the Minister for the purpose ;

(*g*) the emoluments, and any income not arising in Ceylon, for three years reckoned from the date of employment in Ceylon, of any scientist, technician, expert or adviser, who is not a citizen of Ceylon and who is brought to and employed in Ceylon on or after April 1, 1958, by a corporation to which section 6 applies, or by the proprietor of an undertaking, to which that section applies, for the purposes of that undertaking, but so however that, if the exemption from tax granted by section 6 in respect of that corporation or undertaking ends on a date earlier than the date on which the aforementioned period of exemption of three years expires, such period shall expire on the date on which the exemption from tax in respect of that corporation or undertaking ends ;

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

(*i*) the profits and income derived by the Government of any foreign country, 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 Ceylon ;

(*j*) the profits and income of the United Nations Organisation including the net annual value of any land owned in Ceylon by and occupied by or on behalf of that Organisation and any improvements on that land ;

(*k*) the profits and income derived by any such body of persons outside Ceylon as may be approved by the Government of Ceylon from aid granted in money, goods, services or in any other form by that body to that Government ;

(*l*) the official emoluments, and any income not arising in or derived from Ceylon, of—

(i) the Diplomatic Representative in Ceylon (by whatever name or title designated) of the Government of any foreign country and the High Commissioner in Ceylon of the Government of any part of Her Majesty's dominions ;

(ii) any such member of the staff of any Diplomatic Representative or High Commissioner referred to in sub-paragraph (i) as is a citizen or subject of the country represented by that Diplomatic Representative or High Commissioner, any such Consul or Trade Commissioner as is a citizen or subject of the country represented by him, and any such member of the staff of any Consul or Trade Commissioner as is a citizen or subject of the country represented by that Consul or Trade Commissioner, such Consul or Trade Commissioner or member of a staff referred to above not being a person who carries on or exercises in Ceylon 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 Ceylon and who is brought to Ceylon by the Government of Ceylon through any Specialised Agency of the United Nations Organisation, or under the Point Four Assistance Programme of the Government of the United States of America, or through the Colombo Plan Organisation (including its Technical Assistance Bureau) or any similar organisation approved by the Minister ;

(iv) any trainee from abroad who is sent to Ceylon under any of the Technical Co-operation Programmes of the United Nations Organisation and its Specialised Agencies, or of the Colombo Plan Organisation, or of any similar organisation approved by the Minister ; and

(v) any official of the United Nations Organisation who is resident in Ceylon and who is not a citizen of Ceylon.

As regards other income, the liability to tax of any person hereinbefore mentioned shall be the same as though he were a non-resident person ;

(*m*) any overseas allowance or representational allowance granted by the Government of Ceylon to any individual who is deemed by sub-section (6) of section 54 to be resident in Ceylon ;

(*n*) the official emoluments of any citizen of Ceylon who is employed as an expert, adviser or official or a technician by the United Nations Organisation or by any Specialised Agency of that Organisation;

(*o*) the official emoluments, and any income not arising in or derived from Ceylon, of—

(i) members of any naval, military or air forces of any country other

than Ceylon who are in Ceylon at the request or with the concurrence of the Government of Ceylon ; and

(ii) persons employed in any civil capacity by the Government of any country other than Ceylon who, not being persons resident in Ceylon for a period exceeding three months immediately prior to the date of commencement of such employment, are so employed in or visit Ceylon for any purpose connected with such members of any naval, military or air forces as are referred to in the preceding sub-paragraph (i) ;

(*p*) wound and disability pensions granted to members or ex-members of Her Majesty's Forces ;

(*q*) United States Government Disability Pensions ;

(*r*) 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 ;

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

(*t*) the accumulated interest payable to an individual in respect of any Ceylon Savings Certificate issued under the Savings Certificates Ordinance, so long as the amount of the certificates held by the individual who is for the time being the holder of such certificates does not exceed the amount which an individual is for the time being authorised to hold under the written law, rules, or regulations relating to such certificates ;

(*u*) interest paid or credited to any individual by the Ceylon Savings Bank and the Ceylon Post Office Savings Bank ;

(*v*) any sum paid to the owner of an estate out of the Rubber Replanting Subsidy Fund (established under the Rubber Replanting Subsidy Act), for the purpose of subsidising the replanting of rubber plants in that estate ;

(*w*) any sum paid to any person under any regulations made under the Tea Subsidy Act, No. 12 of 1958, as a subsidy out of the Tea Subsidy Fund established under that Act ;

(*x*) the profits and income other than the profits and income arising out of the business of a printer, publisher, transporter or distiller, of any co-operative society which is registered under the Co-operative Societies Ordinance, and the majority of the members of which are resident in Ceylon ; and

(*y*) the profits and income of the University of Ceylon established under the Ceylon University Ordinance, and the Vidyodaya University of Ceylon and the Vidyalankara University of Ceylon established under the Vidyodaya University and the Vidyalankara University Act, No. 45 of 1958 :

Provided that in any case where a co-operative society is a member of another co-operative society so registered, each member of the first-mentioned society shall be deemed to be and shall be reckoned as a member of the second-mentioned society for the purpose of ascertaining whether a majority of the members of the second-mentioned society are resident in Ceylon :

And provided, further, that nothing in this section shall be construed to exempt in the hands of the recipients any dividends (not including rebates to members of registered co-operative societies in proportion to the business done by them with such societies), interest, annuities, salaries, wages, bonuses, perquisites, pensions, or other profits paid or arising wholly or in part out of the income so exempted.

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

(*a*) where the Commissioner is satisfied that a number of persons forming a substantial

proportion of such society or of the contributors to such fund have either no taxable incomes, or taxable incomes wholly chargeable at rates not exceeding twenty per centum, or

(*b*) where such society or fund has been approved by the Commissioner under section 10 (1) (*f*),

the Commissioner may in his discretion, subject to such conditions as he may specify, restrict or remit the tax payable by such society or fund as the case may appear to him to require.

(3) The exemption conferred by sub-paragraph (ii) of paragraph (*l*) of sub-section (1) shall not apply in the case of any person referred to in that sub-paragraph unless the Minister, being satisfied that a corresponding official of the Government of Ceylon 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.

Exemption for profits and income of certain corporations and industrial undertakings.

6. (1) This section shall apply—

(i) to any corporation established on or after April 1, 1951, and—

(*a*) to the capital of which the Government of Ceylon makes a contribution, and

(*b*) which is declared by the Minister by Order published in the *Gazette* to be a corporation to which this section shall apply ; and

(ii) to any industrial undertaking in respect of which the Commissioner is satisfied that the following conditions are fulfilled :—

(*a*) that it is an undertaking for the production or manufacture in Ceylon of goods or commodities commenced on or after April 1, 1951 ;

(*b*) that the undertaking is not formed by the splitting up or reconstruction of any business previously in existence, or by the transfer to a new business of buildings, machinery or plant used in a business which was being carried on before April 1, 1951 ;

(*c*) that more than twenty-five persons are employed for the purposes of the undertaking ;

(*d*) that the goods or commodities produced or manufactured by that undertaking are certified by the Director of Industries or any other prescribed authority as being in his opinion of satisfactory quality ; and

(*e*) that the prices at which such goods or commodities are sold are certified by the Director of Commerce or any other prescribed authority as being in his opinion reasonable ;

(iii) to any undertaking of deep sea fishing ; and

(iv) to any undertaking carried on in any land for a purpose for which such land was leased in accordance with such notification as was, or may be, published in that behalf, in the *Gazette*.

(2) The profits and income of—

(i) any corporation referred to in paragraph (i) of sub-section (1), being the profits and income for the year of assessment in which the Government of Ceylon makes a contribution to the capital of that corporation and for each of the next five subsequent years of assessment,

(ii) any undertaking referred to in paragraph (ii) of sub-section (1), being the profits and income of that undertaking for the year of assessment in which production or manufacture in Ceylon of goods or commodities commences and for each of the next five subsequent years of assessment,

(iii) any undertaking referred to in paragraph (iii) of sub-section (1), being the profits and income of that undertaking for the year of assessment in which it commences to carry on business and for each of the next five subsequent years of assessment, and

(iv) any undertaking referred to in paragraph (iv) of sub-section (1) being the profits and income of that undertaking for the year of assessment in which the lease of the land in which such undertaking is carried on was executed and for each of the next five subsequent years of assessment,

shall be exempt from income tax.

(3) Where the profits and income for any year of assessment of any corporation or undertaking referred to in sub-section (1) are exempt from the tax by virtue of sub-section (2), all dividends which are in that year paid to the shareholders of the corporation or undertaking shall be exempt from the tax, and accordingly the provisions of section 27 shall not apply to such dividends.

Exemption for profits and income from the export trade of approved industrial undertakings.

7. (1) The profits and income derived from the export trade of any articles or goods of any industrial undertaking approved by the Minister for the time being in charge of the subject of industries, being such profits and income for the year of assessment succeeding the year in which such articles or goods are exported for the first time and for each of the two subsequent years of assessment, shall be exempt from income tax.

(2) Where, for the purposes of sub-section (1), the profits and income derived from the export trade of any articles or goods referred to in that sub-section cannot be ascertained at the time of assessment, such sum as the Commissioner in his discretion considers reasonable to be such profits and income for the year of assessment in respect of which the assessment is made, shall be exempt from income tax.

Exemptions from income tax in respect of charitable institutions.

8. (1) If the profits of a business carried on by a charitable institution are applied solely to a charitable purpose of that institution and either the business is carried on in the course of the actual carrying out of a primary purpose of that

institution or the work in connection with the business is mainly performed by beneficiaries of that institution, such profits shall be exempt from income tax.

(2) Where a charitable institution which receives grants from the Government of Ceylon and which is approved by the Minister for the purposes of this sub-section carries on any business of a casual nature for the charitable purpose of that institution, the profits of such business shall be exempt from income tax.

(3) The net annual value of any place of public worship and its premises administered by a charitable institution shall be exempt from income tax.

(4) The net annual value of any place or premises owned and occupied by a charitable institution solely for any of the purposes of that institution shall be exempt from income tax.

(5) 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 a charitable institution shall, in so far as such profits and income are applied to the purposes for which such grant was made, be exempt from income tax.

(6) Where the assessable income for any year of assessment of a charitable institution does not exceed four thousand rupees, such income shall not be taxable.

(7) 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 four thousand rupees.

Exemption of interest on Government loans.

9. (1) The interest payable on each of the loans specified in sub-section (2) shall be exempt from income tax.

(2) (*a*) The 5 per centum Sterling Loan, 1960/1970 raised in the United Kingdom in January, 1930.

(*b*) The 4½ per centum Sterling Loan, 1965, raised in the United Kingdom in September, 1930.

(*c*) The 3 per centum Sterling Loan, 1959/1964, raised in the United Kingdom in December, 1935.

CHAPTER II

Ascertainment of Profits or Income

Deductions allowed.

10. (1) Subject to the provisions of sub-sections (7) and (8), 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*) such sum as the Commissioner in his discretion considers reasonable for the depreciation by wear and tear of plant, machinery, and fixtures arising out of their use by such person as the owner thereof in a trade, business, profession, vocation, or employment carried on or exercised by him, such sum being calculated normally at a fixed rate per centum per annum on the written-down value ;

(*b*) where such person who carries on or exercises any trade, business, profession, vocation, or employment has sold or discarded any plant, machinery, or fixtures used in producing the income therefrom, without ceasing to carry on or exercise the said trade, business, profession, vocation, or employment, the loss attributable to the excess of the written-down value over the sum, if any, realized or likely to be realized by the sale thereof :

Provided that—

(i) any corresponding profit shall be treated as a receipt of the trade, business, profession, vocation, or employment, and

(ii) where such plant, machinery, or fixtures were only partly used or employed in such trade, business, profession, vocation, or employment, the deduction or addition under this sub-section shall be proportionately reduced ;

(*c*) such sum as the Commissioner in his discretion considers reasonable for bad debts incurred by such person in any trade, business, profession, vocation, or

employment which have become bad during the period of which the profits are being ascertained, and for doubtful debts to the extent that they are estimated to have become bad during the said period, notwithstanding that such bad or doubtful debts were due and payable prior to the commencement of the said period :

Provided that all sums recovered during the said 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 the trade, business, profession, vocation, or employment for that period ;

(*d*) interest paid or payable by such person to a banker ;

(*e*) any contribution or abatement deducted from the salary or pension of such person under the Widows' and Orphans' Pension Fund Ordinance, if such person is or was a public officer, and any contribution or abatement deducted from the salary or pension of such person, if such person is or was a member of the Local Government Service, under the regulations relating to the establishment of any Widows' and Orphans' Pension Fund or Scheme for that service ;

(*f*) any contribution by an employer to a pension, provident or savings fund, or to a provident or savings society, which may be approved by the Commissioner subject to such conditions as he may prescribe ;

(*g*) such sum not exceeding three hundred rupees in any year as may be expended by such person as a professionally or technically qualified employee in the payment of subscription to a professional or technical society of which he is a member or in the purchase of professional or technical books, journals and reports ;

(*h*) a prescribed lump sum for the depreciation by wear and tear of any plant, machinery or fixtures acquired by such person in

the year preceding the year of assessment and used by him in any trade, business, profession, vocation, or employment carried on or exercised by him, such lump sum being variable according to the kind of plant, machinery or fixtures concerned ;

(*i*) a prescribed lump sum for the depreciation by wear and tear of any building constructed in the year preceding the year of assessment for the purpose of any agricultural or industrial undertaking carried on by such person,—

(*a*) for use as a staff welfare building, or

(*b*) for occupation as a dwelling-house by any member of the subordinate staff employed by such person in such undertaking, or

(*c*) for occupation for the purposes of such undertaking otherwise than as a dwelling-house ;

(*j*) any sum expended by such person for the repair (not renewal) of plant, machinery or fixtures employed for producing the income, or the cost of renewal of any plant, machinery or fixtures if no deduction for depreciation thereof has been allowed under paragraph (*a*), or any sum expended for the renewal of any building, implement, utensil, or articles so employed, if no deduction for depreciation thereof has been allowed under paragraph (*i*), or any sum expended for the repair of any building, implement, utensil or articles so employed.

(2) The provisions of paragraphs (*a*) and (*b*) of sub-section (1) shall not apply to any plant, machinery or fixtures purchased after March 31, 1957, or where statutory income is directed by the Commissioner under section 12 (2) to be computed up to any such day other than the thirty-first day of March as is specified in the direction, after such specified day in the year preceding the year of assessment commencing on April 1, 1957.

(3) Where any person sells, discards, otherwise disposes of, or otherwise ceases to be the owner of, any plant, machinery or fixtures acquired by him after March 31, 1957, or such specified day as is referred to in sub-section (2), and used in producing the income from any trade, business, profession, vocation, or employment carried on or exercised by him, or any building constructed after March 31, 1957, or such specified day as is referred to in sub-section (2), which is a staff welfare building or a building for use as a dwelling-house by any member of the subordinate staff employed by him in or for the purposes of, or in connection with, any agricultural or industrial undertaking, or which is a building occupied, for the purposes of such undertaking, otherwise than as a dwelling-house, and the sale or discard or other disposal or other cessation of ownership occurs when or after he ceases to carry on or exercise such trade, business, profession, vocation, employment or undertaking, and a deduction for depreciation has been made under paragraph (*h*) or paragraph (*i*) of sub-section (1) in respect of the things sold or discarded or otherwise disposed of or otherwise ceased to be owned, then, if the sale or discard or other disposal or other cessation of ownership is before the expiry of the period of likely use by reference to which the deduction for depreciation was determined, such part of the amount deducted for depreciation as is in the opinion of the Commissioner attributable to the unexpired part of such period shall be added to the profits or income of such person as a receipt of such trade, business, profession, vocation, employment or undertaking.

(4) Where any person sells, discards, otherwise disposes of, or otherwise ceases to be the owner of, any plant, machinery or fixtures acquired by him after March 31, 1957, or such specified day as is referred to in sub-section (2), and used in producing the income from any trade, business, profession, vocation, or employment carried on or exercised by him, or any building constructed after March 31, 1957, or such specified day as is referred to in sub-section (2), which is a staff welfare building or a building for use as a dwelling-house by any member of the subordinate staff employed by him in or for the purposes of, or in connection with, any agricultural or industrial undertaking, or which is a building occupied for the purposes of such

undertaking, otherwise than as a dwelling-house, and the sale or discard or other disposal or other cessation of ownership occurs without his ceasing to carry on or exercise such trade, business, profession, vocation, employment or undertaking, and a deduction for depreciation has been made under paragraph (*h*) or paragraph (*i*) of sub-section (1) in respect of the thing sold or discarded or otherwise disposed of, or otherwise ceased to be owned, then—

(*a*) if the sale or discard or other disposal or other cessation of ownership is before the expiry of the period of likely use by reference to which the deduction for depreciation was determined, the Commissioner shall take into account the unexpired part of such period and determine the amount of the loss, or the amount of the profit, arising in the event of a sale from the sale, or in the event of a discard or other disposal or other cessation of ownership, from the likely sale of such plant, machinery, fixtures, or building, and where the amount of the loss is so determined, there shall be deducted that amount for the purpose specified in sub-section (1), and where the amount of the profit is so determined, that amount shall be added to the profits or income of such person as a receipt of such trade, business, profession, vocation, employment, or undertaking, and where such plant, machinery, or fixtures was or were only partly used or employed for such trade, business, profession, vocation, or employment, or such building was only partly used for the purposes of, or in connection with, such undertaking, the deduction or addition under this sub-section shall be proportionately reduced; and

(*b*) if the sale or discard or other disposal or other cessation of ownership is after the expiry of the aforesaid period of likely use, the full amount of the sale proceeds in the event of a sale, or the full amount likely to be realised by the sale of such plant, machinery, fixtures,

or building in the event of a discard or other disposal or other cessation of ownership shall be added to the profits or income of such person as a receipt of such trade, business, profession, vocation, employment, or undertaking, and where in the case of a discard or other disposal or other cessation of ownership such plant, machinery or fixtures was or were only partly used or employed for such trade, business, profession, vocation, or employment, or such building was only partly used for the purposes of, or in connection with, such undertaking, the addition under this sub-section shall be proportionately reduced.

(5) There shall be deducted for the purpose of ascertaining the profits and income of any person—

(*a*) a sum equal to twenty per centum of the expenditure actually incurred by him in the purchase and installation of any new plant, machinery, or fixtures to be used by him in the commencement by him of a trade or business (other than an agricultural undertaking) which is not an approved project;

(*b*) a sum equal to forty per centum of the expenditure actually incurred by him in the purchase and installation of any new plant, machinery or fixtures to be used by him in an agricultural undertaking or in the commencement by him of a trade or business which is an approved project;

(*c*) a sum equal to twenty per centum of the expenditure actually incurred in constructing any building, for the purposes of any industrial undertaking other than an approved project, to be used as a staff welfare building, or as a dwelling-house by any member of the subordinate staff employed by him in, or for the purposes of, or in connection with, such undertaking, or as a building to be occupied for the purposes of such undertaking other than as a dwelling-house;

(*d*) a sum equal to forty per centum of the expenditure actually incurred in constructing any building, for the purposes of any approved project or agricultural undertaking, to be used as a staff welfare building, or as a dwelling-house by any member of the subordinate staff employed by him in, or for the purposes of, or in connection with, such project or undertaking, or as a building to be occupied for the purposes of such project or undertaking other than as a dwelling-house.

For the purposes of this sub-section " approved project " means—

(i) any project declared by the Minister to be an approved project for the purposes of section 47A of the Income Tax Ordinance, or

(ii) any such project for the establishment of a new undertaking as is considered by the Minister for the time being in charge of the subject of industries to be essential for the economic progress of Ceylon and is, at the request of such Minister, declared by the Minister of Finance to be an approved project for the purposes of this sub-section and published in the *Gazette*.

(6) Where in respect of a year preceding a year of assessment, any person who is not a citizen of Ceylon, and who is carrying on or exercising any trade, business, profession or vocation in Ceylon incurs any cost of passage from Ceylon to his home abroad and from such home to Ceylon of himself or of his wife, son or daughter, the amount of such cost shall be deducted for the purpose specified in sub-section (1).

(7) In ascertaining the profits or income arising from the rent or annual value of land and improvements thereon, no deduction shall be made for outgoings and expenses except those authorised in section 3.

(8) Subject as hereinafter provided, income arising from interest shall be the full amount of interest falling due whether paid 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 103, be reduced by the amount of interest included which has been shown to be irrecoverable ;

(*b*) where it appears to an Assessor that any interest falling due in respect of a loan has not been received, he may exclude such interest from the assessment ; and

(*c*) where it appears to an Assessor that any interest which has been excluded from an assessment under paragraph (*b*) has subsequently been received, he shall make an assessment or additional assessment including such interest, and such assessment or additional assessment may be made and shall be valid notwithstanding that the period of limitation prescribed by section 94 has elapsed.

Any decision of an Assessor in the exercise of any discretion conferred upon him by this sub-section may be questioned in an appeal against an assessment in accordance with the provisions of Chapter XII.

Deductions not allowed.

11. (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 residence and place of business or employment ;

(*b*) expenses incurred in connection with employment other than the expenses referred to in paragraphs (*d*), (*e*) and (*g*) of sub-section (1) of section 10 ;

(*c*) any travelling expenditure incurred in connection with any trade, business, profession or vocation carried on or exercised by such person other than—

(i) if he is carrying on any trade or business, the expenditure, determined in accordance with the provisions of sub-section (2) and not exceeding two

thousand rupees a year, incurred by him in connection with his trade or business in travelling within Ceylon to any place outside the city, town or village within which he mainly carries on his trade or business,

(ii) if he is exercising any profession or vocation, the expenditure, determined in accordance with the provisions of sub-section (2), incurred by him in connection with his profession or vocation in travelling within Ceylon to any place outside the city, town or village within which his residence or office is situated,

(iii) the amount actually expended by an employee of such person, who is not an executive officer, in travelling within Ceylon in connection with the trade, business, profession or vocation carried on or exercised by such person,

(iv) the expenditure, determined in accordance with the provisions of sub-section (2), incurred by an executive officer who is in the employment of such person in travelling within Ceylon in connection with the trade, business, profession or vocation carried on or exercised by such person to any place outside the city, town or village within which such person mainly carries on his trade or business, or, if such person exercises any profession or vocation, within which the residence or office of such person is situated ;

(*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 allowance 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 ;

(*g*) any disbursements or expenses not being money expended for the purpose of producing the income ;

(*h*) any expenditure of a capital nature or any loss of capital ;

(*i*) the cost of any improvements ;

(*j*) any sum recoverable under an insurance or contract of indemnity ;

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

(*l*) any amounts paid or payable by way of United Kingdom income tax, or super tax, or surtax (other than the excess of any such United Kingdom income tax, or super tax, or surtax, over such maximum amount of the credit in respect of Ceylon income tax as is allowed by paragraph (*d*) of sub-section (1) of section 70) or Ceylon income tax, or Commonwealth tax as defined in section 71 or such other tax or levy charged or imposed by the law for the time being in force as the Minister may, with the approval of the House of Representatives, declare by Order published in the *Gazette* ;

(*m*) any interest paid or payable other than that allowed under section 10 (1) (*d*) ;

(*n*) any annuity, ground rent, or royalty ; or

(*o*) any payment to any pension, provident, savings, widows' and orphans' pension, or other society or fund, except such payments as are allowed under paragraphs (*e*) and (*f*) of sub-section (1) of section 10:

Provided that in the case of the cost of advertising outside Ceylon incurred solely in connection with the export trade of any articles

or goods of any approved industrial undertaking referred to in section 7, the full cost of such advertising shall be deductible.

(2) For the purpose of determining the expenditure incurred in connection with travelling which is referred to in paragraph (*c*) of sub-section (1) and in respect of which deduction is allowed under this section, such expenditure shall in relation to any person carrying on any trade or business or exercising any profession or vocation, or in relation to any executive officer in the employment of such person—

(i) be deemed to include the expenditure for subsistence incurred in the course of travelling by such person or officer;

(ii) be deemed to include an allowance for lodging in respect of each night spent away from such person's or officer's residence in connection with the trade, business, profession or vocation carried on or exercised by such person at such rate as may be prescribed if it is proved that he spent the night at any hotel, resthouse or boarding house ; and

(iii) be computed in accordance with the rates prescribed from time to time in the Financial Regulations of the Government of Ceylon for ascertaining the cost of travelling and subsistence in regard to public officers.

(3) 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 of any vehicle used for travelling for the purpose of his trade, business, profession or vocation except in the case of a vehicle used for such purpose by an officer, who is not an executive officer, in the employment of such person, and in respect of the last-mentioned vehicle such person, shall be entitled to such sum as the Commissioner may consider reasonable for such depreciation.

(4) An Order made by the Minister for the purpose of paragraph (*l*) of sub-section (1) may be declared to take effect from a date earlier than the date on which that Order is made.

CHAPTER III

Ascertainment of Statutory Income

Basis for computing statutory income.

12. (1) Save as provided in this section, the statutory income of every person for each year of assessment from each source of his profits and income in respect of which tax is charged by this Act 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 the year preceding the year of assessment, notwithstanding that he may have ceased to possess such source or that such source may have ceased to produce income.

(2) Where the Commissioner is satisfied that any person usually makes up the accounts of a trade, business, profession, vocation, or employment carried on or exercised by him to some day other than the thirty-first day of March, he may direct that the statutory income from that source be computed on the amount of the profits of the year ending on that day in the year preceding the year of assessment. Where, however, the statutory income of any person from a trade, business, profession, vocation, or employment has been computed by reference to an account made up to a certain day, and such person fails to make up an account to the corresponding day in the year following, the statutory income from that source both of the year of assessment in which such failure occurs and of the two years of assessment following shall be computed on such basis as the Commissioner in his discretion thinks fit.

Relief from tax in connection with commencement and cessation of profession, vocation or employment.

13. (1) Where a person has commenced to carry on or exercise a profession or vocation or an employment in Ceylon on or after April 1, 1951, and before April 1, 1958, and if he has not made a claim for a set-off or refund within the time allowed in paragraph (*a*) of sub-section (1) of section 11A (inserted by Act No. 13 of 1959) of the Income Tax Ordinance, then he shall be entitled—

(*a*) if he ceases to carry on or exercise that profession, vocation or employment in the year of assessment commencing on April 1, 1963, to a refund or set-off against the tax of seventy-five per centum of the excess, if any, of the

tax assessed in respect of him in the year preceding the year of assessment in which he ceases to carry on or exercise that profession, vocation or employment and the two next succeeding years of assessment over the tax that would have been assessed in respect of him for those three years as if sub-section (1) or sub-section (2) of section 13 of the Income Tax Ordinance did not apply and sub-section (6) of that section applied in respect of that profession, vocation or employment as though the expression "in any year of assessment commencing before April 1, 1958" occurring in the aforesaid sub-section (6) were omitted ;

(*b*) if he ceases to carry on or exercise that profession, vocation or employment, in the year of assessment commencing on April 1, 1964, to a refund or set-off against the tax of seventy per centum of the excess referred to in paragraph (*a*) of this sub-section ; and

(*c*) if he ceases to carry on or exercise that profession, vocation or employment in any of the next succeeding years of assessment, to a refund or set-off against the tax of such percentage of the excess referred to in paragraph (*a*) of this sub-section as will be less by five per centum than the percentage to which he shall be entitled in the immediately preceding year of assessment.

(2) Where a person has commenced to carry on or exercise a profession, vocation or employment in Ceylon before April 1, 1951, then, if he ceases to carry on or exercise that profession, vocation or employment on or after April 1, 1958, the preceding provisions of this section shall apply to him in respect of that profession, vocation or employment.

Apportionment of profits.

14. Where in the case of any trade, business, profession, vocation, or employment it is necessary in order to arrive at the profits or losses of any year of assessment or other period to divide and apportion 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 a division and apportionment or aggregation, and any apportionment under this section shall be made in proportion to the number of days in the respective periods.

CHAPTER IV

Ascertainment of Assessable Income and Taxable Income and Rates of Tax to be charged

Deductions from statutory income in arriving at assessable income.

15. (1) The assessable income of a person for any year of assessment shall be his total statutory income for that year subject to the following deductions :—

(*a*) sums payable by him for the year preceding the year of assessment by way of interest not allowable under section 10 (1) (*d*), annuity, ground rent, or royalty :

Provided that—

(i) where under section 12 the statutory income arising from any source has been computed by reference to the profits or income of any period other than the year preceding the year of assessment, the interest, annuity, ground rent or royalty payable in respect of such source shall be computed on the like basis ;

(ii) 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 Ceylon to another person out of Ceylon ;

(iii) where for any year of assessment the said sums 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 the said year ;

(iv) where, at the time of making any assessment, it appears to an Assessor that any of the said sums has not been paid, he may refuse to allow any deduction in respect of that sum ; and

(v) where it appears to an Assessor that any sum in respect of which a deduction has been refused under

paragraph (iv) has subsequently been paid, he shall, on application made in writing within twelve months of such payment and supported by such proof as he may require, make an amended assessment allowing such deduction, notwithstanding the provisions of section 103 ; and any tax found to have been paid in excess as a result of such amended assessment shall be refunded notwithstanding that the claim for such refund may be made after the expiry of the period of three years prescribed by section 117 ;

(*b*) the amount of a loss incurred by him during the year of assessment in any trade, business, profession, or vocation, which, if it had been a profit, would have been assessable under this Act :

Provided that no such deduction shall be made unless it is claimed by notice in writing within six months of the end of the year of assessment ;

(*c*) the amount of a loss incurred by him in any trade, business, profession or vocation during any preceding year of assessment commencing on or after the first day of April, 1954, which if it had been a profit would have been assessable under this Act and which has not been so allowed against his statutory income of a previous year :

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 paragraph shall be made as far as possible from the statutory income of the first year of assessment after that in which the loss was incurred, and, so far as it cannot be so

made, then from the statutory income of the next year of assessment, and so on ;

(*d*) the amount of any loss which has been incurred in any year preceding the year of assessment by any corporation or undertaking referred to in section 6 and which has not been deducted from the statutory income for a previous year of assessment.

(2) Any decision of an Assessor in the exercise of any discretion conferred upon him by sub-section (1) may be questioned in an appeal against an assessment in accordance with Chapter XII.

(3) 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, vocation or employment, he shall, on his making an application in that behalf to the Commissioner, be entitled to a deduction from the statutory income for that year of assessment of the amount of a loss incurred by him in that trade, business, profession, vocation or employment 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. For the purpose of allowing that deduction, the assessable income of that person for that year of assessment shall, notwithstanding the provisions of section 103, 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 ;

(ii) a deduction under this sub-section 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 ; and

(iii) where the person is a company entitled to a deduction under this sub-section from the company's statutory income of any

year of assessment and the company has paid out of such statutory income dividends to any shareholders of the company, the amount of such deduction shall be reduced by the gross amount of such dividends.

(4) The whole or any part of that amount which in accordance with the provisions of paragraph (*h*) or paragraph (*i*) of sub-section (1) of section 10 cannot be deducted from the statutory income of any person for any year of assessment, shall, together with a sum equal to four per centum of that amount, be deducted as far as possible from the statutory income of the subsequent year of assessment, and, so far as it cannot be so deducted, it shall be deducted from the statutory income of the next succeeding year of assessment, and so on. Where under the preceding provisions of this sub-section a deduction is made from the statutory income of any of the succeeding years of assessment of such person, such deduction shall consist of the amount or part thereof which could not be deducted from the statutory income of the immediately preceding year of assessment and a sum equal to four per centum per annum of such amount or part thereof.

(5) For the purposes of sub-section (1) (*b*) and (*c*) and sub-section (3), the loss incurred during any year of assessment shall be computed, where the Commissioner so decides, by reference to the year ending on the day in such year of assessment which would have been adopted under section 12 (2) for the computation of statutory income of the following year of assessment if a profit had arisen.

(6) Where any person has been declared bankrupt or adjudged insolvent by a competent court, no loss incurred prior to the date of bankruptcy or insolvency shall be set off against income arising after such date.

(7) The amount of a loss for the purposes of this section shall be ascertained in the manner provided in this Act for the ascertainment of profits.

(8) No deduction under this section shall be allowable except on a claim made in writing by the person assessable, containing such particulars and supported by such proof as the Commissioner may require.

Taxable income.

16. Save as hereinafter provided in this Act, the taxable income of any person for any year of assessment shall be his assessable income for that year of assessment.

Rates of tax for year of assessment 1963–1964 and subsequent years.

17. (1) Subject as hereinafter provided, income tax shall be charged, for each year of assessment commencing on or after the first day of April, 1963, on the taxable income for that year of any such person or Government as is referred to in the First Schedule to this Act at the appropriate rates specified in that Schedule.

(2) That part of the First Schedule to this Act relating to non-resident individuals shall, in its application to an individual who is non-resident for a portion of the year preceding any year of assessment, have effect as if each of the sums specified in that part were reduced in the proportion which the number of days during which he is non-resident bears to the number of days in that year of assessment.

(3) Where, in consequence of the inclusion in the statutory income of an individual of—

(*a*) a sum received in commutation of pension, or

(*b*) a sum refunded under section 46 (1) or section 49 of the Widows' and Orphans' Pension Fund Ordinance or under any regulation relating to any Widows' and Orphans' Pension Fund or Scheme established for the Local Government Service which corresponds to the said section 46 (1) or section 49, or

(*c*) a sum received as a retiring gratuity, or

(*d*) a sum paid to him, at the time of his retirement from any employment, from a provident fund approved by the Commissioner other than such part of that sum as represents his contributions to that provident fund made after April 1, 1954,

his taxable income for any year of assessment exceeds that which would be his taxable income if no such afore-mentioned sum were included in his statutory income, the excess, notwithstanding anything contained in any other sub-section, shall, if he was liable to income tax in the three immediately preceding years of assessment, be chargeable with

tax at the average of the effective rates at which he was liable to tax in those three years, or, if he was liable to tax for only two of those three years, be chargeable with tax at the average of the effective rates at which he was liable to tax in those two years, or, if he was liable to tax for only one of those three years, be chargeable with tax at the effective rate at which he was liable to tax in that year :

Provided that for any year of assessment the rate of tax chargeable on such excess shall not exceed fifteen per centum :

Provided further that, where he was non-resident in any of the three immediately preceding years of assessment referred to in the preceding provisions of this sub-section, the rate at which the aforesaid excess is chargeable with tax shall be determined by the Commissioner, so, however, that the amount payable by him as tax on such excess shall not be more than that which would be payable if he had been resident :

Provided further that, where the excess referred to in the preceding provisions of this sub-section 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 those provisions on such excess shall be reduced by the amount of the tax already paid and, if the amount of the tax already paid is more than the tax so chargeable on such excess, no tax shall be so chargeable on such excess.

For the purposes of this sub-section, 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 for any relief under sections 27, 67, 68, 70 and 71, bears to the amount of the assessable income for that year.

CHAPTER V

Provisions relating to resident individuals

Persons to whom this Chapter applies.

18. This Chapter shall apply to every individual resident in Ceylon in the year preceding any year of assessment, but shall not apply to any receiver, trustee, executor or liquidator.

Individuals who are deemed to be a family.

19. (1) Where, according to a return of income furnished under this Act by a resident individual in respect of the year preceding any year of assessment, he had a wife and no child or dependent relative in such preceding year, then, for the purpose of the computation of the income tax in respect of them for such year of assessment, they shall be deemed to be a family, and such individual shall be deemed to be the head of such family.

(2) Where, according to a return of income furnished under this Act by a resident individual in respect of the year preceding any year of assessment, he had a wife and any child or dependent relative in such preceding year, then, for the purpose of the computation of the income tax in respect of them for such year of assessment, they shall be deemed to be a family, and such individual shall be deemed to be the head of such family.

(3) Where, according to a return of income furnished under this Act by a resident individual other than an individual referred to in sub-section (1) or sub-section (2), in respect of the year preceding any year of assessment, such individual had any child or dependent relative in such preceding year, then for the purpose of the computation of the income tax in respect of them for such year of assessment, such individual and child or dependent relative shall be deemed to be a family, and such individual shall be deemed to be the head of such family.

Taxable income and the individual liable to pay income tax on such income.

20. (1) The assessable incomes of the members of a family other than the head of such family for any year of assessment shall be aggregated, and such aggregated assessable income shall be deemed to form part of the assessable income of the head of such family for such year of assessment.

From such assessable income of the head of such family there shall be deducted the allowances to which he is entitled under section 21, and the

balance left after such deduction shall be his taxable income for such year of assessment and he shall be liable to pay income tax on such taxable income :

Provided that where the tax cannot be collected from the head of such family, then, if his wife or child is included in such family, such portion of the tax as appears to the Commissioner to be attributable to the income of such wife or child may be collected from such wife or child notwithstanding that no assessment has been made upon such wife or child, and the provisions of this Act as to collection and recovery of tax shall apply accordingly.

(2) Where in respect of any year of assessment an individual is not included in a family, his assessable income for such year less the allowances to which he is entitled under section 21 shall be his taxable income for such year and he shall be liable to pay the tax on such taxable income.

Allowances to be deducted from assessable income in arriving at taxable income.

21. (1) Where for any year of assessment a family consists of a husband and wife and no child or dependent relative, an allowance of three thousand five hundred rupees in respect of such husband and wife shall be deducted from the assessable income of the head of such family for that year in arriving at his taxable income for that year.

(2) Where for any year of assessment a family consists of a husband and wife and one or more children or dependent relatives or one or more children and dependent relatives, an allowance of three thousand five hundred rupees in respect of the husband and wife, and—

(*a*) if there is one child or dependent relative, an allowance of two hundred and fifty rupees in respect of such child or dependent relative,

(*b*) if there are one child and one dependent relative, an allowance of two hundred and fifty rupees in respect of each of them,

(*c*) if there are children or dependent relatives, an allowance of two hundred and fifty rupees in respect of each of not more than four of them, and

(*d*) if there are children and dependent relatives, an allowance of two hundred and fifty rupees in respect of each of not more than four out of the total number of such children and dependent relatives,

shall be deducted from the assessable income of the head of such family for that year in arriving at his taxable income for that year.

(3) Where for any year of assessment a family consists of an individual and one child or dependent relative, an allowance of three thousand rupees in respect of such individual and an allowance of two hundred and fifty rupees in respect of such child or dependent relative shall be deducted from the assessable income of the head of such family for that year in arriving at his taxable income for that year.

(4) Where for any year of assessment a family consists of an individual and children or dependent relatives or children and dependent relatives, an allowance of three thousand rupees in respect of such individual and—

(*a*) if there are children or dependent relatives, an allowance of two hundred and fifty rupees in respect of each of not more than five of them, and

(*b*) if there are children and dependent relatives, an allowance of two hundred and fifty rupees in respect of each of not more than five out of the total number of such children and dependent relatives,

shall be deducted from the assessable income of the head of such family for that year in arriving at his taxable income for that year.

(5) Where for any year of assessment an individual is not included in a family, there shall be deducted from his assessable income for that year in arriving at his taxable income for that year an allowance of three thousand rupees.

22. For the purposes of this Act,— Units and fractions of units.

(*a*) the head of a family shall be deemed to be one and half units;

(*b*) the wife of the head of a family shall be deemed to be one half of a unit;

(*c*) a child, or a dependent relative, who is included in a family shall be deemed to be one half of a unit ; and

(*d*) an individual who is not included in a family shall be deemed to be one and a half units.

Computation of income tax payable by individuals to whom this Chapter applies.

23. (1) In respect of individuals to whom this Chapter applies income tax shall be computed in accordance with the provisions of Part I of the Second Schedule to this Act :

Provided that where the amount of the tax so computed is less than the amount of the tax which will be payable if the tax is computed in accordance with the provisions of Part II of that Schedule, the person liable to pay the tax shall pay the amount of the tax computed in accordance with the provisions of Part II of that Schedule.

(2) For the purpose of the computation of the income tax on the taxable income of the head of a family there shall be substituted for each sum specified in items 1 to 9 of Part I of the Second Schedule to this Act the product of the multiplication of that sum by the aggregate of such units and fractions of units contained in that family in accordance with the provisions of section 22 as represent the members of that family who are entitled to allowances under section 21.

(3) For the purpose of the computation of the income tax on the taxable income of an individual who is not included in a family in respect of any year of assessment, there shall be substituted for each sum specified in items 1 to 9 of Part I of the Second Schedule to this Act, the product of the multiplication of that sum by one and a half.

Proportionate allowances and proportionate charge of tax.

24. Where an individual is chargeable with tax for any year of assessment as a resident in Ceylon for a part only of the year preceding that year of assessment,—

(*a*) he shall be entitled for that year of assessment to the same proportion only of the allowances under section 21 as the number of days during which he is resident bears to the number of days in such preceding year, and

(*b*) the provisions of Part I of the Second Schedule to this Act read with sub-section (2) and sub-section (3) of section 23, shall, in their application, to that individual, have effect as if each of the sums mentioned in that Part of that Schedule were reduced in the proportion which the number of days during which he is resident bears to the number of days in such preceding year.

CHAPTER VI

Income Tax in respect of Companies

Tax to which resident companies are liable.

25. (1) The income tax to which a company resident in Ceylon in the year preceding the year of assessment shall be liable shall consist of—

(*a*) a sum equal to 57 per centum of the taxable income of such company for such year of assessment, and

(*b*) a sum equal to 33⅓ per centum of the aggregate amount of the gross dividends distributed by such company out of the profits on which the taxable income of such company is computed for such year of assessment :

Provided that where it is proved to the satisfaction of the Commissioner that the resident company is a company the issued capital of which does not exceed two hundred and fifty thousand rupees at any time during the year preceding the year of assessment, then—

(i) where the assessable income of such company does not exceed fifty thousand rupees the tax to which such company shall be liable under paragraph (*a*) of this sub-section shall be a sum equal to 28½ per centum of the taxable income of such company for such year of assessment, and

(ii) where the assessable income of such company exceeds fifty thousand rupees, the tax to which such company shall be liable under paragraph (*a*) of this sub-section shall not exceed the aggregate of—

(i) a sum equal to 28½ per centum of fifty thousand rupees, and

(ii) the amount by which the taxable income of such company for such year of assessment exceeds fifty thousand rupees.

(2) Where a dividend is paid by any resident company to another resident company and either—

(*a*) a deduction has been made under section 27 (1) in respect of that dividend by the first-mentioned company, or

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

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

(3) In sub-section (1), "amount of the gross dividends" of a company means the amount of the dividends before such deductions as the company is entitled to make under this Act for tax are made from the dividends.

26. (1) The income tax to which a non-resident company shall be liable— **Tax to which non-resident companies are liable.**

(*a*) shall, where there are remittances of such company in the year preceding such year of assessment or, if the statutory income of such company is directed by the Commissioner under section 12 (2) to be computed to some day other than the thirty-first day of March as is specified in the direction, where there are remittances in the year ending on such specified day in the year preceding such year of assessment, consist of a sum equal to 57 per centum and an additional 6 per centum, of the taxable income of such company for such year of assessment and a sum which shall, if the aggregate amount of such remittances is less than one-third of such taxable income, be equal to 33⅓ per centum of such aggregate amount, and f such aggregate amount is not less than one-third of such taxable income, be equal to 33⅓ per centum of one-third of such taxable income ; and

(*b*) shall, where there are no such remittances, consist of a sum equal to 57 per centum and an additional 6 per centum, of such taxable income.

(2) In sub-section (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 27 (1) in respect of such dividends,

(*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 58 to be derived from Ceylon as is retained abroad.

(3) Where a dividend is paid by any resident company to any non-resident company and a deduction under section 27 (1) in respect of that dividend has been made by the first-mentioned company that dividend shall, notwithstanding anything to the contrary in any other provision of this Act, be deemed not to form part of the assessable income of such non-resident company.

(4) Every resident company shall deduct from the amount of any dividend which becomes payable during any year of assessment to any non-resident company income tax equivalent to 6 per centum of the amount of such dividend, and the amount of such tax shall be a debt due from the resident company to the Crown 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 from any dividend tax of 33⅓ per centum and if so requested by the Commissioner tax at a higher rate.

27. (1) Subject to the provisions of sub-section (2) and sub-section (3), every resident company shall be entitled to deduct from the amount of any dividend 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 33⅓ per centum of such amount :

Provided that where any such dividend consists of any part of the amount of a dividend received by that company from another resident company, such part shall not be included in the amount of the first-mentioned dividend for the purposes of this sub-section.

(2) The Commissioner may give notice in writing to a resident company requiring it to deduct from the amounts of dividends payable to a particular shareholder income tax on such amounts at a rate greater than 33⅓ per centum but not greater than the highest rate at which tax is chargeable for such year of assessment on the taxable income of an individual ; and where such notice is given, such company shall deduct from the amounts of all dividends payable during such year of assessment to such shareholder tax on such amounts at the rate specified in such notice; and such part of the tax required to be so deducted as exceeds 33⅓ per centum of the amounts of such dividends shall be a debt due from such company to the Crown 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.

(3) Where a resident company has obtained or is entitled to obtain relief in respect of double taxation under the provisions of section 70 or section 71, the rate at which such company may deduct tax from the dividends payable during any year of assessment shall be reduced as the Commissioner may direct.

(4) Every person who issues a warrant, cheque or other order drawn or made in payment of any dividend in respect of which a deduction has been made under sub-section (1) and which becomes

payable by a resident company during any year of assessment shall annex thereto a statement in writing showing—

(*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 ; and

(*d*) where any such dividend includes any part of the amount of a dividend received by that company from any other resident company, the part of the amount of the dividend so received.

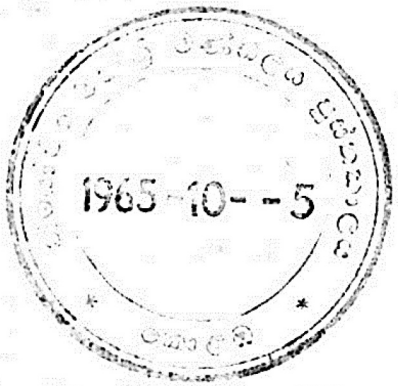
(5) Where the statement referred to in sub-section (4) discloses that a shareholder of a resident company received a dividend which included the amount of any dividend received from any other resident company, then that amount shall, for the purposes of determining the statutory income of such shareholder, be increased by fifty per centum and he shall be entitled to a set-off against the tax payable by him of an amount equal to the said fifty per centum.

(6) Where the assessable income of a person other than a company includes a dividend from a resident company in the form of money or of an order to pay money, he shall be entitled, on production of a statement relating to such dividend made in accordance with sub-section (4), to a set-off against the tax payable by him of the amount of tax shown on such statement :

Provided that where the rate at which tax may be deducted from such dividend has been reduced under the provisions of sub-section (3), the set-off shall be adjusted as the Commissioner may direct.

(7) Where for any year of assessment the assessable income of a person includes a dividend from a resident company in the form of shares or debentures, he shall be entitled to a set-off, against the tax payable by him, of an amount equal to that which the company is entitled under sub-section (1) to deduct as tax on such dividend.

(8) Where the assessable income of a person other than a company includes a dividend from a company which, although not resident in Ceylon, has paid Ceylon income tax on any part of its profits, he shall be entitled to a set-off of tax in respect of a similar part of the dividend, the amount of which shall be decided by the Commissioner.



CHAPTER VII

Imposition of the Wealth Tax

Persons to whom this Chapter shall not apply.

28. This Chapter shall not apply to—

(*a*) the Diplomatic Representative in Ceylon (by whatever name or title designated) of the Government of any foreign country and the High Commissioner in Cey'on of the Government of any part of Her Majesty's dominions ;

(*b*) any such member of the staff of any Diplomatic Representative or High Commissioner referred to in paragraph (*a*) of this section as is a citizen or subject of the country represented by that Diplomatic Representative or High Commissioner, any Consul or Trade Commissioner who is a citizen or subject of the country represented by him, and any such member of the staff of any Consul or Trade Commissioner as is a citizen or a subject of the country represented by that Consul or Trade Commissioner ;

(*c*) any expert, adviser, technician or official whose salary or principal emolument is not payable by the Government of Ceylon and who is brought to Ceylon by the Government of Ceylon through any Specialised Agency of the United Nations Organisation, or under the Point Four Assistance Programme of the Government of the United States of America, or through the Colombo Plan Organisation (including its Technical Assistance Bureau) or any similar organisation approved by the Minister ; or any scientist, technician, expert or adviser, who is not a citizen of Ceylon and who is employed in Ceylon on a contract of employment entered into on or after April 1, 1959, between him and the Government of Ceylon or between him and any such statutory corporation or institution as may be approved by the Minister for the purpose ; or any scientist, technician, expert or adviser who is not a citizen of Ceylon and who

is brought to and employed in Ceylon on or after April 1, 1958, by a corporation to which section 6 of this Act applies or by the proprietor of an undertaking to which the aforesaid section applies, for the purposes of that undertaking, in so far as the first three years of employment in Ceylon of such scientist, technician, expert or adviser are concerned but so however that if the exemption from income tax granted by section 6 in respect of that corporation or undertaking ends on a date earlier than the date on which the afore-mentioned period of three years of employment ends, then the exemption from wealth tax in respect of such scientist, technician, expert or adviser shall end on the first-mentioned date ;

(*d*) any trainee from abroad who is sent to Ceylon under any of the Technical Co-operation Programmes of the United Nations Organisation and its Specialised Agencies, or of the Colombo Plan Organisation, or of any similar organisation approved by the Minister ;

(*e*) any official of the United Nations Organisation who is resident in Ceylon and who is not a citizen of Ceylon ;

(*f*) members of any naval, military or air forces of any country other than Ceylon who are in Ceylon at the request or with the concurrence of the Government of Ceylon ;

(*g*) persons employed in any civil capacity by the Government of any country other than Ceylon, who, not being persons resident in Ceylon for a period exceeding three months immediately prior to the date of commencement of such employment, are so employed in or visit Ceylon for any purpose connected with such members of any naval, military or air forces as are referred to in paragraph (*f*) of this section ;

(*h*) any local authority ;

(*i*) the University of Ceylon established under the Ceylon University Ordinance, and

the Vidyodaya University of Ceylon and the Vidyalankara University of Ceylon established under the Vidyodaya University and the Vidyalankara University Act, No. 45 of 1958 ;

(*j*) any body of persons to which section 78 of this Act applies ;

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

(*l*) any corporation established under the Government Sponsored Corporations Act ;

(*m*) any corporation established under the State Industrial Corporations Act, No. 49 of 1957 ;

(*n*) the Ceylon Institute of Scientific and Industrial Research established under the Ceylon Institute of Scientific and Industrial Research Act ;

(*o*) any co-operative society registered under the Co-operative Societies Ordinance ;

(*p*) the Co-operative Wholesale Establishment established under the Co-operative Wholesale Establishment Act ;

(*q*) the Ceylon State Plantations Corporation established under the Ceylon State Plantations Corporation Act, No. 4 of 1958 ;

(*r*) the Milk Board established under the Milk Board Act ;

(*s*) the Ceylon Savings Bank and the Ceylon Post Office Savings Bank ;

(*t*) the Central Bank of Ceylon and the Monetary Board established under the Monetary Law Act ;

(*u*) the Ceylon State Mortgage Bank established under the Ceylon State Mortgage Bank Ordinance ;

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

(*w*) the Rubber Research Board established under the Rubber Research Ordinance ;

(*x*) the Coconut Research Board established under the Coconut Research Ordinance;

(*y*) the Board of the Tea Research Institute of Ceylon established under the Tea Research Ordinance;

(*z*) the corporation known as the Incorporated Victoria Home for Incurables and established by the Victoria Home for Incurables Ordinance;

(*aa*) the corporation known as the Incorporated Council of Legal Education and established by the Council of Legal Education Ordinance;

(*ab*) the administrators of the Widows' and Orphans' Pension Fund of public officers of Ceylon;

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

(*ad*) the administrators of the Employees' Provident Fund established under the Employees' Provident Fund Act, No. 15 of 1958;

(*ae*) the Agricultural and Industrial Credit Corporation of Ceylon established under the Agricultural and Industrial Credit Corporation Ordinance;

(*af*) Air Ceylon Limited established under the Air Ceylon (Incorporation) Act;

(*ag*) the Commissioners of the Loan Board appointed under the Loan Board Ordinance;

(*ah*) the Gal Oya Development Board established under the Gal Oya Development Board Act;

(*ai*) the administrators of the National Housing Fund established under the National Housing Act;

(*aj*) the Hospitals Lotteries Board established under the Hospitals Lotteries Act;

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

(*al*) the Ceylon Coconut Board established under the Coconut Products Ordinance ;

(*am*) the Ceylon Tea Propaganda Board established under the Tea Propaganda Ordinance ;

(*an*) the Local Loans and Development Commissioners appointed under the Local Loans and Development Ordinance ;

(*ao*) the Ceylon Transport Board established under the Motor Transport Act, No. 48 of 1957 ;

(*ap*) the Port (Cargo) Corporation established under the Port (Cargo) Corporation Act, No. 13 of 1958 ;

(*aq*) the Public Service Mutual Provident Association established under the Public Service Mutual Provident Association Ordinance ;

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

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

(*at*) the United Nations Organisation ;

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

(*av*) any other person who may be exempted from the provisions of this Act by Order made by the Minister, approved by the House of Representatives and published in the *Gazette*.

Charge of the wealth tax.

29. Subject to the other provisions of this Chapter, there shall be charged for every year of assessment commencing on or after April 1, 1963, from every person (including a Hindu undivided family but not including a company) in respect of the taxable wealth of such person, a tax, which is hereafter in this Act referred to as the " wealth tax ", at the rates specified in the Third Schedule to this Act.

Wealth to include certain property.

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

(*a*) any property in which he has only a life interest;

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

(*c*) 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 the share of the benefit from the trust;

(*d*) 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;

(*e*) being the trustee of a trust of a public character, the property subject to the trust other than property excluded from such wealth under paragraph (*e*) of sub-section (1) of section 31; and

(*f*) 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 sub-section shall apply to a pension or provident fund approved by the Commissioner.

(2) Where the estate of a deceased person is administered by an executor, then, for the purposes of sub-section (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.

31. (1) There shall be excluded from the wealth of a person for any year of assessment—

(*a*) his immovable property which is outside Ceylon;

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

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

(*d*) any motor car kept for his private use, household effects or other article (not including jewellery) of personal use of which he is the owner ;

(*e*) being a charitable institution within the meaning of this Act, any such property thereof as is property the income from which, or the annual value of which, is exempted from income tax under this Act ;

(*f*) any such interest in any property as is available to him for a period not exceeding six years ;

(*g*) his investments in securities of the Government of Ceylon ;

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

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

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

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

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

(*m*) any works of art, archæological, scientific or art collections, books or manuscripts belonging to him and not intended for sale ;

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

(*o*) any heirlooms belonging to him and not intended for sale, but not including jewellery ;

(*p*) any jewellery belonging to him or, if he is the head of a family, any jewellery belonging to him and the members of his family, subject to a maximum of twenty-five thousand rupees in value ;

(*q*) being an employee, the amount to his credit in any provident fund ; and

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

(2) Where a person has any investment which is an approved investment within the meaning of section 69 of this Act or section 47A of the Income Tax Ordinance, that investment shall be excluded from his wealth for the five years of assessment next succeeding the date on which that investment was made.

(3) Where a person has any share in the capital of any corporation or undertaking specified in section 6 of this Act, the amount of that share shall be excluded from his wealth so long as the profits and income of that corporation or undertaking are wholly or partly exempt from income tax.

Taxable wealth of persons included in a family.

32. (1) Where according to the return of wealth furnished by a person in respect of a year preceding any year of assessment such person is the head of a family, the wealth of each individual who is a member of that family shall, for the purposes of this Act, be deemed to form part of the wealth of the head of that family and accordingly the values of the net wealth of all such members shall be aggregated with the net wealth of the head of that family for that year of assessment. Where the aggregated net wealth of the head of that family for that year of assessment amounts to or exceeds one hundred thousand rupees, such net wealth shall be his taxable wealth for that year of assessment, and the head of that family shall be liable to the wealth tax in respect of such taxable wealth.

(2) Where the debts of an individual included in a family exceeds his wealth, then such excess shall be set off against the aggregated net wealth of the head of that family.

For the purposes of this sub-section, debts shall not include any debt specified in each of the paragraphs (*a*), (*b*), (*c*), (*d*) and (*e*) in the definition of " net wealth " in section 129.

Taxable wealth of person other than an individual included in a family or a charitable institution.

33. Where the net wealth for any year of assessment of a person, other than an individual who is not included in a family or a charitable institution, amounts to or exceeds one hundred thousand rupees, such net wealth shall be the taxable wealth of such person for that year of assessment and such person shall be liable to the wealth tax in respect of such taxable wealth.

Taxable wealth of a charitable institution.

34. (1) Where the net wealth for any year of assessment of a charitable institution exceeds twenty thousand rupees, the entirety of such net wealth shall be the taxable wealth of such institution, and such institution shall be liable to the wealth tax in respect of such taxable wealth.

(2) The amount of the wealth tax which a charitable institution is liable to pay in respect of its taxable wealth for any year of assessment shall not be more than the amount by which its taxable wealth exceeds twenty thousand rupees.

Value of property which constitutes wealth.

35. (1) The value of any immovable property for any year of assessment shall be its market value on the valuation date.

(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 valuation date.

(*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 is satisfied that the shares have not, within the period of twelve months immediately preceding the valuation date, been quoted in the official list of a recognised stock exchange in the United Kingdom or in a list of a like nature issued in Ceylon by any association of brokers approved by the Secretary to the Treasury for the purposes

of this paragraph, the value of such shares shall, if the Commissioner so directs, be ascertained not in the manner provided by the preceding provisions of this sub-section but by reference to the market value of all the assets of the company as a going concern, including goodwill, on the valuation date, 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 for the benefit of them or their dependants or relatives, and in no other manner.

(3) Where any person by whom wealth tax is payable is carrying on a business for which accounts are maintained by him regularly, the Commissioner 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.

(4) Where the value of any property is, according to the preceding provisions of this section, an amount 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.

Collection of wealth tax from other members of a family.

36. Where the wealth tax in respect of a person who has taxable wealth and who is the head of a family cannot be collected from him, then, if his wife or child is included in such family, such portion of the wealth tax as appears to the Commissioner to be attributable to the taxable wealth of such wife or child may be collected from such wife or child notwithstanding that no assessment has been made upon such wife or child, and the provisions of this Act as to collection and recovery of the wealth tax shall apply accordingly.

Recovery of wealth tax from trustees.

37. Where the property subject to a trust or deemed under sub-section (2) of section 30 to be subject to a trust or any part of that property is included under this Act in the wealth of a person who is, or is deemed under sub-section (2) of section 30 to be, a beneficiary under that trust such part of the wealth tax payable by that beneficiary as appears to the Commissioner to be attributable to that property or that part of that property shall, if it cannot be recovered from that beneficiary or if the income from that property or from that part of that property is not paid to that beneficiary and is accumulated by the trustee of that trust for the benefit of that beneficiary, be recovered from that trustee notwithstanding that no assessment has been made upon that trustee, and the provisions of this Act as to collection and recovery of the wealth tax shall apply accordingly.

Wealth tax not to exceed eighty per centum of assessable income.

38. The wealth tax payable by any person for any year of assessment shall not exceed eighty per centum of his assessable income for that year of assessment.

CHAPTER VIII

Imposition of the Gifts Tax

Charge of the gifts tax.

39. (1) Subject to the other provisions of this Chapter, there shall be charged for every year of assessment commencing on or after April 1, 1963, from every individual, other than an individual referred to in section 28, in respect of the taxable gifts made by such individual a tax which is hereafter in this Act referred to as the "gifts tax", at the rate or rates specified in the Fourth Schedule to this Act.

(2) Such part of the amount of the gifts tax paid by an individual in respect of his taxable gifts for any year of assessment as is attributable to the value of any one of his taxable gifts shall be deemed to be a sum which bears to the value of that gift the same proportion as the amount of the gifts tax bears to the value of his taxable gifts.

(3) 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 set off, to the extent that it can be set off, from the amount of the gifts tax in respect of his taxable gifts.

(4) The individual liable to gifts tax in respect of taxable gifts shall be the donor, but where such 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 to be attributable to the value of the gift made to the donee by the donor as at the date of the gift.

Gifts to include certain transfers.

40. For the purposes of this Chapter—

(*a*) where a company makes a gift on any date, every person who is a shareholder of the company on that date shall be deemed to make a gift in value equal to an amount which bears to the value of the gift made by the company the same proportion as his share of the

capital of the company bears to the aggregate of the shares of the capital of the company, and, if any such shareholder has not consented to the making of the gift by the company and declines to pay such part of the gifts tax in respect of his taxable gifts as is attributable to the value of the gift which he is deemed to make under this paragraph, the provisions of sub-section (4) of section 39 shall apply in regard to the recovery of the amount which he declines to pay as though such amount were a contribution which cannot be recovered from him ;

(*b*) 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 show such cause as is considered by the Assessor to be inadequate, 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 transferor ;

(*c*) 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 show such cause as is considered by the Assessor to be inadequate, 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 ;

(*d*) 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 the person making the appropriation or for the benefit of any other person shall be deemed to be a gift made in his favour by the person who causes or has caused that property to be so vested ;

(*e*) where there is a release, discharge, surrender or abandonment of any debt (other than a debt which is treated as a bad debt and allowed as a deduction for the purposes of income tax under this Act) or contract or of 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 ; and

(*f*) the gift of any property, on or after July 18, 1958, 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.

Exemption in respect of certain gifts.

41. (1) This Chapter shall not apply to any gift made by any individual—

(*a*) of immovable property situated outside Ceylon ;

(*b*) of movable property situated outside Ceylon unless he is a citizen of Ceylon and is resident in Ceylon during the year in which the gifts are made, such year being the year preceding a year of assessment ;

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

(*d*) on or after July 18, 1958, to a charity which is an approved charity within the meaning of section 67 (1) (*b*), 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;

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

(*f*) at any time before July 18, 1958 ;

(*g*) in the year preceding a year of assessment commencing on or after April 1, 1963, the value of which, or if more than one gift is made in that year the aggregate value of such gifts, does not exceed one thousand rupees ;

(*h*) by a will ; or

(*i*) in contemplation of death.

(2) For the purposes of sub-section (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 of a person, and computation of amount of contribution in respect of taxable gifts to the gifts tax.

42. (1) The gifts of an individual other than gifts specified in section 41 shall be his taxable gifts, and he shall, subject to the provisions of sub-section (4) of section 39, be liable to gifts tax in respect of such taxable gifts.

(2) For every year of assessment (hereafter in this sub-section referred to as the "relevant year of assessment") commencing on or after April 1, 1963, the value of the taxable gifts made in the year preceding the relevant year of assessment by any person liable to the gifts tax shall be added to the value of the taxable gifts made by him on or after

July 18, 1958, and before such preceding year. Then, assuming that the sum resulting from such addition is the value of the taxable gifts in respect of which gifts tax is chargeable, the amount of such tax shall be computed. From the amount so computed there shall be deducted all sums paid by him previously, whether by way of contributions in respect of taxable gifts to the Personal Tax, levied under the Personal Tax Act, No. 14 of 1959 or as gifts tax under this Act. The amount left after such deduction shall be the amount of the gifts tax in respect of his taxable gifts for the relevant year of assessment.

Determination of value of gifts.

43. (1) The value of any property (other than cash) which constitutes a gift shall, subject as hereafter in this section provided, be estimated to be the market value of the gift on the date on which the gift was made.

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

(3) Where the gift 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 is satisfied that the shares have not, within the period of twelve months immediately preceding the date on which the gift is made, been quoted in the official list of a recognised stock exchange in the United Kingdom or in a list of a like nature issued in Ceylon by any association of brokers approved by the Secretary to the Treasury for the purposes of this section, the value of such shares shall, if the Commissioner so directs, be ascertained not in the manner provided by sub-section (1) but by reference to the market value of all the assets of the company as a going concern, including goodwill, on the date on which the gift is made, 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 for the benefit of them or their dependants or relatives, and in no other manner.

(4) Where the value of any property (other than property to which sub-section (3) applies) cannot be estimated under sub-section (1) because it is not saleable in the open market, its value shall be determined in the prescribed manner.

CHAPTER IX

Provisions relating to special cases

A—Husband and Wife and Children

Income of married woman.

44. (1) The assessable income of the wife of any non-resident individual for any year of assessment shall be deemed to be part of the assessable income of her husband for that year.

(2) Where in the case of a married woman the marriage subsists during part only of a year preceding any year of assessment,—

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

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

(*c*) the aforesaid provisions shall not apply to any source of profits or income or taxable wealth, as the case may be, which is not a source of profits or income or taxable wealth of the wife during that part of the year for which the marriage subsists.

(3) Where the husband is resident and the wife is non-resident during the whole or any part of the year preceding any year of assessment, the assessable income or taxable wealth of the wife for that year of assessment shall, for the purposes of this section, be determined as though she were resident during the whole of that preceding year, or that part of that preceding year, as the case may be.

(4) Where in the case of a married woman, the marriage is on a date after the first day of April

in the year preceding any year of assessment or the marriage subsists for part only of that preceding year, then for such period of that preceding year commencing on the first day of April and ending on the date of the marriage, or for such period in that preceding year during which the marriage does not subsist, as the case may be, she shall be assessed separately on her income, in respect of income tax, and on her taxable wealth, in respect of wealth tax and the provisions of this Act as to collection and recovery shall apply to her accordingly.

(5) For the purposes of this section, 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.

(6) Where under sub-section (5) a marriage is not deemed to subsist, the allowance under section 21 in respect of any child shall,—

(*a*) if the spouses are living apart under the decree of a competent court or a duly executed deed of separation and the cost of maintaining that child is required by that decree or deed to be borne wholly by one spouse, be granted to that spouse,

(*b*) if that child is a step-child of one spouse, be granted to the other spouse,

(*c*) if that child is a child authorised by an adoption order made under the Adoption of Children Ordinance to be adopted by one spouse, be granted to that spouse, and, if that child is a child authorised by such an adoption order to be adopted by the two spouses jointly, be apportioned equally to the two spouses, and

(*d*) in any other case, be apportioned equally to the two spouses.

(7) Where a marriage is dissolved, the allowance under section 21 in respect of any child by such marriage shall—

(*a*) if the child is maintained solely by one parent, be granted to that parent, and

(*b*) if the child is maintained by both parents, be apportioned equally to the two parents.

Separate assessment of husband and wife.

45. (1) Notwithstanding anything in the preceding provisions of this Act, any husband or wife may give notice in writing to the Commissioner before the first day of June in any year of assessment, or at any time before an assessment is made in any year of assessment, requiring that the income tax and wealth tax for that year shall be assessed, charged and recovered separately on the income or taxable wealth of the husband and on the income and taxable wealth of the wife as if they were not married ; and all the provisions of this Act shall thereupon apply to each of them accordingly :

Provided that, in the case of a person who is not resident in Ceylon immediately prior to his arrival therein, a notice given within the period of twelve months next succeeding his arrival in Ceylon shall be effective for the purposes of this sub-section.

(2) Where income tax is assessed separately on the income of the husband and on the income of the wife as a result of a notice under sub-section (1), the incomes of the husband and the wife and of any person who, according to the returns of income furnished by the husband and the wife, is a child or dependent relative of either or both of those spouses shall be aggregated and the income tax that would be payable by the husband if such notice had not been given shall be ascertained in accordance with the provisions of this Act. The amount of the income tax so ascertained shall be apportioned among the husband and wife in the proportion which the assessable income of each of them bears to the aggregate assessable income of both of them.

(3) Where the wealth tax is assessed separately on the taxable wealth of the husband and on the taxable wealth of the wife as a result of a notice under sub-section (1), the value of the taxable wealth of the husband and the value of the taxable wealth of the wife and the value of the taxable wealth of any individual who, according to the returns of taxable wealth furnished by the husband and the wife, is a child or dependent relative of either or both of those spouses shall be aggregated

and the wealth tax that would be payable by the husband if such notice had not been given shall be ascertained in accordance with the provisions of this Act. The amount of the wealth tax so ascertained shall be apportioned among the husband and the wife in the proportion which the value of the taxable wealth of each of them bears to the value of the aggregate taxable wealth of both of them.

(4) Where wealth tax and income tax in respect of a husband and a wife are assessed separately in consequence of a notice under sub-section (1) and where the aggregate amount of the income tax and the wealth tax payable by the husband or wife is more than eighty per centum of the assessable income of such husband or wife, then the amount of the set-off against the wealth tax under section 105 shall not exceed such amount as would have been set off against the wealth tax that the husband would have paid if such notice had not been given.

(5) Where income tax and wealth tax. are assessed separately in respect of a husband and a wife as a result of a notice under sub-section (1) and where the aggregate amount of the income tax or wealth tax payable by the husband and wife will be less than the amount of the income tax or wealth tax or income tax and wealth tax that would have been payable by the husband if such notice had not been given, then the amount of such deficit shall be apportioned among such husband and wife in the proportion which the assessable income or taxable wealth of each such person bears to the aggregate assessable income or taxable wealth of both of them.

(6) Where one spouse is resident and the other is non-resident and a notice under sub-section (1) is given by the resident spouse, the resident spouse may in such notice elect that the provisions of sub-section (2) or sub-section (3) be not applied, and in that event, the income from Ceylon or the value of the taxable wealth, as the case may be, of the non-resident spouse and any individual who is a child or dependent relative of either or both of those spouses and who is a non-resident shall, notwithstanding the provisions of sub-section (2) or sub-section (3), be deemed to be the income or value of the taxable wealth of the resident spouse and shall be assessed accordingly, and in the computation of the income tax payable

by the resident spouse, the non-resident spouse and any such individual shall not be regarded as a member of the family of the resident spouse.

(7) Where one spouse is resident and the other is non-resident, the resident spouse may be deemed to be the agent of the non-resident spouse for all the purposes of this Act and shall be liable to pay the whole of the tax chargeable in respect of the profits and income or taxable wealth of both, whether assessed jointly or severally.

Separate assessment of child.

46. Where a child whose assessable income exceeds five hundred rupees for any year of assessment either reaches the age of twenty-five or marries or leaves the parental home during the year preceding that year of assessment, the income of that child for the period commencing on the date on which he attains such age or marries or leaves his parental home and ending on the last day of the year preceding that year of assessment shall not be aggregated with the income of his parent.

B—RECEIVERS, TRUSTEES, EXECUTORS, ETC.

Returns to be furnished by receivers and trustees and their chargeability with tax.

47. (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 of the income from the properties under his control, for the purposes of income tax, or

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

(*b*) in the case of a trustee—

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

(ii) a return 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) if he is a receiver, on the income or wealth of the properties subject to his control, and

(ii) if he is a trustee, on the income or wealth of the properties of the trust, subject to the provisions of sub-section (2) of this section and sub-section (1) of section 30.

(2) Where there are any beneficiaries to a trust the income of which is liable to income tax under sub-section (1), then the share of the income to which such beneficiaries are entitled may be deducted from the amount of the income which is liable to tax under sub-section (1) and may 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) 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 taxable wealth to which he is entitled from the trust may be recovered from the trustee of the trust, notwithstanding that no assessment has been made upon such 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.

Chargeability to income tax of trustee of an incapacitated person.

48. 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 income tax and wealth tax payable by deceased person.

49. 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 XVI 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 except where by reason of fraud or wilful evasion by such person non-assessment or under-assessment had been made, in which case an assessment or additional assessment may be made at any time after the expiry of the aforesaid year of assessment ; and

(iii) the liability of an executor under this section shall be limited to the sum 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 beneficiary.

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

50. (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 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, for the purposes of income tax ;

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

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

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

(4) The income tax or the wealth tax or any part thereof with which a beneficiary is chargeable in respect of his income or taxable 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.

Joint trustees and executors.

51. 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.

52. (1) Where a trade, business, profession, vocation, or employment is carried on by two or more persons in partnership, the provisions of the following sub-sections shall apply.

(2) An Assessor may give notice in writing to the precedent partner of the partnership requiring him to furnish within the time specified in such notice a return showing the profits or losses of the partnership from such trade, business, profession, vocation, or employment during the period of twelve months immediately preceding the year of assessment or during any other period in respect of which statutory income may be computed under section 12, ascertained in accordance with the provisions of this Act relating to the ascertainment of profits and income of a person, and showing also any interest, annuity, ground rent, or royalty payable by the partnership in respect of such trade, business, profession, vocation, or employment for the said period. The amount of such interest, annuity, ground rent, or royalty (except where it is payable by a person out of Ceylon to another person out of Ceylon) shall be deducted from the profits or added to the losses ascertained as above, and the figure thus arrived at shall be known as the divisible profit or loss for that period. The precedent partner shall further in such return declare any other income of the partnership for the said period together with the names and addresses of all the partners, and shall apportion among them the whole of the divisible profit or loss and other income in accordance with their shares in the partnership during the period in which the said profit or loss or income arose.

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

(3) In computing 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 and other income.

(4) The statutory income of any partner from the partnership shall be computed in accordance with the provisions of section 12 by treating his share of the divisible profit of the partnership as though it were profits of a trade, business, profession, vocation, or employment carried on or exercised by him, and his share of other income as though it accrued to him solely :

Provided that where no return has been made as required by sub-section (2) or a return made under that sub-section has not been accepted, the Assessor may estimate the statutory income of any partner from the partnership to the best of his judgment.

(5) The share of any partner of a divisible loss shall be a loss incurred by him within the meaning of section 15. The amount of such divisible loss and the partner's share thereof shall be determined by the Assessor and such determination may be questioned in an appeal against an assessment in accordance with the provisions of Chapter XII.

(6) Where a return has been made by the precedent partner in accordance with sub-section (2) and has been accepted by the Assessor, the income of each partner resident in Ceylon derived from the partnership shall be assessed upon him individually.

(7) 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 of the partnership in Ceylon, and the income tax charged thereon shall be recoverable by all means provided in this Act out of the assets of the partnership, or from any partner, or from any such agent.

(8) Where no return has been made in accordance with sub-section (2) or the return has not been accepted by the Assessor, either as regards the amount of the profits or income or the allocation

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 arrived at in accordance with the provisions of this Act relating to the ascertainment of the assessable income of a person, and income tax thereon may be charged at such rate or rates as may be specified in that behalf in the First 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 ; such assessment shall be subject to appeal by any person aggrieved thereby in the manner provided by Chapter XII, and the Commissioner or the Board of Review, as the case may be, may upon such appeal determine the profits and income and allocate the same among the partners and compute their statutory incomes from the partnership as provided in sub-section (4) and the income tax payable in respect thereof, which may be reassessed on the individual partners or may be recovered as tax on the assessment appealed against without any new assessment.

(9) Where under this section income has been assessed in the name of a partnership, and a change occurs in such partnership by reason of the retirement or death, or the dissolution of the partnership as to one or more of the partners, or the admission of a new partner, in such circumstances that one or more of the persons who were joint owners of the assets of such partnership continues or continue 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 income tax or any part of it which remains unpaid, and the provisions of Chapter XIV shall apply to such person or partnership accordingly.

D—Agriculture

Ascertainment of profits from estates.

53. (1) For the purpose of ascertaining the profits from an estate, the succeeding provisions of this section shall apply in addition to, and shall be read with, Chapter II.

(2) There shall be deducted for the purposes of ascertaining the profits from an estate for any year of assessment—

(*a*) the cost of the maintenance of any immature area in the estate, and

(*b*) all expenses incurred by the owner in replanting the whole or any portion of the estate with palms, trees or bushes of a more or less permanent character for the purpose of producing coconut, rubber, tea, cocoa and other products, including the cost of clearing and preparing the land for such replanting.

(3) In this section—

(*a*) "estate" means any area of land used mainly for the purposes of permanent cultivation ;

(*b*) "immature area" means an estate or part of an estate first planted in a particular year, in which the trees planted in that year are not fully mature, or not in full bearing.

E—Residence

What constitutes residence.

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

Provided that where a company registered in Ceylon proves that it is controlled and managed in the United Kingdom, and that it is treated for the purpose of United Kingdom income tax as resident in that country, it shall be treated as non-resident.

(2) An individual who arrives in Ceylon and who is in Ceylon 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 Ceylon at the end of that year, be deemed resident throughout that year ; but if he is not in Ceylon 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 sub-section (5), 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 or who would have been deemed to be so resident if this Act had always been in force, shall be deemed to be resident until such time as he is continuously absent from Ceylon 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 sub-sections, and at the end of such period is absent from Ceylon 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 Ceylon.

(5) Where an individual dies during the year preceding any year of assessment, and, in respect of the period from the commencement of such year to the date of his death, the Commissioner is satisfied—

(*a*) that, although he is deemed to be resident under the foregoing sub-sections, he would, but for his death, have been deemed to be non-resident ; or

(*b*) that, although he is not deemed to be resident under the foregoing sub-sections, he would, but for his death, have been deemed to be resident ; and

(*c*) that there is chargeable for the said period a greater amount of income tax than would have been so chargeable if he had lived,

the Commissioner may direct that such deceased individual shall be deemed to have been resident or non-resident, as the case may be, for the purpose of granting such relief as the circumstances of the case may require.

(6) An individual who is in the employment of the Government of Ceylon and who is resident in any other country during any period for the purposes of such employment shall, for the purposes of this Act, be deemed to be resident in Ceylon during that period if income tax or any tax of a corresponding nature 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 Ceylon shall not, by reason of his being so deemed to be resident in Ceylon, 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 Ceylon.

F—Liability of non-Resident Persons

Chargeability of certain profits of non-resident persons.

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

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

(*a*) if the sale or disposal was by wholesale, be deemed to be not more than the profits which might reasonably be expected to be made by a merchant selling the property by wholesale, and

(*b*) if the sale or disposal was by retail, be deemed to be not more than the profits which might reasonably be expected to be made by a merchant selling the property by retail.

(2) 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 Ceylon.

Persons assessable on behalf of a non-resident person.

56. 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 Ceylon, whether such agent has the receipt of the income or not, and the income tax so assessed whether directly or in the name of the agent shall be recoverable by all means 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 income of the non-resident person and shall be jointly and severally liable for income tax thereon.

Liability of certain non-resident persons.

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

(*a*) a person is closely connected with another person where the Commissioner in his discretion considers 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, 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 Ceylon, 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 Ceylon 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 Ceylon on such goods or produce, the sum to be deducted as the cost of such goods or produce on arrival in Ceylon shall not, for the purpose of computing the profits arising in Ceylon, 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.

58. Where the Commissioner in his discretion considers that the true amount of the profits of a non-resident person arising in or derived from Ceylon in respect of a trade or business cannot be readily ascertained, such profits may be computed on a fair percentage of the turnover of that trade or business in Ceylon :

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

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

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

Provided that, if it is shown that the profit has been increased through treatment of the product outside Ceylon other than handling,

blending, sorting, packing, and disposal, such increase of profit shall not be deemed to be income arising in or derived from Ceylon.

Where any such product is not sold in a wholesale market, or is not sold at all, the said person shall be deemed to derive profits from Ceylon 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.

Exemption of income of non-resident persons in certain cases.

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

(2) Subject to the provisions of sub-section (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 provisions of section 15 (1) (*a*) (ii) or section 52 (2), such sum shall not be regarded as income of such non-resident person arising in or derived from Ceylon, and he shall not be chargeable with income tax or entitled to any relief from Ceylon tax under sections 70 and 71 or to any repayment of tax in respect thereof.

(3) Subject to the provisions of sub-section (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 the tax.

(4) The provisions of sub-sections (2) and (3) shall not operate so as to exclude any sum mentioned in either of those sub-sections from the computation of the profits of any trade or business carried on in Ceylon, where such sum forms part of the receipts of such trade or business.

G—Shipping

Profits of non-resident shipowners or charterers.

61. (1) Where a non-resident person carries on the business of shipowner or charterer and any ship owned or chartered by him calls at a port in

Ceylon, his full profits arising from the carriage of passengers, mails, livestock, or goods shipped in Ceylon shall be deemed to arise in Ceylon :

Provided that this section shall not apply to goods which are brought to Ceylon solely for trans-shipment.

(2) Where for any accounting period such person produces the certificate mentioned in sub-section (3), the profits arising in Ceylon from his shipping business 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 shipped in Ceylon as the ratio for the said 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 the said total profits have been computed on a basis which differs materially from that specified in the preceding provisions of this sub-section, 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 shipping business, 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 said total sums receivable in respect of the carriage of passengers, mails, livestock, and goods.

(4) Where at the time of assessment the provisions of sub-section (2) cannot for any reason be satisfactorily applied, the profits arising in Ceylon

may be computed on a fair percentage of the full sum receivable on account of the carriage of passengers, mails, livestock, and goods shipped in Ceylon :

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 sub-section (2).

(5) Where the Commissioner decides that the call of a ship belonging to a particular non-resident shipowner or charterer at a port in Ceylon is casual and that further calls by that ship or others in the same ownership are improbable, the provisions of this section shall not apply to the profits of such ship and no income tax shall be chargeable thereon.

Master of ship to be an agent.

62. The master of any ship owned or chartered by a non-resident person who is chargeable under the provisions of section 61 shall (though not to the exclusion of any other agent) be deemed the agent of such non-resident person for all the purposes of this Act.

Refusal of clearance where income tax is in arrear.

63. (1) In addition to any other powers of collection and recovery provided in this Act, the Commissioner may, where the income tax charged on the income of any person who carries on the business of shipowner 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 a certificate containing the name of the said 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 Ceylon to any ship owned wholly or partly or chartered by such person until the said tax 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.

Application of sections 61 to 63 to profits of non-resident owners of aircraft.

64. (1) The provisions of sections 61 to 63 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 shipowner or charterer.

(2) In the application of the provisions of sections 61 to 63 to any non-resident person who carries on business as the 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*) "shipped" shall be deemed to include the meaning 'loaded into an aircraft' ;

(*d*) "trans-shipment" shall be deemed to include transfer from one aircraft to another or in either direction between an aircraft and some other vessel ;

(*e*) "shipping business" shall be deemed to include the business of the carriage of passengers, mails, livestock, or goods by aircraft ;

(*f*) 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 ;

(*g*) any reference to the granting of clearance to any ship shall be deemed to include a reference to the doing of any act which, under the provisions of any written law, is authorised 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 ;

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

H—INSURANCE

Ascertainment of profits of insurance companies.

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

Provided that where such a company which is not resident in Ceylon transacts life insurance business in Ceylon whether directly or through an agent, the profits therefrom shall be ascertained by reference to the same proportion of the total investment income of the Life Insurance Fund of the company as the premiums from life insurance business in Ceylon bear to the total life insurance premiums received by it, subject to a deduction of agency expenses in Ceylon (including commission) 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 life insurance premiums or investment income.

(2) The profits of a non-resident company, whether mutual or proprietary, from the business of insurance (other than life insurance) shall be ascertained by taking the gross premiums from insurance business in Ceylon (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 Ceylon, and a fair proportion of the expenses of the head office of the company,

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

(3) Where the Commissioner is satisfied that by reason of the limited extent of the business transacted in Ceylon by a non-resident insurance company it would be unreasonable to require the company to furnish the particulars necessary for the application of sub-sections (1) and (2) he may, notwithstanding the provisions of those sub-sections, permit the profits of the company to be ascertained by reference to the proportion of the total profits and income of the company corresponding to the proportion which its premiums from insurance business in Ceylon bear to its total premiums, or any other basis which appears to him to be equitable.

(4) For the purposes of this section, "investment income of the Life Insurance Fund" means, in the case of a company whose sole business is life insurance, the whole of its income from investment, and, in the case of any other company, such part of its income from investments as appears fairly attributable to its life insurance business.

I—Interest, etc., payable to Persons outside Ceylon

Deduction of income tax from interests, etc.

66. (1) Where any person in Ceylon pays or credits to any person or partnership out of Ceylon 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 Ceylon or out of income arising in Ceylon,

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 on such sum at a rate of $33\frac{1}{3}$ per centum, and the amount of tax so deductible shall be a debt due from such person to the Crown and shall be recoverable forthwith as such 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 may give notice in writing for any year of assessment to any person in Ceylon, as regards a particular person or partnership out of Ceylon, requiring him to deduct, from any sums paid or credited by him to that person or partnership as aforesaid, income tax on such sums at a rate higher than 33⅓ per centum, but not greater than the highest rate at which tax is chargeable for that year upon the taxable income of an individual; and the tax so deductible shall be recoverable and chargeable as aforesaid; and

(*b*) the preceding provisions of this sub-section shall not apply to any interest paid out of income not arising in Ceylon, 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 sub-section (1) from any sum paid or credited to a person or partnership out of Ceylon shall thereupon issue to such person or partnership a statement in writing showing—

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

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

(*c*) the net amount actually paid.

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

(4) Where in consequence of the provisions of this section income tax is deducted during any year of assessment from the income of a person out of Ceylon arising from a source in respect of which that person is liable to be assessed for the same year of assessment either directly or through an agent, and no set-off is due under the provisions of sub-section (3) for that year of assessment, the

Commissioner may grant such relief as he may decide to be reasonable.

(5) Where for any year of assessment the whole or any part of the assessable income of any non-resident person, other than an individual who is entitled to relief under section 70 (2) and has claimed such relief, is composed of income from which income tax has been deducted by virtue of sub-section (1) of section 27 or sub-section (1) of this section, and the rate (hereinafter referred to as the " new rate ") at which tax is deductible under the aforesaid sub-section for that year of assessment is either greater or less than the corresponding rate for the year preceding the year of assessment in which the tax was so deducted, the income from which the tax has been so deducted shall be treated for all purposes of this Act as if income tax had been deducted therefrom at the new rate.

In any case where income tax is, under the preceding provisions of this sub-section, deemed to have been deducted at a rate higher than a rate at which tax was actually deducted, no person shall be entitled to any repayment by reason only that such tax is so deemed to have been deducted at such higher rate.

J—Donations

Relief on account of donations to the Government of Ceylon or to approved charities.

67. (1) In this section, " approved donation " means a donation not less in amount than one thousand rupees—

(*a*) made in money or otherwise to the Government of Ceylon, or

(*b*) made in money to 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.

For the purposes of this section, the amount of a donation made to the Government of Ceylon otherwise than in money shall be the value of such donation, and such value shall—

(i) be the actual cost to the donor of the property donated, and

(ii) where the actual cost cannot be ascertained, be the market value of the property donated.

(2) Where an approved donation has been made by any person, then—

(i) the actual amount of the donation ; or

(ii) an amount representing one-tenth of the assessable income of that person for the year of assessment in which the donation is made, or if that person is a company an amount representing one-twentieth of the assessable income of that company ; or

(iii) fifty thousand rupees,

whichever amount is the least, shall, for the purposes of sub-section (3) of this section, be the permitted allowance in relation to that donation.

(3) Where any person or member of a family has in the year preceding any year of assessment made an approved donation, such person or the head of that family shall be entitled on account thereof to such relief from the income tax as will secure that the tax payable by that person or the head of that family is reduced to the amount which would have been payable as tax if the permitted allowance in relation to that donation had been deducted from the statutory income of that person or the head of that family :

Provided that the relief from tax on account of that donation shall not exceed one-half of the permitted allowance in relation to that donation.

(4) Where a person has in any year of assessment made two or more donations, whether to the same approved charity or to different such charities, or to the Government of Ceylon, or to one or more approved charities and to the Government of Ceylon, the aggregate amount of the donations, if such amount is not less than one thousand rupees, shall be treated as one approved donation for the purposes of this section.

K—Premia on Life Insurance Policies and Annuities, and Provident or Pensions Fund Contributions of Employees

68. (1) Where a person—

Relief from income tax in respect of premia on life insurance policies and annuities and provident or pensions fund contributions of employees.

(*a*) during the year preceding any year of assessment pays any premia on a life insurance policy, or for the purchase of an annuity, or

(*b*) during any period of employment the profits from which are included in the total statutory income of any year of assessment makes any contributions to a provident fund or to a pension fund approved by the Commissioner,

such person shall be entitled to a deduction from the income tax payable in respect of that year of assessment of an amount equal to the tax calculated at the effective rate on the amount of such premia or, as the case may be, on the amount of such contributions :

Provided, however, that such effective rate shall not exceed twenty-five per centum in the case of premia on life insurance policies or for the purchase of annuities, and fifteen per centum in the case of contributions to a provident fund or pension fund, and the amount on which tax is calculated at such effective rate shall not exceed one-sixth of his assessable income for such year of assessment or four thousand rupees, whichever amount is less :

Provided further that, in the case of any person who does not contribute to a provident or pension fund approved by the Commissioner or who is not entitled to a pension on cessation of employment, such effective rate shall not exceed twenty-five per centum for the purchase of annuities and the amount on which tax is calculated at such effective rate shall not exceed one-sixth of his assessable income for such year of assessment or eight thousand rupees whichever amount is less :

Provided, further, that the preceding provisions of this sub-section shall not apply to—

(*a*) any premia paid outside Ceylon on any life insurance policy issued outside Ceylon after July 4, 1957, and

(*b*) any premia paid outside Ceylon for the purchase of an annuity outside Ceylon after July 4, 1957.

(2) Where the assessable income of a wife or child for any year of assessment is aggregated with the assessable income of the head of the family of which such wife or child is a member, any premia on a life insurance policy or an annuity paid by the wife or child shall, for the purposes of the preceding provisions of this section, be deemed to be premia paid by the head of the family.

(3) For the purposes of this section, the effective rate of tax shall be determined as provided in sub-section (3) of section 17.

L—APPROVED INVESTMENTS

Relief on account of approved investments.

69. (1) In this section—

"approved investment" means an investment—

(*a*) in an approved project before production or manufacture of goods or commodities in that project commences other than—

(i) an investment for the purpose of purchasing an existing investment, or

(ii) an investment for the purpose of purchasing shares in a company which are not the first issue, or

(iii) an investment for the purpose of purchasing shares in a company which are not ordinary shares ; or

(*b*) in securities of the Government of Ceylon ;

" approved project " means any such project for the establishment of a new undertaking as is considered by the Minister for the time being in charge of the subject of industries to be essential for the economic progress of Ceylon and is at the request of such Minister declared by the Minister of Finance by notice published in the *Gazette* to be an approved project for the purposes of this section.

(2) Where in the year preceding any year of assessment an individual makes an approved investment, then—

(*a*) the actual amount of that investment, or

(*b*) an amount representing one-fifth of the assessable income of that individual, or if that individual is a member of a family, of the head of that family, for that year of assessment, or

(*c*) fifty thousand rupees,

whichever amount is the least, shall, for the purposes of sub-section (3) of this section, be the permitted allowance in relation to such investment.

(3) An individual who has, in the year preceding any year of assessment, made an approved investment shall, be entitled, on account of that investment, to such relief from income tax as will secure that the tax payable by him, or if he is a member of a family, by the head of that family, is reduced to the amount which would be payable as the tax if the permitted allowance in relation to that investment were deducted from his statutory income, or the statutory income of the head of that family, as the case may be :

Provided, however, that the relief from tax on account of that investment shall not exceed one-half of such permitted allowance.

(4) No relief under sub-section (3) shall be allowed in respect of any investment by an individual in an undertaking referred to in section 19 (2) of the Finance Act, No. 65 of 1961.

(5) Where the ownership of any investment in respect of which relief had been granted to an individual under sub-section (3) changes, otherwise than by the death of that individual, within a period of six years after the date of such investment, then in respect of the year of assessment in which such relief was granted an additional assessment consisting of the difference between the amount of income tax to which that individual, or if that individual is a member of a family, the head of that family, would have been liable if such relief had not been granted and the amount of tax which that individual or the head of that family had paid for that year of assessment shall, notwithstanding anything in this Act, be made in respect of that individual or the head of that family and the provisions of this Act relating to notice of assessment, appeal and other proceedings shall apply in relation to such additional assessment.

M—Relief in cases of Double Taxation

Effect of agreements for double taxation relief.

70. (1) (*a*) Where the Senate and the House of Representatives by resolutions approve any agreement, entered into between the Government of Ceylon 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 Ceylon 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 Ceylon in so far as it provides for relief

from income tax or wealth tax, or for charging the profits or income arising from sources in Ceylon to persons not resident in Ceylon or determining the profits or income to be attributed to such persons and their agencies, branches or establishments in Ceylon, or for determining the profits or income to be attributed to persons resident in Ceylon who have special relationships with persons not so resident.

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

(*c*) The Minister may, by Order published in the *Gazette*, make such provision as may be necessary for the purpose of implementing any agreement which by virtue of paragraph (*a*) of this sub-section has the force of law in Ceylon, including provision—

(i) that the agreement and the Order shall have effect in respect of periods prior to the date of the execution or publication in the *Gazette* of the agreement; and

(ii) that any provision of this Act and any other written law relating to income tax or wealth tax shall have effect subject to such amendments or modifications as may be specified in the Order.

Every Order made under this sub-section shall have the force of law.

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

(2) Any non-resident individual who in the year preceding the year of assessment is a British subject resident in the United Kingdom or in any other part of Her Majesty's Realms and Territories or in any British protectorate or protected state, or in any territory in respect of which a mandate on behalf of the League of Nations has been accepted by Her Majesty, or who is a resident of any country which grants to residents of Ceylon in respect of any income tax levied in that country relief similar

to that allowed by this sub-section, and whose total income from all sources does not exceed fifty thousand rupees, shall be entitled to relief equal to the excess of Ceylon tax paid by him, by deduction or otherwise, for that year of assessment in respect of his Ceylon income over the amount which bears the same proportion to the amount which would be payable by him for that year by way of Ceylon tax if he were resident in Ceylon in the year preceding that year of assessment and chargeable in respect of his total income from all sources, wherever arising, as the amount of the Ceylon income, computed as though he were resident in Ceylon, bears to the amount of such total income from all sources :

Provided that where any such individual is non-resident for a part only of the year preceding a year of assessment the relief shall be calculated by reference to the Ceylon income tax, total income, and Ceylon tax of that part of the preceding year.

(3) (*a*) For the purposes of this and the following section—

(i) " income ", " Ceylon income " and " total 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) " Ceylon tax " means the amount of income tax before deducting any relief under this section and the following section, but does not include tax on any sum payable by way of interest, annuity, ground rent, or royalty out of the income in respect of which the tax is charged.

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

Relief in respect of Commonwealth income tax.

71. (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 made under the provisions of sub-section (1) of section 70.

(2) Where any person proves to the satisfaction of the Commissioner that he has paid, or is liable to pay by deduction or otherwise, both Ceylon 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 Ceylon tax of one-half of the Ceylon tax or Commonwealth tax paid or payable in respect of his income from that source, whichever is the less :

Provided that the relief granted under this sub-section shall not exceed one-half of the Ceylon tax after deducting therefrom any relief given under the provisions of section 70.

(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 part of Her Majesty's Realms and Territories (other than the United Kingdom and Ceylon), or in any British protectorate or protected state, or in any territory in respect of which a mandate on behalf of the League of Nations has been accepted by Her Majesty where the legislature of that part or place has provided for relief in respect of tax charged on income both in that part or place and in Ceylon which appears to the Commissioner 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 Ceylon tax paid or payable in respect of income from any source shall be ascertained by applying the Ceylon rate of tax to the assessable income 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 the Commissioner in his discretion shall deem to correspond with such year of assessment under this Act.

Relief in respect of Ceylon wealth tax.

72. (1) Where any person proves to the satisfaction of the Commissioner 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 Ceylon wealth tax and wealth tax for the corresponding year of assessment in such other country with which arrangements for granting relief from double taxation have been made under sections 70 and 71, then he shall be entitled to relief from the wealth tax payable by him in Ceylon in respect of such wealth of the amount of the wealth tax payable in respect of such wealth in Ceylon or in such other country, whichever is less.

(2) For the purposes of sub-section (1), the wealth tax payable by any person in Ceylon or in another country in respect of wealth consisting of property in such other country shall be computed at a rate equivalent to 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.

N—Provisions relating to Ministers, Senators and Members of the House of Representatives

Relief in respect of allowances granted to Ministers, Senators and Members of the House of Representatives.

73. (1) The succeeding provisions of this section shall apply to Ministers, Senators and Members of the House of Representatives.

(2) In the case of the person holding for the time being the office of Prime Minister—

(*a*) the rental value of the place of residence provided, and

(*b*) the entertainment allowance paid,

to such person by the Government of Ceylon shall not be taken into consideration in ascertaining the profits and income arising to such person from that office.

(3) In the case of a person holding for the time being the office of a Minister (other than Prime Minister), the entertainment allowance paid to such person by the Government of Ceylon shall not be taken into consideration in ascertaining the profits and income arising to such person from that office.

(4) In the case of the person holding for the time being the office of Speaker of the House of Representatives—

(*a*) the rental value of the place of residence provided to such person ; and

(*b*) each of the following allowances paid to such person :—

(i) the entertainment allowance,

(ii) the allowance for the maintenance of the staff for such residence,

(iii) the allowance for the maintenance of the official conveyance, and

(iv) the travelling allowance,

by the Government of Ceylon shall not be taken into consideration in ascertaining the profits and income arising to such person from that office.

(5) In the case of a person holding for the time being the office of President of the Senate—

(*a*) the entertainment allowance, and

(*b*) the allowance for the maintenance of the official conveyance,

paid to such person by the Government of Ceylon shall not be taken into consideration in ascertaining the profits and income arising to such person from that office.

(6) In the case of any person holding for the time being the office of Deputy President of the Senate or the office of Deputy Speaker of the House of Representatives or the office of Deputy Chairman of Committees of the House of Representatives, the clerical allowance and the travelling

allowance paid to such person by the Government of Ceylon shall not be taken into consideration in ascertaining the profits and income of such person from that office.

(7) In the case of any person who is a Senator (other than the President or the Deputy President or a Minister or a Parliamentary Secretary), the clerical allowance and one-half of the travelling allowance paid to him by the Government of Ceylon shall not be taken into consideration in ascertaining the profits and income of such person in his capacity as a Senator.

(8) In the case of any person who is a member of the House of Representatives (other than the Speaker, Deputy Speaker or Deputy Chairman of Committees or a Minister or a Parliamentary Secretary), the clerical allowance and the travelling allowance and one-half of the amount of the other allowances paid to such person by the Government of Ceylon shall not be taken into consideration in ascertaining the profits and income of that person in his capacity as such member.

O—Miscellaneous

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

74. Where any provision of this Act expressly relates to any particular source of profits or income mentioned in sub-section (1) of section 3, such provision shall not apply to the determination of any profits or income which is assessable and has been assessed as falling within any other source mentioned in that sub-section.

Profits of a company from transactions with its shareholders.

75. 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.

Income from certain dividends to include tax thereon.

76. The income of a person arising from a dividend paid by a company liable to United Kingdom income tax, or Commonwealth tax within the meaning of section 71 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 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 the said dividend has been paid have been charged with such taxes.

How certain receipts from insurance to be treated.

77. Where any insurance premium has been allowed as an expense incurred in the production of profits or income, any sum realized under such insurance shall be taken into account in the ascertainment of such profits or income.

Ascertainment of income of clubs, trade associations, etc.

78. (1) Where a body of persons, whether corporate or unincorporate, carries on a club or similar institution and receives from its members not less than three-fourths of its gross receipts on revenue account (including entrance fees and subscriptions), it shall not be deemed to carry on a business; but where less than three-fourths of its gross receipts are received from members, the whole of the income 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 chargeable 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.

(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 10, 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 chargeable 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 at which effective control is exercised over its affairs.

(4) Nothing in this section shall operate to annul or reduce any exemption granted under section 5 of this Act.

Certain undistributed profits to be treated as distributed and certain transactions and dispositions to be disregarded.

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

(*a*) the assessable income of the company for any year of assessment is computed on the profits of the company for any year ending on or after the first day of April, 1962, (hereafter in this sub-section referred to as the "previous year"), and

(*b*) the Assessor is satisfied that, in respect of the previous year, the company has not distributed to its shareholders a reasonable part of its profits,

the Assessor may, subject to the provisions of sub-sections (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; and the persons concerned shall be assessable accordingly.

(2) In determining under sub-section (1) whether a company has not distributed to its shareholders a reasonable part of its profits, the Assessor shall have regard not only to the current requirements of the company's business but also to such other requirements as may be necessary or advisable for the maintenance and development of that business.

(3) For the purposes of sub-section (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—

(i) in or towards payment for the business, undertaking or property

which the company was formed to acquire or which was the first business, undertaking or property of a substantial character acquired by the company, or

(ii) in 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 in or towards payment for any such business, undertaking or property, or issued or incurred for the purpose of raising money applied or to be applied in or towards payment therefor, or

(iii) in meeting any obligations of the company in respect of the acquisition of any such business, undertaking or property, or

(iv) in 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 sub-section (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 purposes 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 sub-section 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 sub-section and in sub-section (3) to money applied or to be applied for any purpose shall be deemed to include references to money applied or to be applied in or towards the replacement of that money.

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

(6) Where under the preceding provisions of this section the whole or any part of the undistributed profits of a company is treated as distributed in the form of dividends, and any shareholder is assessable accordingly, the additional amount which becomes payable as tax by that shareholder by reason of the operation of that sub-section shall be recoverable either from the shareholder or from the company as the Commissioner may in his discretion determine.

(7) Where an Assessor is of opinion that any transaction which reduces or would reduce 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 persons concerned shall be assessable accordingly.

(8) Nothing in this section shall prevent the decision of an Assessor in the exercise of any discretion given to him by this section from being questioned in an appeal in accordance with the provisions of Chapter XII.

(9) In this section—

(*a*) "disposition" includes any trust, grant, covenant, agreement, or arrangement;

(*b*) "company controlled by not more than five persons" means 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.

Indemnification of representative.

80. (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 so much thereof as shall be sufficient to produce 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.

(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 has paid such tax, and no assets of such other person come in to his possession or control out of which he could retain the tax so paid, such tax shall be a debt due to him from such other person.

CHAPTER X

Returns, etc.

Duty of persons chargeable with tax to furnish returns if not required to do so under section 82.

81. (1) It shall be the duty of every person chargeable, either singly or as a head of a family, with income tax, wealth tax or gifts tax for any year of assessment, if he has not been required by the Assessor under section 82 to make a return of income, wealth or gifts for that year, to give notice in writing to the Commissioner within a period of three months after the date of commencement of such year that he is so chargeable.

(2) A notice under sub-section (1) shall specify—

(*a*) the full name and address of the person giving such notice,

(*b*) the particulars relating to the source or sources of his income or to his property or gifts or if he has a wife, child or dependent relative, particulars relating to the sources of the income or to the property of such wife, child or dependent relative, and

(*c*) any reference to a file number of the Department of Inland Revenue in any previous correspondence between that Department and him on any matter relating to income tax, wealth tax or gifts tax.

Returns and information to be furnished.

82. (1) An Assessor may give notice in writing to any person requiring him to furnish within the time specified in such notice a return of his income, wealth or gifts, and, if he has a wife, child or dependent relative, the income or wealth of such wife, child or dependent relative, containing such particulars and in such form as may be prescribed.

(2) 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 will in the opinion of the Assessor be necessary or relevant

for the assessment of the income tax, wealth tax or gifts tax payable by such person.

(3) For the purpose of obtaining full information in respect of any person's income, wealth, expenditure 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, auditors' reports, or other documents in his possession as may be specified in such notice;

(*b*) to attend in person or by an authorised 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, expenditure or gifts.

(4) For the purposes of this Act an Assistant Commissioner may give notice in writing to any person requiring him—

(*a*) to attend in person or by authorised 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 or matters as may be specified in the notice;

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

(5) A person who attends in compliance with a notice given under sub-section (3) or sub-section (4) may be allowed by the Commissioner the expenses reasonably incurred by him in so attending.

(6) An Assistant Commissioner, or an Assessor with the approval of an Assistant Commissioner, may retain in his custody, as long as such retention is necessary for any purpose 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 sub-section (4) or which otherwise come or have come into his possession.

(7) A return, statement, or form purporting to be furnished under this Act by or on behalf of any person shall for all purposes be deemed 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 therein.

Information to be furnished by officials and employers.

83. (1) The Commissioner may give notice in writing to any officer in the employment of the Government or of any local authority or other public body requiring him to furnish within the period specified in such notice any such particulars which he may require for the purposes of this Act as may be in the possession of such officer :

Provided that no such officer shall by virtue of this section be obliged to disclose any particulars as to which he is under any express statutory obligation to observe secrecy.

(2) Every person who is an employer shall, when required to do so by notice in writing given by an Assessor, furnish within the period specified in such notice a return containing the names and places of residence and the full amount of the remuneration, whether in cash or otherwise, for the period specified in the notice, of—

(*a*) all persons employed by him who are in receipt of remuneration in excess of a minimum figure to be fixed by the Assessor ; and

(*b*) any other person employed by him named by the Assessor.

(3) Any director of a company or person engaged in the management of a company shall be deemed to be a person employed by the company.

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

84. Where any person in any capacity whatever—

(*a*) receives any profits or income to which this Act applies and which belongs 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 belong.

Occupiers to furnish returns of rent payable.

85. An Assessor may give notice in writing to any person who is the occupier of any land, 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 ;

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

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

Return of lodgers and inmates.

86. 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.

Who may act for incapacitated or non-resident person.

87. 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 trustee of such incapacitated person or by the agent of such non-resident person, as the case may be.

Bankers to render returns of coupons cashed by them.

88. (1) Any banker, agent of a banker, or other person in Ceylon who pays or credits to any person the value of the proceeds of a coupon for any interest, dividend, or other annual payment payable out of or in respect of the stock, funds, shares, or securities of any company or body of persons not resident in Ceylon shall, within thirty days of such date, render to the Commissioner a

statement showing the name and address of such person, particulars of such coupon, and the amount paid or credited in respect thereof :

Provided that the Commissioner may authorise any such banker, agent of a banker or other person to render such statements quarterly or half-yearly during any year of assessment.

(2) In this section, " coupon " includes any warrant, bill of exchange, or order to pay money purporting to be issued, drawn, or made in payment of any interest, dividend, or other annual payment as aforesaid.

Precedent partner to act on behalf of a partnership.

89. (1) Wherever two or more persons in partnership act in the capacity of trustees or executors, or as agents, or are employers, or are persons in receipt of money, value, or profits to whom section 84 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 answerable for doing all such acts, matters, and things as would be required to be done under the provisions of this Act by an individual acting in 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 Ceylon is the precedent partner thereof.

(2) Where two or more persons who are not in partnership act jointly in any capacity mentioned in sub-section (1), they shall be jointly and severally answerable for doing all such acts, matters, and things as would be required to be done under the provisions of this Act by an individual acting in such capacity.

Principal officer to act on behalf of a company or body of persons.

90. The secretary, manager, or other principal officer of every company or body of persons corporate or unincorporate shall be answerable for doing 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 the company or body of persons or that some other person resident in Ceylon is the principal officer thereof.

Signature and service of notices.

91. (1) Every notice to be given by the Commissioner, an Assistant Commissioner, or an Assessor under this Act shall bear the name of the Commissioner or Assistant Commissioner or Assessor, as the case may be, and every such notice shall be valid if the name of the Commissioner, Assistant 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 95 shall be served personally or by being sent by post by registered letter 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 authorised to give or issue the same, shall be judicially noticed.

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

92. (1) Where any person fails to comply with the notice in writing given to him by an Assessor requiring him to furnish a return of his income, wealth or gifts, and if he has a wife, child or dependent relative, the income or wealth of such wife, child or dependent relative, the Commissioner may in writing order that person to pay as a penalty for failure to comply with the requirements of such notice a sum not exceeding two hundred and fifty rupees.

(2) Where a penalty is imposed on a person under sub-section (1) he shall not be liable to a prosecution for an offence under paragraph (*a*) of section 118 (1) relating to that notice.

CHAPTER XI

Assessments

Assessor to make assessments.

93. (1) Every person who is in the opinion of an Assessor chargeable with income tax, wealth tax or gifts tax shall be assessed by him as soon as may be after the expiration of the time specified in the notice requiring him to furnish a return of income, wealth or gifts under section 82 :

Provided that the Assessor may assess any person at any time, whether or not such time is before the commencement of the year of assessment to which the assessment relates, if he is of opinion that such person is about to leave Ceylon, or that for any other reason it is expedient to do so.

(2) Where a person has furnished a return of income, wealth or gifts, the Assessor may either—

(*a*) accept the return and make an assessment accordingly ; or

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

(3) Where a person has not furnished a return of income, wealth or gifts and the Assessor is of the opinion that such person is chargeable with income tax, wealth tax or gifts tax, he may 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 by reason of his failure or neglect to deliver a return.

Additional assessments.

94. Where it appears to an Assessor that for any year of assessment any person chargeable with income tax, wealth tax or gifts tax, has not been assessed or has been assessed at less than the proper amount, the Assessor may, within the year of assessment or within six years after the expiration thereof, assess such person at the amount or additional amount at which according to his judgment 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 assessment or additional assessment and to the tax charged thereunder :

Provided that where the non-assessment or under-assessment of any person for any year of

assessment is due to fraud or wilful evasion, such assessment or additional assessment may be made at any time after the expiration of that year of assessment.

Notice of assessment.

95. (1) An Assessor shall give a 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.

(2) Where by reason of an amendment of the law or an amendment of the rate of tax it is necessary to vary the amount of tax charged in any notice of assessment, the Assessor may give such notification as may be necessary to the person assessed in that notice of assessment; and any notification so given shall, as regards any particulars of the assessment contained in the notification, which have not been included in the notice of assessment, have effect as if the notification were a notice of assessment.

Validity of assessments, etc.

96. (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 sub-section (1), an assessment shall not be impeached or affected—

(*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 sub-section.

CHAPTER XII

Appeals

A—APPEALS TO THE COMMISSIONER

Appeals to the Commissioner.

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

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

(2) Every appeal shall be preferred by a petition in writing addressed to the Commissioner and shall—

(*a*) if the appeal is against an assessment of income tax, set out the source or sources of income specified in the notice of assessment against which the appeal is preferred and the grounds of such appeal ; or

(*b*) if the appeal is against an assessment of wealth tax or gifts tax, set out the grounds of such appeal ; or

(*c*) if the appeal is against the amount of the valuation of any property, specify that property and set out the grounds on which such valuation is erroneous and the value that should be put on that property.

(3) Every petition of appeal shall bear uncancelled stamps to the value of ten rupees :

Provided that the aforesaid sum shall be refunded if the appeal is allowed wholly or partly, or, if in the opinion of the Commissioner, the appeal is not frivolous.

(4) 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.

(5) Every petition of appeal which does not conform to the provisions of sub-sections (2), (3) and (4) shall not be valid.

(6) On receipt of a valid petition of appeal, the Commissioner 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.

(7) Where no agreement is reached between the appellant and the Assessor in the manner provided in sub-section (6), the Commissioner shall, by notice given in writing to the appellant, require the appellant to transmit to him within a period of thirty days after the date of such notice, a list of documents upon which, and the names and designations of the persons on whose evidence, the appellant proposes to rely in support of his appeal.

(8) The Commissioner shall, as soon as may be after the transmission to him of the list referred to in sub-section (7), give notice in writing to the appellant of his determination on the appeal.

(9) Before making his determination on any appeal, the Commissioner may, if he considers it necessary so to do, by notice given in writing to the appellant—

(*a*) require the appellant to produce, or transmit, for inspection by the Commissioner any document specified in the list transmitted by him to the Commissioner;

(*b*) require the appellant in person or by authorised representative to be present, together with such documents and witnesses as may be specified in such notice, at such place and on such date and at such time as may be specified in the notice to be heard on such matters relating to the appeal as may be specified in such notice.

(10) Where any appellant fails to comply with the requirements of any notice given under sub-section (7) or sub-section (9), the Commissioner shall dismiss the appeal:

Provided that if the appellant shall within a reasonable time after the dismissal of an appeal satisfy the Commissioner that he was prevented from complying with the requirements of such

notice by reason of absence from Ceylon, sickness or other unavoidable cause, the Commissioner may vacate the order of dismissal.

(11) The Commissioner 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 any reasonable expenses necessarily incurred by such person in so attending.

(12) Where the Commissioner requires the appellant or his authorised representative to be heard on any matter relating to the appeal and specified in the notice given under sub-section (9) the appellant shall not at such hearing be allowed—

(*a*) to produce any document which is not included in the list furnished by him under sub-section (7) or to adduce the evidence of any witness whose name does not appear in that list, or

(*b*) to raise any point which is not specified in the petition of appeal.

(13) In disposing of an appeal under this section, the Commissioner may increase the assessment appealed against.

B—APPEALS TO THE BOARD OF REVIEW

Constitution of the Board of Review.

98. (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 from time to time 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 Adviser 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 a quorum shall consist of two members.

(5) At the request of the Commissioner, the Clerk to the Board shall summon a meeting of the

whole Board. At such a meeting a quorum shall consist of five members.

(6) The remuneration of the members of the Board, the Clerk, and the Legal Adviser shall be fixed by the Minister.

Right of appeal to the Board of Review.

99. Any appellant, or the authorised representative of any appellant, who is dissatisfied with the determination of an appeal under section 97, may, by petition in writing addressed to the Board, appeal from that determination within one month from the date of the notice of the determination. Every such petition shall—

(*a*) be accompanied by a copy of the Commissioner's determination 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 may refer appeals to the Board of Review.

100. Notwithstanding the provisions of section 97, the Commissioner may refer any valid appeal made to him to the Board of Review, and the Board shall hear and determine such appeal, and the provisions of section 101 shall apply accordingly.

Hearing and disposal of appeals to the Board of Review.

101. (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 clear days' notice thereof both to the appellant and to the Commissioner.

(2) Every appellant shall attend at the meeting of the Board at which the appeal is heard in person or by an authorised representative :

Provided that where an authorised 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 for the attendance of the appellant.

(3) The Assessor who made the assessment appealed against or some other person authorised by the Commissioner shall attend such meeting of the Board in support of the assessment.

(4) The onus of proving that the assessment as determined by the Commissioner on appeal, or as referred by him under section 100, as the case may be, is excessive or erroneous shall be on the appellant.

(5) All appeals shall be heard *in camera*.

(6) 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.

(7) 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—

(*a*) to produce any document which was not included in the list referred to in section 97 (7), or to adduce the evidence of any witness whose name does not appear in such list ; or

(*b*) to produce any document which he has failed to produce, or transmit, for inspection when required to do so under sub-section (9) of section 97 or to adduce the evidence of any witness whose evidence was not tendered when called for under that sub-section.

(8) At the hearing of the appeal the Board may, subject to the provisions of sub-section (4), 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.

(9) After hearing the appeal, the Board shall confirm, reduce, increase, or annul the assessment as determined by the Commissioner on appeal, or as referred by him under section 100, as the case may be, or may remit the case to the Commissioner with the opinion of the Board thereon. Where a case is so remitted by the Board, the Commissioner shall revise the assessment as the opinion of the Board may require.

(10) Where under sub-section (9) 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 two hundred and fifty rupees, which shall be added to the tax charged and recovered therewith.

C—APPEALS TO THE SUPREME COURT

Appeal on a question of law to the Supreme Court.

102. (1) The decision of the Board shall be final :

Provided that either the appellant or the Commissioner may make an application requiring the Board to state a case on a question of law for the opinion of the Supreme Court. 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 of the Board's decision. If the decision of the Board shall be notified to the Commissioner or to the appellant in writing, the date of the decision, for the purposes of determining the period within which either of such persons may require a case to be stated, shall be the date of the communication by which the decision is notified to him.

(2) The stated case shall set forth 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 it shall transmit the case, when stated and signed, to the Supreme Court within fourteen days after receiving the same.

(3) For the purpose of the application of the provisions of the Stamp Ordinance—

(*a*) all proceedings before the Supreme Court 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 Supreme Court of the value of five thousand rupees, or of such greater amount as may be set forth by the Board under sub-section (2) 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 Supreme Court ; and

(*c*) the Commissioner, 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 *virtute officii*.

(4) At or before the time when he transmits the stated case to the Supreme Court, the party requiring it shall send to the other party notice in writing of the fact that the 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 Supreme Court may cause a stated case to be sent back for amendment, and thereupon the case shall be amended accordingly.

(6) Any two or more Judges of the Supreme Court shall 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 assessment determined by the Board, or may remit the case to the Board with the opinion of the court thereon. Where a case is so remitted by the court, the Board shall revise the assessment as the opinion of the court may require.

(7) In any proceedings before the Supreme Court under this section, the court may make such order in regard to costs in the Supreme Court and in regard to the sum paid under sub-section (1) as to the court may seem fit.

(8) For the purpose of enabling the Commissioner or any other party to appeal to Her Majesty in Council against any order of the Supreme Court under sub-section (6) and for the purpose of the application of the provisions of the Appeals (Privy Council) Ordinance—

(*a*) an order made by the Supreme Court under sub-section (6) shall, together with any order of that court under sub-section (7), be deemed to be a final judgment of the Supreme Court in a civil action between the Commissioner 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, under sub-section (2), set forth a higher amount 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 the higher amount so set forth by the Board ; and

(*c*) the Commissioner on any appeal to Her Majesty in Council, shall not be required to make any deposit or pay any fee or furnish any security prescribed by or under the Appeals (Privy Council) Ordinance.

General

Assessments or amended assessments to be final.

103. Where no valid appeal has been lodged within the time specified in this Act against an assessment as regards the amount of the assessable income, or in respect of the taxable wealth or taxable gifts, assessed thereby, or where the amount of such assessable income, or taxable wealth or taxable gifts has been determined on appeal, the assessment as made, or reduced, or increased or confirmed 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 :

Provided that nothing in this Act shall prevent an Assessor from making 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 the year.

Penalty for incorrect return.

104. (1) Where in an assessment made in respect of any person the amount of income assessed or taxable wealth or taxable gifts exceeds that specified as his income or taxable wealth or taxable gifts in his return and the assessment is final and conclusive under section 103, the Commissioner may, unless that person proves to the satisfaction of the Commissioner that there is no fraud or wilful neglect involved in the disclosure of income or wealth or gifts made by that person in his return, in writing order that person to pay as a penalty for making an incorrect return a sum not exceeding two thousand rupees and a sum equal to twice the tax on the amount of the excess.

(2) Any person in respect of whom an order is made under sub-section (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 the grounds of objection to the order.

(3) The provisions of section 101 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 from which an appeal is made, but any increase of such penalty shall not be in excess of the maximum amount which the Commissioner may impose under sub-section (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 sub-section (2) of section 118 or under paragraph (*a*) of sub-section (1) of section 120.

Reduction of the tax in certain circumstances.

105. Where the aggregate of—

(*a*) wealth tax to which a person is liable for any year of assessment, and

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

exceeds eighty per centum of the assessable income of that person for that year of assessment, such excess shall be set off against the wealth tax to which he is liable.

CHAPTER XIII

Payment of Tax

Provisions regarding payment of tax.

106. (1) The income tax, wealth tax or gifts tax, charged by any assessment shall be paid in the manner directed in the notice of assessment, or in any other notice given to the person liable to pay such tax, on or before a date specified in such notice. Subject to the provisions of sub-section (2) any tax not so paid shall be deemed to be in default, and the person by whom such tax is payable or, where any tax is payable by more than one person or by a partnership, then each of such persons and each partner in the partnership shall be deemed to be a defaulter for the purposes of this Act.

(2) Tax shall be paid notwithstanding any appeal against the assessment, unless the Commissioner orders that payment of the tax or any part thereof be held over pending the result of such appeal, and the amount of the tax or part thereof so held over shall be deemed not to be in default.

(3) Where the Commissioner is of opinion either that the tax or any part thereof held over under sub-section (2) 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 sub-section 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.

(4) Where, upon the final determination of an appeal under Chapter XII, or upon any order made by the Commissioner, any tax which has been held over under sub-section (2) b comes payable or the tax charged by the original assessment is increased, the Commissioner 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.

(5) Where any tax is in default, a sum equivalent to five per centum of the amount in default shall be added to the tax and the Commissioner shall give notice in writing to the person by whom the tax is payable requiring him to pay the tax together

with such interest on or before a date specified in the notice, and if payment is not so made, the Commissioner may add a further sum or further sums not exceeding fifteen per centum of the tax in default until the tax is recovered.

(6) Where, upon the final determination of an appeal under Chapter XII, any tax in default to which any sum or sums under sub-section (5) has or have been added is reduced, then such sum or sums shall be calculated on the tax as so reduced.

Employer to deduct income tax due from employee from his remuneration and pay to the Commissioner.

107. (1) Where the Commissioner so directs by notice in writing to an employer, such employer shall, during the period commencing on the first day of September in a year of assessment and ending on the thirty-first day of August in the succeeding year of assessment, deduct the amount of the income tax payable in respect of the first-mentioned year of assessment by an individual in his employment (hereinafter referred to as an "employee") in such number of monthly instalments as may be specified in such notice; and thereafter, until such employer receives a fresh direction from the Commissioner, he shall, whether such employee has been assessed or not for the succeeding year of assessment, continue to deduct each month, commencing from September in such succeeding year from the remuneration payable to such employee an amount equivalent to the amount so deducted in the last month of the aforesaid period and the amount so deducted from September in such succeeding year of assessment shall be set off against the tax payable by such employee for the succeeding year of assessment. The employer shall pay the amount so deducted each month from the remuneration of an employee to the Commissioner.

(2) The Commissioner may at any time after he has given a direction under sub-section (1) withdraw such direction by notice given in writing to the employer if the employee has made arrangements to the satisfaction of the Commissioner for the payment of his income tax.

(3) Where any employee from whose remuneration tax is to be deducted by his employer is about to leave or leaves his employment, the employer shall deduct the whole amount of the

tax or any balance thereof which he has been directed to deduct by the notice given to him by the Commissioner from all or any payments made by him to such employee after he becomes aware that such employee is leaving his employment.

(4) Where any employee from whose remuneration tax is to be deducted under the preceding provisions of this section has left the employment of the employer to whom a direction under sub-section (1) is given, or where for any other reason the employer is unable to deduct the whole or any part of the tax specified in such direction, he shall forthwith give notice in writing to the Commissioner acquainting him with the facts of the matter, and any tax which the employer has not deducted or cannot deduct shall immediately become payable by the employee and shall be deemed to be in default fourteen days after the date of a notice thereof given to him.

(5) Where any employer is unable to deduct any tax which such employer has been directed to deduct under sub-section (1) from any remuneration and has failed to give notice to the Commissioner as provided in sub-section (4) within fourteen days of the date on which such deduction should have been made, or where such employer has deducted or could have deducted tax in any month from any remuneration in accordance with a direction under sub-section (1) and has not paid as directed by the Commissioner the amount of such tax to the Commissioner by the fifteenth day of the following month, such employer, if he is an individual, shall be liable, or where such employer 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 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 for the purposes of sub-section (5) of section 106.

(6) Every employer who deducts tax from the remuneration of any employee in accordance with a direction under sub-section (1) shall on request made by such employee issue to him a certificate of the amount of tax deducted in the prescribed form.

CHAPTER XIV

Recovery of Tax

Tax to include fines, etc.

108. In this Chapter, " tax " includes any sum or sums added to income tax, wealth tax or gifts tax under section 106 (5) by reason of default, together with any fines, penalties, fees, or costs incurred.

Tax to be a first charge.

109. (1) Save as provided in sub-section (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 110 ;

(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 such seizure ; 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, 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, 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 that any tax to which this sub-section applies is excessive, the Commissioner may, notwithstanding the provisions of section 103, review the assessment in respect of which the tax is charged and make such adjustments as he may in his discretion think reasonable.

Recovery of tax by seizure and sale.

110. (1) The Commissioner may appoint persons to be tax collectors.

(2) (*a*) Where any tax is in default, the Commissioner may issue a certificate to a Government Agent, Assistant Government Agent, Fiscal, Deputy Fiscal, or tax collector containing particulars of such tax and the name of the defaulter, and the officer to whom such certificate is issued shall be empowered and is hereby required to cause the tax to be recovered from the defaulter named in the certificate by seizure and sale of his movable property.

(*b*) The said seizure shall be effected in such manner as the said officer shall deem most expedient in that behalf, and any property so seized 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 said five days, the Government Agent, Assistant Government Agent, Fiscal, Deputy Fiscal, or tax collector shall cause the said property to be sold by public auction.

(*c*) The sum realised by the sale 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 restored to the owner of the property seized.

(3) Where any tax is in default, and the Commissioner is of opinion that recovery by the means provided in sub-section (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 authorising and requiring him to seize and sell all and any of the property movable and 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 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.

111. (1) Where the Commissioner 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 sub-section (1) of section 312 (except paragraphs (*a*), (*c*), and (*h*) thereof) of the Criminal Procedure Code, 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 sub-section, he could have made at the time of imposing such sentence :

Provided that nothing in this section shall authorise or require the Magistrate in any proceeding thereunder to consider, examine, or decide the correctness of any statement in the certificate of the Commissioner.

(2) Nothing in sub-sections (2) to (5) of section 312 of the Criminal Procedure Code shall apply in any case referred to in sub-section (1) of this section.

(3) In any case referred to in sub-section (1) in which the defaulter is sentenced to imprisonment in default of payment of the fine deemed by that sub-section to have been imposed on him, the Magistrate may allow time for the payment of the amount of the said fine or direct payment of that amount to be made by instalments.

(4) The court may require bail to be given as a condition precedent to allowing time under sub-section (1) for showing cause as therein provided or under sub-section (3) for the payment of the fine ; and the provisions of Chapter XXXVI of the Criminal Procedure Code shall apply where the defaulter is so required to give bail.

(5) Where payment in instalments is directed under sub-section (3) and default is made in the payment of any one instalment, the same proceedings may be taken as if default had been made in payment of all the instalments then remaining unpaid.

(6) In any proceeding under sub-section (1), the Commissioner'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 :

Provided that where any person proceeded against has not appealed within the proper time against the assessment in respect of which the tax is charged and alleges that the tax is in excess of the sum which would have been charged if he had so appealed, the court may adjourn the matter for a period not exceeding thirty days to enable such person to submit to the Commissioner his objection to the tax.

(7) The Commissioner shall, notwithstanding the provisions of section 103, consider any objection made under sub-section (6) and give his decision thereon, which shall be final, and shall be certified by him to the Magistrate, and proceedings under this section shall thereupon be resumed to enforce payment of the tax as reduced or confirmed under such decision. Where no objection has been made to the Commissioner within the period for which the matter was adjourned under that sub-section, the Commissioner shall issue a certificate to that effect and proceedings under this section shall be resumed to enforce payment of the tax.

Recovery of tax out of debts, etc.

112. (1) Where tax payable by any person is in default and it appears to the Commissioner 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 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 or about to be paid by 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 person by whom the tax was payable 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 sub-section (1) who is unable to comply therewith owing to the fact that the moneys in question do not come into his hands or become due from him within the period referred to in sub-section (1) shall within fourteen days of the expiration thereof give notice in writing to the Commissioner acquainting him with the facts.

(4) Where any person to whom a notice has been given under sub-section (1) is unable to comply therewith and has failed to give notice to the Commissioner as provided in sub-section (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 directed by the Commissioner the amount of such tax or part thereof within fourteen days after the expiration of the period referred to in sub-section (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 by all means provided in this Act.

(5) For the purposes of this section, the expression " defaulter " shall be deemed to include the agent or authorised representative of a person who is in default and the provisions of this section shall apply in any case where the tax which would have been payable by any person if he were alive is in default; and for the purposes of the application of those provisions in any such case, the expression " defaulter " in sub-section (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 probate or letters of administration in respect of the estate of a deceased person.

Recovery of tax from persons leaving Ceylon.

113. (1) Where the Commissioner is of opinion that any person is about to or likely to leave Ceylon 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 Ceylon without paying the tax or furnishing security to the satisfaction of the Commissioner for payment thereof.

(2) At the time of issue of his certificate to the Magistrate, the Commissioner 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) Production of a certificate signed by the Commissioner or a Deputy Commissioner or an Assistant Commissioner, stating that the tax has been paid or that security has been furnished, 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 Ceylon.

Use of more than one means of recovery.

114. Where the Commissioner is of opinion that 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 111 and carried into effect.

Power of Commissioner to obtain information for the recovery of tax.

115. The Commissioner 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 may require for the purpose of recovering any income tax, wealth tax or gifts tax due from such person or some other person.

Liability of directors of private company in liquidation.

116. (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, whether the assessment of such tax was made, before or in the course of or after its liquidation, cannot be recovered, then, every person who was a director of the company at any time during the year of assessment in respect of which such tax is charged 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" shall have the same meaning as in the Companies Ordinance.

CHAPTER XV

Repayment

Tax paid in excess to be refunded.

117. (1) If it is proved to the satisfaction of the Commissioner by 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 with which he was properly chargeable for that year, such person shall be entitled to have refunded the amount so 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 authorise 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 27 or in respect of interest, rent, ground rent, royalty, or other annual payment in accordance with section 66, he shall not be entitled by virtue of this section to any relief greater than that provided by section 27 (5), (6), (7) and (8) or section 66 (3).

(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 sub-section (1) is unable to do so, his executor, trustee, or receiver, as the case may be, shall be entitled to have refunded to him for the benefit of such person or his estate any tax paid in excess within the meaning of sub-section (1).

(3) Where it is proved to the satisfaction of the Commissioner 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 with which he was properly chargeable 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 have refunded the amount so paid in excess.

(4) Where it is proved to the satisfaction of the Commissioner by claim made in writing that any person has paid any sum referred to in sub-section (5) of section 106 which is in excess of the sum which he should have paid if such sum were calculated in accordance with the provisions of sub-section (6) of that section, such person shall be entitled to have refunded the amount so paid in excess, if such claim is made within three years of the end of the year of assessment in which the sum referred to in the aforesaid sub-section (5) was paid.

CHAPTER XVI

Penalties and Offences

Penalties for failure to make returns, making incorrect returns, etc.

118. (1) Every person who—

(*a*) fails to comply with the requirements of a notice given to him under any of the following sections or sub-sections :— 27 (2), 47 (1), 50 (1), 52 (2), 66 (1), 82 (1), (2), (3) and (4), 83 (1) and (2), 84, 85, 86 or 115 ; or

(*b*) fails to attend in answer to a notice issued under sections 82 (3) and (4), 97 (11) or 101 (6) or having attended fails without sufficient cause to answer any questions lawfully put to him ; or

(*c*) fails to comply with the requirements of sections 27 (4), 81 (1), 88 (1), 107 (6) or 109 (2),

shall be guilty of an offence and shall for each such offence be liable, on conviction after summary trial before a Magistrate to a fine not exceeding five hundred rupees.

(2) Every person who without reasonable excuse—

(*a*) makes an incorrect return by omitting or understating any income, wealth or gift, of which he is required by this Act to make 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 IV or Chapter V ; or

(*c*) gives any 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 and shall for each such offence be liable, on conviction after summary trial before a Magistrate, to a fine not exceeding two thousand rupees and double the amount of the tax, or to imprisonment of either description for a term not exceeding six months or to both such fine and imprisonment and, in addition to such punishment, to pay a sum equal to double the amount of tax

which has been undercharged in consequence of such incorrect return, statement, or information, or would have been so undercharged if the return, statement, or information had been accepted as correct.

(3) 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.

(4) The Commissioner 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.

119. Every person who—

(1) acts under this Act without taking an oath of secrecy as required by section 124 (2); or

(2) acts contrary to the provisions of section 124 (1) or to an oath taken under section 124 (2) ; or

(3) aids, abets, or incites any other person to act contrary to the provisions of this Act,

shall be guilty of an offence, and shall for each such offence be liable, on conviction after summary trial before a Magistrate, to a fine not exceeding one 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, etc.

120. (1) Any person who—

(*a*) omits from a return made under this Act any income, wealth or gift, which should be included ; or

(*b*) makes any false statement or entry in any return made under this Act ; or

(*c*) makes a false statement in connection with a claim for a deduction or allowance under Chapter IV or Chapter V ; or

(*d*) signs any statement or return 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 authorises the preparation or maintenance of any false books of account or other records or falsifies or authorises the falsification of any books of account or records ; or

(*g*) makes use of any fraud, art, or contrivance whatsoever, or authorises 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, and shall for each such offence be liable on conviction after summary trial before a Magistrate to a fine not exceeding the total of five thousand rupees and treble the amount of tax 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, or to imprisonment of either description for any term not exceeding six months, or to both such fine and imprisonment.

(2) The Commissioner may compound any offence under this section and may before judgment stay or compound any proceedings thereunder.

Tax to be payable notwithstanding any proceedings for penalties, etc.

121. The institution of proceedings for, or the imposition of, a penalty, fine or term of imprisonment under this Chapter 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.

122. No prosecution in respect of an offence under section 118 or section 120 may be commenced except at the instance of or with the sanction of the Commissioner.

CHAPTER XVII

Administration

Officers.

123. (1) For the purposes of this Act, there shall be appointed a Commissioner of Inland Revenue and such number of Deputy Commissioners of Inland Revenue, Assistant Commissioners of Inland Revenue and Assessors of Inland Revenue as may be necessary.

(2) An Assistant Commissioner exercising or performing any power, duty or function of the Commissioner under this Act shall be deemed for all purposes to be authorised to exercise or perform that power, duty or function until the contrary is proved.

(3) An Assistant Commissioner may exercise any power conferred on an Assessor of Inland Revenue by this Act.

Official secrecy.

124. (1) Except in the performance of his duties under this Act, every person who has been appointed under or who is or has been employed in carrying out or in assisting any person to carry 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 Permanent 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.

(2) Every person appointed under or employed in carrying out the provisions of this Act shall before acting under this Act, and the Minister and the Permanent Secretary to the Ministry of Finance may before acting under this Act, take and subscribe before a Justice of the Peace an oath of secrecy in the prescribed form.

(3) No person appointed under or employed in carrying out the provisions of this Act shall be required to produce in any court any return,

document, or assessment, or to divulge or communicate to any court any matter or thing coming under his notice in the performance of his duties under this Act, except as may be necessary for the purpose of carrying into effect the provisions of this Act or of any other written law administered by the Commissioner.

(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—

(*a*) to any other officer of that Department, if the communication is necessary for the performance of any duty under this Act, and

(*b*) to the Income Tax Authority of any part of Her Majesty's Realms and Territories or of any place under Her Majesty's protection or suzerainty to such an extent as the Commissioner may deem necessary to enable the correct relief to be given from income tax or wealth tax in that part or place in respect of the payment of income tax or wealth tax in Ceylon,

and the Commissioner may, notwithstanding anything in the Evidence Ordinance relating to the proof of documents, 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 received by him or in his possession under this Act or under any other written law administered by him, certified by him or on his behalf to be a correct copy of such particulars :

Provided that the Commissioner 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 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 this section, the Commissioner may permit the Auditor-General or any officer of the Department of the Auditor-General duly authorised by him in that behalf to have such access to any records or documents as may be necessary for the performance of his official duties. The Auditor-General or any officer authorised by him under this sub-section shall be deemed to be a person employed in carrying out the provisions of this Act for the purpose of sub-section (2).

(6) Notwithstanding anything in the preceding provisions of this section, the Commissioner or any person authorised in that behalf by the Commissioner may from time to time cause to be published, in such manner as the Commissioner may consider expedient, a list containing the names and addresses of all the taxpayers and the income from the principal sources of income of such taxpayers in respect of each year of assessment.

CHAPTER XVIII

General

Power to make rules.

125. (1) The Minister may from time to time make rules generally for carrying out the provisions of this Act.

(2) Without prejudice to the generality of the foregoing power, such rules may—

(*a*) provide for the ascertainment and determination of any class of income, wealth or gifts ;

(*b*) prescribe the manner in which, and the procedure by which, the income, profits and gains shall be arrived at in the case of—

(i) insurance companies,

(ii) non-resident companies ;

(*c*) prescribe any forms which may be necessary for carrying out the provisions of this Act ;

(*d*) prescribe penalties for the contravention of any rules made under this section or the failure to comply therewith not exceeding in each case a sum of five hundred rupees ;

(*e*) prescribe the procedure to be followed in respect of applications for refunds and reliefs ; and

(*f*) provide for any matter which by this Act is to be, or may be, prescribed.

(3) In cases where income, profits and gains liable to tax cannot be definitely ascertained, the rules may prescribe methods by which an estimate of such income, wealth and gifts may be made and the proportion thereof liable to tax.

(4) All rules made under this section, other than a rule prescribing a penalty for the contravention of or failure to comply with a rule, shall come into operation on publication in the *Gazette* or at such other time as may be stated in such rules.

(5) A rule prescribing a penalty for the contravention of or failure to comply with a rule shall not come into operation until it is approved by the Senate and the House of Representatives and notice of such approval is published in the *Gazette*.

(6) All rules made under this section other than a rule prescribing a penalty for the contravention of or failure to comply with a rule, shall be laid, as soon as conveniently may be, on the table of the Senate and the House of Representatives at two successive meetings of the Senate and the House of Representatives and shall be brought before the Senate and the House of Representatives at the next subsequent meeting held thereafter by a motion that such rules shall not be disapproved, and if upon the introduction of any such motion, or upon any adjournment thereof, such rules are disapproved by the Senate or the House of Representatives, they shall be deemed to be rescinded as from the date of such disapproval, but without prejudice to anything already done thereunder; and such rules, if not so disapproved, shall continue to be of full force and effect. Every such disapproval shall be published in the *Gazette*.

Power to search buildings or places.

126. (1) Any officer appointed for the purposes of this Act who is specially authorised by the Commissioner 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 them, if found;

(ii) seize any such articles, books of account or other documents or place marks of identification thereon or make extracts or copies therefrom;

(iii) 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 Criminal Procedure Code relating to searches shall apply so far as may be to searches under this section.

In this sub-section "peace officer" shall have the same meaning as in the Criminal Procedure Code.

(2) Before authorising any officer to exercise the powers under sub-section (1), the Commissioner shall record the circumstances which necessitate the exercise of those powers by that officer.

Admissibility of statements and documents in evidence.

127. 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, or a Deputy Commissioner, or an Assistant Commissioner or 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 118 or section 119 or section 120 of this Act.

Amendment of Schedule to the Act and variation of rates of tax.

128. Any Schedule to this Act may be amended, or any rate of tax specified in any section of this Act may be varied, by a resolution of the House of Representatives.

Interpretation.

129. In this Act, unless the context otherwise requires—

"acquired" or "acquisition" with reference to property, means acquired or acquisition by purchase, gift, inheritance, or exchange, or in any other manner whatsoever;

"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 Ceylon of such person or partnership, and

(*b*) any person in Ceylon through whom such person or partnership is in receipt of any profits or income arising in or derived from Ceylon;

"agricultural undertaking" means an undertaking for the purpose of the production of any agricultural, horticultural or animal produce;

" assessable income " means the residue of the total statutory income of any person after deducting the amount of the deductions provided for in section 15 ;

" Assessor " means an Assessor of Inland Revenue appointed under this Act and includes a Senior Assessor of Inland Revenue ;

" Assistant Commissioner " means an Assistant Commissioner of Inland Revenue appointed under this Act ;

" authorised representative " means any individual authorised in writing by a person to act on his behalf for the purposes of this Act, who is—

(*a*) in any case—

(i) an accountant approved by the Commissioner,

(ii) an advocate or a proctor,

(iii) an employee regularly employed by the person concerned, or

(iv) any other person approved by the Commissioner ;

(*b*) in the case of an individual, a relative ;

(*c*) in the case of a company, a director or the secretary ;

(*d*) in the case of a partnership, a partner ;

(*e*) in the case of a body of persons, a member of such body ;

" 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;

"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 Ceylon 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 twenty-five years of age other than—

(*a*) a married child, and

(*b*) a child living apart from and not maintained by the parents,

and includes—

(i) a step child of that individual,

(ii) a child authorised by any adoption order made under the Adoption of Children Ordinance to be adopted by that individual, and

(iii) where that individual is not a citizen of Ceylon and he satisfies the Commissioner that he has a child whom he has adopted in accordance with the law of the country of which he is a subject or citizen, such child,

but does not include any other adopted child or illegitimate child ;

" Commissioner " means the Commissioner of Inland Revenue appointed under this Act, and includes a Deputy Commissioner, and an Assistant Commissioner specially authorised by the Commissioner either generally or for some specific purpose to act on behalf of the Commissioner ;

" company " means any company incorporated or registered under any law in force in Ceylon or elsewhere ;

" dependent relative " in relation to an individual to whom this Act applies means—

(*a*) a parent of that individual, and if such individual has a wife, a parent of his wife,

(*b*) a child over the age of twenty-five years (other than an adopted child who is not an adopted child referred to in sub-paragraph (ii) or sub-paragraph (iii) of paragraph (*b*) in the definition of " child ", or an illegitimate child),

(*c*) a step child over the age of twenty-five years of that individual or his wife,

who throughout the year preceding the year of assessment either lived with him and was maintained by him, or was maintained by him in any sanatorium, asylum or educational establishment and whose assessable income for that year of assessment did not exceed five hundred rupees ;

" Deputy Commissioner " means a Deputy Commissioner of Inland Revenue appointed under this Act ;

" dividend " includes any distribution of profit by a company to its shareholders in the form of money or of an order to pay money, or in the form of shares or

debentures in the company or in any other company, but does not include—

(*a*) a distribution made wholly out of profits from the sale of fixed capital assets where such profits are not chargeable with tax under the provisions of this Act,

(*b*) the paid-up value of any shares distributed by a company to its shareholders to the extent to which such paid-up value represents the capitalization of the whole or any part of the profits of the company ;

" donee " means any person who acquired 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 intermeddles with the property of a deceased person ;

(*b*) any person who has applied or is entitled to apply to a District Court for the grant or resealing of probate or letters of administration in respect of the estate of a deceased person, or

(*c*) a trustee acting under a trust created by the last will of the author of the trust ;

" family " means a family within the meaning of section 19 ;

"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 transfe of any property deemed to be a g.ft under this Act ;

"Government institution" means the Department of the Public Trustee, the Ceylon Government Railway, the Government Electrical Undertakings, the Colombo Port Commission and other Port and Harbour Authorities, the Post Office, and any other Department or undertaking of the Government of Ceylon ;

"head" with reference to a family means the head of that family within the meaning of section 19 ;

"incapacitated person" means any minor, lunatic, idiot, or person of unsound mind ;

"industrial undertaking" for the purposes of section 10 means—

(*a*) an undertaking for the manufacture or production by mechanical means, of any articles, goods or materials, or for the subjection, by mechanical means, of any articles, goods or materials to any process, or for mining, or for printing, or for repairing machinery or vehicles or vessels, other than an undertaking n the case of which the Comm'ssioner is of opinion that mechanical means are not used for the purposes of a substantial part of the work done in the undertaking, and

(*b*) an undertaking for transporting persons or goods ;

"local authority" means any Municipal Council, Urban Council, Town Council or Village Council and any other body constituted under any law of Ceylon for any purpose relating to local Government ;

"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 ;

" member of the subordinate staff " means any person employed in a subordinate capacity who wholly or mainly performs manual or clerical work, or the work of a conductor or tea-maker or any other work which in the opinion of the Commissioner is of a description substantially similar to the work hereinbefore mentioned ;

" Minister " for the purposes of section 73, means a member of the Cabinet of Ministers ;

" net wealth " means the amount by which the aggregate value, computed in accordance with the provisions of this Act, of the wealth of a person liable to pay the wealth tax on the valuation date is in excess of the aggregate value of all the debts owed by him on that date 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 Act, and

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

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

"non-resident" means not resident in Ceylon within the meaning of section 54 ;

"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 ;

"precedent partner" means the partner who, of the active partners resident in Ceylon—

(*a*) is first named in the agreement of partnership ; or

(*b*) if there is no 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 rule 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 ;

"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 ;

"resident" or "resident in Ceylon" means resident in Ceylon within the meaning of section 54 ;

"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 ; and "share" includes any interest in the capital or profits or income of a company ;

"staff welfare building" means any building at which facilities or amenities for or in connection with health, recreation or education are provided for the benefit of the subordinate staff;

"statutory income" means income from any source computed in accordance with Chapter III;

"taxable income" means the residue of assessable income after deducting the amount of the allowances provided for in Chapter V;

"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 without limiting the generality of the foregoing, 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;

"United Kingdom" means the United Kingdom of Great Britain and Northern Ireland;

"valuation date" in relation to any year of assessment means the last date of the year preceding that year of assessment;

"wealth" means movable or immovable property of any kind whatsoever, and includes property required by this Act to be included in wealth and does not include property required by this Act to be excluded from wealth;

"wife" does not include a wife who is living apart from her husband under the decree of a competent court, or a duly executed deed of separation, or is in fact separated from her husband in such circumstances that the separation is likely to be permanent;

"written-down value" with reference to any plant, machinery or fixtures purchased before April 1, 1957, or, where statutory income is directed by the Commissioner under section 12 (2) to be computed up to any such day other than the thirty-first day of March as is specified in the direction, before such specified day in the year preceding the year of assessment commencing on April 1, 1957, means the residue of the cost thereof to the owner thereof after deducting a sum representing the total depreciation which has occurred in such plant, machinery or fixtures since the date of purchase by him, such cost, where any deduction in respect of such plant, machinery or fixtures is allowed under section 10 (1), being deemed to be the amount of the difference between the actual amount of such cost and the amount of that deduction;

"year of assessment" means the period of twelve months commencing on the first day of April, nineteen hundred and sixty-three, or any subsequent period of twelve months commencing on the first day of April;

"year preceding a year of assessment" means the period of twelve months ending on the thirty-first day of March immediately prior to such year of assessment.

Amendments to the Income Tax Ordinance, the Personal Tax Act, the Land Tax Act and the Companies Tax Act, and repeal of the Double Taxation (Relief) Act.

130. (1) The Income Tax Ordinance, the Personal Tax Act, No. 14 of 1959, and the Land Tax Act, No. 27 of 1961, shall not apply to any year of assessment commencing on or after April 1, 1963.

(2) The Companies Tax Act, No. 35 of 1961, shall not apply to any financial year commencing on or after April 1, 1963.

(3) The Double Taxation (Relief) Act is hereby repealed with effect from April 1, 1963.

(4) The Income Tax Ordinance is hereby amended as follows :—

(*a*) section 53B of that Ordinance, as amended by Act No. 13 of 1959, is hereby amended by the substitution, for sub-section (2) of that section, of the following sub-section :—

"(2) Where a dividend is paid by any resident company to another resident company and either—

(*a*) a deduction has been made under section 53D (1) in respect of that dividend by the first-mentioned company, or

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

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

(*b*) section 53C of that Ordinance, as amended by Act No. 13 of 1959, is hereby amended as follows :—

(i) in sub-section (2) of that section, by the substitution, for paragraph (*a*) of that sub-section, of the following paragraph :—

"(*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 has made a

deduction under sub-section (1) of section 53D in respect of that dividend," ; and

(ii) by the substitution, for sub-section (3) of that section, of the following sub-section :—

"(3) Where a dividend is paid by any resident company to any non-resident company and a deduction has been made under sub-section (1) of section 53D in respect of that dividend by the resident company, that dividend shall, notwithstanding anything to the contrary in any other provision of this Ordinance, be deemed not to form part of the assessable income of the non-resident company." ;

(c) section 53D of that Ordinance, as amended by Act No. 13 of 1959, is hereby amended as follows :—

(i) in sub-section (1) of that section, by the substitution, for the words "of such amount.", of the following :—

"of such amount :

Provided that where the amount of such dividend consists of any part of the amount of a dividend received by that company from another resident company, such part shall not be included in such amount." ;

(ii) by the substitution, for sub-section (5) of that section, of the following sub-section :—

"(5) Every person who issues a warrant, cheque or other order drawn or made in payment of any dividend in respect of which a deduction

has been made under sub-section (1) and which becomes payable by a resident company during any year of assessment shall annex thereto a statement in writing showing—

(*a*) the gross amount which after deduction of tax thereon corresponds to the net amount actually paid ;

(*b*) the sum deducted as tax;

(*c*) the net amount actually paid ; and

(*d*) where any such dividend includes any part of the amount of a dividend received by that company from any other resident company, the part of the amount of the dividend so received." ;

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

"(5A) Where a statement referred to in sub-section (5) discloses that a shareholder of a resident company received a dividend which included part of the amount of a dividend (other than a dividend referred to in section 8 (3) or section 9 (3A)) received from any other resident company, then that part of such amount shall, for the purpose of determining the statutory income of such holder, be increased by fifty per centum and he shall be entitled to a set-off against the tax payable by him of an amount equivalent to the said fifty per centum." ; and

(iv) in sub-section (6) of that section, by the substitution, for the words "of a person", of the words "of a person other than a company".

(5) The amendments made to the Income Tax Ordinance by paragraphs (*a*) and (*b*) of sub-section (4) shall be deemed to have come into operation on April 1, 1958, and the amendments made to that Ordinance by sub-paragraph (iv) of paragraph (*c*) of sub-section (4) shall be deemed to have come into operation on April 1, 1959 :

Provided that the preceding provisions of this sub-section shall not be deemed to affect the validity of any assessment or refund made before the date of commencement of this Act.

First Schedule

Description of Income

	Rate of Tax
Non-resident Individuals—	
On the first Rs. 20,000 of the taxable income	25 per centum
On the next Rs. 4,000 of the taxable income	30 per centum
On the next Rs. 4,000 of the taxable income	35 per centum
On the next Rs. 4,000 of the taxable income	40 per centum
On the next Rs. 4,000 of the taxable income	45 per centum
On the next Rs. 10,000 of the taxable income	50 per centum
On the next Rs. 10,000 of the taxable income	60 per centum
On the next Rs. 10,000 of the taxable income	70 per centum
On the balance of the taxable income	80 per centum
Hindu-undivided Families—	
On the first Rs. 20,000 of the taxable income	31 per centum
On the next Rs. 10,000 of the taxable income	36 per centum
On the next Rs. 10,000 of the taxable income	46 per centum
On the next Rs. 10,000 of the taxable income	51 per centum
On the next Rs. 10,000 of the taxable income	56 per centum
On the next Rs. 20,000 of the taxable income	66 per centum
On the next Rs. 20,000 of the taxable income	76 per centum
On the balance of the taxable income	86 per centum
Charitable Institutions—	
Taxable income of charitable institutions	23 per centum
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
Trustees (including trustees under last wills)—	
Taxable income of trustees including trustees under last wills	50 per centum
Partnerships—	
Taxable income of a partnership	30 per centum
Co-operative Societies registered under the Co-operative Societies Ordinance—	
Taxable income of Co-operative Societies registered under the Co-operative Societies Ordinance	45 per centum
Mutual Life Assurance Companies—	
Taxable income of mutual life assurance companies whether resident or non-resident	28½ per centum
Liquidators of companies—	
Taxable income of liquidators of— (*a*) companies whose shares are not movable property situate in Ceylon for the purposes of the Estate Duty Ordinance, (*b*) mutual life assurance companies, (*c*) companies other than those referred to in items (*a*) and (*b*)	The rate of tax chargeable in respect of the company concerned.

	Rate of Tax
Governments (other than the Government of Ceylon and the Government of the United Kingdom)—	
Taxable income of Governments other than the Government of Ceylon and the Government of the United Kingdom ..	63 per centum
Persons (other than those referred to above and individuals to whom Chapter V applies)—	
Taxable income of persons other than those referred to in the preceding items and heads of families and individuals not included in families	23 per centum

SECOND SCHEDULE

Resident Individuals to whom Chapter V applies

PART I

The rates of income tax shall be as follows :—

On the first Rs. 2,500 of taxable income	15 per centum
On the next Rs. 2,500 of taxable income	20 per centum
On the next Rs. 1,250 of taxable income	25 per centum
On the next Rs. 1,250 of taxable income	30 per centum
On the next Rs. 1,250 of taxable income	35 per centum
On the next Rs. 1,250 of taxable income	40 per centum
On the next Rs. 2,500 of taxable income	45 per centum
On the next Rs. 2,500 of taxable income	50 per centum
On the next Rs. 2,500 of taxable income	55 per centum
On the next Rs. 10,000 of taxable income	60 per centum
On the next Rs. 10,000 of taxable income	70 per centum
On the balance of taxable income	80 per centum

PART II

1. Where the assessable income of an individual to whom Chapter V applies exceeds Rs. 3,600 and does not exceed Rs. 4,800 .. 3 per centum

2. Where the assessable income of an individual to whom Chapter V applies exceeds Rs. 4,800 .. .. 4 per centum

3. Where in the case of an individual liable to pay income tax at the rate of 3 per centum under this Part, the assessable income of such individual will be reduced to less than Rs. 3,600 after deduction of the tax that would be payable, then such individual shall be liable to pay as income tax the difference between Rs. 3,600 and such assessable income.

4. In the case of an individual liable to pay income tax at the rate of 4 per centum, the income tax payable by such individual shall not exceed the aggregate—

   (i) of the amount by which his assessable income exceeds Rs. 4,800; and

   (ii) of the amount equal to 3 per centum of Rs. 4,800.

THIRD SCHEDULE

Rates of Wealth Tax

1. For a person other than a charitable institution—

On the first Rs. 800,000 of taxable wealth	½ 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

FOURTH SCHEDULE

Rates of Gifts Tax

On the first Rs. 50,000 of the value of all taxable gifts ..	5 per centum
On the next Rs. 25,000 of the value of all taxable gifts ..	8 per centum
On the next Rs. 25,000 of the value of all taxable gifts ..	10 per centum
On the next Rs. 40,000 of the value of all taxable gifts ..	12 per centum
On the next Rs. 40,000 of the value of all taxable gifts ..	13 per centum
On the next Rs. 80,000 of the value of all taxable gifts ..	18 per centum
On the next Rs. 80,000 of the value of all taxable gifts ..	20 per centum
On the next Rs. 80,000 of the value of all taxable gifts ..	25 per centum
On the next Rs. 80,000 of the value of all taxable gifts ..	30 per centum
On the next Rs. 80,000 of the value of all taxable gifts ..	35 per centum
On the next Rs. 80,000 of the value of all taxable gifts ..	45 per centum
On the next Rs. 80,000 of the value of all taxable gifts ..	50 per centum
On the next Rs. 250,000 of the value of all taxable gifts ..	60 per centum
On the next Rs. 450,000 of the value of all taxable gifts ..	80 per centum
On the balance of the value of all taxable gifts	100 per centum