



PARLIAMENT OF THE DEMOCRATIC
SOCIALIST REPUBLIC OF
SRI LANKA

INLAND REVENUE (AMENDMENT)

ACT, No. 42 OF 1990

[Certified on 29th November, 1990]

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Inland Revenue (Amendment) Act, No. 42 of 1990
[Certified on 29th November, 1990]

L.D.—O. 28/90

AN ACT TO AMEND THE INLAND REVENUE ACT, NO. 28 OF 1979

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

1. This Act may be cited as the Inland Revenue (Amendment) Act, No. 42 of 1990.

Short
title.

2. Section 8 of the Inland Revenue Act, No. 28 of 1979 (hereinafter referred to as the “principal enactment”) is hereby amended in paragraph (a) of that section as follows :—

Amendment
of section
8 of
Act No. 28
of 1979.

(1) by the substitution, in item (iii) of sub-paragraph (iv) of that paragraph, for the words and figures “on or after May 26, 1986 ; and”, of the words and figures “on or after May 26, 1986 ;” ;

(2) by the substitution in sub-paragraph (iv) of that paragraph, for the words and figures, “established by the Agricultural Insurance Law, No. 27 of 1973.”, of the words and figures, “established by the Agricultural Insurance Law, No. 27 of 1973 ; and” ; and

(3) by the addition, at the end of that paragraph, of the following sub-paragraphs :—

“(Lvii) the Superior Courts Complex Board of Management established by the Superior Courts Complex Board of Management Act, No. 50 of 1987 ;

(Lviii) the International Committee of the Red Cross ; and

(Lix) the Institute of Policy Studies of Sri Lanka established by the Institute of Policy Studies of Sri Lanka Act, No. 53 of 1988.”.

3. Section 9 of the principal enactment is hereby amended in subsection (1) of that section as follows :—

Amendment
of section
9 of the
principal
enactment.

(1) in paragraph (b) of that subsection—

(a) by the insertion, immediately after sub-paragraph (viii), of the following sub-paragraph :—

“(ix) an employee of the Institute of Policy Studies of Sri Lanka, established by the Institute of Policy Studies of Sri

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(b) by the substitution for the words and figures "referred to in items (i), (ii), (iii), (iv), (v), (vi) or (vii)"; "of the words and figures "referred to in items (i), (ii), (iii), (iv), (v), (vi), (vii), (viii) or (ix)"; and

(2) in paragraph (h) of that subsection, by the substitution for the words "the International Irrigation Management Institute or the Colombo Plan Bureau, or the Asian Development Bank"; of the words "the International Irrigation Management Institute, the Colombo Plan Bureau, the Asian Development Bank, the World Bank or the International Committee of the Red Cross";

Amendment
of section
11 of the
principal
enactment.

4. Section 11 of the principal enactment is hereby amended, in paragraph (b) of that section, by the substitution for the words and figures "17, 17A, 18, 19, 20, 20A, 20B, 20C, 21, 22, 22A, 22B, 22C, or 22D of this Act", of the words and figures "17, 17A, 17C, 17D, 17, 19, 20, 20A, 10B, 20C, 21, 22, 22A, 22B, 22C, 22D, 22DDD or 22DDDD of this Act".

Amendment
of section
14 of the
principal
enactment.

5. Section 14 of the principal enactment is hereby amended in paragraph (a) of that section as follows:—

(2) by the substitution in sub-paragraph (xvi) of that paragraph for the words "partnership were shared; and", of the words "partnership were shared";

(2) by the substitution in sub-paragraph (xvi) of that paragraph for the words "to whom such gain arises.", of the words "to whom such gain arises; and"; and

(3) by the insertion immediately after sub-paragraph (xvi) of the following sub-paragraphs:—

(xvii) the sale, on or after January 1, 1990, of any property held by any individual (other than any property which immediately prior to such sale formed part of the assets of any business), if the full sale proceeds are invested, within one year from the date of such sale but on or before April 1, 1992, in the purchase of any ordinary share, other than any existing, share, in any company—

.. (a) referred to in section 17c or in section 22DDD or in section 22DDDD, or

- (b) carrying on an undertaking referred to in section 17E, if the sum so invested is certified by such company as being solely for the purpose of expanding the productive capacity of such undertaking:

Provided that the provisions of this subparagraph shall not apply if an allowance in respect of such investment is deducted under section 31, from the assessable income of that individual for any year of assessment:

Provided further that where any change of ownership of any share so purchased occurs, otherwise than by the death of that individual, within five years after the date of such purchase, an additional assessment consisting of the difference between—

- (i) the income tax to which such individual would have been liable for the year of assessment in which such capital gain arose had the exemption from income tax granted under this subparagraph not been granted in respect of such part of such capital gain as is attributable to the sum invested in the purchase of the share in respect of which such change of ownership occurs; and
- (ii) the income tax charge for the year of assessment in which such capital gain arose,

shall, notwithstanding anything in this Act, be made for the year of assessment in which such sale was made in respect of that individual and accordingly, the provisions of this Act relating to notice of assessment, appeal and other proceedings shall apply to such additional assessment.

For the purposes of this subparagraph the expression "such part of such capital gain as is attributable to the sum invested in the purchase of the share in respect of which such change of ownership occurs"

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means the sum which bears to the sum invested in the purchase of the share in respect of which the change of ownership occurs the same proportion as the proportion which the entirety of such capital gain bears to the full proceeds of the sale of the property referred to in this paragraph;

(xviii) the sale, by any venture capital company referred to in section 22DDD of any share or stock, held by it in any other company;

(xix) the sale, by any unit trust or any mutual fund referred to in section 22DDD, of any share or stock held by, such unit trust or mutual fund in any other company;

(xx) the sale, by any person of any unit held by such person in any unit trust or any mutual fund after one year from the date of acquisition by such person, of such unit;

(xxi) the change of ownership of any share in a quoted public company after one year from the date of acquisition by any person of such share.

Insertion of new sections 17B, 17C, 17D, 17E, 17F and 17G in the principal enactment.

6. The following new sections are hereby inserted immediately after section 17A of the principal enactment and shall have effect as sections 17B, 17C, 17D, 17E, 17F and 17G of that enactment :—

Exemption from income tax of the profits and income of any purchasing centre.

17B. (1) The profits and income within the meaning of paragraph (a) of section (3) (other than any profits and income from the sale of capital assets), of any undertaking referred to in subsection (2), shall be exempt from income tax for a period of five years from the commencement of the year of assessment in which such undertaking commenced to carry on business.

(2) The provisions of subsection (1) shall apply to any undertaking which—

(a) commenced to carry on business on or after January 1, 1990;

- (b) is, on the recommendation of the Minister in charge of the subject of Policy Planning and Implementation, approved by the Minister, to be an undertaking to which this section applies, by notice published in the Gazette on or before April 1, 1992 ;
- (c) is engaged in purchasing for resale, of any agricultural or export oriented commodity, other than black tea in bulk, crepe rubber, sheet rubber, scrap rubber, coconut oil, dessicated coconut, copra, fresh coconuts, coconuts, coconut fibre or such other commodity as may be specified by the Minister by notice published in the Gazette having regard to the economic progress of Sri Lanka ; and
- (d) is not formed by the splitting up, reconstruction, or acquisition of any business which was previously in existence.
- (3) For the purposes of subsection (2) of this section, the expression "any agricultural or export oriented commodity" means any—
- (i) agricultural produce ; or
 - (ii) commodity manufactured from any agricultural produce ; or
 - (iii) manufactured article intended to be supplied to any exporter for export.

Exemption from income tax of the profits and income of any pioneering under taking.

17c. (1) The profits and income within the meaning of paragraph (a) of section 3 (other than any profits and income from the sale of capital assets), of any company referred to in subsection (2), shall be exempt from income tax for a period of five years from the commencement of the year of assessment in which such company commenced to carry on business.

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

(a) commenced to carry on business on or after January 1, 1990 ;

(b) is, on the recommendation of the Minister in charge of the subject of Industries, approved by the Minister by notice published in the Gazette on or before April 1, 1992, as a company to which this section applies ; and

(c) is engaged only in carrying on—

(i) an industrial undertaking of a pioneering nature in regard to industrial products or industrial processes ; or

(ii) an undertaking for the provision of training in manufacturing processes, or computer software and computer related development, or industrial design :

Provided that such undertaking is not an undertaking formed by the splitting up, reconstruction, or acquisition of any business which was previously in existence.

Exemption from income tax of the profits and income of any company providing infrastructure facilities.

17D. (1) The profits and income within the meaning of paragraph (a) of section 3 (other than any profits and income from the sale of capital assets) of any company referred to in subsection (2), shall be exempt from income tax for a period of five years from the commencement of the year of assessment in which such company commenced to carry on business.

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

(a) commenced to carry on business on or after January 1, 1990 ;

- (b) is, on the recommendation of the Minister in charge of the subject of Industries, approved by the Minister by notice published in the *Gazette* on or before April 1, 1992, as a company to which this section applies ;
- (c) is engaged only in carrying on any undertaking which provides in any location, infra-structure facilities including floor space of not less than two thousand square feet each for the exclusive use of each of not less than twenty enterprises for the production or manufacture, in that location, of goods or commodities :

Provided that such undertaking is not an undertaking formed by the splitting up, reconstruction or acquisition of any business which was previously in existence.

Exemption from income tax of the profits and income of off-shore companies from certain on-shore Services.

17E. (1) The profits and income within the meaning of paragraph (a) of section 3, (other than any profits and income from the sale of capital assets), of any off-shore company registered under Part VIII of the Companies Act, No. 17 of 1982, from any undertaking referred to in subsection (2), shall be exempt from income tax for a period of five years from the commencement of the year of assessment in which such company is so registered, if such profits and income (less any amount as the Commissioner-General considers reasonable expense) are remitted to Sri Lanka.

(2) The provisions of subsection (1) shall apply to any undertaking which—

- (a) is approved by the Minister by notice published in the *Gazette* on or before April 1, 1992, as an undertaking to which this section applies ; and
- (b) is engaged on-shore, in off-shore transactions relating to the provision of services in insurance or avia-

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tion or underwriting of loans or syndication of loans or international consultancy or in any combination of two or more of such services.

Exemption from income tax of profits and income from the expansion of industrial undertakings.

17F.(1) The profits and income attributable to the expansion of any undertaking for the production or manufacture of goods or commodities and referred to in subsection (2), shall be exempt from income tax for a period of five years reckoned from the relevant date.

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

(a) which has incurred, within a period of twelve months from the relevant date, new capital expenditure of not less than five million rupees in amount in expanding its productive capacity; and

(b) which is, on the recommendation of the Minister in charge of the subject of Industries approved by the Minister by notice published in the *Gazette* on or before April 1, 1992 to be an undertaking to which this section applies; and

(c) in respect of which the Commissioner-General is satisfied that the number of employees employed, on the last day of the year commencing on the relevant date, in such undertaking and in respect of each of whom regular contributions to any provident fund approved by the Commissioner-General are being made, exceeds the maximum number of employees, who were employed in that undertaking for an unbroken period of not less than twelve months immediately preceding the relevant date, by not less than twenty five:

Provided that where at any time during any year of assessment within the five years referred to in subsection (1), the number of employees employed in such undertaking and in respect of every one of whom regular contributions to any provident fund approved by the Commissioner-General are being made, does not exceed such maximum by twenty-five or more, such profits and income of that undertaking for that year of assessment as are referred to in subsection (1), shall not be exempt from income tax.

(3) For the purposes of this section and in relation to any industrial undertaking—

(a) the expression “profits and income attributable to the expansion” in relation to any year of assessment means the excess of—

(i) the profits and income, within the meaning of paragraph (a) of section 3, (other than any profits and income from the sale of any capital asset), of that undertaking for that year of assessment, reduced by ten *per-centum* or such other percentage of such profits and income, as may be specified by the Minister having regard to the rate of inflation which prevailed in Sri Lanka in or about that year of assessment by notice published in the *Gazette*, over

(ii) the annual average of such profits and income of that undertaking, such average being computed for a period of three years immediately preceding the relevant date where the undertaking has been carrying on business for a period of three years or more prior to the relevant date or for the entire period during which it

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has been carrying on business, where the undertaking has been carrying on business for a period of less than three years prior to the relevant date ;

- (b) the expression "relevant date", means the first day of any calendar month not earlier than April 1990, and not later than March 1992, and selected by the person carrying on that undertaking or where the undertaking is carried on by a partnership, by the precedent partners of that partnership, and notified to the Commissioner-General in writing not later than thirty days from the last date of that month :

Provided that where the relevant date is not so notified to the Commissioner-General the relevant date shall be deemed to be April 1, 1990 ;

- (c) the expression, "new capital expenditure" means expenditure incurred by the person who, or the partnership which carries on that undertaking in the purchase of new productive equipment, (other than any land or any building) which is intended to increase its productive capacity :

Provided that expenditure incurred in the purchase of productive equipment which is not new shall be deemed not to be new capital expenditure unless it is proved to the satisfaction of the Commissioner-General that —

- (i) the purchase of that productive equipment is economically justifiable ; and
- (ii) the purchase price represents the fair market value of such productive equipment:

Provided further that any expenditure incurred for the replacement after the relevant date of any equipment which formed part of the assets of that undertaking on or before the relevant date, shall be deemed not to be new capital expenditure.

Exemption
from income
tax
of the
profits
and income
from any new
bus used for
the
transport
of passengers.

17G. (1) The profits and income within the meaning of paragraph (a) of section 3, of any undertaking for the transport of passengers, from the operation of any omni bus referred to in subsection (2), shall be exempt from income tax for a period of three years from the date of the first registration of that bus by the Registrar of Motor Vehicles.

(2) The provisions of subsection (1) shall apply to any omni bus which—

(a) is new ;

(b) is first registered by the Registrar of Motor Vehicles on or after January 1, 1990 but prior to April 1, 1992 ; and

(c) has a seating capacity for not less than thirty persons excluding the driver.

(3) For the purposes of this section the expression "the profits and income from any omnibus" in relation to any year of assessment and to any undertaking for the transport of passengers, means the sum which bears to the gross receipts from the transport of passengers by that omni bus the same proportion as the profits and income of that undertaking from the transport of passengers bears to the aggregate gross receipts of that undertaking from the transport of passengers by all the omni buses operated by that undertaking. '

7. Section 20B of the principal enactment is hereby amended by the substitution for the words "foreign exchange value of the exports related to such supply.", of the words "foreign exchange value of the exports related to such supply :

Amendment
of section
20B of the
principal
enactment.

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Provided that where it is proved to the satisfaction of the Commissioner-General that it is inexpedient or impracticable to cover such supply by a letter of credit in the aforesaid manner, he shall direct that notwithstanding that such supply is not so covered, the exemption granted under this section shall apply if—

- (a) such supply is covered by a letter of credit opened in a bank in Sri Lanka or such other documentary evidence as is required to satisfy himself that the exports relating to such supply were in fact made, is adduced; and
- (b) the receipt of the foreign exchange value of the exports relating to such supply is certified by the bank to which the foreign exchange value of such exports is remitted.”.

**Insertion
of new
section
22D000 in
the principal
enactment.**

8. The following section is hereby inserted immediately after section 22D000 in the principal enactment, and shall have effect as section 22D000 of the enactment—

“ Exemption from income tax of the profits and income of any unit trust or any mutual fund.

22D000. (1) The profits and income (other than any profits and income from the sale of any capital asset in respect of which an allowance for depreciation within the meaning of section 23, has been granted) of any unit trust or, mutual fund referred to in subsection (2), shall be exempt from income tax for a period of five years reckoned from the commencement of the year of assessment in which such unit trust or, mutual fund commenced to carry on business.

(2) The provisions of subsection (1) shall apply to any unit trust or, mutual fund approved by the Minister by notice published in the *Gazette* on or before April 1, 1992, as a unit trust or, mutual fund to which this section applies.”.

**Amendment
of section
23 of the
principal
enactment.**

9. Section 23 of the principal enactment is hereby amended in subsection (1) of that section, by the insertion immediately after paragraph (eee), of the following paragraph :—

“(eeee) a sum equal to one-tenth of any payment made, on or after April 1, 1990 by such person as consideration for the licensing, in his favour, or any manufacturing process used by him in any trade or business carried on by him :

Provided that no deduction under the provisions of this paragraph shall be allowed to any person in respect of any such payment if the total of the sums deducted in the preceding years of assessment is equal to the amount of such payment.”.

10. The following new sections are hereby inserted immediately after section 23 of the principal enactment and shall have effect respectively as sections 23A and 23B of that enactment :—

Insertion
of new
sections
23A and
23B in the
principal
enactment

‘ Certain
double
deductions
to be
allowed in
ascertaining
profits and
income.

23A. (1) Subject to the provisions of subsection (2), there shall be allowed, for the purpose of ascertaining the profits or income of any resident person from any undertaking engaged in the export of any commodity (other than black tea in bulk, crepe rubber, sheet rubber, scrap rubber, coconut oil, desiccated coconut, copra, fresh coconuts, coconut fibre or such other commodity as may be specified by the Minister by notice published in the *Gazette* having regard to the economic progress of Sri Lanka), manufactured in Sri Lanka, a deduction in respect of any sum expended by such person for the purpose of any approved export market development activity, of an amount equal to twice the sum so expended.

(2) No deduction under the provisions of subsection (1) shall be allowed in respect of any sum expended—

(a) by way of remuneration paid to—

(i) more than two employees
participating in any trade
fair or trade exhibition :

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- (ii) more than three employees employed in any trade office ;
- or
- (iii) any employee, if such remuneration exceeds the amount approved by the Controller of Exchange.

For the purposes of this paragraph—

- (i) "employee" in relation to a trade fair, trade exhibition or trade office, means any employee who has been in the employment of any resident person referred to in subsection (1) for an unbroken period of not less than twelve months immediately preceding, the commencement of the period within which such trade fair or trade exhibition is held or the date on which such trade office is opened, and in respect of whom regular contribution to any provident fund approved by the Commissioner-General have been made by such resident person throughout such period of employment ; and
- (ii) "remuneration paid" in relation to any employee means the expenditure relating to travelling, accommodation, subsistence or any other expenses of such employee incurred in connection with his participation in such trade fair or trade exhibition or his employment in such trade office ;

- (b) for the purpose of maintaining such trade office if such undertaking has a permanent establishment subject to any tax on income in the country in which such office is located ;
- (c) if a deduction in respect of such sum is allowed under section 23 ; or
- (d) prior to April 1, 1990 or on or after April 1, 1995.

(3) For the purposes of subsection (1) the expression—

(a) “ export market development activity ” means—

(i) participation in any trade fair, or trade exhibition held outside Sri Lanka ;

(ii) maintaining any trade office in any location outside Sri Lanka ;

(iii) inserting any advertisement in any publication, published outside Sri Lanka ;

(iv) preparing, printing and publishing of any catalogue, brochure or other promotional literature ;

or

(v) any other activity, which is exclusively for the purpose of promoting the export of any commodity referred to in subsection (1) ;

(b) “ approved ” means approved, on the recommendation of the Export Development Board, by the Commissioner-General subject to such conditions as may be specified by him ;

(c) “ manufactured in Sri Lanka ” in relation to any commodity means any commodity exported from Sri Lanka in respect of which—

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- (i) the value added to that commodity in Sri Lanka is certified by the Export Development Board to be not less than forty *per centum* of the export price (before charging freight and insurance) of such commodity; or
- (ii) the labour component of the value added to that commodity in Sri Lanka is certified by the Export Development Board to be not less than sixty *per centum* of the total value added to that commodity in Sri Lanka.

Further double deductions to be allowed in ascertaining profits and income.

23B. (1) Subject to the provisions of subsection (2), there shall be allowed, for the purpose of ascertaining the profits or income of any person from any undertaking for the manufacture of any commodity, a deduction of an amount equal to twice the amount of any expenditure incurred by such person in carrying on any scientific, industrial or agricultural research or in the training in Sri Lanka, of any employee employed in that undertaking, such research or training being directly related to upgrading the manufacturing process or the quality of such commodity.

(2) No deduction under the provisions of subsection (1) shall be allowed in respect of any expenditure incurred—

- (a) prior to April 1, 1990 or on or after April 1, 1995;
- (b) if a deduction in respect of such expenditure is—
 - (i) allowed under the provisions of section 23; or
 - (ii) not allowable under the provisions of section 24.

11. Section 31 of the principal enactment is hereby amended as follows:—

(1) in subsection (1) of that section—

(a) by the substitution, for the words and figures “subsection (5B) and subsection (5c)”, of the words and figures “subsection (5B) subsection (5c) and subsection (5D)”;

(b) by the substitution, for the words, “made by him in that year of assessment of an allowance equal to the amount of such qualifying payment.”, of the words and figures “made by him or deemed to have been made by him in that year of assessment, of an allowance equal to the amount of such qualifying payment:

Provided that where a qualifying payment made by any person on or after April 1, 1990, but prior to October 1, 1990, in the purchase of any ordinary share, other than any existing share in any company referred to in section 17C or section 22DDD or section 22DDDD or carrying on an undertaking referred to in section 17F shall, if such person by communication in writing addressed to the Commissioner-General on or before November 30, 1990 so elects, be deemed, for the purposes of this subsection, to have been made in the year of assessment commencing on April 1, 1989.”;

(2) in subsection (2) of that section—

(i) by the addition, immediately after subparagraph (vi) of paragraph (b) of that subsection, of the following sub-paragraph:—

“ (vii) the Sevana Fund created and administered by the National Housing Development Authority established by the National Housing Development Authority Act, No. 17 of 1979 ;”;

(ii) by the substitution, in paragraph (d) of that subsection, for the words, “in an approved undertaking,”; of the words “in approved undertaking, other than an approved undertaking referred to in paragraph (c)”;

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- (iii) by the addition, immediately after sub-paragraph (ix) of paragraph (k) of that subsection of the following sub-paragraph :—

“ (x) the Institute of Policy Studies of Sri Lanka, established by the Institute of Policy Studies of Sri Lanka Act, No. 53 of 1988 ;” ;

and

- (iv) by the insertion, immediately after paragraph (p) of that subsection, of that following paragraph :—

“ (q) any sum invested by any person in the purchase of ordinary shares, other than existing shares, in any approved undertaking being a company—

(i) referred to in section 17c or section 22DDD or section 22DDDD ; or

(ii) carrying on an undertaking referred to in section 17F, if the sum so invested is certified by such company as being solely for the purpose of expanding the productive capacity of such undertaking :

Provided that where the sum so invested is out of the full proceeds of any sale referred to in subparagraph (xvii) of paragraph (a) of section 14, no allowance shall be deductible under this section, if an exemption from income tax in respect of the capital gains arising from such sale has been granted under section 14, ” ;

- (3) in subsection (5c) of that section, by the substitution for the words and figures “ commencing on or after April 1, 1988 ”, of the words and figures “ commencing on or after April 1, 1988, but prior to April 1, 1990 ” ;

- (4) by the insertion, immediately after subsection (5c) of that section, of the following subsection :—

“(5D) The deduction from the assessable income of any person, other than a company, for any year of assessment commencing on or after April 1, 1990—

(i) in respect of all qualifying payments other than those referred to in paragraphs (b), (c), (m), (n) and (q) of subsection (2), made by him or deemed to have been made by him, shall not exceed one-third of such assessable income or fifty thousand rupees, whichever is less ;

(ii) in respect of all qualifying payments, referred to in paragraphs (c), (m) and (n) of subsection (2), made by him, or deemed to have been made by him, shall not exceed fifty thousand rupees ;

(iii) in respect of any qualifying payment referred to in paragraph (q) of subsection (2), made by him or deemed to have been made by him, shall not exceed one-third of such assessable income ; and

(iv) in respect of the aggregate of all qualifying payments referred to in paragraph (i) and (ii) of this subsection, shall not exceed fifty thousand rupees.” ;

(5) in subsection (6) of that section, by the substitution for the words “referred to in paragraphs (b), (c), (m), (n) of” , the words “referred to in paragraphs (b), (c), (m), (n) or (q) of” ;

(6) by the insertion, immediately after subsection (7A) of that section, of the following subsection :—

“(7B) Where an allowance has been deducted from the assessable income of any person under subsection (1) in respect of any qualifying payment made for the purchase of any share referred to in paragraph (q) of subsection (2)

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and where, within a period of five years after the date of such purchase there is a change in the ownership of such share otherwise than by the death of the individual who purchased such share then, in respect of the year of assessment in which such allowance was granted an additional assessment consisting of the difference between the income tax to which the person who has been granted the allowance would have been liable if such allowance had not been granted and the amount of tax charged for that year of assessment shall, notwithstanding anything in this Act, be made in respect of that person and the provisions of this Act relating to notice of assessment, appeal and other proceedings shall apply accordingly.”; and

- (7) in subsection (8) of that section, by the substitution, for the words “in paragraphs (d) and (m) of”, of the words “in paragraphs (d), (m) or (q) of”.

“Amendment
of section
32 of the
principal
enactment.

12. Section 32 of the principal enactment is hereby amended as follows:—

- (1) in subsection (3A) of that section, by the substitution for the words “from the change of ownership of any property within such period”, of the words, “from the change of ownership of any property, not being any share in any quoted public company more than two years”;
- (2) in subsection (3B) of that section, by the substitution for the words “from the change of ownership of any property within such period”, of the words, “from the change of ownership of any property, not being any share in any quoted public company within such period”; and
- (3) by the insertion, immediately after subsection (3B) of that section, of the following subsections—

‘(3BB) Where the taxable income of a person includes any capital gain arising from the change of ownership of any share in any quoted public

company, within a period of one year after the date of acquisition of such share by such person, and the rate of income tax payable on a part of such income (hereinafter in this subsection referred to as the "relevant part of the income") exceeds twenty *per centum*, then in regard to the relevant part of the income the tax shall be computed as follows:—

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

13. Section 33 of the principal enactment is hereby amended as follows :—

(1) in subsection (1) of that section—

(a) by the substitution, for the proviso to paragraph (b) of that subsection, of the following proviso :—

“Provided that a quoted public company shall not be liable to pay tax under paragraph (b)—

(i) for the year of assessment commencing on April 1, 1980 and for each of the

Amendment
of section
33 of the
principal
enactment.

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three years of assessment immediately succeeding that year of assessment ; and

(ii) for any year of assessment commencing on or after April 1, 1991 ; and ;” ; and

(b) by the insertion, immediately after paragraph (b) of that subsection of the following paragraph :—

“(bb) an amount equal to fifteen per centum of the aggregate amount of the gross dividends distributed to any non-resident person by a quoted public company in any year of assessment commencing on or after April 1, 1991 out of the profits on which the taxable income of such company is computed for any year of assessment” ; and

(2) in sub-paragraph (ii) of paragraph (c) of subsection (2) of that section,

(i) by the substitution, in item (a) of that sub-paragraph, for the words and figures “on or before March 31, 1980 ; or”, of the words and figures “on or before March 31, 1980 ;” ;

(ii) by the substitution, in item (b) of that sub-paragraph, for the words and figures “on or after April 1, 1980.”, of the words and figures, “on or after April 1, 1980 but prior to April 1, 1990 ; or” ; and

(iii) by the addition, immediately after item (b) of that sub-paragraph, of the following item :—

“(c) seventeen and eleven-seventeenth *per centum* if the dividend is payable on or after April 1, 1990.”.

14. Section 35 of the principal enactment is hereby amended by the insertion, immediately after paragraph (d) of that section of the following paragraph :—

“(e) that dividend is a dividend declared by a quoted public company on or after April 1, 1991.”.

15. The following section is hereby inserted immediately after section 37 of the principal enactment and shall have effect as section 37A of that enactment:—

Insertion of
a new section
37A in the
principal
enactment.

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

37A. Every resident company shall deduct from the amount of any dividend (hereinafter in this section referred to as the "relevant dividend") which becomes payable on or after April 1, 1991, to any non-resident person if the relevant dividend consists of the whole or any Part of the amount of a dividend not being the whole or any part of a dividend which is exempt from income tax under this Act, distributed by any quoted public company and received, either directly or through one or more intermediary companies, by such resident company, income tax equivalent to fifteen per centum of such relevant dividend and the amount of the income tax which a resident company is under this section, required to deduct shall be a debt due from such resident company to the State and shall be recoverable forthwith as such or may be assessed and charged upon such resident company in addition to any income tax otherwise payable by it:

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

16. Section 38 of the principal enactment is hereby amended, as follows:—

Amendment
of section
38 of the
principal
enactment.

(i) in subsection (1) of that section by the substitution in the proviso to that subsection, for the words and figures "but prior to April 1, 1984", of the words and figures "but prior to April 1, 1984, or to any dividend declared by a quoted public company on or after April 1, 1991, to any resident person."; and

(2) in subsection (3) of that section,

(a) by the substitution in paragraph (c) of that subsection, for the words "three-seventeenth per centum of the words "seventeen and eleven-seventeenth per centum"; and

(b) in the proviso to that subsection—

(i) by the substitution, in paragraph (c) of that proviso, for the words, "from a quoted public company.", of the words, "from a quoted public company; or"; and

(ii) by the addition, immediately after paragraph (c) of that proviso, of the following paragraph—

"(d) the amount of any dividend received on or after April 1, 1991 from a quoted public company."

Amendment
of section
44 of the
principal
enactment.

17. Section 44 of the principal enactment is hereby amended in subsection (1) of that section by the substitution, in the proviso to that subsection, for the words, "approved by the Commissioner-General.", of the words, "approved by the Commissioner-General:

Provided further that for the purposes of this subsection—

- (i) "trust" shall not include any unit trust ;
(ii) "trustee" shall not include the trustee of any unit trust.'

Amendment
of section
60 of the
principal
enactment.

18. Section 60 of the principal enactment is hereby amended by the addition immediately after subsection (4) of that section, of the following subsection—

- '(5) For the purposes of this section, the term "trust" shall not include any unit trust, and the term "trustee" shall not include the trustee of any unit trust.

19. Section 64 of the principal enactment is hereby amended, by the substitution, for the words "in the capacity of trustees of a trust", of the words "in the capacity of trustees of a trust, not being any unit trust".

Amendment of section 64 of the principal enactment.

20. The following new heading and new section are hereby inserted immediately after section 64 of the principal enactment and shall have effect as heading "BB Unit Trusts" and section 64A respectively of the principal enactment—

Insertion of new heading and new section 64A in the principal enactment.

'BB—UNIT TRUST

Every unit Trust deemed to be a company.

64A. (1) For the purposes of this Act, every unit trust and every mutual fund shall be deemed to be a company resident in Sri Lanka and accordingly the provisions of this Act relating to companies resident in Sri Lanka shall, *mutatis mutandis*, apply to every unit trust and every mutual fund.

(2) Without prejudice to the generality of the provisions of subsection (1)—

- (a) a "unit" in any unit trust or a mutual fund shall be deemed to be a "share" in that company ;
- (b) a unit holder in any unit trust or mutual fund shall be deemed to be a shareholder in that company ;
- (c) the profits and income derived by, or arose or accrued to the benefit of, the trustee of any unit trust or the custodian of any mutual fund from any property subject to that unit trust or mutual fund or from any trade or business carried on by such trustee or such custodian for, or on behalf of, that unit trust or mutual fund shall be deemed to be the profits and income of that company ;

- (d) any distribution, in any manner whatsoever, of the profits or income of any unit trust or mutual fund to its unit holders shall be deemed to be a dividend distributed to the shareholders of that company; and
- (e) the paid up value of any unit in any unit trust or mutual fund shall be deemed to be the paid up value of any share in that company.

(3) Any sum appropriated or paid by way of remuneration to the manager or the trustee of any unit trust or to the manager or custodian of any mutual fund out of the funds of that unit trust or mutual fund shall, for the purposes of section 23 be deemed to be outgoings and expenses incurred by that company in the production of its income.

Amendment of section 97 of the principal enactment.

21. Section 97 of the principal enactment is hereby amended in subsection (3) of that section, by the substitution for the words and figures, "commencing on or after April 1, 1985, shall be paid", of the words and figures, "commencing on or after April 1, 1985 and under section 37A in respect of dividends distributed by such company in any year of assessment commencing on or after April 1, 1991, shall be paid".

Amendment of section 135 of the principal enactment.

22. Section 135 of the principal enactment is hereby amended by the substitution, for the words, "beneficiary to a trust is chargeable", of the words "beneficiary to a trust, not being any unit trust, is chargeable".

Amendment of section 163 of the principal enactment.

23. Section 163 of the principal enactment is hereby amended as follows:—

- (1) by the insertion, immediately after the definition of "market value", of the following definition:—

"mutual fund" means any mutual fund licensed as a mutual fund by the Securities Council;";
- (2) by the substitution, for the definition of "quoted public company," of the following definition:—

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“quoted public company” means any company which is resident in Sri Lanka and in respect of which, the Assessor is satisfied that in relation to any year of assessment, commencing on or after April 1, 1990, it is a company the shares of which are quoted throughout that year of assessment, or where such company is incorporated during that year of assessment, from the date of incorporation to the end of that year of assessment, in any official list published by any stock exchange licensed by the Securities Council ;’;

- (3) by the insertion, immediately after the definition of “resident” or “resident in Sri Lanka”, of the following definition :—

“Securities Council” means the Securities Council established by the Securities Council Act, No. 36 of 1987 ;’;

- (4) by the substitution, in the definition of “trustee”, for the words, “on behalf of any person, but does not include an executor ;”, of the words, “on behalf of any person, and in relation to any unit trust, the person appointed as the trustee of that unit trust by the instrument creating such unit trust, but does not include an executor ;” ; and

- (5) by the insertion, immediately after the definition of “trustee”, of the following definition :—

“unit trust” means any unit trust licensed as a unit trust by the Securities Council ;’

24. The Seconded Schedule to the principal enactment is hereby amended as follows :—

- (1) by the substitution, in Part V of that Schedule, for the words and figures “commencing on or after April 1, 1980”, of the words and figures “commencing on or after April 1, 1980 but prior to April 1, 1990” :

Amendment
of the
Second
Schedule
to the
principal
enactment.

(2) by the insertion, immediately after Part V, of that Schedule, of the following new Parts:—

‘PART VA

Any company which is a quoted public company in relation to the year of assessment commencing on April 1, 1991 and in respect of which the Assessor is satisfied that as on March 31, 1992,—

- (i) the number of persons registered in the share register of such company as shareholders, exceeds two hundred ; and
- (ii) no five person together hold directly or through any nominee more than sixty *per centum* of the total issued share capital as at that date, of that company.

On the taxable income of that company for the year of assessment commencing respectively on April 1, 1990 and on April 1, 1991—40 *per centum* :

Provided that where such company is a company formed by the conversion, under the provisions of the Conversion of Public Corporations or Government Owned Business Undertakings into Public Companies Act, No. 23 of 1987, of any public corporation or any government owned business undertaking into a company, the provisions of this Part, in relation to such company, shall apply, as if for the reference, in item (ii), to the words, “sixty per centum”, there were substituted a reference to the words “sixty-five *per centum*.”.

For the purposes of this Part where any person referred to in item (i) or item (ii) is—

- (a) an individual, any share of that company held by that individual, his or her spouse or children (other than any son or daughter who is not a child as at that date) whether directly or through any nominee shall, be deemed to be held by that individual ;
- (b) a subsidiary company of any holding company, any share of that company held by such subsidiary company, shall be deemed to be held by such holding company.

The expressions “holding company” and “subsidiary company” referred to in paragraph (b) shall have the same respective meanings assigned to them in section 150 of the Companies Act, No. 17 of 1982.

PART VB

Any company which is a quoted public company in relation to any year of assessment commencing on or after April 1, 1992 and in respect of which the Assessor is satisfied that on the last day of that year of assessment,—

- (i) the number of persons registered in the share register of such company, as shareholders, exceeds two hundred; and
- (ii) no five persons together hold directly or through any nominee more than sixty *per centum* of the total issued share capital, as at that date, of that company

On the taxable income of that company for that year of assessment . . . 40 *per centum* :

Provided that where such company is a company formed by the conversion under the provisions of the Conversion of Public Corporations or Government owned Business Undertakings into Public Companies Act, No. 23 of 1987, of any public corporation or any Government owned business undertaking into a company the provisions of this Part in relation to such company, shall apply, as if for the reference in item (ii), to the words, "sixty *per centum*" there were substituted a reference to the words, "sixty-five *per centum*".

For the purposes of this Part where any person referred to in item (i) or item (ii) is—

- (a) an individual, any share of that company held by such individual, his or her spouse or children (other than any son or daughter who is not a child as at that date) where directly or through any nominee, shall be deemed to be held by that individual;
- (b) a subsidiary company of any holding company, any share of that company held by such subsidiary company, shall be deemed to be held by such holding company.

The expressions "holding company" and "subsidiary company" referred to in paragraph (b) shall have the same respective meanings assigned to them in section 150 of the Companies Act, No. 17 of 1982.;

- (3) by the substitution for the words and figures "PART VIIIA

Public Corporations", of the words and figures "PART IX"

Public Corporations';

(4) by the addition, at the end of that Schedule, of the following Part:—

“PART X

Unit trust or Mutual fund.

The rate of income tax for every year of assessment commencing on or after April 1, 1990.

On the taxable income of the unit trust or the mutual fund . . . 50 per centum.”

Amendment
of the
Seventh
Schedule
to the
principal
enactment.

25. The Seventh Schedule to the principal enactment is hereby amended, by the substitution in item (iii) of that Schedule, for the words “made by a company other than a small company, or a quoted public company or a people’s company” of the words “made by a unit trust or mutual fund, or a company other than a small company, or a quoted public company or a people’s company”.

Restrospec-
tive effect.

26. (1) The amendment to section 8 of the principal enactment made by section 2(3) of this Act, shall be deemed for all purposes, to have come into force on April 1, 1990 ;

(2) The amendment to section 9(1) of the principal enactment made by section 3 of this Act, shall be deemed for all purposes, to have come into force on April 1, 1990.

(3) The amendment to section 31(2) (b) of the principal enactment made by section 11(2) (i) of this Act, shall be deemed for all purposes to have come into force on April 1, 1980.

(4) The amendment to section 33(2) of that principal enactment made by section 13(2) of this Act, shall be deemed for all purposes to have come into force on June 12, 1990.

(5) The amendment to section 38(3) of the principal enactment made by section 16(2) (a) of this Act, shall be deemed for all purposes to have come into force on June 12, 1990.

27. In the event of any inconsistency between the Sinhala and Tamil texts of this Act, the Sinhala text shall prevail.

Sinhala text
to prevail
in case of
inconsistency.

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