

PARLIAMENT OF CEYLON

5th Session 1964-65



Income Tax Evasion and Non-disclosure of Profits and Income Act, No. 13 of 1964

Date of Assent : August 28, 1964

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*Income Tax Evasion and Non-disclosure
of Profits and Income
Act, No. 13 of 1964*

L. D.—O. 38/64.

AN ACT TO PROVIDE FOR THE MAKING OF DECLARATIONS ON OR BEFORE DECEMBER 31, 1964, OF THE ACCUMULATED PROFITS AND INCOME IN THE POSSESSION OF PERSONS WHO HAVE EVADED PAYMENT OF INCOME TAX OR WHO HAVE FAILED TO DISCLOSE PROFITS AND INCOME; TO PROVIDE FOR THE SURRENDER OF SUCH PROFITS AND INCOME TO THE COMMISSIONER OF INLAND REVENUE WHENEVER THE COMMISSIONER REQUIRES SUCH SURRENDER; TO ENABLE THE LEVY OF A TAX ON SUCH PROFITS AND INCOME, AND TO INDEMNIFY PERSONS WHO PAY THE TAX AGAINST LIABILITY TO PROSECUTIONS AND TO PAY INCOME TAX UNDER THE LAW RELATING TO INCOME TAX.

[Date of Assent: August 28, 1964]

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

1. This Act may be cited as the Income Tax Evasion and Non-disclosure of Profits and Income Act, No. 13 of 1964.

Short title.

2. (1) The succeeding provisions of this Act shall apply to any person who under the law for the time being applicable to income tax was liable to pay such tax for any year of assessment commencing on or before April 1, 1964, and who has not made a return of income under the provisions of such law for any such year of assessment or who has failed to disclose any profits or income in any return of income made under the provisions of such law for any such year of assessment:

Application
of Act.

Provided that such provisions shall have no application to a person in respect of the profits or income liable to income tax for the year of assessment commencing on April 1, 1964, if the failure to disclose profits or income was only in respect of the profits or income liable to income tax for that year of assessment.

(2) Every person referred to in sub-section (1) shall hereafter in this Act be referred to as the "person to whom this Act applies".

Power of persons to whom this Act applies to make declarations on or before December 31, 1964, of accumulated profits and income or articles of value acquired by such profits and income.

3. (1) Where any person to whom this Act applies has accumulated the profits or income in respect of which such person has not made a return of income or which such person has failed to disclose in the returns of income made under the law for the time being applicable to income tax—

(a) such person, or

(b) if such person is a company or a body of persons, the secretary, manager or other principal officer of such company or body of persons, or

(c) if such person is a partnership, the precedent partner of such partnership,

may, on or before the thirty-first day of December, 1964, make a declaration in writing to the Commissioner.

(2) Every declaration under sub-section (1) shall set out—

(a) the full name and address of the person making the declaration,

(b) the amount of the accumulated profits or income referred to in sub-section (1) which is in the possession of the person making the declaration, and

(c) if such profits or income or any part thereof have or has been invested in the acquisition of articles of value, the description and value of such articles:

Provided that such declaration shall not include any such profits or income or any articles of value acquired by such profits or income as have or has been found out by the Assessor in the course of his investigations under the law relating to income tax for the time being.

4. (1) Where any person to whom this Act applies makes a declaration under section 3, the Commissioner, if he is satisfied that the profits and income specified in such declaration or the profits or income invested in the acquisition of articles of value were or was profits or income in respect of which such person should have paid income tax but had not done so, may, by notice in writing served personally on such person or sent by registered letter through the post to such person, require, wherever he considers it necessary so to do, such person to surrender to the Commissioner or to any officer authorized in that behalf by the Commissioner all or any part of the property specified in such declaration.

Power of Commissioner to require persons making declarations to surrender all or any part of the property specified in the declarations.

(2) Any person to whom this Act applies shall, upon compliance with the requirements of a notice served on or sent to that person by the Commissioner, be entitled to a receipt for the property surrendered by that person to the Commissioner or officer authorized in that behalf by the Commissioner.

5. (1) Upon receipt of a declaration made under section 3 by any person to whom this Act applies or upon surrender by any such person of all or any part of the property specified in such declaration, the Commissioner shall, by notice in writing served personally on such person or sent by registered letter through the post to such person, require such person to pay as tax to the Commissioner, within such time as may be specified in the notice, an amount equal to one-third the total value of the property specified in such declaration.

Power to levy a tax equal to one-third the value of the property specified in declarations.

(2) In the determination of the amount which a person to whom this Act applies is required to pay as tax, the Commissioner is not bound to accept the valuation of articles of value specified in the declaration made by such person and he may increase such valuation if he considers it reasonable so to do.

(3) A person to whom this Act applies may, in lieu of paying tax as required by the Commissioner, authorize the Commissioner to appropriate such portion of the property specified in the declaration made under section 3 by such person or surrendered by such person as is equivalent in value to the amount of the tax, and upon such appropriation tax shall be deemed to have been paid by such person.

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Provisions
relating to
resumption of
possession of
property
surrendered.

6. Where any person to whom this Act applies has surrendered any property in compliance with the provisions of section 4 and where such person pays tax to the Commissioner as required by section 5 or requests him to appropriate a portion of such property in lieu of payment of tax, the Commissioner shall—

- (a) where such tax is paid, permit such person to resume possession of the property surrendered by such person,
- (b) where a portion of the property surrendered by such person is appropriated by him in lieu of tax, permit such person to resume possession of the remaining property surrendered by such person, and
- (c) issue to such person a certificate specifying—
 - (i) the aggregate value of the property declared by such person, and
 - (ii) the amount recovered as tax from such person.

Indemnification
of persons
who pay tax
against liability
to prosecutions
and to pay
income tax.

7. Where tax is paid or deemed to have been paid as required by section 5 by any person to whom this Act applies, such person shall not be liable—

- (a) to a prosecution for any offence under any of the sections of written law referred to in the Schedule to this Act in respect of the profits or income specified in the declaration made by such person under section 3 and the profits or income invested in the acquisition of articles of value specified in such declaration, and
- (b) to pay for any year of assessment commencing on or before April 1, 1964, income tax under the law for the time being applicable to income tax in respect of such profits or income.

Sale of articles
of value
appropriated by
Commissioner
in lieu of
payment of tax.

8. Any articles of value appropriated by the Commissioner in lieu of tax under sub-section (3) of section 5 shall be sold by public auction by any person appointed for that purpose by the Commissioner, and the sum realized by the sale shall, after payment of the sale charges, be applied in satisfaction of the tax.

9. All sums paid or deemed to have been paid to the Commissioner by way of tax under this Act shall be credited by the Commissioner to the Consolidated Fund of Ceylon.

Payment to Consolidated Fund of Ceylon of amounts paid or deemed to have been paid by way of tax.

10. Nothing in the preceding provisions of this Act shall be construed or be deemed to be construed as authorizing the revision of any assessment made prior to the date of commencement of this Act under the provisions of the Income Tax Ordinance or the Inland Revenue Act, No. 4 of 1963, or any other matter which has become final and conclusive.

The preceding provisions of this Act not to be construed as authorizing the revision of any assessment previously made.

11. In this Act, unless the context otherwise requires—

Interpretation.

“ articles of value ” mean gold, jewellery, bullion, precious stones and any other movable articles of value, and shall be deemed to include the value of any undisclosed stock-in-trade and the amount of any undisclosed debts;

“ Assessor ” shall have the same meaning as in the Inland Revenue Act, No. 4 of 1963;

“ Commissioner ” means the Commissioner of Inland Revenue and includes a Deputy Commissioner, and an Assistant Commissioner specially authorized by the Commissioner to act on behalf of the Commissioner;

“ precedent partner ” shall have the same meaning as in the Inland Revenue Act, No. 4 of 1963;

“ profits ” and “ income ” shall have the same meanings as in section 3 of the Inland Revenue Act, No. 4 of 1963;

“ year of assessment ” shall have the same meaning as in the Income Tax Ordinance and in the Inland Revenue Act, No. 4 of 1963.

SCHEDULE

[Section 7]

1. Section 80 (1) of the Income Tax Ordinance.
2. Section 90 (2) of the Income Tax Ordinance.
3. Section 92 (1) of the Income Tax Ordinance.
4. Section 104 (1) of the Inland Revenue Act, No. 4 of 1963.
5. Section 118 (2) of the Inland Revenue Act, No. 4 of 1963.
6. Section 120 (1) of the Inland Revenue Act, No. 4 of 1963.